

ICLAIM Conciliation Rules 2018

[Modelled on UNCITRAL Conciliation Rules]

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APPLICATION OF THE RULES

Article 1

- (1) These Rules apply to conciliation of disputes arising out of or relating to a contractual or other legal relationship where the parties seeking an amicable settlement of their dispute have agreed that the ICLAIM Conciliation Rules apply.
- (2) The parties may agree to exclude or vary any of these Rules at any time.
- (3) Where any of these Rules is in conflict with a provision of law from which the parties cannot derogate, that provision prevails.

COMMENCEMENT OF CONCILIATION PROCEEDINGS

Article 2

- (1) The party initiating conciliation sends to the other party a written invitation to conciliate under these Rules, briefly identifying the subject of the dispute.
- (2) Conciliation proceedings commence when the other party accepts the invitation to conciliate. If the acceptance is made orally, it is advisable that it be confirmed in writing.
- (3) If the other party rejects the invitation, there will be no conciliation proceedings.
- (4) If the party initiating conciliation does not receive a reply within thirty days from the date on which he sends the invitation, or within such other period of time as specified in the invitation, he may elect to treat this as a rejection of the invitation to conciliate. If he so elects, he informs the other party accordingly.

NUMBER OF CONCILIATORS

Article 3

There shall be one conciliator unless at the parties request that there shall be two or three conciliators subject to ICLAIM's approval. Where there is more than one conciliator, they ought, as a general rule, to act jointly.

APPOINTMENT OF CONCILIATORS

Article 4

In conciliation proceedings with one (or two or three) conciliator(s), ICLAIM shall appoint the conciliator(s). In appointing individuals to act as conciliator, ICLAIM shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, with respect to a sole or second or third conciliator, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.

SUBMISSION OF STATEMENTS TO CONCILIATOR

Article 5

- (1) The conciliator,¹ upon his appointment, can request each party to submit to him/her a brief written statement describing the general nature of the dispute and the points at issue. Each party sends a copy of their statement to the other party.
- (2) The conciliator may request each party to submit to him/her a further written statement of their position and the facts and grounds in support thereof, supplemented by any documents and other evidence that such party deems appropriate. The party sends a copy of their statement to the other party.
- (3) At any stage of the conciliation proceedings the conciliator may request a party to submit to him/her such additional information as he/she deems appropriate.

¹ In this and all following articles, the term "conciliator" applies to a sole conciliator, two or three conciliators, as the case may be.

REPRESENTATION AND ASSISTANCE

Article 6

The parties may be represented or assisted by persons of their choice. The names and addresses of such persons are to be communicated in writing to the other party and to the conciliator and ICLAIM; such communication is to specify whether the appointment is made for purposes of representation or of assistance.

ROLE OF CONCILIATOR

Article 7

(1) The conciliator assists the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.

(2) The conciliator will be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous practices between the parties.

(3) The conciliator may conduct the conciliation proceedings in such a manner as he/she considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the conciliator hear oral statements, and the need for a speedy settlement of the dispute.

(4) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons therefor.

ADMINISTRATIVE ASSISTANCE

Article 8

In order to facilitate the conduct of the conciliation proceedings, ICLAIM will provide administrative assistance.

COMMUNICATION BETWEEN CONCILIATOR AND PARTIES

Article 9

(1) The conciliator may invite the parties to meet with him/her or may communicate with them orally or in writing. He/she may meet or communicate with the parties together or with each of them separately.

(2) Unless the parties have agreed upon the place where meetings with the conciliator are to be held, such place will be determined by the conciliator, after consultation with the parties, having regard to the circumstances of the conciliation proceedings.

DISCLOSURE OF INFORMATION

Article 10

When the conciliator receives factual information concerning the dispute from a party, he/she discloses the substance of that information to the other party in order that the other party may have the opportunity to present any explanation which they considers appropriate. However, when a party gives any information to the conciliator subject to a specific condition that it be kept confidential, the conciliator does not disclose that information to the other party.

CO-OPERATION OF PARTIES WITH CONCILIATOR

Article 11

The parties will in good faith co-operate with the conciliator and, in particular, will endeavour to comply with requests by the conciliator to submit written materials, provide evidence and attend meetings.

SUGGESTIONS BY PARTIES FOR SETTLEMENT OF DISPUTE

Article 12

Each party may, on his own initiative or at the invitation of the conciliator, submit to the conciliator suggestions for the settlement of the dispute.

SETTLEMENT AGREEMENT

Article 13

(1) When it appears to the conciliator that there exist elements of a settlement which would be

acceptable to the parties, he/she formulates the terms of a possible settlement and submits them to the parties for their observations. After receiving the observations of the parties, the conciliator may reformulate the terms of a possible settlement in the light of such observations.

(2) If the parties reach agreement on a settlement of the dispute, they draw up and sign a written

settlement agreement.² If requested by the parties, the conciliator draws up, or assists the parties in drawing up, the settlement agreement.

(3) The parties by signing the settlement agreement put an end to the dispute and are bound by the agreement.

CONFIDENTIALITY

Article 14

The conciliator and the parties must keep confidential all matters relating to the conciliation proceedings. Confidentiality extends also the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

TERMINATION OF CONCILIATION PROCEEDINGS

Article 15

The conciliation proceedings are terminated:

(a) By the signing of the settlement agreement by the parties, on the date of the agreement; or

(b) By a written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or

(c) By a written declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or

(d) By a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration.

² The parties may wish to consider including in the settlement agreement a clause that any dispute arising out of or relating to the settlement agreement shall be submitted to arbitration.

RESORT TO ARBITRAL OR JUDICIAL PROCEEDINGS

Article 16

The parties undertake not to initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject of the conciliation proceedings, except that a party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights.

COSTS AND FEES

Article 17

(1) Before the start of the conciliation proceedings, ICLAIM confirms the initial costs of the conciliation as per the relevant table of fees (Appendix A) and gives written notice thereof to the parties. If the conciliation exceeds the initial time framework, then there will be an extra charge per every extra conciliation hour required subject to the approval of both parties.

(2) The fees are borne by the parties as per Appendix A unless the settlement agreement provides for a different apportionment. All other expenses incurred by a party are borne by that party.

(3) Before the appointment of the conciliator, each party must pay ICLAIM their set fee(s) as per Appendix A.

(4) If the required fees as per Appendix A are not paid to ICLAIM in full by both parties, the conciliator may suspend the proceedings or may make a written declaration of termination to the parties, effective on the date of that declaration.

(5) Upon termination of the conciliation proceedings, ICLAIM will return any unspent balance to the parties.

ROLE OF CONCILIATOR IN OTHER PROCEEDINGS

Article 18

ICLAIM, the parties and the conciliator undertake that the conciliator will not act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceedings in respect of a dispute that is the subject of the conciliation proceedings. The parties also undertake that they will not present the conciliator as a witness in any such proceedings.

ADMISSIBILITY OF EVIDENCE IN OTHER PROCEEDINGS

Article 19

The parties undertake not to rely on or introduce as evidence in arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the conciliation proceedings;

(a) Views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;

(b) Admissions made by the other party in the course of the conciliation proceedings;

(c) Proposals made by the conciliator;

(d) The fact that the other party had indicated his willingness to accept a proposal for settlement made by the conciliator.

Appendix A

Table of conciliation fees

Purchase Price	Consumer	Trader
Up to 500	25	75
500 – 1.000	35	105
1.000 – 2.000	45	135
2.000 – 3.000	55	165
3.000 - 4.000	65	195
4.000 – 5.000	75	225
5.000 – 6.000	85	255
6.000 – 7.000	95	285
7.000 – 8.000	105	315
8.000 – 9.000	115	345
9.000 – 10.000	125	375
10.000 – 50.000	500	1.500
50.000 – 100.000	1.000	3.000

- The purchase price does not include any interest and other expenses.
- The aforementioned fees are in Euros and do not include VAT.
- These are the initial and total fees to be paid in advance by both parties within 5 calendar days from the trader's consent to participate in Conciliation and only cover the first 6 hours of conciliation. Non-payment of the set fees by any party will not allow ICLAIM to start the conciliation process. For every additional hour of conciliation the consumer and the trader will have to pay 50% of their initial fee respectively per hour.
- There is a non-refundable fee for the submission of every complaint payable by the consumer set at 10 euros (per complaint).
- ICLAIM reserves the right to periodically revise the aforementioned fees subject to the notification and approval of the Cyprus Consumer Protection Authority.

APPENDIX B

Model conciliation clause

Where, in the event of a dispute arising out of or relating to this contract, the parties wish to seek an amicable settlement of that dispute by conciliation, the conciliation shall take place in accordance with the ICLAIM Conciliation Rules as at present in force.