



# **RCICAL**

## **CONCILIATION / MEDIATION RULES**

Effective 1 July 2008

**REGIONAL CENTRE FOR  
INTERNATIONAL  
COMMERCIAL ARBITRATION-LAGOS**

(Established under the Auspices of the Asian-African Legal Consultative Organization)

**REGIONAL CENTRE FOR INTERNATIONAL  
COMMERCIAL ABRITRATION-LAGOS**

**CONCILIATION / MEDIATION RULES**

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## CONCILIATION/MEDIATION

### Introduction

Mediation or Conciliation is a voluntary process in dispute resolution whereby a neutral third party who is independent of the parties, assists them to reach agreement, developing options for them so that they may reach this objective.

The mediator/conciliator does not impose a settlement upon the parties. He\* may propose a settlement if the parties so wish. His function is to assist the parties to reach a settlement. Where this fails, the mediation ends. The procedure is very flexible and the mediator/conciliator can confer with each party separately. The process could take one day or a few days at the most, or take longer, if circumstances exist to warrant an extension of time.

Under the revised Rules for Conciliation/Mediation of the Regional Centre for International Commercial Arbitration-Lagos, the mediator/conciliator may make proposals for a settlement of the dispute only at the request or with the consent of all parties.

The Director of the Regional Centre for International Commercial Arbitration-Lagos can assist in the selection or appointment of the mediator/conciliator(s).

\* *A term used in this context to mean "male" or "female"*

In the Rules, the words-"mediation and "conciliation-are used interchangeably and reference to "Conciliator and "conciliation" shall include "mediator and "mediation".

The revised Rules for Conciliation/Mediation under the auspices of the Regional Centre for International Commercial Arbitration-Lagos incorporate many of the provisions of the UNCITRAL\*\* Conciliation Rules. They may be used in both domestic and international cases where parties opt to conciliate either preliminary to arbitration, in lieu of arbitration or in the course of arbitration.

\* *UNITED NATIONS COMMISSION FOR INTERNATIONAL TRADE LAW*

### MODEL CONCILIATION/MEDIATION CLAUSE

For parties who wish to refer their dispute to the Centre for mediation or conciliation, the following form of agreement is recommended:

"Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by conciliation/mediation\*\*\*in accordance with the Rules for Conciliation/Mediation of the Regional Centre for International Commercial Arbitration-Lagos".

\* *Delete as appropriate*

**REGIONAL CENTRE FOR INTERNATIONAL COMMERCIAL ARBITRATION-LAGOS  
RULES FOR CONCILIATION/MEDIATION**

**RULE 1 : Application of the Rules**

- (1) Where the parties have agreed to conciliate under the auspices of the Regional Centre for International Commercial Arbitration-Lagos-(**RCICAL**), **these Rules shall apply.**
- (2) The parties may agree to exclude or vary any part of the 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.

**RULE 2 : Initiation and Commencement of Conciliation/Mediation**

- (1) The party initiating conciliation shall submit a written request to the RCICAL which shall contain the following:
  - (a) The names and addresses of the parties;
  - (b) A reference to the conciliation clause or a copy of the separate conciliation agreement, if any;
  - (c) A reference to the contract or other legal relationship out of or in relation to which the dispute arises;
  - (d) A proposal as to the number of Conciliators (one to three), if the parties have not agreed thereon;
  - (e) The nature of the dispute and the amount involved and/or other remedies sought;
  - (f) Registration fee in accordance with the schedule of fees annexed.
- (2) The RCICAL shall send a copy of the request to the other party.
- (3) Conciliation proceedings commence when the other party accepts the request to conciliate in writing.
- (4) If the other party rejects the request for conciliation or if the RCICAL does not receive a reply within 30 days from the date on which the RCICAL sends the conciliation request, the RCICAL may elect to treat this as a rejection of the invitation to conciliate and inform the party initiating conciliation accordingly.

**RULE 3 : Number of Conciliators/Mediators**

There shall be one Conciliator unless the parties agree that there shall be two or three Conciliators. Where there is more than one Conciliator, they ought, as a general rule, to act jointly.

**RULE 4 : Appointment of Conciliators/Mediators**

- (1)
  - (a) In conciliation proceedings with one Conciliator, the parties shall endeavour to reach an agreement on the name of a sole Conciliator.
  - (b) In conciliation proceedings with two Conciliators, each party appoints one Conciliator;
  - (c) In conciliation proceedings with three Conciliators, each party appoints one Conciliator. The parties shall endeavour to reach an agreement on the third Conciliator.
- (2) The Director of the RCICAL shall assist in the appointment of Conciliator(s) if the parties fail to reach an agreement on the name or names of the Conciliator(s), in particular;
  - (a) A party may request the Director to recommend the name(s) of suitable individuals to act as Conciliator(s) or;
  - (b) The parties may agree that the appointment of one or more Conciliators be made directly by the Director.

In recommending or appointing individuals to act as Conciliators, the Director 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 third Conciliator, shall take into account the advisability of appointing a Conciliator of a nationality other than the nationalities of the parties.

**RULE 5 : Submission of Statements To Conciliator**

- (1) The Conciliator\*, upon his appointment, requests each party to submit to him a brief written statement describing the general nature of the dispute and the points at issue. Each party sends a copy of his statement to the other party.
- (2) The Conciliator may request each party to submit to him a further written statement of his 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 the statement to the other party.
- (3) At any stage of the conciliation proceedings, the Conciliator may request a party to submit to him such additional information, as he deems appropriate.
- (4) Where pursuant to this Rule, each party submits written statements and documents to the Conciliator and to the other party, copies shall also be furnished to the RCICAL.

*\*In this and the following articles, the term "Conciliator" applies to a sole Conciliator, two or three Conciliators, as the case may be.*

**Rule 6 : Representation And Assistance**

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, to the Conciliator and to the RCICAL; such communication is to specify whether the appointment is made for purposes of representation or of assistance.

**Rule 7 : Role Of Conciliator**

- (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 business practices between the parties.
- (3) The Conciliator may conduct the conciliation proceedings in such a manner as he 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) At any stage of the conciliation proceedings the Conciliator may at the request or with the consent of all parties make proposal for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by any reasons. Such proposals shall be made in good faith to facilitate the conciliation process, and shall not be binding on the parties.

**Rule 8 : Administrative Assistance**

The Director of the RCICAL may arrange for administrative assistance or facilities in order to facilitate the conduct of the conciliation proceedings at the request of the Conciliator or the parties.

**Rule 9 : Communication Between Conciliator And Parties**

The Conciliator may invite the parties to meet with him or may communicate with them orally or in writing. He may meet or communicate with the parties together or with each of them separately.

**Rule 10 : Venue**

The conciliation shall be at the RCICAL in Lagos or at any other place chosen by the parties in consultation with the Conciliator.

**Rule 11 : Disclosure of Information**

When the Conciliator receives factual information concerning the dispute from a party, he 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 he 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.

**Rule 12 : Co-operation of Parties With Conciliator**

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.

**Rule 13 : Suggestions By Parties For Settlement Of Dispute**

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.

**Rule 14 : Settlement Agreement**

(1) When it appears to the Conciliator that there exist elements of a settlement which would be acceptable to the parties, he formulates the terms of a possible settlement and submits them to the parties, for their observation. After receiving the observations of the parties, the Conciliator may formulate the terms of a possible settlement in the light of such observations.

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

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

**Rule 15 : Confidentiality**

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

**Rule 16 : Termination of Conciliation Proceedings**

(1) 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; or
  - (e) Within three months from the date of commencement of conciliation unless agreed otherwise by the parties and the Conciliator.
- (2) Unless agreed otherwise, the Conciliator at the termination of the conciliation proceedings shall furnish the Director of the RCICAL a copy of the settlement agreement signed by the parties.

**Rule 17 : Resort To Arbitral Or Judicial Proceedings.**

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.

**Rule 18 : Costs**

- (1) The Director of the RCICAL shall fix the costs of the conciliation in accordance with the schedule of fees annexed. The term "Costs" includes:
- (a) The fee of the Conciliator, which shall be reasonable in amount;
  - (b) The travel and other expenses of the Conciliator;
  - (c) The travel and other expenses of witnesses requested by the Conciliator with the consent of the parties
  - (d) The cost of any expert advice requested by the Conciliator with the consent of the parties;
  - (e) The expenses incurred by the RCICAL in connection with the conciliation as well as its administrative charges.
- (2) The costs, as defined above, are borne equally by the parties unless the settlement agreement provides for a different apportionment. All other expenses incurred by a party are borne by the party.

**RULE 19 : Deposits**

- (1) The Director of the RCICAL shall at the commencement of the conciliation request each party to deposit an equal amount as an advance for the costs referred to in Rule 18 (1) which are expected to be incurred.
- (2) During the course of the conciliation proceedings the Director of the RCICAL may request supplementary deposits from the parties in equal amounts.
- (3) If the required deposits are not paid in full by both parties within thirty days after the receipt of the request, the Director of the RCICAL shall so inform the parties in order that one or another of them may make the required payment. If such payment is not made the Conciliator, after consultation with the Director of the RCICAL, may order the suspension or termination of the conciliation proceedings.
- (4) The Director of the RCICAL may apply deposits towards disbursements for the costs of conciliation.
- (5) Upon termination of the conciliation, the Director of the RCICAL shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

**Rule 20 : Role of Conciliator In  
Other Proceedings**

- (1) The Conciliator shall not, without the consent of the parties, act as an arbitrator or as a representative or counsel of a party or appear as a witness in any arbitral or judicial proceedings in respect of a dispute that is the subject of the conciliation proceedings.
- (2) The Conciliator shall not be presented by the parties as a witness in any arbitral or judicial proceedings.

**Rule 21 : Admissibility of Evidence In  
Other Proceedings**

Unless the parties agree otherwise, they will not 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.

**RULE 22 : Exclusion Of Liability.**

Neither RCICAL nor the Conciliator shall be made liable to any party for any act or omission related to the conduct of the conciliation proceedings.

**RULE 23 : Waiver Of Defamation.**

The parties and the Conciliator agree that statements or comments whether written or oral made in the course of the conciliation proceedings shall not be relied upon to found or maintain any action for defamation, libel, slander, or any related complaint.

## **SCHEDULE OF FEES**

### **(a) Registration Fee**

A Registration fee of US\$750 is payable by the party initiating conciliation (Rule 2) (1) (f)

### **(b) Deposit**

A deposit of US\$1,000 towards administrative cost is payable by each party on a reference to conciliation/mediation. This payment is not refundable and shall be credited to the portion of the administrative costs paid by each party for the conciliation.

### **(c) Administrative Costs**

The administrative costs for a conciliation/mediation shall be fixed at half of the amount calculated in accordance with the scale of administrative costs as set out in Table I of the RCICAL Arbitration Rules with a minimum of US\$1,500.00.

In the event that the amount in dispute is not stated, the Director of RCICAL shall fix the administrative costs.

### **(d) Conciliator/Mediator's Fee**

In fixing the fee of the Conciliator/Mediator the Director of the RCICAL may undertake consultations with the Conciliator/Mediator and the parties. Such fee shall be reasonable in amount, taking into consideration the amount in dispute, the complexity of the subject matter, the time spent by the Conciliator/Mediator and any other relevant circumstances of the case.

**INITIATION AND COMMENCEMENT  
OF CONCILIATION (RULE 2)**

(To be completed by Applicant)

To:

The Director  
Regional Centre for International Commercial Arbitration-Lagos  
6<sup>th</sup> Floor, Marble House  
1 Alfred Rewane Road (Former Kingsway Road)  
Falomo – Ikoyi  
P. O. Box 50565  
Lagos

Tel: ++234 (1) 2705516, 2703572, 2692834  
Fax: ++234 (1) 2713579  
E-mail: [info@rcical.org](mailto:info@rcical.org)  
Website: [www.rcical.org](http://www.rcical.org)

**REQUEST FOR CONCILIATION**

1. I/We (Name & Address, tel. & fax of Party A) hereby apply to you for a dispute to be referred to conciliation under the Rules for Conciliation of the Regional Centre for International Commercial Arbitration, Lagos.

2. The other parties in the dispute are (Names & addresses, tel. & fax of the other parties).

3. The dispute has arisen out of or in relation to:

\* (a) a contract made on .....  
(date).....between the parties  
for..... (name/nature  
of contract).....  
.....

\* (b) (other legal relationship, please specify)  
.....  
.....

4. \* (a) The contract (or legal relationship) referred to in paragraph 3 above contains a conciliation clause, a copy of which I/we enclose herewith.

\* (b) A copy of the conciliation agreement in accordance with Form D of the Rules is enclosed.

\* (c) All parties have agreed to execute a conciliation agreement in accordance with Form D of the Rules.

5. An outline of the dispute as I/we see it and amount (or kind) of claim I/we wish to make are given below:

.....  
.....

6. \* (a) The parties have agreed that the number of Conciliators shall be .....

\* (b) The parties have not agreed on the number of Conciliators, but I/we propose to have ..... (number).

7. I/we enclose a cheque/bank draft/money order for the sum of US\$750.00 being registration fee

Signed.....

Name.....

For & on behalf of Applicant

*\*Delete where not applicable.*

**INITIATION AND COMMENCEMENT  
OF CONCILIATION (RULE 2)**

(To be completed by the Director of the Centre)

To: (Other parties referred to in paragraph 2 of Form A).

**REQUEST FOR CONCILIATION**

1. I have received an application for conciliation of a dispute as set out in a letter from (Name(s) of Applicant(s), a copy of which is enclosed. Kindly confirm that you intend to proceed with such conciliation by completing Form C (attached hereto) and returning the duplicate copy thereof.
2. If I do not have a response from you within 30 days of the date of this letter I would assume that you do not propose to proceed and I will inform the applicant accordingly.

Signed.....  
Director  
Regional Centre for International  
Commercial Arbitration-Lagos

Date:

**INITIATION AND COMMENCEMENT  
OF CONCILIATION (RULE 2)**

(To be completed by each of the other parties separately)

To:

The Director  
Regional Centre for International Commercial Arbitration-Lagos  
6<sup>th</sup> Floor, Marble House  
1 Alfred Rewane Road (Former Kingsway Road)  
Falomo-Ikoyi  
P. O. Box 50565  
Lagos

**REQUEST FOR CONCILIATION**

- 1. I/We acknowledge receipt of your letter, Ref: .....  
.....dated.....
- 2. I/We state my/our position as follows:  
(other party/parties to give an outline of their version of the dispute and  
claims and counter-claims, if any. Please attach additional sheets if required).  
.....  
.....
- 3. Kindly initiate proceedings for conciliation towards an amicable settlement.

Signed by.....  
For & on behalf of (name of the other party)

Date.....



**INITIATION AND COMMENCEMENT OF  
CONCILIATION (RULE 2)**

**MODEL CONCILIATION AGREEMENT**

This Agreement is made on.....day of .....20 .....between

(Name and address of Party A) and  
(Name and address of Party B) and  
(Name and address of Party C) and  
(Name and address of Conciliator) and

**WHEREAS:**

- A. The Parties have entered into a contract/other legal relationship (describe)  
.....
- B Disputes or differences have arisen between the Parties as follows:  
.....
- C. The Parties have read and understood the Rules for Conciliation of the Regional Centre for International Commercial Arbitration-Lagos.

**IT IS AGREED**

- 1. The Parties shall endeavour in good faith to resolve their disputes or differences by conciliation to be conducted in accordance with the Rules for Conciliation of the Regional Centre for International Commercial Arbitration, Lagos or any modification thereto as may be agreed by the Parties.
- 2. The Parties agreed to appoint.....as Conciliator.
- 3. The Parties agreed to pay the fees and costs of Conciliation as set forth in Rule 18 of the Rules for Conciliation of the Regional Centre for International Commercial Arbitration, Lagos.

.....  
Signed by (name & designation)  
for and on behalf of Party A

.....  
Signed by (name & designation)  
for and on behalf of Party B

.....  
Signed by (name & designation)  
for and on behalf of Party C

.....  
Signed by Conciliator

All Communications should be addressed to:

The Director  
Regional Centre for International  
Commercial Arbitration-Lagos  
6<sup>th</sup> Floor, Marble House  
1, Alfred Rewane Road  
(formerly Kingsway Road)  
P.O. Box 50565, Ikoyi  
Lagos, Nigeria

Telephone: + + 234 1 2705516, 2703572

Fax: + + 234 1 2713579

E-mail: [info@rcicalagos.org](mailto:info@rcicalagos.org)

Website: [www.rcicalagos.org](http://www.rcicalagos.org)