



**P.R.I.M.E. FINANCE**  
Panel of Recognised International Market Experts in Finance

# **P.R.I.M.E. Finance Mediation Rules**

**P.R.I.M.E. Finance**  
The Hague  
The Netherlands



## TABLE OF CONTENTS

<b>P.R.I.M.E. Finance Mediation Rules</b>	<b>5</b>
Application of the Rules (Article 1)	6
Commencement of Mediation Proceedings (Article 2)	
Number of Mediators (Article 3)	7
Appointment of the Mediator (Article 4)	8
Appointing Authority (Article 5)	9
Qualifications of the Mediator (Article 6)	10
Replacement of the Mediator (Article 7)	11
Exclusion of Liability (Article 8)	11
Submission of Statements to Mediator (Article 9)	11
Representation and Assistance (Article 10)	12
Role of the Mediator (Article 11)	12
Administrative Assistance (Article 12)	13
Communication between Mediator and Parties (Article 13)	13
Co-Operation of Parties with Mediator (Article 14)	14
Privacy (Article 15)	14
Confidentiality (Article 16)	14
Suggestions by Parties for Settlement of Dispute (Article 17)	15
Settlement Agreement (Article 18)	15
Termination of Mediation Proceedings (Article 19)	16
Resort to Arbitral or Judicial Proceedings (Article 20)	16
Costs (Article 21)	17
Role of Mediator in other Proceedings (Article 22)	18
Miscellaneous (Article 23)	19
<b>Annex A. Schedule of Institutional Costs</b>	<b>20</b>
Registration Fee (Article 1)	20
Costs (Articles 2 to 3)	20



**P.R.I.M.E. Finance**  
**Mediation Rules**

In force as from 26 February 2016



## APPLICATION OF THE RULES

---

### Article 1

1. Where parties have agreed by prior existing agreement or, if there is no prior agreement, by agreement after the dispute arises, or because a judicial authority advises them or refers them to mediation, that disputes between them in respect of a relationship, whether contractual or not, shall be referred to mediation under the P.R.I.M.E. Finance Mediation Rules, then these Rules, subject to such modification as the parties may agree, shall apply.

## COMMENCEMENT OF MEDIATION PROCEEDINGS

---

### Article 2

1. Any party may initiate recourse to mediation by filing with the the P.R.I.M.E. Finance/PCA Registry a notice of mediation. Unless the initiation is by all the parties, the initiating party shall send to every other party (hereinafter called the “invited party”) a copy of the notice of mediation as soon as practical.

2. The notice of mediation shall include the following:

- a. A request that the dispute be referred to mediation;
- b. The names and contact details of the parties and their representatives;
- c. Identification of the mediation agreement, if any, that is invoked;
- d. Identification of any contract or other legal instrument out of or in relation to which the dispute arises or, in the absence of any such contract or instrument, a brief description of the relevant relationship, including a brief description of the dispute.

3. A party may request the P.R.I.M.E. Finance/PCA Registry to invite another party to join in a submission to mediation. The P.R.I.M.E. Finance/PCA Registry shall send the invited party an invitation for the submission to mediation as soon as practical. The P.R.I.M.E. Finance/PCA Registry shall send the initiating party a copy of such invitation.

4. Mediation proceedings commence when the mediator(s) is/are appointed in accordance with Articles 3, 4, 4a, 5 and 5a herein and all the parties have informed the P.R.I.M.E. Finance/PCA Registry that they agree to pay the costs and fees calculated in accordance with Article 21 to the bank account number of the PCA (“the PCA bank account”) when requested to do so.

5. Until the mediator(s) is/are appointed and all the parties have accepted to pay the costs as aforesaid there will be no mediation proceedings.

6. If any party does not comply with any reasonable request of the mediator or the P.R.I.M.E. Finance/PCA Registry within a reasonable period of time as specified in the request, the mediator or the P.R.I.M.E. Finance/PCA Registry, as the case may be, may elect to treat this as a rejection of the agreement to mediate and the mediation shall come to an end.

## NUMBER OF MEDIATORS

---

### Article 3

1. There shall be one mediator unless the parties agree that there shall be two or three mediators (hereinafter when it reads “mediator” it can also refer to “mediators”). Where there is more than one mediator, they shall act in co-operation.

## APPOINTMENT OF THE MEDIATOR

### Article 4

1. As soon as possible after the acceptance of the invitation to mediate, the parties shall select or the appointing authority shall appoint the mediator, subject to article 5a, from the P.R.I.M.E. Finance List of Experts. If the parties have agreed on the name or on a method of appointment of the mediator, that method shall be followed. If no such appointment has been made within 30 days or such longer period as the P.R.I.M.E. Finance/PCA Registry shall allow after acceptance of the invitation to mediate, the appointing authority shall appoint the mediator in accordance with Article 5.
2. The appointment of the mediator shall be confirmed by the P.R.I.M.E. Finance/PCA Registry by a letter of appointment addressed to the mediator. A copy of this letter shall be sent to the parties simultaneously.
3. As soon as practical after the appointment of the mediator the P.R.I.M.E. Finance/PCA Registry shall inform the parties of how the fees of the mediator and its administrative costs are to be calculated.

### Article 4a

1. If two mediators are to be appointed, each party shall appoint one mediator, subject to article 5a, from the P.R.I.M.E. Finance's List of Experts.
2. If three mediators are to be appointed, each party shall appoint one mediator, subject to article 5a, from the P.R.I.M.E. Finance's List of Experts. The two mediators thus appointed shall choose the third mediator, subject to article 5a, from the P.R.I.M.E. Finance's List of Experts, which third mediator will act as the presiding mediator.



3. If within 30 days after the receipt of a party's notification of the appointment of a mediator the other party has not notified the first party of the mediator it has appointed, the first party may request the appointing authority to appoint the second mediator, subject to article 5a, from the P.R.I.M.E. Finance's List of Experts.

4. Where 3 mediators are to be appointed, if within 30 days after the appointment of the second mediator the two mediators have not agreed on the choice of the presiding mediator, the presiding mediator shall be appointed by the appointing authority in the same way as a sole mediator would be appointed under article 5.

## APPOINTING AUTHORITY

---

### Article 5

1. If the parties have not otherwise agreed on the choice of an appointing authority by the time of commencement of the mediation, any party may request the Secretary-General of the PCA to act as the appointing authority.

2. In exercising their functions under these Rules, the appointing authority may require from any party and the mediators the information they deem necessary and they shall give the parties and, where appropriate, the mediators, an opportunity to present their views in any manner they consider appropriate. All such communications to and from the appointing authority shall also be provided by the sender to all other parties and the P.R.I.M.E. Finance/PCA Registry.

3. When the appointing authority is requested to appoint a mediator pursuant to Articles 4 and 4a, the party making the request shall send to the appointing authority copies of the notice of mediation and, if it exists, any response to the notice of mediation.

4. The appointing authority shall have regard to such considerations as are likely to secure the appointment of an independent and impartial mediator.

#### Article 5a

Notwithstanding the provisions of Articles 4, 4a and 5 above, the parties, the mediators or the appointing authority, as the case may be, may also appoint arbitrators not included on P.R.I.M.E Finance's list of Experts and, in doing so, preferably take into consideration, to the extent possible, qualifications comparable to those of the persons on P.R.I.M.E Finance's list of Experts

### QUALIFICATIONS OF THE MEDIATOR

---

#### Article 6

1. When a person is approached in connection with his or her possible appointment as a mediator, he or she shall disclose to the P.R.I.M.E. Finance/PCA Registry any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. A mediator, from the time of his or her appointment and throughout the mediation, shall without delay disclose any such circumstances to the parties unless they have already been informed of these circumstances.

2. Upon receipt of such information, the P.R.I.M.E. Finance/PCA Registry shall immediately inform the parties about these circumstances and invite the parties to indicate whether they approve that the mediator shall be appointed or remain appointed. In the event that a party states that the mediator should not be or remain appointed, the P.R.I.M.E. Finance/PCA Registry shall appoint another mediator.

## REPLACEMENT OF THE MEDIATOR

---

### Article 7

Where a mediator has to be replaced during the course of the mediation, a substitute mediator shall be appointed pursuant to the procedure provided for in Articles 4 and 5.

## EXCLUSION OF LIABILITY

---

### Article 8

Save for intentional wrongdoing, gross negligence or fraud, the parties waive, to the fullest extent permitted under the applicable law, any claim against the mediators, the appointing authority, the P.R.I.M.E. Finance/PCA Registry, P.R.I.M.E. Finance, and any person appointed by the mediators based on any act or omission in connection with the mediation.

## SUBMISSION OF STATEMENTS TO MEDIATOR

---

### Article 9

1. Upon his or her appointment, the mediator shall request each party at least 10 days prior to the first scheduled mediation session to submit a brief written statement describing the general nature of the dispute and the points at issue. This memorandum shall be simultaneously transmitted to the other parties.
2. The mediator may request each party to submit a further written statement of its position and the facts and grounds in support thereof, supplemented by any documents and other evidence that such party deems appropriate. At the discretion of the mediator, after having received the views of the parties on the issue, such additional written statements and supporting information may be mutually exchanged by the parties.

3. At any stage of the mediation proceedings the mediator may request a party to submit such additional information as the mediator deems appropriate to be received by the mediator in confidence.

## REPRESENTATION AND ASSISTANCE

---

### Article 10

1. The parties may be represented or assisted by persons of their choice. An initiating party shall communicate the names and addresses of such persons in the notice of mediation. An invited party shall communicate the names and addresses of such persons after receipt of the notice of mediation. In such communications, the parties should also specify whether the appointment is made for purposes of representation or of assistance.

2. Each party shall communicate in writing to the mediator, to the other party and to the P.R.I.M.E. Finance/PCA Registry, the names of the representatives of that party who possess all necessary authority to negotiate and resolve the dispute.

## ROLE OF THE MEDIATOR

---

### Article 11

1. The mediator should assist the parties in an independent and impartial manner to reach an amicable settlement of their dispute.

2. The mediator will be guided by principles of objectivity, fairness and justice, giving consideration to all matters that appear to him to be of relevance.

3. The mediator may conduct the mediation 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 mediator hear oral statements, and the need for a speedy settlement of the dispute.

4. The mediator may, at any stage of the mediation 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 justifying the proposals.

## ADMINISTRATIVE ASSISTANCE

---

### Article 12

In order to facilitate the conduct of the mediation proceedings, the P.R.I.M.E. Finance/PCA Registry will provide such administrative assistance as it considers appropriate.

## COMMUNICATION BETWEEN MEDIATOR AND PARTIES

---

### Article 13

1. The parties may be invited by the mediator for sessions together, or to ex parte meetings. Invitations for such meetings may be communicated by the mediator orally or in writing.

2. Unless the parties have agreed upon the place where meetings with the mediator are to be held, such place will be determined by the mediator, after consultation with the parties. The time of meetings with the mediator will also be set by the mediator, after consultation with the parties.

## CO-OPERATION OF PARTIES WITH MEDIATOR

---

### Article 14

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

## PRIVACY

---

### Article 15

1. Mediation sessions shall be private. Only the parties and their representatives should be allowed to attend the mediation sessions, unless the mediator for reasons he/she considers sufficient, agrees otherwise.
2. The attendance at mediation sessions of individuals other than the parties and their representatives requires the prior approval of both parties and the mediator.
3. Hearings shall be held in camera unless the parties agree otherwise.

## CONFIDENTIALITY

---

### Article 16

1. The mediator shall not disclose any information provided to him or her by a party or witness without the consent, as appropriate, of that party and witness.
2. The mediator shall not be compelled to divulge such information, or to testify in regard to the mediation in any proceedings unless required to do so by law.

3. The parties shall maintain the confidentiality of the mediation and shall not – except where its disclosure is required by law or is necessary for purposes of implementation and enforcement – rely on, or introduce as evidence in any arbitral, judicial, or other proceeding, any observations, statements or propositions made before or by the mediator or any documents produced in relation to the mediation proceedings.

## SUGGESTIONS BY PARTIES FOR SETTLEMENT OF DISPUTE

---

### Article 17

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

## SETTLEMENT AGREEMENT

---

### Article 18

1. If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the mediator may draw up, or otherwise assist the parties in drawing up, the settlement agreement.
2. The parties, by signing the settlement agreement, put an end to the dispute and are bound by the agreement.

## TERMINATION OF MEDIATION PROCEEDINGS

---

### Article 19

The mediation 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 mediator, after consultation with the parties, to the effect that further efforts at mediation are no longer justified, on the date of the declaration; or
- c. By a written declaration of the parties addressed to the mediator to the effect that the mediation proceedings are terminated, on the date of the declaration; or
- d. By a written declaration of a party to the other party and the mediator to the effect that the mediation proceedings are terminated, on the date of the declaration.

## RESORT TO ARBITRAL OR JUDICIAL PROCEEDINGS

---

### Article 20

The parties undertake not to initiate, or continue during the mediation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject of the mediation proceedings, except that a party may initiate arbitral or judicial proceedings where, in its opinion, such proceedings are necessary for preserving its rights or as required by a court.



## COSTS

---

### Article 21

1. Upon appointment of the mediator, a fixed equal amount for the fees of the mediator and the costs of administration of the mediation is due from each party as an advance for the costs referred to in paragraph 5 of this article. The amount due shall be determined by the P.R.I.M.E. Finance/PCA Registry. The P.R.I.M.E. Finance/PCA Registry shall send a notice to the parties communicating how the amount of administration costs and mediator's fees due will be calculated as soon as possible after the appointment of the mediator.

2. During the course of the mediation proceedings, the P.R.I.M.E. Finance/PCA Registry may request supplementary equal sums from each party.

3. If the required deposits under paragraphs 1 and 2 of this article are not paid in full by both parties within thirty days, the mediator may suspend the proceedings or may make a written declaration of termination to the parties, effective on the date of that declaration.

4. After the termination of the mediation in accordance with article 19, the P.R.I.M.E. Finance/PCA Registry shall determine the costs of mediation. The P.R.I.M.E. Finance/PCA Registry shall render an account to the parties of the deposits received and return any unexpended balance to the parties.

5. The term "costs" includes only:

- a. The fees of the mediator to be fixed by the mediator in conjunction with the P.R.I.M.E. Finance/PCA Registry;
- b. The reasonable travel and other expenses incurred by the mediator;

- c. The travel and other expenses of witnesses requested by the mediator with the consent of the parties;
  - d. The cost of any expert advice requested by the mediator with the consent of the parties;
  - e. Any fees and expenses of the P.R.I.M.E. Finance/PCA Registry.
  - f. Any fee or expenses of the appointing authority
6. The fees and expenses of the mediator shall be reasonable in amount, taking into account the amount in dispute, the complexity of the subject matter, the time spent by the mediator and any other relevant circumstances of the case.
7. 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 that party.

## ROLE OF MEDIATOR IN OTHER PROCEEDINGS

### Article 22

The parties and the mediator undertake that the mediator 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 mediation proceedings. The parties also undertake that they will not present the mediator as a witness in any such proceedings.

## MISCELLANEOUS

---

### Article 23

1. The parties may agree to exclude or vary any of these Rules at any time.
2. Where any of these Rules is in conflict with a provision of law from which the parties cannot derogate, that provision of law prevails.

### REGISTRATION FEE

---

#### Article 1

When submitting a notice of mediation pursuant to article 2 of the P.R.I.M.E. Finance Mediation Rules (the “Rules”), the claimant shall pay a non-refundable registration fee of EUR 1,500 (the “Registration Fee”) to the bank account number of the PCA (“the PCA bank account”).

### COSTS

---

#### Article 2

1. The costs referred to in article 2 paragraph 4 and 5 of the Rules shall be determined in accordance with Article 3 below, which is an indicative scale only; the P.R.I.M.E. Finance/PCA Registry may charge the PCA hourly rates, if these total to a higher amount than the indicative scale mentioned in Article 3 below.

2. The administrative costs shall be no less than EUR 3,500.

#### Article 3

1. The indicative scale set out hereinafter (the “Scale”) shall guide the fixing of administrative costs by the P.R.I.M.E. Finance/PCA Registry. The P.R.I.M.E. Finance/PCA Registry retains discretion in the fixing of the administrative costs and, in exceptional circumstances, may fix the administrative costs at a lower or higher figure than that which would result from the application of the Scale.

The indicative scale:

<b>Amount in Dispute (in EUR)</b>	<b>Prime Finance administrative fees (in EUR)</b>
Up to and including 200,000	3,500
From 200,001 to 2,000,000	6,500
From 2,000,001 to 10,000,000	10,000
From 10,000,001 to 50,000,000	13,500
From 50,000,001 to 100,000,000	17,000
Over 100,000,001	20,000

If the parties do not identify the value of the dispute the P.R.I.M.E. Finance/PCA Registry may determine the indicative value.

2. The above mentioned prices are excluding any possible value added tax (VAT). The P.R.I.M.E. Finance/PCA Registry may add VAT in the invoices.



**P.R.I.M.E. Finance**

The Hague

The Netherlands

[secretary@primefinancedisputes.org](mailto:secretary@primefinancedisputes.org)

[www.primefinancedisputes.org](http://www.primefinancedisputes.org)