

THE GOTHENBURG CLAUSES (Sw. "GÖTEBORGSKLAUSULERNA")

THE WEST SWEDEN CHAMBER OF COMMERCE AND INDUSTRY COUNCIL RULES ON MEDIATION AND ARBITRATION

1 § Recommended model clause:

"Disputes arising out of or in connection with this agreement shall be finally resolved in accordance with the Gothenburg Clauses, The West Sweden Chamber of Commerce and Industry Council Rules on Mediation and Arbitration."

Section 1 – The Arbitration proceedings

2 § An arbitration is initiated by a party making a request to the Chamber of Commerce and Industry Council ("The Council"), which request shall include the following:

- (i) The parties to the dispute, their counsel and contact data for everyone involved.
- (ii) A brief summary of the dispute.
- (iii) A statement of the relief sought.
- (iv) A copy of or description of the contents of the arbitration agreement cited by the requesting party.
- (v) Where applicable, the name of a mediator and/or arbitrator jointly appointed by the parties, or the requesting party's suggested mediator and/or arbitrator.

3 § At the filing the requesting party shall pay a registration fee to the Chamber of Commerce and Industry, according to the statutes of The Council. Should the fee not be paid at filing of the request, The Council shall invite the party, in writing, to pay the fee within a certain time frame. Where the fee is still not paid within the extended time frame, The Council shall dismiss the request. The request may further be dismissed by The Council where its contents are such that it may not serve as a basis for the arbitral proceedings, or it does not include a statement that an arbitration agreement under these Rules has been concluded.

4 § Where a party has filed a request under these Rules on expedited arbitration, the proceedings are initiated through a round of mediation, under the Chamber of Commerce and Industry Rules on Mediation. The Council appoints or confirms the Mediator. The parties shall be offered 10 days within which they are to make suggestions about whom shall be so appointed. Where the parties jointly suggest a mediator, The Council shall appoint this person.

An appointed mediator shall contract with the Chamber of Commerce and Industry in accordance with the statutes of The Council.

The written factum from each party within the mediation shall also serve as the first submission in an eventual arbitration that follows on the mediation.

- 5 § Should the parties have contracted out of mediation, a party having declared in writing that it will not take part in mediation, the mediation having terminated without a settlement or the time frame within which the mediation shall be concluded has passed, the proceedings will automatically transfer into an arbitration according to the Swedish Arbitration Act, with the following amendments.
- 6 § The dispute shall be decided by a single arbitrator. The parties shall be offered 10 days as of the start of the arbitration under § 5 by The Council, in order to jointly appoint an arbitrator. Where the parties jointly suggest an arbitrator, he or she shall be appointed by The Council. Should the parties not appoint an arbitrator within the time frame, one shall be appointed by The Council.

An appointed arbitrator shall contract with the Chamber of Commerce and Industry in accordance with the statutes of The Council.

- 7 § The arbitrator decides and schedules the arbitration proceedings, including whether there shall be any hearing. The written exchanges shall be limited to two submissions per party. The arbitrator may however, given special circumstances, allow further exchanges of written submissions.
- 8 § An arbitral award shall be handed down within four months as of the arbitrator being appointed. The arbitrator may prolong this time frame only where special circumstances so require.
- 9 § A party may request compensation for all costs due to the proceedings. As regards counsel's fees however, the arbitrator may award compensation only where special circumstances so dictate.

Section 2 – gearing up to an ordinary arbitration proceeding

- 10 § Should the arbitrator, due to the character and proportion of the dispute, find that the dispute is not suited for an expedited arbitration, the arbitrator may request The Council to rule that the arbitration shall instead be presided on by a tribunal of three arbitrators, under the Swedish Arbitration Act. Where The Council decides accordingly (gearing up), 3-9 §§ no longer apply to the proceedings. Each party shall within seven days after the decision to gear up file a written submission to The Council, appointing their respective additional arbitrator. Should a party not do so, The Council shall appoint an arbitrator instead. The arbitrator within the expedited

arbitration shall, unless special circumstances dictates otherwise, act as third arbitrator and Chairman to the tribunal.

Section 3 – Administrative rules et al.

11 § The Council is governed by statutes adopted by the Board of the West Sweden Chamber of Commerce and Industry. The Council may further adopt general recommendations on the due process within arbitral proceedings and mediations according to these Rules.

12 § The Council gives the final ruling on any issue regarding conflict of interest as provided in the Swedish Arbitration Act. Where the ruling is to sever an arbitrator from the assignment, a replacement shall be indicated in a written submission to The Council within seven days, by the party that first appointed the arbitrator in question. In all other cases, the new arbitrator shall be appointed by The Council.

Section 4 – entering into force et al.

13 § These Rules shall enter into force on the 1st of January, 2009. The older clauses and former Rules shall apply to any proceedings that opened prior to this date. Arbitration agreements concluded prior thereto shall also be handled according to the former Rules. The parties may in either circumstance however contract that these current Rules shall apply instead.

THE MEDIATION RULES

- 1 § In order to limit the costs in the dispute, the parties have agreed to mediate in the dispute.
- 2 § Mediators are appointed by The Council. The parties shall be offered the opportunity, within 10 days, to comment on whom to appoint. Where the parties jointly suggest a particular mediator, he or she shall be duly appointed.
- 3 § An appointed mediator shall contract with the Chamber of Commerce and Industry in accordance with the statutes of The Council, which i.a. state that the mediator shall be impartial and independent.
- 4 § The mediator decides on the proceedings and shall, in conjunction with the parties, draft a schedule for the proceedings. Each party to the mediation shall be duly represented by a person with full authority to settle the matter in dispute.
- 5 § The claimant party shall file a written submission with the mediator, which submission shall also act as the first submission in an eventual arbitration proceeding. The respondent shall then file an equivalent written submission. These two submissions shall each have a content that corresponds to that of a writ of summons or a response, under the rules of the Swedish Code on Civil Procedure; i.e. they shall state the claim or position, the circumstances in support thereof and any evidence cited.
- 6 § The parties shall answer for the mediator's fees and expenses, in relation to the mediator jointly and severally, and between them with equal parts. The mediator is entitled to request each party to submit equal amounts in advance payment of fees and expenses.
- 7 § Mediations are to be carried out expeditiously and shall be concluded within 45 days of the mediator having been appointed. The Council may prolong the time frame by 15 days, should the mediator so request.
- 8 § The mediator, parties and their counsel shall all be under an obligation of non-disclosure regarding all and everything that occurs during the mediation. The parties are obliged to abstain from citing the mediator as witness before any court of law or arbitration tribunal.
- 9 § The mediation is concluded through
- A written settlement agreement between the parties, which at the joint request of the parties may be confirmed through an arbitral award, where the mediator act as a joint party appointed and sole arbitrator
 - The mediator finding that further actions in mediation are pointless
 - A party informing the opposing party and the mediator in writing that the party is no longer willing to take part in the mediation.

10 § Should the mediation be terminated without the dispute having been resolved, or the time frame for mediation be passed, the dispute shall be automatically transferred to arbitration proceedings under The Council's Rules on expedited arbitrations. Where the parties agree thereon, the dispute shall instead be handled through an ordinary arbitration proceeding, as indicated in 10 § of the said Rules. The Council is then to appoint the third arbitrator, whom shall chair the tribunal.

Miscellaneous

1 § A mediator and/or arbitrator appointed by The Council is obliged to carry out the mediation or arbitration cases to professional standards and according to good custom. Any liability for a mediator or arbitrator appointed by The Council shall be limited to such qualitative damages and amounts as are covered by his or her applicable professional insurance. By requesting arbitration or mediation according to these Rules, the parties accept the terms as here indicated.

2 § Remuneration to a mediator and/or arbitrator appointed by The Council to act under its set of Rules is to follow the then current schedule of "Guidelines – costs".

