

EUCON Conciliation Procedure Rules

in the version dated 20 November 2023

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1. Area of application

The European Institute for Conflict Management e.V. ("**EUCON**") is officially recognised by the President of the Higher Regional Court of Munich as a conciliation office within the meaning of Section 794 (1) No. 1 of the German Code of Civil Procedure (ZPO) pursuant to Article 5 (3) of the Bavarian Conciliation Act (BaySchlG) and Section 22 AGGVG.

These EUCON Conciliation Procedure Rules ("**Conciliation Rules**") shall apply if a request is made to conduct conciliation proceedings in accordance with these Conciliation Rules.

The parties within the meaning of these Conciliation Rules are the applicant ("**Applicant**") and the respondent ("**Respondent**")¹.

2. Initiation of conciliation procedure

2.1 The conciliation procedure shall be initiated by a written application to be submitted to EUCON ("**Conciliation Request**"). The written form requirement pursuant to sentence 1 shall also be met by an Conciliation Request submitted to EUCON by email to antrag@eucon-institut.de or by fax to 089/ 57 86 95 38, whereby in the case of submission by email, the Conciliation Request and any attachments must be sent as printable PDF files.

2.2 The Conciliation Request must expressly state that it is aimed at conducting a conciliation procedure. By submitting the Conciliation Request, the Applicant recognises these Conciliation Rules and the EUCON Conciliation Procedure Fee Schedule as binding. The Conciliation Request must also contain the following information:

- (a) the names of the parties and, if applicable, the legal representatives, and in the case of legal entities also the names of the legal representatives together with their addresses, telephone numbers, e-mail addresses and fax numbers (if available);
- (b) the claim asserted and a brief description of the underlying differences of opinion or disputes;
- (c) the provisional object value.

¹ (For reasons of better readability, the generic masculine is used in the following. All personal designations apply equally to all genders.)

EUCON will not conduct a substantive or legal review of the Conciliation Request, in particular with regard to any suspension of the statute of limitations.

2.3 In the event of an Conciliation Request

- (a) by post or courier, the applicant must enclose the number of copies required for service on the Respondent(s);
- (b) by email or fax, EUCON will make the number of copies required for service on the Respondent, whereby the printing and copying costs incurred for this are to be borne by the Applicant in accordance with Section 12.3 of these Conciliation Rules.

2.4 The Applicant is responsible for proving the time of receipt of the Conciliation Request by EUCON. Notwithstanding this, EUCON will confirm receipt of the Conciliation Request to the Applicant by email and/or by post to the email address or postal address stated in the Conciliation Request, stating the date of receipt and the file number.

2.5 After receipt of the Conciliation Request, EUCON will invoice the Applicant, on the basis of the provisional value in dispute stated in the Conciliation Request, for the provisional procedural fee to which EUCON is entitled pursuant to Section 12.1 of these Conciliation Rules in conjunction with Section 2. The Applicant will be invoiced by email and/or by post to the email address or postal address stated in the Conciliation Request on the basis of the provisional procedural fee to which EUCON is entitled pursuant to Section 12.1 of these Conciliation Rules in conjunction with Section 2 of the EUCON Rules of Conciliation Fees.

3. Service of the Conciliation Request

3.1 Once EUCON has received the provisional procedural fee, EUCON will then serve the Conciliation Request on the Respondent in accordance with Section 3.2 at the address provided by the Applicant in the Conciliation Request. If the Applicant has nominated a legal representative of the Respondent, EUCON will serve the Conciliation Request on the Respondent at the address given in the Conciliation Request. EUCON will not check the accuracy and/or completeness of the address of the Respondent or its legal representative.

3.2 EUCON will make service to Respondents or legal representatives domiciled in Germany by registered mail, whereby EUCON is free to use a courier service to deliver the Conciliation Request and attachments if it cannot be sent by registered mail due to its volume. Deliveries to Respondents or legal representatives domiciled abroad shall be made by EUCON by registered mail and/or by an international courier service.

4. Declaration of the Respondent, appointment of the conciliator

- 4.1 EUCON requests the Respondent to declare to EUCON in text form within four (4) weeks of delivery of the Conciliation Request ("**Declaration Period**") whether it agrees to the conduct of a conciliation procedure on the basis of these Conciliation Rules.
- 4.2 If EUCON does not receive a declaration of consent from the Respondent within the declaration period or if the Respondent refuses to conduct a conciliation procedure, such conciliation procedure will not be held. In the event that the conciliation procedure does not materialise, EUCON will issue a certificate for the Applicant after the expiry of the Declaration Period stating that the conciliation procedure has not materialised in accordance with these Conciliation Rules and will send this to the Applicant by email to the email address specified in the Conciliation Request.
- 4.3 If the Respondent declares its consent to the conduct of a conciliation procedure in accordance with these Conciliation Rules ("**Conclusion of the conciliation procedure**") within the Declaration Period, EUCON shall appoint a conciliator suitable for this procedure. Withdrawal of the Conciliation Request after the conciliation procedure has been initiated is excluded.
- 4.4 EUCON checks before appointing the conciliator:
- (a) that the latter has submitted a complete declaration in accordance with the requirements of Section 5;
 - (b) that the conciliator has declared his willingness to EUCON to conduct the conciliation procedure on the basis of these Conciliation Rules;
 - (c) whether he is technically suitable for the conciliation procedure and
 - (d) whether he is willing and able to conduct the conciliation procedure.
- 4.5 With the appointment of the conciliator, all rights and obligations of the conciliator vis-à-vis the parties and all rights and obligations of the parties vis-à-vis the conciliator are conclusively governed by these Rules of Conciliation.
- 4.6 The conciliator may only terminate his activity in the conciliation procedure vis-à-vis the parties for good cause. In this case, he must inform the Parties and EUCON of the good cause in advance. EUCON shall then appoint a new conciliator.

5. Independence and neutrality of the conciliator

- 5.1 The conciliator is obliged to be impartial. Prior to appointment by EUCON, a conciliator must confirm to EUCON that none of the following grounds for disqualification exist in his/her person:

The following may not act as a conciliator

- (a) who has acted for a party in the same matter prior to the conciliation procedure,
 - (b) anyone who is or was employed for remuneration by a natural or legal person who is a party to the conciliation procedure or who is or was a member of the management board, supervisory board or a similar body,
 - (c) who is a party or if another person associated with the conciliator in the same professional practice or office has advised or is advising a party in the same or another matter, or
 - (d) in whose person one of the other circumstances specified in § 41 ZPO exists.
- 5.2 The conciliator must disclose to the parties and EUCON all circumstances that may give rise to doubts about his independence and neutrality. This obligation applies for the duration of the conciliation procedure.
- 5.3 The conciliator may not accept any benefits from a party, its representatives or third parties who may be directly or indirectly interested in the subject matter of the conciliation procedure, with the exception of his fee and reimbursement of expenses resulting from these Conciliation Rules.
- 5.4 If there are serious reasons in the person of the conciliator that make it unreasonable for the parties to co-operate with him or her, or if such serious reasons arise during the conciliation procedure, the parties may apply to EUCON for the appointment of a new conciliator.

6. Duties of the arbitrator, organisation of procedure

- 6.1 The conciliator is obliged to conduct the conciliation procedure efficiently on the basis of these Conciliation Rules.
- 6.2 The conciliator is equally committed to the parties to the conciliation procedure. He promotes communication between the parties and ensures that the parties are involved in the conciliation procedure in an appropriate and fair manner. At the same time, he works towards a speedy settlement of the differences of opinion or disputes.

- 6.3 Furthermore, it is at the discretion of the conciliator to decide how to support the parties in resolving the dispute and how to organise the procedure, taking into account the provisions of these Conciliation Rules. With the consent of the parties, the conciliator may also seek a mediated solution to the conflict as part of the conciliation procedure and organise the procedure accordingly; Section 10.2 remains unaffected.

7. Rights and obligations of the parties

- 7.1 The parties shall cooperate in the efficient implementation of the conciliation procedure.
- 7.2 The parties shall attend the meetings ("**Conciliation Meetings**") scheduled by the conciliator in person or, in the case of legal entities, through their legal representatives (in a number authorised to represent them). On the side of a party, one or more counsellors (such as legal representatives) ("**Counsellors**") may also take part in the Conciliation Meetings. Instead of attending in person, the parties are free to be represented at the Conciliation Meetings by a representative authorised to do so in writing ("**Authorised Representative**") if the Representative is able to clarify the facts of the case and is authorised to make the necessary declarations, in particular to conclude a settlement.
- 7.3 The parties shall not initiate (arbitration) court proceedings on the subject matter of the conciliation procedure during the conciliation procedure. This does not apply to summary court proceedings and if the initiation of (arbitration) court proceedings is necessary to comply with a preclusive period. If the initiation of (arbitration) court proceedings is necessary to comply with a preclusive period, if a set-off is declared in (arbitration) court proceedings with a claim relating to the subject matter of the conciliation procedure or if (arbitration) court proceedings are already pending at the time the conciliation procedure are initiated, the parties shall request that the (arbitration) court proceedings be suspended for the duration of the conciliation procedure.
- 7.4 The parties as well as any Counsellors and Representatives of the parties must observe the confidentiality regulations in accordance with Section 11.

8. Preparation of the Conciliation Meeting

- 8.1 After hearing the parties, the conciliator shall determine the participants, time, place and duration of the first Conciliation Meeting as well as any further procedural steps. To this end, the conciliator shall promptly draw up a procedural plan, inform the parties and EUCON of this and invite the parties to the first Conciliation Meeting.

- 8.2 In preparation for the Conciliation Meeting, the conciliator may obtain any information from the parties that he considers necessary or helpful and may also hold preparatory discussions with the parties - with the parties' consent also individually.

9. Realisation of the Conciliation Meeting / minutes

- 9.1 If possible, the conciliation procedure should be conducted in one Conciliation Meeting. Further Conciliation Meetings may be necessary in the event of complex conflicts. Conciliation meeting(s) are not public.
- 9.2 With the consent of the parties, the conciliator may also conduct the Conciliation Meeting(s) virtually or hybrid (in person and virtually) instead of in person, provided there are no technical reasons to the contrary. The conciliator should fulfil the parties' wishes wherever possible.
- 9.3 At the beginning of the (first) Conciliation Meeting, the conciliator shall discuss with the parties the main features of the conciliation procedure, the rules of communication, his role as conciliator and the planned procedure and shall inform the parties and any Counsellors and Authorised Representatives of the parties of the obligation to maintain confidentiality in accordance with Section 11.
- 9.4 The conciliator then discusses the conflict with the parties and supports the parties in their efforts to reach an agreement. The conciliator may hold confidential one-to-one discussions with the parties with their consent if he considers this to be useful for reaching an agreement. The conciliator may submit proposals to the parties at any time to resolve the conflict.
- 9.5 Minutes of the Conciliation Meeting shall be drawn up by the conciliator without undue delay. The minutes must contain
- (a) the place and date of the Conciliation Meeting,
 - (b) the names and addresses of the parties attending the meeting,
 - (c) Information on the subject matter of the dispute, the amount in dispute, the requests of the parties,
 - (d) a confirmation of the instruction given by the conciliator in accordance with Section 9.3 on the obligation to maintain confidentiality in accordance with Section 11;

- (e) the wording of an agreement reached between the parties in accordance with Section 10.1, or a statement that no agreement was reached between the parties at the Conciliation Meeting.

Authorisation documents submitted must be attached to the minutes.

The minutes shall be signed by the conciliator and EUCON and then delivered to the parties by EUCON. Section 3.2 shall apply accordingly to delivery by EUCON. If a party or both parties wish(s) that EUCON should not be involved in the recording of the minutes, the minutes shall, in deviation from sentence 4, only be signed by the conciliator and sent to the parties by the conciliator.

10. End of the conciliation procedure

- 10.1 The conciliation procedure shall end as soon as the parties have reached an agreement in the conciliation procedure to be included in the minutes pursuant to Section 9.5 to resolve the entire dispute underlying the conciliation procedure ("**Conciliation Agreement**") and the minutes containing the Conciliation Agreement have been delivered to the Parties by EUCON pursuant to Section 9.5 sentence 4 or transmitted by the conciliator pursuant to Section 9.5 sentence 6. The Conciliation Agreement shall contain a provision on the payment of the fees and expenses of EUCON (Section 12), the fees and expenses of the conciliator (Section 13) and the costs arising from the consensual involvement of third parties, such as an expert (together "**Costs of the Conciliation Proceedings**"). The Conciliation Agreement recorded in accordance with Section 9.5 sentence 4 with the involvement of EUCON constitutes an enforcement order within the meaning of § 794 para. 1 no. 1 ZPO after the enforcement clause has been issued in accordance with § 797a ZPO.
- 10.2 If an amicable solution cannot be reached between the parties in accordance with Section 10.1, the conciliator shall issue a conciliation award, which shall also include a provision on the distribution of the costs of the conciliation procedure between the parties, and shall serve this award on the parties via EUCON. Section 3.2 shall apply accordingly to service by EUCON. The parties shall declare their acceptance or rejection of the conciliation award to EUCON in writing within fourteen (14) calendar days of delivery of the conciliation award at the latest. If the Parties accept the conciliation award, EUCON shall notify the Parties and the conciliator of the acceptance of the conciliation award and the resulting successful termination of the conciliation proceedings by email. However, if EUCON does not receive a declaration from one or both parties within the aforementioned period or if one or both parties reject the conciliation award, the conciliation procedure shall be deemed to have failed. In this case, EUCON shall inform the parties and the conciliator of the failure of the conciliation procedure and the resulting termination of the conciliation procedure by email.

- 10.3 If, after ninety (90) calendar days from receipt of the Conciliation Request, neither a Conciliation Agreement pursuant to Section 10.1 nor a conciliation award pursuant to Section 10.2 has been issued, EUCON shall declare the conciliation procedure to have failed and terminated, unless the Parties declare to EUCON in text form before the expiry of the aforementioned period that they wish to continue the procedure.
- 10.4 In the event of failure of the conciliation procedure pursuant to Sections 10.2 and 10.3, EUCON will issue a certificate to the Parties upon request stating that conciliation procedure pursuant to Conciliation Rules have failed.
- 10.5 At the end of the conciliation procedure, the conciliator shall send a final report to EUCON containing the following information, which must be treated confidentially:
- (a) Type of conflict
 - (b) Value of the conciliation procedure
 - (c) Duration of the conciliation procedure
 - (d) Type of termination of the conciliation procedure
- 10.6 The parties shall assess the activities of the conciliator and EUCON within two weeks of the end of the conciliation procedure and inform EUCON of this in text form.

11. Confidentiality

- 11.1 Unless expressly agreed otherwise, the parties, their Counsellors and Representatives, if any, the conciliator, EUCON and its employees as well as third parties involved in the conciliation proceedings shall treat all matters of the conciliation procedure, including their conduct and outcome, as confidential, unless they concern information that the respective party or other person bound to confidentiality under this Section 11 already had before or independently of the conciliation procedure or that they could have obtained without conducting the conciliation procedure. This does not apply if the disclosure of such circumstances is required by law or is necessary for the implementation of the Conciliation Agreement or for the compulsory enforcement of the Conciliation Agreement.
- 11.2 Unless otherwise agreed by the parties and unless required by law, none of the following information of which a party first becomes aware in the course of the conciliation procedure may be introduced as a means of attack or defence or as evidence in official, judicial, arbitration or similar proceedings:

- (a) Documents, statements or communications submitted in connection with the conciliation procedure by the other party or the conciliator, unless the party intending to use them already had these documents before or independently of the conciliation procedure or would have obtained them or could have obtained them without conducting the conciliation procedure;
 - (b) views, concessions and proposals of the other party or the conciliator made solely in connection with the conciliation procedure and the fact that the other party has agreed to settle or has rejected a settlement offer in the conciliation procedure.
- 11.3 EUCON is authorised to include anonymised information about the conciliation procedure in statistics and to publish it anonymously as part of its conciliation procedure offer (brochures, homepage, etc.). It must be ensured that the parties cannot be identified from this.
- 11.4 Unless expressly agreed otherwise, none of the parties to the conciliation procedure may be called as a witness in subsequent (arbitration) court proceedings for facts relating to the conciliation procedure or the circumstances and information referred to in Section 11.2 above. Insofar as the conciliator is called as a witness or expert in subsequent (arbitration) court proceedings with regard to the conciliation procedure, he must exercise existing rights to refuse to give evidence in order to maintain confidentiality, unless he is expressly released from his duty of confidentiality by all parties.
- 11.5 The conciliator shall endeavour to ensure that all parties involved in the conciliation procedure who are not already bound by these Conciliation Rules undertake to observe the confidentiality provisions of these Conciliation Rules.

12. Fees and expenses of EUCON

- 12.1 EUCON is entitled to a procedural fee for the initiation and administrative conduct of the conciliation procedure in accordance with these Conciliation Rules. The amount of the procedural fee shall be calculated in accordance with the EUCON Conciliation Procedure Fee Schedule ("**Fee Schedule**") valid at the time the conciliation procedure are initiated and attached as an annex to the Fee Schedule.
- 12.2 Before the end of the conciliation procedure and, if necessary, after hearing the parties, the conciliator shall review the value in dispute and inform EUCON of this without delay. On this basis, EUCON shall determine the final value of the matter after hearing the parties. Should this subsequently result in an increase in the provisional procedural fee invoiced in accordance with Section 2.5, the difference shall be invoiced to the parties by EUCON and shall be paid by the parties in accordance with the provisions of Section 14.

12.3 EUCON is also entitled to reimbursement of the expenses incurred in initiating and conducting the conciliation procedure in accordance with the scale of fees applicable at the time the conciliation procedure are initiated.

12.4 In the event of the Conclusion of conciliation procedure, the parties shall be jointly and severally liable to EUCON for the procedural fee and the expenses to be reimbursed.

13. Fee and expenses of the conciliator

13.1 The conciliator's fee shall be calculated on the basis of the time spent preparing, conducting and following up (preparation of minutes of the meeting) on the Conciliation Meeting(s) and, if applicable, for the preparation of settlement proposals and, if applicable, for the drafting of a conciliation award on the basis of the hourly rate applicable at the time the conciliation procedure are initiated. The conciliator's travelling time shall be charged at half the hourly rate.

13.2 At the request of the conciliator, EUCON shall request an advance on the conciliator's anticipated fee and expenses from the parties, which shall be paid by the parties in accordance with the provisions of Section 14. If the advance payment is not sufficient, EUCON may request further advance payments from the parties at the request of the conciliator.

13.3 The advance payment shall remain with EUCON until the final settlement of the conciliator's fee.

13.4 EUCON is authorised to suspend the conciliation procedure until receipt of the requested advance payment and the amount to be paid by the parties in accordance with Section 12.2.

13.5 Reasonable expenses incurred by the conciliator shall be reimbursed by the parties upon proof.

13.6 At the end of the conciliation procedure, EUCON shall invoice the parties for the conciliator's fee, stating the time spent by the conciliator and taking into account any advance payments already made in accordance with the provisions of Section 14.

13.7 The parties shall be jointly and severally liable for the arbitrator's fee and expenses.

14. Costs to be borne by the parties

14.1 The Applicant must pay the full amount of the procedural fee in accordance with section 2.5. In the event of withdrawal of the Conciliation Request by the Applicant before the Conclusion of conciliation procedure in accordance with Section 4.3 or in the event that

the conciliation procedure are not concluded in accordance with Section 4.2, the Applicant shall bear the final procedural fee and the expenses incurred by EUCON up to that point.

- 14.2 If the parties conclude a Conciliation Agreement in the conciliation procedure and this contains a cost provision, EUCON shall settle the costs of the conciliation procedure on the basis of the Conciliation Agreement, taking into account the payments made by the parties. If the Conciliation Agreement does not contain a cost provision, the parties shall bear the costs of the conciliation procedure in equal shares. In the event of a Conciliation Agreement recorded without the involvement of EUCON in accordance with Section 9.5 sentence 6, the conciliator shall inform EUCON immediately of any cost regulation contained in the Conciliation Agreement.
- 14.3 If an conciliation award is issued in accordance with Section 10.2 and this is accepted by the Parties, EUCON shall settle the costs of the conciliation procedure taking into account the payments made by the Parties on the basis of the cost regulation of the accepted conciliation award.
- 14.4 If the conciliation procedure fail, the Parties shall bear the costs of the conciliation procedure in equal shares and EUCON shall settle them accordingly, taking into account the payments made by the Parties.
- 14.5 Unless the Conciliation Agreement or the conciliation award adopted by the parties provides otherwise, each party shall bear its own costs, including the costs of any legal representatives.

15. Liability

- 15.1 The conciliator and EUCON shall only be liable to the parties for intentional behaviour or gross negligence. This limitation of liability shall not apply to injury to life, limb or health of the party concerned.
- 15.2 EUCON shall not be liable to the parties for the fulfilment of the conciliator's obligations under these Conciliation Rules.
- 15.3 The conciliator shall not be liable to the parties for the fulfilment of EUCON's obligations under these Conciliation Rules.

16. File storage

The file created by EUCON for the respective conciliation procedure will be kept for five (5) years after the end of the conciliation procedure and then destroyed or, in the case of electronic files, deleted.

17. Applicable law

The legal relationship between the parties and EUCON and between the parties and the conciliator shall be governed exclusively by German law.

18. Entry into force

These Procedure Rules enter into force on 20 November 2023.

19. Severability clause

Should individual provisions of the Conciliation Rules be or become wholly or partially unenforceable or invalid, this shall not affect the validity of the remaining provisions.

The invalid or unenforceable provision shall be replaced by a valid and enforceable provision whose effects come closest to the legal and economic objective pursued by EUCON with the invalid or unenforceable provision. The above provisions shall apply accordingly in the event that the Conciliation Rules prove to be incomplete.

20. Leading version

Only the German version of these Conciliation Rules shall be legally binding. The English language version is a mere convenience translation.

Annex to the EUCON Conciliation Procedure Rules

EUCON Conciliation Procedure Fee Schedule

in the version dated 20 November 2023

1. Area of application

The fees, charges and expenses in EUCON conciliation procedure are calculated in accordance with this Fee Schedule.

2. EUCON procedural fee

2.1 EUCON charges a procedural fee for the initiation and administrative implementation of the conciliation procedure, including the selection and appointment of a conciliator.

2.2 The procedural fee is incurred when the request is filed. The provisional procedural fee is initially calculated on the basis of the value in dispute stated in the Conciliation Request. The final procedural fee results from the determination of the final value in dispute by EUCON in accordance with Section 12.2 of the Conciliation Rules.

2.3 The following fees and charges are net and do not include statutory VAT, if applicable.

2.4 The procedural fee is:

Value in Euro up to	Procedural fee (net) in Euro
100.000	550
250.000	1.200
500.000	1.800
1.000.000	2.500

In addition, the procedural fee increases by 1,000 euros for every additional 1 million euros in value. The maximum procedural fee is 15,000 euros.

3. Reimbursable expenses of EUCON

EUCON is entitled to reimbursement of the copying and printing costs incurred by it in the course of initiating and conducting the conciliation procedure for the production of copies of the Conciliation Request and any annexes, which are charged at a flat rate of

EUR 0.50 per page, as well as the postage and courier costs incurred by it in the course of service in accordance with the Conciliation Rules.

4. Hourly rate of the conciliator

If the value of the matter in dispute is up to EUR 100,000, the hourly rate to be used to determine the conciliator's fee in accordance with Section 13 of the Conciliation Rules is EUR 250.00, and EUR 350.00 if the value of the matter in dispute exceeds this amount.

5. Maturity

All fees, charges and expenses are due for payment upon invoicing by EUCON.

6. Leading Version

Only the German version of this Fee Schedule shall be legally binding. The English language version is a mere convenience translation.