

**International Commercial Dispute Prevention  
and Settlement Organization  
(ICDPASO)**

**Commercial Mediation Rules**

**May 2022**

## International Commercial Dispute Prevention And Settlement Organization (ICDPASO)

ICDPASO considers that mediation, based on its significant advantages such as being highly flexible, cost-effective, and conducive to the creation and maintenance of friendly relations between commercial entities, is developing into the preferred method of dispute resolution in the international commercial field;

ICDPASO is committed to promoting international commercial mediation to be understood and acknowledged at a broader level, and to improve the predictability and certainty of the mediation process and results;

Hereby formulates Commercial Mediation Rules, with the purpose of promoting mutual understanding and accommodation between the parties, properly and amicably resolving commercial disputes, and maintaining a harmonious and stable commercial order, the ICDPASO draws on international practices, upholds the principle of party autonomy, and conducts commercial mediation activities in an independent, fair, efficient and orderly manner.

### **Article 1 Scope of Mediation**

Disputes arising from commercial relations can be submitted to the International Commercial Dispute Prevention and Settlement Organization (hereinafter referred to as the “ICDPASO”) for mediation.

### **Article 2 Definitions**

In these Rules:

1. The term “commercial” refers to matters arising from commercial relations other than transactions for personal, family or household purposes and agreements related to marriage and family law, inheritance law, and labor and employment law.
2. The term “mediator(s)” refers to one or more impartial third persons who assist the parties in communication and negotiation to promote the parties to reach a settlement in the mediation proceedings.
3. The term “mediation” refers to the process in which the parties voluntarily negotiate to resolve disputes in an amicable manner with the assistance of the mediator(s), regardless of whether such process is expressed by the expression “mediation” or other terms with similar meanings.
4. The term “venue of mediation” refers to the location of the center authorized by the ICDPASO to specifically implement the procedure management services according to the specific circumstances of the case and for the convenience of mediation by the mediator(s) to the parties, unless otherwise agreed by the parties.
5. The term “day” refers to a natural day, commencing from the next day of the time limit; if the expiration date of the time limit is a public holiday or non-working day in the venue of mediation, the first working day thereafter shall be the expiration date of the time limit.
6. The term “in writing” refers to a form that is generated, sent, received or stored by all available means of communication, including data messages, if the information contained therein is accessible so as to be useable for subsequent reference.

### **Article 3 Application of Rules**

1. If the parties agree to apply these Rules to resolve disputes, or agree to submit the disputes to the ICDPASO for mediation, they shall be deemed to agree to mediate in accordance with these Rules, and use the procedure management services provided by the ICDPASO.
2. The parties may agree to exclude or modify the provision(s) of these Rules, *provided that* the said exclusion or modification shall not violate public policies of the venue of mediation or evade the mandatory legal provisions applicable to mediation.
3. If the parties agree to apply professional mediation rules, such agreement shall prevail; for matters not specified by the professional mediation rules, these Rules shall prevail.

#### **Article 4 Principles of Mediation**

1. The parties shall act in accordance with the principles of voluntariness, fairness, confidentiality, integrity, and participating in mediation with good faith.
2. The mediator(s) shall conduct mediation independently, fairly and impartially on the basis of respecting the willingness of the parties; where there are two or more mediators, each mediator shall cooperate with each other during the mediation.

#### **Article 5 Joint Mediation**

Upon the consent of the parties, ICDPASO may conduct joint mediation along with other dispute settlement institutions, industry associations, chambers of commerce, and the like.

#### **Article 6 Commencement of Mediation Proceedings**

1. Mediation proceedings under these Rules shall be deemed to commence on the date of joint application to mediate at ICDPASO by the parties, which is confirmed in writing by ICDPASO, unless otherwise agreed by the parties.

The Mediation Application should specify and/or provide:

- (1) Basic identity and contact information of the parties and their representatives or agents (if any), including but not limited to domicile, effective service address, telephone number, e-mail address, etc.;
  - (2) A brief statement of the mediation request and the dispute, as well as evidentiary materials as appropriate;
  - (3) Agreement or suggestion on the time limit, language and venue of mediation;
  - (4) Agreement or suggestion on the number and appointment of mediators, or agreements or suggestions on the qualification for appointing mediators;
2. If one party or some of the parties apply to the ICDPASO for mediation, the ICDPASO shall register the application, and promptly notify the other parties involved in the mediation proposal, to assist the parties in considering the proposal.

If, within fourteen (14) days from the date of registration of the mediation application, or within the period determined by the ICDPASO after consultation with the parties making the application, the other parties fail to express their consent to participate in the mediation, the ICDPASO may take it as a refusal to mediate.

3. Together with the Mediation Application, the parties shall attach an agreement or written document stating that the parties voluntarily submit the dispute to the ICDPASO for

mediation or to resolve the dispute by mediation in accordance with these Rules, and pay the case registration fee in accordance with the rate determined by the ICDPASO.

### **Article 7 Representatives or Agents of the Parties**

Any party may authorize its representative or agent to assist in the mediation process, provided that a written certificate stating the basic identity information and the scope of authorization or authority of the representative or agent shall be provided to other parties and the ICDPASO prior to their participation in the mediation.

After the appointment or designation of the mediator(s), the written certificate stating the basic identity information and the scope of authorization or authority of the representative or agent of the party shall be submitted to the mediator(s) as well.

### **Article 8 Appointment of Mediator(s)**

1. The parties may agree on the number of mediators. Where the parties are unable to make such an agreement, the mediation proceeding shall be conducted by one (1) mediator in principle.

Where appropriate, the ICDPASO may recommend the parties to appoint more than one mediator or the parties may jointly request to appoint more than one mediator.

2. The parties shall make every effort to jointly appoint mediator(s) by agreement. Where the parties appoint a mediator outside the List of Mediators of the ICDPASO, they shall provide the ICDPASO with the contact information of the mediator, who will then participate in the mediation proceedings after the ICDPASO confirms his/her qualification.
3. The ICDPASO may recommend mediator(s) at the request of the parties or directly designate mediator(s) in accordance with the agreement of the parties.

In recommending or designating mediator(s), the ICDPASO shall consider factors that can ensure the independence, fairness and impartiality of mediator(s), including the expertise, personality, qualification, competence and experience of mediator(s), as well as their understanding of the culture, traditions and overall environment of pertinent countries or regions.

If the parties have different nationalities, when recommending or designating mediator(s), the ICDPASO shall also respect geographical diversity as much as possible and consider the appropriateness to recommend or designate a mediator of a nationality different from those of the parties.

4. Where a mediator is unable or unfit to continue to perform his/her duties due to resignation or incapacity, the parties or the ICDPASO shall re-appoint or re-designate a mediator in accordance with these Rules or the rules modified by agreement.

### **Article 9 Disclosure Obligations of Mediator(s)**

1. Before accepting the appointment or designation, the candidate mediator(s) shall sign a statement to warrant that the mediation will be conducted with due diligence and efficiency, and shall disclose in writing any actual or potential conflict of interest known that may reasonably challenge his/her independence or impartiality.

If facts or circumstances that should be disclosed occur during the mediation proceedings, the mediator(s) shall disclose the same in writing to the parties without delay.

2. Where the parties agree in writing to accept the actual or potential conflict of interest disclosed by the mediator(s), the mediation may be continued by the mediator(s).
3. If a party raises an objection to the continued mediation based on the information disclosed by the mediator(s), it shall notify the mediator(s), other parties and the ICDPASO in writing as soon as possible, and explain the reasons therefor; other parties may express their opinions in writing within seven (7) days from the date of receiving the objection notice; the ICDPASO shall reorganize the parties to appoint other mediators upon request within five (5) days from the date of receiving the opinions of the parties.

#### **Article 10 Process of Mediation**

1. The mediator(s) may negotiate with the parties to determine the manner of mediation, taking into account the specific circumstances of the case, the intentions of the parties and the need for rapid dispute resolution.

Under appropriate circumstances, the parties may agree or the mediator may decide after consultation with the parties to conduct mediation remotely by means of information and communication technologies such as audio and video.

2. To facilitate the mediation:
  - (1) The mediator(s) shall make appropriate preparations prior to the commencement of mediation, and may convene pre-mediation conference to discuss the specific arrangements for mediation, including determining the relevant timetable, mediation period, etc.;
  - (2) The mediator(s) may meet or communicate with all parties at the same time or with one of them separately; in principle, the mediator(s) shall not disclose the information or materials related to the dispute known in a separate meeting, unless the parties indicate that no confidentiality conditions are attached; if the mediator(s) consider(s) it necessary to procure the settlement, he/she may only disclose the relevant information and materials to the other parties after consulting with and obtaining the consent of that party;
  - (3) The mediator(s) may put forward suggestions to the parties for dispute resolution during the mediation process, provided that such suggestions shall not be imposed upon the parties.
3. The parties may agree on the language to be used in mediation; If the parties fail to make such an agreement, it shall be determined by the mediator(s) through consultation with the parties.

ICDPASO may, before the mediator(s) accepting his/her appointment or designation, decide on the language to be used in mediation in light of the specific circumstances.

#### **Article 11 Settlement Agreement**

1. The parties shall draft and sign a written settlement agreement on the consensus reached in the mediation proceedings to resolve all or part of the disputes.

Unless otherwise agreed, the settlement agreement may be signed by the parties by means of electronic signature.

2. At the request of the parties, the mediator(s) may provide support and assistance for the drafting of a settlement agreement when he/she deems it appropriate.

3. By signing the settlement agreement, the parties agree that the agreement could be used as evidence that it results from mediation, and agree to use the agreement as a basis for seeking relief under the applicable legal framework.
4. After reaching a settlement agreement, the parties shall notify the ICDPASO forthwith and provide a copy of the agreement to the ICDPASO.
5. By reaching an agreement to apply to the ICDPASO for arbitration, the parties may request (to form) the arbitration tribunal to prepare a settlement agreement or arbitral award according to the settlement agreement.

#### **Article 12 Termination of Mediation Proceedings**

1. The mediation proceedings commenced in accordance with these Rules shall be terminated in the following circumstances:
  - (1) Where the parties sign a settlement agreement, it shall be terminated from the date of conclusion of the settlement agreement;
  - (2) Where one or more parties make a written declaration to the mediator(s) (including the mediator(s) that may be appointed or designated), other parties or the ICDPASO to terminate the mediation, it shall be terminated from the date of issuance of the declaration (at the earliest);
  - (3) Where the mediator(s) consider(s) that the dispute between the parties cannot be settled through mediation, and makes a written statement not to continue mediation after consultation with the parties, it shall be terminated from the date of making the statement;
  - (4) Where the mediation period agreed by the parties or agreed with the mediator(s), including the extension thereof, has expired, it shall be terminated from the date of expiration.
2. The parties or/and the mediator(s) shall immediately notify the ICDPASO of any notice given in accordance with the preceding paragraph and shall provide a copy of the notice to the ICDPASO.

#### **Article 13 Confidentiality**

1. Unless otherwise agreed by the parties, the mediation shall not be conducted in public in principle;
2. Unless otherwise agreed by the parties or provided by the law applicable to mediation, the parties, the mediator(s) and any third party involved in the mediation, including the personnel involved in the management of mediation, shall keep confidential all matters of the mediation, and this obligation shall survive the termination of the mediation proceedings.

#### **Article 14 Admissibility of Evidence in Other Procedures**

1. Unless otherwise agreed by the parties or provided by the law applicable to mediation, the following items shall not be used as evidence in litigation, arbitration or other dispute resolution procedures:
  - (1) Recognition or statement made by the parties in the process of the mediation;

- (2) Opinions or suggestions made by the parties or the mediator(s) on possible solutions to the dispute;
  - (3) Documents and information primarily prepared and submitted/disclosed for purpose of the mediation.
2. If the evidence which is otherwise admissible in litigation, arbitration or other dispute resolution procedures does not violate the restrictions of the preceding paragraph, it shall not become inadmissible due to it being used or disclosed in the mediation.

#### **Article 15 Litigation, Arbitration or Other Dispute Resolution Procedures**

1. If the parties agree to mediation and expressly undertake not to resort to litigation, arbitration or other dispute resolution procedures regarding existing or future disputes within a specific time limit or prior to the occurrence of an event, they shall abide by such commitment, unless the parties consider it necessary for the purpose of preserve their rights.
2. The mediation under these Rules may take place at any time, regardless of whether litigation, arbitration or other dispute resolution procedures have been initiated.
3. The mediator shall not act as an arbitrator, expert, witness or representative, consultant and lawyer of the parties in any litigation, arbitration or other dispute resolution procedures related to the dispute involved in the mediation, unless otherwise unanimously agreed by the parties in writing.

#### **Article 16 Mediation Fees**

1. Mediation fees include case registration fees, administration fees, remuneration of mediator(s) and other costs and expenses confirmed by the parties, which shall be shared equally by the parties in principle.
2. Where the parties agree with the mediator(s) on the method and rate of remuneration for the mediator(s), such agreement shall prevail; the mediator(s) may, according to the progress of the proceedings, require the parties to pay an appropriate amount of remuneration to the mediator(s) in advance.
3. If a party to the mediation directly or indirectly receives financial support in the form of donation, subsidy or remuneration based on the mediation results from a third party, it shall disclose the identity information of the third party to other parties, the mediator(s) and the ICDPASO in writing.

#### **Article 17 Disclaimer**

Except as otherwise prohibited by the law applicable to mediation, the ICDPASO and its staff and representatives shall not be liable for any act or omission in connectiong with the mediation proceedings conducted in accordance with these Rules.