



MEDIATION RULES

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**Thailand Arbitration Center Rules on Mediation
B.E. 2557 (2014)**

Whereas the Arbitration Center Act B.E. 2550 (2007) requires the Thailand Arbitration Center to promote and enhance the Mediation process including engaging in business relating to Mediation.

By virtue of section 18 (5) of Act of Arbitration Center, B.E. 2550 (2007), the Thailand Arbitration Center Committee therefore enacted a rule as follows:

- Article 1** These Rules shall be called “Thailand Arbitration Center Rules on Mediation B.E. 2557 (2014)”.
- Article 2** These Rules shall come into force after the date of its publication in the Government Gazette.
- Article 3** The Rules annexed to these Rules shall be applied in the proceedings of the Mediation of Thailand Arbitration Center since 1 October B.E. 2557 (2014).
- Article 4** The Director of Thailand Arbitration Center shall have the power to prescribe administrative rules on submission of documents, preservation, making case directory, fees and other relating administrative rules necessary for the operation of Mediation only for those which are not contrary to these Rules.

Announced on 29 August B.E. 2557 (2014)

Mr. Charnchao Chaiyanukij

Chairperson of the Thailand Arbitration Center Committee

* Thai is the official language of the THAC Arbitration Rules 2015. In the event of any inconsistency or discrepancy between the English and Thai versions, the Thai version shall prevail.

**Thailand Arbitration Center Rules on Mediation
B.E. 2557 (2014)**

Mediation is one of the procedures of the dispute resolutions for promoting and creating friendly atmosphere in Mediation including the expedition of the proceedings of Mediation and maintenance of the relationship and confidentiality of the parties. Therefore, Thailand Arbitration Center enacts these Rules on Mediation.

Article 1 These Rules shall be applied to the proceedings of Mediation whereby the parties agree to mediate under the management of Thailand Arbitration Center.

The agreement under the first paragraph has no effect to prohibit the parties to agree on the exclusion of any rule or any agreement which differs from these Rules, however, such agreement shall not be contrary to the provisions of law.

Article 2 These Rules shall come into force since 1 October B.E. 2557 (2014).

Article 3 In these Rules:

- (1) “Center” means Thailand Arbitration Center established by the Act of Arbitration Center, B.E. 2550 (2007).
- (2) “Request” means the request to resolve the disputes by mediation.
- (3) “Mediation” means the proceeding of mediation under these Rules.
- (4) “Proceedings of Mediation” means the proceedings of dispute resolution by any mean whereby the parties consent into, by appointing the third person to facilitate the settlement of dispute.
- (5) “Mediator” means a person who is appointed to be a mediator under these Rules.

Chapter 1

Commencement of Mediation

- Article 4** The Mediation shall commence when:
- (1) A party who wishes to settle a dispute by Mediation submits a request to the Center and the other party accepts to settle the disputes by Mediation;
 - (2) All parties agree to settle the disputes by the Proceedings of Mediation proposed by the Center.
- Article 5** The Request shall have at least the details as follows:
- (1) Name, address, telephone number, email address of the requesting party and all related parties including the representatives of all parties;
 - (2) Summary of the fact of the disputes and claims of the requesting party;
 - (3) An agreement to settle the disputes by Mediation (if any);
 - (4) An agreement about the venue for Mediation (if any);
 - (5) Numbers of Mediator mutually agreed by the parties or to be proposed by the requesting party.
- The requesting party may attach a copy of contract, agreement, document or any evidence, being specifically the cause of the disputes with the Request.
- Article 6** When the Center is of the opinion that the Request is correct and complete, the Center shall accept such request and forward the copy of the Request by informing the period for response to all related parties.
- Article 7** When it is necessary and the Center deems appropriate, the Center may accept the Request by oral. The Center shall make such oral Request into writing according to Article 5 and record in writing as evidence indicating that the requesting party submitting the Request by oral.
- Article 8** The response shall be made in writing which may be an acceptance or a refusal of the Request for Mediation and shall contain the admitted fact or counterclaim of the respondent, name and numbers of Mediator including a summary of the fact to be mentioned by the respondent.
When the Center completely receives the response, the Center shall commence the proceeding under these Rules.
- Article 9** The Request shall expire when one of the respondents apparently refuses or the acceptance is not submitted to the Center within 30 days from the date on which the request is received and the Center shall inform the expiration of the Request to all parties.

Article 10 In case all parties mutually agree to settle the disputes by Mediation proposed by the Center, the Center shall make details of such agreement in writing with a completed similar content as contained in the request and the response.

Article 11 Submission of the Request, response, or any document in Mediation shall be served by the Center or the submitting person shall be required to be responsible.

Methods of submission shall be made by self-delivery, registered mail, private mail, electronic mail, or any other method in which the entity of the sender could be identified.

Chapter 2 Mediator

Article 12 When the Mediation commences, the Center shall promptly invites all parties for a meeting to appoint the Mediator.

Article 13 There shall be one Mediator unless the parties mutually agree to appoint two or three mediators. In case where the parties are unable to agree upon the numbers of the Mediator or the numbers of the Mediator is not determined, there shall be one Mediator.
In case where the parties agree to appoint more than one Mediator, the Mediation shall be conducted mutually.

Article 14 The appointment of the Mediator shall be made by the followings:

- (1) In case of one Mediator, the parties shall mutually agree to appoint the Mediator;
- (2) In case of two Mediators, each party shall appoint one Mediator;
- (3) In case of three Mediators, each party shall appoint one Mediator and all related parties shall mutually agree to appoint the third Mediators.

The parties may request the Center to propose a list of qualified persons to be appointed as a Mediator or may authorize the Center to appoint one or more mediators.

Article 15 In case where the parties are unable to mutually appoint the Mediator, the Center shall appoint the Mediator by taking into consideration of qualification, skill, appropriateness to the characteristics of the dispute and the satisfaction of all related parties as possible.

Article 16 If the parties appoint persons or a group of persons whose names are not listed in the registry of the Center, such party shall be solely responsible for the fees and expenses of the Mediator that exceed the rate specified by the Center.

Article 17 After the appointment is completed, the Mediator must promptly disclose the fact which may lead to a reasonable doubt with regard to his impartiality and independence to the parties.
From the time of the appointment until prior to the end of the Mediation, if the fact according to the first paragraph, appears after the appointment, the Mediator must promptly disclose such fact to the parties unless the parties have already been informed.

Article 18 When a reasonable doubt with regard to the impartiality and independence of the Mediator is raised, the parties may submit a challenge against the Mediator by identifying the cause of the challenge to the Center prior to the initiation of the Mediation or within 7 days from the date the fact has been acknowledged and prior to the end of the Mediation according to Article 35.

Article 19

When the Mediator is challenged, the Center shall urgently submit the challenge to the other party and the challenged Mediator.

If the other party accepts the cause of the challenge or the challenged Mediator withdraw himself, the new Mediator shall be appointed and Article 14 and 15 shall apply Mutatis Mutandis.

The withdrawal of the Mediator shall not be deemed as an acceptance of the challenge raised by the party.

If the challenged Mediator refuses to withdraw himself, the Center must complete the consideration of the challenge within 15 days from the date the challenge has been received; however, the Center must hear from the Mediator first. If the challenge may have an effect to the impartiality and creditability of the Mediator, the Center shall order the Mediator to be withdrawn from his duty and the second paragraph shall apply mutatis mutandis.

Chapter 3 Mediation

- Article 20** After the Mediator is appointed, the Mediator shall promptly inform both parties for a meeting to determine the process or procedure of the Mediation. The determination of the process or procedure of the Mediation must strictly follow the principle of justice, impartiality and speediness for the purpose of amicably dispute settlement.
- Article 21** The Mediator may order each party to submit the written or oral statement concerning the fact, the claim, the counterclaim or the request, including any document or evidence relating to the dispute within a period as prescribed by the Mediator.
At any stage of the proceedings, the Mediator may order any party to submit an additional written or oral statement as he deems appropriate.
If the Mediator orders such statement to be submitted, the party must prepare sufficient numbers of copies for the other party to receive from the Center.
- Article 22** Any party may appoint representatives or assistants by informing name(s), address(es), telephone number(s), and email address(es) of such appointed person including the objective and scope of authority of the appointment to the Mediator.
- Article 23** When the Mediator deems appropriate, with the consent of all parties, the Mediator may appoint assistants to assist the administration of the Mediation.
- Article 24** Unless the parties agree otherwise, the venue and the language in the Mediation shall be determined by the Center.
If necessary, the Mediator may require an interpreter and the parties shall equally bear the cost of the interpreter unless the parties agree otherwise.
- Article 25** The Mediator shall conduct the Mediation as he deems appropriate following the principle of impartiality and independence and among other things at least taking into consideration the rights and obligations of the parties, other relating commercial traditions and circumstances surrounding the dispute, including previous business practice between the parties.
If deemed appropriate according to the wish of any party, the Mediator may permit such requesting party to make an oral statement or expedite the Proceeding of Mediation for the purpose of speedy settlement of the dispute.

- Article 26** The Mediation shall be conducted in front of all parties in a confidential manner. The Mediator may allow the representatives and assistants of the parties or the assistants of the Mediator to attend the Mediation as he deems appropriate.
If deemed appropriate, the Mediator may conduct a private mediation session with any party without the presence of the representative and assistant of the parties.
No record of Mediation shall be made unless otherwise mutually agreed by the parties for the record of proceeding wholly or partly; however, the parties shall bear the cost incurred from such record.
- Article 27** During the course of Mediation, the parties agree not to have the disputes resolved by the arbitrator or file a complaint to the Court unless any party deems necessary that the resolution by arbitration or judiciary is for the preservation of his right.
- Article 28** The Mediator may disclose the substance of the fact received by one party to the other party except the disclosing party explicitly informs in writing prohibiting the Mediator to disclose such fact.
- Article 29** The parties shall carry out the Mediation in good faith and attend the Mediation including submit any document or evidence as requested by the Mediator.
- Article 30** During the course of Mediation:
- (1) Each party may, on his own initiative or by an invitation from the Mediator, may give any advice for the settlement of the dispute.
 - (2) As deemed appropriate, the Mediator may suggest a guideline to the settlement of the dispute without indicating any reason of the suggestion.
- Article 31** If the Mediator is of the opinion that there exists a probability to the settlement of the dispute, the Mediator may prepare a draft settlement agreement for all parties' consideration and such parties must return their opinions to the Mediator within a time period as prescribed by the Mediator.
After receiving the opinions of the parties, the Mediator may adjust such agreement and submit to the parties for the settlement of the dispute.
- Article 32** If the parties mutually agree to settle the dispute, the parties shall prepare a settlement agreement in writing and signed by both parties. In such case, the parties may agree to allow the Mediator to prepare such agreement for them.
- Article 33** In preparing the settlement agreement, if there is any cost incurred exceeding those specified in the fee table, such agreement shall be made only when all parties mutually agree to be responsible for such expenses.

Chapter 4

Ending of Mediation

Article 34 Mediation must be completed within 60 days from the date of the appointment of the Mediator or within a time period as the parties agree upon but not exceeding 90 days.

For the benefit of an amicable settlement of the dispute, the Mediator may extend the Mediation period but not exceeding 30 days from the due date of the Mediation according to the first paragraph.

Article 35 The Mediation shall end when:

- (1) The parties sign the settlement agreement;
- (2) The parties are unable to enter into the settlement agreement within the period of the Mediation;
- (3) Any party informs in writing to the Mediator and the other party that he wishes not to continue the Mediation;
- (4) All parties inform in writing to the Mediator that they wish not to continue the Mediation;
- (5) After consultation with both parties, the Mediator informs in writing that the continuation of the Mediation shall be invalid;
- (6) Any party submits the disputes to be resolved by arbitrator or file a complaint to the Court and the Mediator is of the opinion that the continuation of the Mediation shall be invalid.

Chapter 5 Confidentiality

Article 36 The parties and the Mediator shall have a duty not to disclose all information relating to the Mediation and the settlement agreement unless it is necessary for the enforcement of the settlement agreement.

Article 37 It is prohibited that the parties, the Mediator and any person relating to the Mediation to adduce evidence or to testify as witnesses in the proceedings of arbitration, court or any other similar proceedings concerning the documents or evidence as follows:

- (1) Request for the Mediation or evidence indicating the acceptance of the Mediation.
- (2) Statement or acceptance of the parties during the course of the Mediation.
- (3) Proposals of the parties concerning conditions or methods which may lead to the settlement of the dispute.
- (4) Proposals of the Mediator.
- (5) Any fact indicating the readiness of the parties to accept the dispute settlement.
- (6) Documents specifically made for the benefit of the Mediation.

Article 38 The Mediator is prohibited from performing as an arbitrator, a representative, or an advisor in the proceedings of arbitration or court deliberating the dispute previously mediated by him.
The parties agree not to refer the Mediator as a witness in the proceedings under the first paragraph.

Chapter 6 Fees and Expenses

- Article 39** The Center has the power to demand the parties to pay for the fees and expenses as specified in the fee table.
During the course of Mediation, the Center may demand each party to deposit a monetary guarantee for the fees and expenses.
- Article 40** If any party fails to pay for the fees and expenses or fails to deposit the monetary guarantee within the period set by the Center, the Center or the Mediator shall have a right to temporarily suspend the Mediation until the fees and expenses or the monetary guarantee are fully paid.
When the Center is of the opinion that the parties shall not pay for such fees and expenses, the Center may order the Mediator to issue a written statement indicating that the Mediation is ended according to Article 35 (5).
- Article 41** The party whom not being liable for the fees and expenses may pay the fees and expenses for the other party; however, such payment shall not constitute any change of liability of the fees and expenses and such party paying for the other party shall have a right to reimburse from the party who is liable to pay.
- Article 42** Expenses incurred by any party that exceeds those specified in the fee table shall be liable by the party incurring the expenses unless the parties state otherwise in writing or in the settlement agreement.
- Article 43** When the Mediation is ended, the Center shall prepare an account detailing the fees and expenses for all parties' inspection and shall return the remaining money promptly. If there is an unpaid payment, the Center shall demand the responsible party to pay.

Chapter 7 Miscellaneous

Article 44 In case where some rules are ambiguous or do not specify some matters, the Center and the Mediator shall proceed any action as they deem appropriate to conduct the Mediation according to the objective of an amicable settlement of the dispute and for the benefit of all parties.

Article 45 The Center, the Director, the Officials, and the Mediator shall be immuned from liabilities of their actions or omissions according to the proceedings relating to the Mediation under these Rules.

Annex 1 Fees and Expenses

Article 1

Fees and Expenses in the Mediation are the followings:

- (1) Filing fee;
- (2) Mediator fee;
- (3) Expenses of the Mediation;

Article 2

In case of counterclaim, the filing fee shall be collected from the requesting party and the respondent at the rate of 1,000 Baht within 3 working days from the date the Center receives the request or the response to the request with the Counterclaim. The payment for the filing fee is non-refundable in any case.

Article 3

The Mediator fee shall be collected from all parties within 3 working days from the mediator appointment date.

The dispute amount of the Claim shall be calculated according to the Claim and the Counterclaim unless when the Center deems appropriate, the Center may demand, reduce or exempt the collection of the fees according to the Counterclaim from the requesting party.

Table of the Mediator Fee

Sum in Dispute (Thai Baht)	Mediator Fee (per person) (Thai Baht)
Not exceeding 500,000	3,500
From 500,001 but not exceeding 1,000,000	5,000
From 1,000,001 but not exceeding 2,500,000	10,000
From 2,500,001 but not exceeding 5,000,000	15,000
From 5,000,001 but not exceeding 10,000,000	20,000
From 10,000,001 but not exceeding 20,000,000	25,000
From 20,000,001 but not exceeding 50,000,000	30,000
From 50,000,001 but not exceeding 100,000,000	50,000
From 100,000,001 and above	Additional fee of 10,000 for every 100,000,000 of incremental sum in dispute, but not exceeding 300,000
No monetary sum in dispute	5,000



The Mediator fee is collected for the Mediator fee and the cost of management of the Center in proportion to be determined by the Center.

In case of 2 Mediators, the collection shall increase by 50 percent.

In case of 3 Mediators, the collection shall increase by 100 percent.

Article 4

Expenses of the Mediation are the followings:

- (1) Cost of extra working hours;
- (2) Cost of transportation and other expenses of witnesses upon the Mediator and all parties mutually agreed;
- (3) Cost of Transportation and other expenses of expert proposed by the Mediator upon all parties mutually agreed;
- (4) Cost of food and beverages for lunch and break;
- (5) Other costs demanded by the Mediator with the consent of all parties.

Article 5

Expenses of the mediation shall be collected from all parties as actually incurred except for the cost of extra mediating hours. Cost of extra mediating hours shall be collected on an hourly basis when the mediation is carried after 6:00 PM or on the public holiday, at the rate of 1.5 times the Center's administration expense or the mediator fee. (Daily rate is equivalent to 6 hours per day.) With the consents of all parties, the Center may demand other expenses besides those specified in Article 4.

Annex 2
Model Arbitration Clause

Sample clause for submission of the dispute to be mediated by the Thailand Arbitration Center.

“Any dispute arising out of or in connection with this contract, the parties agree to settle the disputes by mediation in accordance with the Rules of Thailand Arbitration Center and under management of Thailand Arbitration Center. The parties agree to participate in the conciliation in good faith and undertake to abide by the terms of any settlement reached.”

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**Rules of the Thailand Arbitration Center on Arbitration from a Mediation Settlement
Agreement through Mediation of the Dispute
B.E. 2560 (2017)**

Whereas, at present, disputing parties have preferred the use of mediation for dispute resolution between them. Nevertheless, there are concerns that once the mediation resolves the dispute through a settlement agreement and one of the parties fails to comply with the agreed terms, there is a new dispute that arises pursuant to the settlement agreement. In order to support mediation through enforcement as an arbitral award, the Thailand Arbitration Center has therefore issued these Rules.

By virtue of section 18(5) of the Arbitration Center Act B.E. 2550 (2007), the Thailand Arbitration Center Committee hereby issues the following Rules:

Article 1 These Rules shall be referred to as the “Rules of the Thailand Arbitration Center on Arbitration from a Mediation Settlement Agreement through Mediation of the Dispute B.E. 2560 (2017)”.

Article 2 These Rules shall come into force the day after its publication in the Royal Gazette.

Article 3 In these Rules:

- (1) “Center” means the Thailand Arbitration Center established by Thailand Arbitration Center Act B.E. 2550;
- (2) “Arbitral Tribunal” means a sole arbitrator appointed under these Rules;
- (3) “Registrar” means the Managing Director of the Thailand Arbitration Center or the person designated to perform the duties of the Managing Director under these Rules.

Article 4 These Rules shall apply to the arbitration that the disputing parties have agreed for the mediation settlement agreement resulting from the mediation of the dispute under the administration of the Center or of any other alternative dispute resolution institution that has an agreement with the Center having the status and equivalent effect of an arbitral award.

Article 5 In the event that all the disputing parties agree to have an arbitral award according to the mediation settlement agreement by the arbitrator, the arbitration shall proceed with the Registrar preparing for both parties the request for arbitration and appoint the sole arbitrator, who shall not have been the mediator, to constitute the Arbitral Tribunal.

- Article 6** The performance of the duties and disclosure of facts by the arbitrator shall be according to the Rules of the Thailand Arbitration Center on Arbitration B.E. 2558 (2015).
If there are circumstances that raise justifiable doubts as to the impartiality or independence, or any other serious circumstance that makes the proceedings lack fairness, any party may challenge the appointment of that arbitrator on the day of having received the notification of the arbitrator's appointment by the Registrar. When the arbitrator challenge has been received, the Registrar shall replace the arbitrator immediately. The party having already made a challenge shall not be permitted to make a second challenge against the substitute arbitrator.
- Article 7** The Kingdom of Thailand shall be the place of arbitration and the language shall be the language of the mediation settlement agreement.
The proceedings shall remain confidential except where the parties have agreed otherwise.
The conduct of the proceedings by the Arbitral Tribunal shall be in the presence of the parties or in any other way that the Arbitral Tribunal finds expeditious and appropriate, at any venue which is considered convenient and expeditious.
- Article 8** Where the Arbitral Tribunal considers and finds the mediation settlement agreement as not contrary to the law, the Arbitral Tribunal shall make the arbitral award according to that mediation settlement agreement without necessarily having to state the reasons on which it is based.
The arbitral award shall be made in writing and signed by the Arbitral Tribunal, then sent to the Registrar. After the Registrar has received the payment of fees and expenses in full, the Registrar shall promptly send a certified copy of the arbitral award to the parties.
- Article 9** The disputing parties or parties and the arbitrator shall not disclose any information concerning the resolution of this dispute.
The Center, which includes its Registrar, officers, personnel, employees and arbitrators, or any other person appointed by the arbitrator for the purpose of the proceeding shall not bear civil liability to any person for an act or omission in connection with the arbitral proceedings under these Rules, except where the action is willful or grossly negligent causing damage to any one party.
- Article 10** The Center has the authority to collect from the parties fees and expenses in accordance with the rates specified in Annex 1.

Announced on 13 July, B.E. 2560 (2017)

Professor Emeritus Wisit Wisitsora-at

Chairperson of the Thailand Arbitration Center Committee



Annex 1
Fees and Expenses

Article 1 The Thailand Arbitration Center's Fee

The Thailand Arbitration Center's fees of 2,000 Baht shall be collected and has effect from the day of the appointment of the Arbitral Tribunal.

Article 2 Arbitrator Fee

(1) The arbitrator fee shall be based on the following table and has effect from the day of the appointment of the Arbitral Tribunal.

Table of the Arbitrator Fee

Sum in Dispute from the Agreement to Mediate (Thai Baht)	Arbitrator Fee (per person) (Thai Baht)	
	Arbitral Award prepared in the Thai Language	Arbitral Award prepared in a Foreign Language
No monetary sum in dispute	5,000	7,500
Not exceeding 2,500,000	5,000	7,500
From 2,500,001 – 5,000,000	10,000	15,000
From 5,000,001 – 15,000,000	20,000	30,000
From 15,000,001 and above	30,000 + 0.1% of the amount over 15,000,000, not exceeding 100,000	45,000 + 0.1% of the amount over 15,000,000, not exceeding 150,000

Article 3 Expenses

- (1) The expenses of the Arbitral Tribunal includes the reasonable actual expenses of the Arbitral Tribunal during the conduct of the arbitral proceedings which does not include the fees of the Thailand Arbitration Center according to Article 1 and Schedule of the Arbitrator's Remuneration according to Article 2 as well as the expenses for transportation, accommodation, food, communication, etc.
- (2) The case management expenses of the Thailand Arbitration Center include:
 - (2.1) The expenses for the use of equipment and support services, such as the cost of the hearing room, equipment, transcription of the video recording and interpreter in accordance with the rates specified by the Thailand Arbitration Center.
 - (2.2) The expenses of the arbitration for the officer outside of normal working hours where the proceedings of the arbitration case continue after 18.00 hours or on a public holiday; the rate shall be 2.5 percent of the fees of the Thailand Arbitration Center. Any amount of time less than an hour shall be calculated for the hour.
 - (2.3) Cost of food and beverages

The Thailand Arbitration Center may collect other expenses not included in Article 3 (2) upon the consent of all parties.

- (3) Other expenses for the purpose of the arbitration as agreed by the parties.



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