



No. 287 / NCAC / 24

Instruction
on
The Use of Disputes Resolution Mechanisms through Mediation-Arbitration (Med-Arb)
of National Commercial Arbitration Centre

National Commercial Arbitration Centre (NCAC) has recently observed that the dispute resolution mechanisms through Mediation-Arbitration have been used for resolving commercial disputes both domestic and international. The Mediation-Arbitration (Med-Arb) mechanisms is a process of dispute resolution in which the parties try to resolve dispute by mediation before submitting for final settlement by arbitration.

In case the parties wishing to use the Mediation-Arbitration (Med-Arb) mechanisms administered by the NCAC, the parties may consider incorporating the Mediation-Arbitration Clause (Med-Arb Clause) in their contract as follows:

Option 1: Mediation-Arbitration Model Clause

- (X) Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity, performance or termination, shall be first, referred to mediation administered by the National Commercial Arbitration Centre of the Kingdom of Cambodia in accordance with the Mediation Rules of National Commercial Arbitration Centre (NCAC Mediation Rules) being in force at the time of commencement of mediation, and by reference in this clause, the NCAC Mediation Rules are deemed to be incorporated as part of this contract. The commencement of mediation shall not prevent any party from commencing arbitration in accordance with clause (Y) below.
- (Y) Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity, performance or termination, shall be referred to and finally resolved by arbitration administered by the National Commercial Arbitration Centre of the Kingdom of Cambodia in accordance with the Arbitration Rules of the National Commercial Arbitration Centre (NCAC Arbitration Rules) being in force at the time of commencement of arbitration, and by reference in this clause, the NCAC Arbitration Rules are deemed to be incorporated as part of this contract.

The seat of the arbitration shall be [Phnom Penh, Cambodia] *.

The Tribunal shall consist of _____ ** arbitrator(s).

The language of the arbitration shall be _____ ៗ.

Parties may consider the following additional provisions:

1. Language(s) of mediation

The language(s) of the mediation shall be [choose the language(s)].

2. Place of mediation

The place of the mediation shall be [Phnom Penh, Kingdom of Cambodia] ***.

Governing Law Clause

This contract is governed by the laws of _____ ****.

Notes: This clause creates an obligation to resolve dispute by mediation under NCAC Mediation Rules. It is designed to ensure that when a dispute arises, the parties will attempt to settle the dispute in accordance with the NCAC Mediation Rules. The clause also makes it clear that parties do not need to conclude the mediation proceedings, or wait for an agreed period of time, before commencing arbitration proceedings.

Option 2: Mediation-Arbitration Model Clause

(X) Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity, performance or termination, shall be first, referred to mediation administered by the National Commercial Arbitration Centre of the Kingdom of Cambodia in accordance with the Mediation Rules of National Commercial Arbitration Centre (NCAC Mediation Rules) being in force at the time of commencement of mediation, and by reference in this clause, the NCAC Mediation Rules are deemed to be incorporated as part of this contract. If the dispute has not been settled in accordance with the NCAC Mediation Rules within [45] calendar days from the date of commencement of mediation or at any other time agreed by the parties in writing, disputing parties may commence the arbitration proceedings in accordance with clause (Y) below.

(Y) Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity, performance or termination, shall be referred to and finally resolved by arbitration administered by the National Commercial Arbitration Centre of the Kingdom of Cambodia in accordance with the Arbitration Rules of the National Commercial Arbitration Centre (NCAC Arbitration Rules) being in force at the time of commencement of arbitration, and by reference in this clause, the NCAC Arbitration Rules are deemed to be incorporated as part of this contract.

The seat of the arbitration shall be [Phnom Penh, Cambodia] *.

The Tribunal shall consist of _____ ** arbitrator(s).

The language of the arbitration shall be _____.

Parties may consider the following additional provisions:

1. Language(s) of mediation

The language(s) of the mediation shall be [choose the language(s)].

2. Place of mediation

The place of the mediation shall be [Phnom Penh, Kingdom of Cambodia] ***.

Governing Law Clause

This contract is governed by the laws of _____ ****.

Notes: This clause creates an obligation to resolve dispute by mediation under NCAC Mediation Rules. It is designed to ensure that when a dispute arises, the parties will attempt to settle the dispute in accordance with the NCAC Mediation Rules within [45] calendar days or at any other time agreed by the parties in writing. The clause also makes it clear that parties may not initiate the arbitration proceeding if the period of dispute settlement through the above mentioned mediation has not expired.

* Parties should specify the seat of the arbitration of their choice. If the parties wish to select an alternative seat to Cambodia, please replace “[Phnom Penh, Kingdom of Cambodia]” with the city and country of choice (e.g., “[City, Country]”).

** State an odd number.

*** Parties should specify the place of the mediation of their choice. If the parties wish to select an alternative place to Cambodia, please replace “[Phnom Penh, Kingdom of Cambodia]” with the city and country of choice (e.g., “[City, Country]”).

**** State the country or jurisdiction.

For more information on the dispute resolution mechanisms through Mediation-Arbitration (Med-Arb) administered by the NCAC, please contact the General Secretariat of the NCAC via phone: +855 96 888 5333 or email: info@ncac.org.kh during working hours.

As mentioned above, the public please be informed^ៗ.

Phnom Penh, 24 May 2024

NATIONAL COMMERCIAL ARBITRATION CENTRE



PRESIDENT

SAN KIRI
COMMERCIAL ARBITRATOR