

ITOTAM MEDIATION- ARBITRATION (MED-ARB) RULES

Article 1

The Mediation-Arbitration is a dispute resolution procedure where the parties primarily have recourse to mediation in order to resolve their disputes through an impartial and independent third party and, if the parties fail to reach an agreement through arbitration.

Article 2

The Mediation-Arbitration Rules shall apply where the parties agree to refer their dispute to the Med-Arb Rules or to ITOTAM Mediation or ITOTAM Arbitration Rules. The parties may agree on the application of ITOTAM Mediation-Arbitration Rules by using terms meaning “mediation-arbitration” mechanism such as “med-arb” or “ara-tahkim” or making reference to ITOTAM Arbitration and Mediation Center.

Article 3

A mediation-arbitration agreement may be made by the parties at any time and in a manner until the final and binding resolution of the dispute.

Article 4

A mediation-arbitration agreement may be made by the parties regardless of the fact that parties have previously negotiated on, or commenced mediation or arbitration for the resolution of such dispute.

Article 5

If the parties make a mediation-arbitration agreement after having commenced to mediation, the parties shall continue such mediation process in accordance with the ITOTAM Mediation-Arbitration Rules.

Article 6

In cases where the parties make a mediation-arbitration agreement after the arbitration proceedings have commenced, the arbitration proceedings shall be suspended and the dispute shall be resolved in accordance with the ITOTAM Mediation-Arbitration Rules. If the parties fail to reach an agreement at the end of the mediation process, the arbitration proceedings shall resume at the stage where the arbitration proceedings was with the same arbitral tribunal in accordance the ITOTAM Arbitration Rules.

Article 7

Unless otherwise agreed by the parties, in the mediation –arbitration procedure primarily the parties have recourse to mediation according to ITOTAM Mediation Rules. If the parties fail to reach an agreement at the end of the mediation procedure, the dispute shall be finally settled by the arbitral tribunal appointed pursuant to ITOTAM Arbitration Rules.

Article 8

Unless otherwise agreed by the parties, the mediation-arbitration procedure is confidential. The legal provisions regarding to disuse of statements and documents in the mediation procedure shall apply to the ITOTAM Mediation- Arbitration proceedings.

Article 9

Unless otherwise agreed by the parties, the mediator shall not be appointed as an arbitrator.

Article 10

The parties may file a request for emergency arbitrator pursuant to the ITOTAM Emergency Arbitrator Rules at the time of the commencement of mediation-arbitration process or during the mediation process. After having submitted the request for emergency arbitrator, the time limit prescribed under the Article 1 of the ITOTAM Emergency Arbitrator Rules shall be suspended as the mediation process continues. This time limit shall start to run from the date of the termination of mediation proceedings.

Article 11

The mediator appointed pursuant to the ITOAM Mediation Rules shall act in accordance within the provisions, rules and the prescribed time limits under the laws where a mediation is a prerequisite for filing a lawsuit.

Article 12

These Rules enter into force on 11.03.2021.

THE MODEL MEDIATION AND ARBITRATION CLAUSE

Any dispute or claim arising out of or relating to this contract shall be finally settled by arbitration in accordance with the Mediation- Arbitration Rules of the Istanbul Chamber of Commerce Arbitration and Mediation Center (ITOTAM).

Parties should consider adding the following clauses below:

- a. The language of mediation shall be....
- b. The language of arbitration shall be
- c. The applicable substantive law shall be.....
- d. The place of arbitration shall be...
- e. The number of arbitrators shall be....