



TOBBUYUM
MEDIATION – ARBITRATION
(MED-ARB) RULES

TOBBUYUM MED-ARB RULES

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TOBBUYUM MEDIATION & DISPUTE RESOLUTION CENTER MEDIATION - ARBITRATION (MED-ARB) RULES

Model Med-Arb Agreement

The model Med-Arb Agreement requiring a Med-Arb to be processed within the TOBBUYUM is as infra:

“All disputes arising out of or in connection with this contract shall be finally resolved through Med-Arb under the TOBBUYUM Med-Arb Rules. The Parties shall first resolve their dispute through mediation, and the dispute shall be finally resolved through arbitration when an agreement is not reached by mediation.”

ARTICLE I PURPOSE

The purpose of the TOBBUYUM Med-Arb Rules, (*hereinafter referred to as the “Rules”*) is to set out the procedures and principles to be followed in the resolution of legal disputes that are convenient to be resolved through Med-Arb and ‘arbitration’ on a national and international level within the TOBBUYUM.

ARTICLE II SCOPE

1. For the Rules to apply, it must be agreed that the disputes will be resolved in accordance with the TOBBUYUM Med-Arb Rules, or parties must confirm to conduct the process under the Rules after agreeing on solving the dispute first by mediation, and then finally by arbitration when an agreement is not reached through mediation.
2. The Rules shall apply together with the TOBBUYUM Mediation Rules and the TOBB Arbitration Rules unless otherwise agreed.
3. In cases where there are special provisions in the Rules, these provisions shall apply first, and in cases where there is no provision, the relevant provisions of the TOBBUYUM Mediation Rules and TOBB Arbitration Regulation shall apply.
4. Med-Arbitrators and Arbitrators taking charge in Med-Arb and ‘arbitration’ processes under the Rules,
 - a) shall conduct the mediation in compliance with the TOBBUYUM Mediation Rules
 - b) shall conduct the arbitration in compliance with the TOBB Arbitration Rules and the Rules.
5. The Rules shall apply from the date on which the Med-Arb application accepted and recorded by the TOBBUYUM to the date on which arbitration ended unless otherwise agreed by the parties.
6. The revision of the Rules is absolutely within the TOBBUYUM’s authority.



7. The Rules, the TOBBUYUM Mediation Rules and the TOBB Arbitration Rules that are in force at the time of recording of Med-Arb application shall apply to the dispute unless otherwise agreed by the parties.

ARTICLE III

DEFINITION OF TERMS

TOBB: Union of Chambers and Commodity Exchanges of Türkiye,

TOBBUYUM: Mediation and Dispute Resolution Centre of Union of Chambers and Commodity Exchanges of Türkiye,

Med-Arb: A hybrid alternative dispute resolution method through which mediation and arbitration are sequentially applied,

Med-Arbitrator: Same-neutral third person conducting both mediation and arbitration,

Arbitrator: Either sole arbitrator or board of arbitrators conducting arbitration adjudication

Commission: TOBBUYUM Med-Arb Commission,

Secretariat: The Secretariat of the TOBBUYUM Med-Arb Commission,

TOBB Arbitration Rules: Arbitration Regulation of Union of Chambers and Commodity Exchanges of Türkiye,

Med-Arb Agreement: An agreement regarding the resolution of the disputes arising or that will arise from a particular legal relationship firstly through mediation and then through arbitration when not resolved through mediation,

List: The list of Med-Arbitrators accredited by the TOBBUYUM.

ARTICLE IV

MED-ARB AGREEMENT

1. A Med-Arb agreement may be concluded at any stage of a dispute that has arisen or may arise out of a particular legal relationship until the final and binding settlement of the dispute.
2. The fact that the dispute has been previously negotiated by the parties, mediation has been initiated or adjudication has been initiated in arbitration or before state courts does not preclude the conclusion of a Med-Arb agreement.
3. The parties may agree upon resolving the dispute in accordance with the Rules after the commencement of the mediation regarding a particular dispute.



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4. After the commencement of arbitration proceedings in respect of a particular dispute, the parties may agree to resolve the dispute in accordance with the Rules. In this case, the arbitration proceedings shall be suspended and the process of resolving the dispute in accordance with the Rules shall be initiated. If the parties fail to reach an agreement through mediation, the suspended arbitration proceedings shall resume.

ARTICLE V

APPLICATION AND COMMENCEMENT OF MED-ARB

1. For the Med-Arb process to commence before the TOBBUYUM, the application must first be accepted and registered by the TOBBUYUM.
2. The Med-Arb application to the TOBBUYUM shall be in the following forms:
 - a) Making an oral request or submitting a written application to the Secretariat personally by the applicant
 - b) Sending an e-mail to the TOBBUYUM's e-mail address (bilgi@tobbuyum.com.tr) by the applicant
 - c) Filling the application form on the TOBBUYUM's official website (www.tobbuyum.com.tr) by the applicant
3. The information that should be included in the application form are as infra:
 - a) The name in full, title, address, phone and fax number and e-mail address of each of the parties
 - b) The name in full, address, and other contact information of their representatives and attorneys, if any
 - c) Explanations on the subject of the dispute
 - d) The amount where it is determined and where it is specified in the result of claims and approximate monetary values of these claims in cases where it is not possible to determine the value
 - e) The copies of Med-Arb and arbitration agreement
 - f) The name in full of arbitrators, the seat of arbitration, period of arbitration, the language of arbitration, and the substantial law applicable to the merits of the dispute where they are determined.
 - g) The original document of official or certified translation of the application form when application is submitted in foreign (other than Turkish) languages
 - h) The Parties' preferences for both the mediation and arbitration to be conducted by the same or the different neutral third person.
4. The TOBBUYUM shall give the applicant an appropriate period of time to complete the deficiencies in applications that do not contain one or more of the types of information required in the application form.
5. In cases where the deficiencies are not completed in spite of this, the TOBBUYUM reserves the right not to register the application.



ARTICLE VI TYPES OF MED-ARB

1. Med-Arb processes conducted in accordance with the Rules shall be performed in two ways depending on the parties' preferences stated infra:
 - a) Conduct of mediation and arbitration by the same Med-Arbitrator
 - b) Conduct of arbitration process by an arbitrator different from the one who conducted the previous mediation process.
2. Parties shall submit written statements regarding their choices mentioned in Article VI, Paragraph I either at the time of application or upon the request by the TOBBUYUM.

ARTICLE VII CONDUCT OF MED-ARB PROCESS BY THE SAME MED-ARBITRATOR

1. Med-Arbitrator shall enlighten the parties in a full manner at the beginning of Med-Arb process about infra wherein a Med-Arb agreement exists:
 - a) The Med-Arbitrator can hold private caucuses with each of the parties through the mediation process and shall keep confidential information attained through this caucuses secret unless otherwise consented.
 - b) It is not allowed for the parties to the arbitration to raise an objection regarding the impartiality of the Med-Arbitrator or the fairness of the process based on the private caucuses held or the comments and the evaluations made by them as the mediator.
2. The Med-Arbitrator who conducted the previous mediation shall be appointed by the Commission as arbitrator on the basis set out in Article IX of the Rules when an explicit and written consent to do so is given by the parties.
3. Parties may withdraw their consent mentioned in Article VII, Paragraph 2 until the commencement of the arbitration process.
4. The Arbitration process shall not be conducted by the same Med-Arbitrator when any party withdraws its consent mentioned in Article VII, Paragraph 2 until commencement of arbitration process.
5. The arbitration proceedings shall be conducted by the Med-Arbitrator appointed at the beginning of the proceedings when the parties do not withdraw their consent under Article VII, Paragraph 2.
6. The Med-Arbitrator conducting the arbitration proceedings shall not use the information acquired during the mediation process in the arbitration proceedings, unless such information becomes evident or the parties consent to it.
7. Parties agree not to put forward any objection regarding the procedural unfairness of the Med-Arb process or the loss of jurisdiction of the Med-Arbitrator where they have given their consent mentioned in Article VII, Paragraph 2, solely because the Med-Arbitrator:
 - a) Serves as a mediator in the mediation conducted on the matters subject to the arbitration



- b) Holds caucuses during mediation process
- c) Makes evaluations or comments regarding claims submitted by parties during mediation process
- d) Uses information obtained during the mediation process in accordance with the principles set out in Article VII, Paragraph 6 of the Rules.

ARTICLE VIII CONDUCT OF ARBITRATION BY AN ARBITRATOR WHO DID NOT RUN THE MEDIATION

1. The Med-Arbitrator who conducted the mediation shall not take charge in the arbitration unless the parties have given the consent referred to in Article VII, Paragraph 2 or have expressed their preference to do so at the beginning of the process.
2. In this case, the Commission shall appoint an arbitrator different from the Med-Arbitrator conducted the previous mediation proceedings, on the basis set out in Article IX.

ARTICLE IX APPOINTMENT OF MED-ARBITRATOR OR ARBITRATOR

1. Parties may, choose a Med-Arbitrator or Arbitrator from the List in line with their joint decision.
2. The Med-Arbitrator or Arbitrator selected by the parties from the List shall be appointed by the Commission as Med-Arbitrator or Arbitrator if they accept the assignment.
3. The Commission shall appoint a Med-Arbitrator or Arbitrator who will take charge in the Med-Arb from the List when parties fail to choose the Med-Arbitrator or Arbitrator based on their mutual will or directly request the TOBBUYUM to appoint the Med-Arbitrator or Arbitrator.
4. Parties may, by their joint decision, request the Commission in writing to appoint a Med-Arbitrator or Arbitrator from outside the List.
5. It is subject to the Commission's discretion to appoint the Med-Arbitrator or Arbitrator from outside the List. Parties reserve the right to terminate the process if the party-appointed Med-Arbitrator or Arbitrator is not approved by the Commission.
6. The Med-Arbitrator or arbitrators so appointed shall, within 7 (seven) days after the commencement of the arbitration proceedings, sign and send to the Commission the following commitment letter:

"I hereby declare that I accept to serve as an arbitrator in the case referred by the TOBBUYUM; that there is not any conflict of interest between me and the parties to the arbitration; that I shall perform the arbitral duty in an independent and impartial manner, and that I shall dedicate sufficient time for the arbitration process to be conducted in the best way."



7. The Commission is authorized to withdraw the case from the arbitrator who fails to submit this commitment letter and appoint another one in accordance with Article IX.

ARTICLE X PRINCIPLES GOVERNING THE MEDIATION PROCESS BEFORE ARBITRATION

1. It is mandatory to exhaust the mediation before resorting to arbitration where there is a valid TOBBUYUM Med-Arb agreement between parties.
2. The mediation process before arbitration is subject to the principles stated in the TOBBUYUM Mediation Rules.
3. The mediation process before arbitration shall end *ipso facto* when an agreement is not reached within a maximum 45 (forty-five) day period starting from the commencement of the mediation pursuant to Article III, Paragraph 9 of the TOBBUYUM Mediation Rules.
4. The arbitration proceedings shall not be initiated before the mediation process has been concluded or the maximum period of 45 (forty-five) days has expired unless otherwise agreed by the parties.
5. The mediation process which must be exhausted before arbitration, shall be terminated upon the expiration of the maximum period referred to in Article X, Paragraph 3 or, even if such period has not expired, upon the request to terminate the process, or unexcused absence from two consecutive mediation meetings by at least one party, or upon the Mediator's determination in writing that further efforts upon the Mediator's determination in writing indicating that putting further efforts on resolving the conflict is unnecessary.

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ARTICLE XI PRINCIPLES GOVERNING THE ARBITRATION

1. The ongoing disputes shall finally be resolved by arbitration when mediation conducted under the Rules ends completely or partially without settlement on the condition that there is a valid Med-Arb or arbitration agreement.
2. The arbitration process shall commence by a written request submitted to the Secretariat in accordance with the TOBB Arbitration Rules.
3. The arbitration proceedings shall be suspended in the event that the respondent party raises an objection at the latest in the statement of response that the request for arbitration was filed without exhausting the mediation procedure and this objection is sustained by the Arbitrator.
4. Arbitration proceedings shall resume by the request of the claimant when mediation ends without agreement.
5. The agreement reached by the parties shall be rendered as an arbitral award upon written request of the parties when mediation ends with agreement.



6. The party which prevented the mediation process from being exhausted out of its own culpa cannot submit an objection regarding the mediation process not being exhausted.
7. In arbitration proceedings conducted in accordance with the Rules, tasks specified to be performed by the board in the TOBB Arbitration Rules shall be carried out by the Commission, and tasks specified to be performed by the Secretariat of the Board in the TOBB Arbitration Regulations shall be carried out by the Secretariat.
8. The following statements and documents presented during the mediation process cannot be submitted as evidence by the parties and cannot be taken as the basis for the award in the arbitration proceedings.
 - a) Mediator's settlement proposal and a statement of acceptance of this proposal by one of the parties.
 - b) The opinions and proposals put forward by the parties to end the dispute through mediation.
 - c) Suggestions made by the parties or the acceptance of any fact or claim by the parties during the mediation.
 - d) Documents prepared solely for the mediation.
9. The arbitration proceedings for disputes or claims amounting up to 5,000,000 TL (Five Million Turkish Liras) shall be conducted by a single arbitrator unless otherwise agreed by the parties.

ARTICLE XII

FILING FEE, ADMINISTRATIVE EXPENSES, AND ARBITRATOR'S FEE IN ARBITRATION

1. The filing fee of a request for arbitration to the TOBBUYUM pursuant to Article XI, Paragraph 2 of the Rules is 2,000 TL (Two Thousand Turkish Liras) and shall be deposited into the bank account notified by the TOBBUYUM.
2. The filing fee shall be refunded under no circumstances. After the commencement of arbitration proceedings.
3. It is a requirement that the entire amount of administrative expenses stated in Article XII, Paragraph 2 and one half of the arbitrator's fee stated in Article XII, Paragraph 5 be paid for the arbitration proceedings to commence.
4. Parties who have paid the filing fee shall equally pay the administrative expenses scheduled in Annex-1 of the Rules unless otherwise agreed.
5. The arbitrator's fee that parties shall pay for the arbitration under the Rules shall be determined in accordance with the Fee Table of the Circular Concerning the Tariff of Fee in International Arbitration in force on the date of rendering the final award, not to be less than 30,000 TL (Thirty Thousand Turkish Liras) and shall be equally paid by the parties unless otherwise agreed.
6. One half of the arbitrator's fee shall be paid with the administrative expenses, whereas the other half is to be paid before the disclosure or rendering of the final award.
7. Any taxes, fees, stoppage, and similar financial liabilities related to the arbitrator's fee shall be undertaken by the parties.



8. The Secretariat shall notify each party that its share of the total amount consisting of administrative expenses and half of the arbitrator's fee must be paid within 15 (fifteen) days and the arbitration proceedings shall not be initiated otherwise.
9. The Secretariat shall notify the Claimant(s) that the arbitration process shall commence provided that the unpaid total amount is paid within fifteen-day period when one or more parties fail to pay its share of the arbitrator's fee and administrative expenses.
10. The arbitration process shall not commence when this payment is not made despite the notification.
11. The administrative expenses and arbitrator's fees collected pursuant to this Article are deemed to be part of the adjudication costs and shall be left on the parties in proportion to their righteousness by the final award.

ANNEX-I – 2024 ADMINISTRATIVE EXPENSES

| The Amount of Dispute Expenses (2024) | | |
|--|----------------------------------|-----------------|
| 1 | Up to 500,000 TL | 2,000 TL |
| 2 | For the following 1,000,000 TL | additional % 2 |
| 3 | For the following 3,000,000 TL | additional % 1 |
| 4 | For the following 10,000,000 TL | additional % 05 |
| 5 | For the following 20,000,000 TL | additional %04 |
| 6 | For the following 50,000,000 TL | additional %03 |
| 7 | For the following 100,000,000 TL | additional %02 |
| 8 | For all the following amount | additional % 01 |

