

## **MEDIATION PROCEDURE**

This Mediation Procedure shall constitute an integral and inseparable part of the executed Agreement to Mediate and shall govern the mediation process to be applied by the Indonesian Mediation Center (hereinafter abbreviated to PMN) Mediator who shall at all times comply with the prevailing PMN Code of Ethics.

### 1. Applying for Mediation

1.1 The request for mediation shall be submitted in writing to PMN by at least one of the parties to a dispute or negotiation. The request for mediation must be copied to all other parties to the dispute or negotiation. The request may be submitted by means of letter, facsimile, or email.

1.2 The request for mediation shall include the names<sup>1</sup>, addresses and contact information for all parties together with a brief summary of the dispute. A sample Request for Mediation is attached: *Document a*.

### 2. The Parties

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<sup>1</sup> Name of institution, name of representative/parties to attend, their respective position. Contact number: telephone, facsimile, email address.

- 2.1 The parties who are to attend the mediation session shall have full authority to take decisions concerning the matter in dispute.
- 2.2 The names and positions of the representatives and / or advisors of the parties who will attend the mediation session shall be submitted to PMN in the request for mediation or at the time of confirmation of the mediation session schedule.
- 2.3 If the representative or advisor of a party does not have full authority to negotiate or their attendance will, in the opinion of the Mediator, disrupt the mediation process, the Mediator has a right to refuse to continue the mediation process.

### 3. Preliminary Evaluation

- 3.1 Within three working days after receipt of the request for mediation, PMN shall conduct a preliminary evaluation of the request for mediation.
- 3.2 If, based on the result of the preliminary evaluation, PMN determines that the case is not suitable for mediation, PMN will inform the parties that the mediation process cannot proceed.
- 3.3 If, based on the result of the preliminary evaluation, PMN determines that the mediation process can proceed, the parties shall return the duly executed Agreement to

mediate to PMN. A sample Agreement to Mediate is attached (*document b*).

#### 4. Appointing a Mediator

4.1 PMN shall provide a list of mediators to the parties.

4.2 If the parties cannot agree on a mediator, the parties can request PMN to appoint one.

#### 5. Conflict of Interest

5.1 The Mediator shall disclose all potential conflicts of interest that he/she knows of to all parties. If the parties have no objection, the mediation can proceed.

5.2 If pursuant to 5.1, one or all parties object, the parties may request PMN to replace the Mediator in accordance with the provisions of Article 4.

#### 6. Impartiality

6.1 If the Mediator becomes aware of his/her partiality, the Mediator shall resign by sending written notification to all parties and PMN. The mediation process may proceed after appointment of a replacement Mediator in accordance with the provisions of article 4.

6.2 If a party determines the Mediator is partial, the party may submit an objection in writing to the Mediator and

PMN, and may request a replacement Mediator in accordance with the provisions of article 4.

## 7. Confidentiality

7.1 All parties shall maintain the confidentiality of the mediation process.

7.2 The Mediator shall draft provisions governing the confidentiality of information exchanged and positions taken by the parties during the mediation process that shall form part of the Agreement to Mediate.

7.3 The parties agree to waive their right to use the following as evidence in, but not limited to, arbitration, court or other proceedings:

7.3.1 Opinions or suggestions made by any party or the Mediator concerning alternative solutions to the matter in dispute;

7.3.2 Proposals, summaries, and any other notes presented during the mediation process;

7.3.3 Any statement by any party to the Mediator that a proposal is accepted or rejected;

7.3.4 All documents drafted and prepared in connection with the mediation process.

## 8. Standstill

Unless otherwise agreed by the parties, the mediation process shall not prevent any party from initiating court or arbitration proceedings, and neither shall the mediation process be used by any party as a reason to avoid or delay such proceedings.

## 9. Mediation Process

9.1 The Mediator shall assist the parties to reach an amicable agreement.

9.2 If necessary, the Mediator may propose that the parties seek expert opinion in technical matters, in which case the parties agree to bear the cost.

9.3 At any time in the mediation process, the Mediator can, as deemed necessary, hold private meetings with any party to discuss alternative solutions to the dispute. The Mediator shall keep such meetings confidential.

## 10. Termination

10.1 The mediation shall end when:

- a. the parties sign an agreement; or
- b. the Mediator deems that an agreement cannot be reached by continuing the mediation; or

c. a party withdraws from the mediation process by written notice to the Mediator and the other parties;

and in the event of 10.1.b or 10.1.c, the Mediator shall prepare a Mediation Report addressed to the parties and PMN stating that the mediation process could not resolve the dispute.

## 11. Mediation Fees

11.1 Mediation fees comprise registration fee, mediator services, venue costs, and other costs incurred in the mediation process. All costs shall be borne by the parties on a prorata basis, unless otherwise agreed by the parties.

11.2 Registration fee is Rp 500,000.00 and is non-refundable.

11.3 Mediator fees are charged on an hourly basis and vary depending on experience and expertise of the Mediator. A deposit for the first 8 hours of mediation time shall be paid to PMN. PMN will refund any unused portion.

11.4 Venue cost will be charged if the mediation meeting is held in rented premises.

11.5 Other costs include, but are not limited to, Mediator's travel costs, departure tax, per diem and accommodation costs if a mediation meeting is held elsewhere than the Mediator's city of residence. The amount of other costs is stipulated by the PMN.

11.6 All payments shall be made by non-cash means to PMN. Payment of registration fee and deposit for the first 8 hours will be made on or before executing the Agreement to Mediate. Before any mediation meeting takes place the parties shall pay all outstanding fees including but not limited to a minimum deposit for 8 hours mediation time.

## 12. Interpretation

The interpretation of any provision in this Mediation Procedure shall be made by PMN.