

THE GOVERNMENT

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SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

Hanoi, 24 February 2017

DECREE
on Commercial Mediation

Pursuant to the Law on Organization of the Government dated 19 June 2015;

Pursuant to the Commercial Law dated 14 June 2005;

At the proposal of the Minister of Justice;

The Government does hereby promulgate the Decree on Commercial Mediation.

CHAPTER I
GENERAL PROVISIONS

Article 1. Governing scope and subjects of application

1. This Decree provides for the scope, principles, order, procedures for dispute resolution by commercial mediation, commercial mediators, commercial mediation institutions; foreign commercial mediation institutions in Vietnam and State management of commercial mediation practice.

Disputing parties' self-reconciliation or requests for mediation conducted by authorities, institutions or individuals other than commercial mediators, commercial mediation institutions or foreign commercial mediation institutions in Vietnam as prescribed in this Decree shall be effected under the parties' agreements in accordance with the provisions of law and are not governed by this Decree.

2. This Decree is applicable to commercial mediators, commercial mediation institutions, foreign commercial mediation institutions in Vietnam, state management authorities for commercial mediation and other organizations and individuals related to commercial mediation practice.

Article 2. Scope of dispute resolution in commercial mediation

1. Dispute between parties arising from commercial activities.
2. Disputes between parties, where at least one party is engaged in commercial activities.
3. Other disputes among parties which are stipulated by law to be resolved by commercial mediation.

Article 3. Interpretation of terms

1. *Commercial mediation* means a commercial dispute resolution method agreed upon by the parties and assisted by commercial mediators in the settlement of the dispute in compliance with the provisions of this Decree.

2. *Mediation agreement* means an agreement by the parties on the settlement by mediation of disputes which may arise or which have arisen.

3. *Commercial mediators* including ad-hoc commercial mediators and commercial mediators of commercial mediation institutions selected by the parties or appointed by a commercial mediation institution at the request of disputing parties to assist the parties in resolving disputes in compliance with the provisions of this Decree.

4. *Successful mediation result* means an agreement between the disputing parties on the resolution of part or whole of the dispute arising.

5. *Institutional commercial mediation* means a dispute resolution method under the auspices of a commercial mediation institution subject to the provisions of this Decree and the Mediation Rules of such institution.

6. *Ad-hoc commercial mediation* means a dispute resolution method by ad-hoc commercial mediators selected by the parties conducted in compliance with the provisions of this Decree and the parties' agreements.

Article 4. Principles of dispute resolution by commercial mediation

1. The disputing parties' participation in mediation shall be voluntary and they shall be treated equally in terms of rights and obligations.

2. All information related to a mediation case shall be kept confidential unless otherwise agreed by the parties in writing or provided for by the law.

3. The contents of a mediation agreement shall not violate any prohibitions in law, nor be contrary to social morality, nor shirk obligations, nor infringe the rights of a third party.

Article 5. State policies on commercial mediation

1. The State encourages disputing parties to use commercial mediation for commercial dispute resolution and other disputes to be settled by commercial mediation as provided for by the law.

2. The State encourages the mobilization of resources to engage in commercial mediation activities, training and fostering the capacity of commercial mediators and commercial mediation institutions.

Article 6. Conditions for dispute resolution by commercial mediation

A dispute shall be resolved by mediation if the parties have a mediation agreement. A mediation agreement may be made either prior to or after a dispute arises or at any time during the dispute resolution process.

CHAPTER II COMMERCIAL MEDIATORS

Article 7. Qualifications of commercial mediators

1. A person with all of the following qualifications may act as a commercial mediator:

a) Having full civil legal capacity as prescribed by the Civil Code; having good moral qualities, prestige, independence, impartiality and objectivity;

b) Having a university or higher qualification and at least 2 years working experience in the discipline which he or she studied;

c) Having the skills of mediation, legal understanding, knowledge of business and commercial practice and related fields.

2. A commercial mediator may conduct commercial mediation as an ad-hoc commercial mediator or a commercial mediator of a commercial mediation institution in accordance with the provisions of this Decree.

3. A commercial mediation institution may stipulate higher qualifications than those provided in Clause 1 of this article as applicable to the commercial mediators in its institution.

4. A person under a criminal charge or prosecution or who is serving a criminal sentence or who has fully served the sentence but whose criminal record has not yet been cleared or who is subject to administrative measures to be sent to compulsory education establishments or be sent to compulsory detoxification establishments shall not act as a commercial mediator.

Article 8. Registration of an ad-hoc commercial mediator

1. A person with all the qualifications prescribed in Clause 1 Article 7 of this Decree who desires to act as an ad-hoc commercial mediator shall register at the Department of Justice of the province or municipality where he or she resides. If the applicant for registration is a foreigner, he or she shall register at the Department of Justice of the province or municipality where he or she resides.

2. An applicant for registration as an ad-hoc commercial mediator shall submit a set of documents to the Department of Justice. The set of documents shall include:

a) An application for registration as an ad-hoc commercial mediator in the form issued by the Ministry of Justice;

b) A certified copy¹ or an [uncertified]² copy enclosed to the original for verification³ of his / her university or postgraduate degree;

c) Papers proving that he or she has at least 2 years working experience in the discipline, which he or she has studied having been certified by the company or organization where he or she worked.

Papers issued or notarized and authenticated by foreign authorities or organizations shall be legalized in accordance with Vietnamese laws unless

¹ Translator's note: certified by Vietnam Notary Public

² Translator's note

³ Translator's note: the original shall be returned after verification

otherwise exempted under any international treaty to which the Socialist Republic of Vietnam is a Contracting Party.

3. Within seven (07) working days from the full receipt of valid documents, the Department of Justice shall put the name of the applicant on the list of ad-hoc commercial mediators and announce such list on its website; in case of refusal, the reasons therefor shall be given in writing. The refused applicant may file a complaint or a lawsuit in accordance with the law.

4. In case an ad-hoc commercial mediator resigns from acting as an ad-hoc commercial mediator, he or she shall submit a written notice to the Department of Justice of the province or municipality where he or she is registered as an ad-hoc commercial mediator. The Department of Justice shall remove the name of such commercial mediator from its list of ad-hoc commercial mediators.

5. If any organization or individual discovers that an ad-hoc commercial mediator no longer meets the qualifications required in Clause 1 Article 7 of this Decree or violates Article 10 of this Decree, he/she/it shall notify the Department of Justice of the province or municipality where such ad-hoc commercial mediator is registered. The Department of Justice shall review and remove the name of such ad-hoc commercial mediator from its list.

Article 9. Rights and obligations of commercial mediators

1. Commercial mediators shall have the following rights:

- a) To accept or refuse to perform commercial mediation practice;
- b) To refuse to provide information related to a dispute, unless otherwise agreed by the parties in writing or required by the law;
- c) To be entitled to remuneration from the performance of commercial mediation practice as agreed with the disputing parties;
- d) Other rights in accordance with this Decree or other relevant laws.

2. Commercial mediators shall have the following obligations:

- a) To comply with the laws, the codes of conduct for commercial mediators; being independent, impartial, objective and honest;

b) To respect the agreement of parties if such agreement does not violate the law and is not contrary to social ethics;

c) To keep confidential all details of the dispute settled by them, unless otherwise agreed by parties in writing or required by the law;

d) To notify the parties of the authority, fees and expenses prior to mediation proceedings;

dd) A commercial mediator shall not concurrently act as a representative or a consultant of either party, nor concurrently being an arbitrator in the same dispute which is under or has been under mediation unless otherwise agreed by the parties.

e) Other obligations in accordance with this Decree or other relevant laws.

Article 10. Prohibitions applied to commercial mediators

1. Disclosing information about matters or clients they know about during mediation unless otherwise agreed by disputing parties in writing or provided by laws.

2. Violating the code of conduct of commercial mediators.

3. Receiving or requesting for any extra fund or interest from disputing parties apart from remunerations and fees as agreed.

4. Other prohibitions under the law.

CHAPTER III

ORDER AND PROCEDURES OF COMMERCIAL MEDIATION

Article 11. Mediation agreements

1. A mediation agreement may be in the form of a mediation clause in a contract or a separate agreement.

2. A mediation agreement shall be made in writing.

Article 12. Selection and appointment of commercial mediators

1. A Commercial mediator shall be selected by the parties' agreement from the list of commercial mediators of a commercial mediation institution or the

list of ad-hoc commercial mediators published by Departments of Justice of provinces or municipalities.

2. The appointment of a commercial mediator by a commercial mediation institution shall follow the Mediation rules of such commercial mediation institution.

Article 13. Rights and obligations of disputing parties in the procedure of mediation

1. Disputing parties have the following rights:

a) To choose mediation order and procedures, commercial mediators, place and time of mediation;

b) To agree or to refuse to mediate, or to request a suspension or termination of mediation;

c) To request that the mediation to be conducted publicly or non-publicly;

d) To express their wishes and decisions on mediated contents;

dd) Other rights in accordance with this Decree or relevant laws.

2. Disputing parties have the following obligations:

a) To state accurately the facts and details of the disputes; to provide information and documents related to the disputes at the request of commercial mediators;

b) To execute the mediated settlement agreements;

c) To pay remuneration and fees for commercial mediation services, unless otherwise agreed by the parties;

d) Other obligations in accordance with this Decree or other relevant laws.

Article 14. Order and procedures for mediation

1. Parties are entitled to choose the Mediation rules of a Commercial Mediation institution or agree on their own mediation procedures. Where the parties have no agreement on the order and procedures for mediation, commercial mediators shall conduct the mediation in the order and procedures

that such commercial mediators find appropriate to the content of the dispute and the wishes of the parties which are agreed upon by them.

2. A dispute may be conducted by one or multiple commercial mediators as agreed by the parties.

3. At any time during a mediation process, a commercial mediator is entitled to propose a resolution of the dispute.

4. The place and time of mediation shall be in accordance with the agreement of the parties or at the option of commercial mediators in the absence of an agreement by the parties.

Article 15. Successful mediation results

1. When a successful mediation result is reached, the parties shall enter into a written mediated settlement agreement. The written mediated settlement agreement shall be valid and binding on the parties in accordance with civil laws.

2. A written mediated settlement agreement shall include the following main contents:

a) Grounds for mediation;

b) Background information about the parties;

c) Principal contents of the case;

d) Agreements reached and implementation solutions;

dd) Other contents as agreed by the parties in accordance with the provisions of law.

3. The written mediated settlement agreement shall be signed by the parties and the commercial mediators.

4. In cases where no successful mediation result is reached, the parties may continue to mediate or may request arbitration or the courts to settle the disputes in accordance with the provisions of law.

Article 16. Recognition of mediated settlement agreements

A mediated settlement agreement shall be considered for recognition in accordance with the provisions of the civil procedure law⁴.

Article 17. Termination of mediation proceedings

A mediation proceeding may terminate in the following cases:

1. When the parties reach a successful mediation result.
2. When commercial mediators deem it is unnecessary to proceed with mediation, after consulting the opinions of the parties.
3. At the request of a disputing party or parties.

CHAPTER IV COMMERCIAL MEDIATION INSTITUTIONS

Article 18. Commercial mediation institutions

Commercial mediation institutions include:

1. Commercial Mediation Centers established and operate in compliance with the provisions of this Decree.
2. Arbitration centers established and operating under the law on commercial arbitration performing commercial mediation practice in compliance with the provisions of Article 23 of this Decree.

Article 19. Commercial Mediation Centers

1. Commercial Mediation Centers established in compliance with the provisions of this Decree, having legal status, their own seals and accounts.
2. Commercial Mediation Centers operating not for profit.
3. Commercial Mediation Centers allowed to set up branches and representative offices in the nation and abroad.

⁴ Translator's note: The mediated settlement agreement shall be recognized by the court and enforced by the State Agency for Enforcement of Civil Judgment upon the request of either or both party(ies) under the procedure as stipulated in Chapter XXXIII (Article 416 to 419) of the 2015 Civil Procedure Code.

4. An organizational structure of a commercial mediation center is regulated by the charter of such center. The Chairman of a commercial mediation center shall be a commercial mediator.

Article 20. Names of commercial mediation centers, branches and representative offices of commercial mediation centers

1. The name of a commercial mediation center shall be in Vietnamese and include the phrase “Commercial Mediation Center”, which shall not be duplicated nor confused with the names of other commercial mediation institutions having been granted with establishment licenses; nor violate historical traditions, culture, ethics and fine traditions of the nation.

Commercial Mediation Centers may use abbreviations and transaction names in foreign languages.

2. The name of a branch of a commercial mediation center shall include the phrase “the branch”, and the name of such commercial mediation center

3. The name of a representative office of a commercial mediation center shall include the phrase “the representative office”, and the name of such commercial mediation center.

Article 21. Procedures to establish Commercial Mediation Centers

1. Vietnamese citizens qualified to be commercial mediators as provided for in Clause 1 Article 7 of this Decree who wish to establish a Commercial Mediation Center shall submit 01 set of documents to the Ministry of Justice. Such set of documents shall include:

a) An application for the establishment of a commercial mediation center in the form issued by the Ministry of Justice;

b) A list of the founders;

c) Papers evidencing the founder’s eligibility for acting as a commercial mediator as provided in Clause 1 Article 7 of this Decree;

d) The Draft of the Center’s Mediation Rules.

The contents of the Center’s Mediation Rules shall not be contrary to law.

2. Within thirty (30) days from the date of receipt of valid dossiers, the Ministry of Justice shall grant an establishment license to the Commercial Mediation center; in case of refusal, the reasons therefor must be given in writing. The refused applicant may file a complaint or a lawsuit in accordance with the law.

Article 22. Practice registration of Commercial Mediation centers

1. Within 30 days from the effective date of issue of the establishment license of a Commercial Mediation Center, the Center shall submit its dossier for practice registration to the Department of Justice of the province or municipality where the center's headquarters is located. Upon the expiry of this time limit, if the Commercial Mediation Center fails to register its practice, the establishment license shall be invalid unless there are plausible reasons.

2. Dossiers for practice registration of a Commercial Mediation center shall include:

a) An application for practice registration in the form issued by the Ministry of Justice;

b) A certified copy⁵ or an *[uncertified]*⁶ copy enclosed to the original for verification⁷ of the Center's establishment license;

c) Papers proving the headquarters of the Center.

3. Within fifteen (15) days from the date of receipt of a valid dossier, the Department of Justice shall grant a practice license to the Commercial Mediation center; in case of refusal, the reasons therefor must be given in writing. The Department of Justice shall submit to the Ministry of Justice a copy of the practice license of the Commercial Mediation Center.

4. A Commercial Mediation Center may operate from the date of issue of a practice license. A Commercial Mediation Center may use seals in accordance with the law.

5. Within thirty (30) days from the date of issue of the practice license, the Commercial Mediation Center shall publish in the Central or local daily

⁵ Translator's note: certified by Vietnam Notary Public

⁶ Translator's note

⁷ Translator's note: the original shall be returned after verification

newspaper where its practice is registered for three consecutive issues the following main contents:

- a) The name and address of the Commercial Mediation Center;
- b) The scope of business of the Commercial Mediation Center;
- c) Details of the practice license, the issuing authority and the date of issue;
- d) Time of commencement of the operation of the Commercial Mediation Center.

Article 23. Commercial mediation practice of Commercial Arbitration Centers

1. An arbitration center which has been granted its establishment license and practice license under the provisions of commercial arbitration laws and which wishes to conduct commercial mediation practice shall submit one set of documents to the Ministry of Justice. Such set of documents shall include:

- a) A request for supplementation of commercial mediation practice in the form issued by the Ministry of Justice;
- b) The Draft of the center's Mediation Rules.

Within fifteen (15) days from the date of receipt of a valid dossier, the Ministry of Justice shall issue a decision to add commercial mediation practice to the Arbitration center; in case of refusal, the reasons therefor must be given in writing. The arbitration center shall register changes in the contents of its practice license at the Department of Justice of the province or municipality where its operation is registered.

2. The founding members who apply for establishment of an arbitration center and wish to concurrently conduct commercial mediation at their arbitration center shall enclose the draft mediation rules in the application for establishment of the arbitration center.

3. The contents of the Mediation Rules of arbitration centers shall not be contrary to law.

4. The order and procedures for establishment of arbitration centers, registration of practice of arbitration centers, change of contents in establishment licenses and practice licenses of arbitration centers shall comply with the laws on commercial arbitration.

Article 24. Rights and obligations of commercial mediation institutions

1. Commercial mediation institutions shall have the following rights:

- a) To perform commercial mediation practice;
- b) To organize training courses on mediation skills for commercial mediators;
- c) To collect remuneration and other lawful revenues related to commercial mediation practice;
- d) To establish standards for commercial mediators and procedures for the selection, listing and deleting of commercial mediators in the list of commercial mediators of their organizations;
- dd) To appoint commercial mediators at the request of parties;
- e) Other rights in accordance with this Decree and other relevant laws.

2. A commercial mediation institution shall have the following obligations:

- a) To make and publish its list of commercial mediators and to submit its list of commercial mediators to the Ministry of Justice and the Department of Justice of the province or municipality where the commercial mediation institution has its practice registered within seven (07) working days from the date of issue of the practice license or from the effective date of the decision on supplementation of commercial mediation practice to the arbitration center or from the date of change in the list of commercial mediators;
- b) To pay remuneration and other expenses to commercial mediators;

- c) To promulgate a code of conduct for its commercial mediators;
- d) To elaborate, promulgate and publicly announce the Mediation rules and levels of remuneration for mediation;
- dd) To report to the Department of Justice of the province or municipality of registration on its organization and practice on an annual basis and upon request;
- e) To archive records and provide information on mediation results at the request of disputing parties or competent state authorities;
- g) Other obligations in accordance with this Decree or other relevant laws.

Article 25. Branches of Commercial Mediation Centers

1. A branch is a dependent unit of a Commercial Mediation Center, operating in accordance with the fields of practice stated in the establishment license of the Commercial Mediation Center.

2. A Commercial Mediation Center shall be responsible for the practice of its branches under the law. A Commercial Mediation Center shall nominate a commercial mediator to be Head of branch.

3. Within fifteen (15) days as of the date of the decision on establishment of the branch, the Commercial Mediation Center shall submit 01 application for practice registration of the branch to the Department of Justice of the province or municipality where the branch is located. Such set of documents shall include:

- a) An application for practice registration of the branch in the form issued by the Ministry of Justice;
- b) The decision on establishment of the branch of the Commercial Mediation Center.

Within ten (10) days from the date of receipt of valid documents, the Department of Justice shall issue a practice license to the branch. The Department of Justice shall submit to the Ministry of Justice a copy of the practice license of the branch.

4. Where a Commercial Mediation Center establishes a branch outside the province or municipality of its own operational registration, within seven (7) working days from the date the branch's practice license, the Commercial Mediation Center shall notify in writing the fact of the establishment of the branch to the Department of Justice where such commercial mediation center has its operation registered.

5. A branch of a Commercial Mediation Center may use seals in accordance with the law.

Article 26. Change in the name and address of the headquarters of a Commercial Mediation Center

1. Where there is a need to change the name and relocation of the headquarters from one province or municipality to another, the Commercial Mediation Center shall submit one dossier proposing the change to the Ministry of Justice. Such set of documents shall include:

- a) An application for changes in the form issued by the Ministry of Justice;
- b) Papers related to the changes.

Within fifteen (15) days from the date of receipt of the dossiers application for changes, the Ministry of Justice shall issue an official letter to approve the changed contents; in case of refusal, the reasons therefor must be given in writing.

2. Within fifteen (15) days from the effective date of the written approval issued by the Ministry of Justice on the change of name, the Commercial Mediation Center shall submit a written request for change of its name in the practice license to the Department of Justice of the province or the municipality where the Center registers its operation. Within seven (07) working days from the date of receipt of the Center's document, the Department of Justice shall issue a decision to change the name in its practice license.

3. Within twenty (20) days from the effective date of the Ministry of Justice's written approval of the headquarters' relocation from one province or municipality to another, the Commercial Mediation Center shall register its practice at the Department of Justice of the province or municipality where the

new headquarters is located. The order and procedures for practice registration shall comply with the provisions of Clauses 2 and 3 of Article 22 of this Decree.

Within seven working days from the date of issue of the new practice license, the Commercial Mediation Center shall submit a written notice to the Department of Justice of the province or municipality where the former practice license was issued. The Department of Justice shall issue a decision to revoke the former practice license issued to the Center.

4. Where the Commercial Mediation Center changes its headquarters within the province or municipality, within 7 working days from the date of relocation, the Center shall submit a notice in writing to the Ministry of Justice and the Department of Justice of the province or municipality where the Center is registered for practice.

Article 27. Re-issue of Establishment Licenses, practice licenses for Commercial Mediation Centers, practice licenses for branches of Commercial Mediation Centers

1. Where an establishment license, a practice license of a Commercial Mediation Center or a practice license of a branch of a Commercial Mediation Center is lost, burnt, torn or otherwise destroyed, a Commercial Mediation Center or a branch of a Commercial Mediation Center shall submit a written request for re-issue to the competent authority where the establishment license or practice license is issued for re-grant.

2. Within ten (10) days from receipt of an application, the Ministry of Justice shall re-issue an establishment license to a Commercial Mediation center; within five (05) working days as of the receipt of an application, the Department of Justice shall re-issue a practice license to a Commercial Mediation Center or a practice license to the branch of a Commercial Mediation Center.

Article 28. Representative offices of Commercial Mediation Centers

1. A representative office is a dependent unit of a Commercial Mediation Center, established to seek and promote opportunities for commercial mediation. A representative office may use seals in accordance with the law.

2. A shall be responsible for the operation of its representative offices under the law.

3. Within seven (07) working days from the date of establishment of a representative office, relocation or change of the head of a representative office, the commercial mediation center shall submit a notice thereon to the Department of Justice of the province or municipality where its operation is registered.

Where a representative office is established outside the province or municipality where a Commercial Mediation Center has its operation registered, the Center shall submit a notice to the Department of Justice of the locality where the representative office locates and the Department of Justice where the Center has its operation registered.

Article 29. Branches, representative offices of Commercial Mediation Centers established overseas

Within thirty (30) days after being permitted by a foreign competent authority to set up a branch or representative office of an overseas Commercial Mediation Center or from the date of termination of the operation of a branch or representative offices overseas, a commercial mediation center shall notify in writing the Ministry of Justice and the Department of Justice of the province or municipality where its operation is registered.

Article 30. Revocation of Establishment Licenses, practice licenses of Commercial Mediation Centers and practice licenses of branches of Commercial Mediation Centers

1. A commercial mediation center shall have its establishment license revoked in the following cases:

a) Where a commercial mediation center has been administratively sanctioned for administrative violations related to commercial mediation under the provisions of the law on handling of administrative violations but has thereafter committed further violations;

b) Where a commercial mediation center has conducted no commercial mediation practice during five (05) consecutive years from the date of issue of its establishment license;

c) Where a commercial mediation center has not registered for practice at the Department of Justice of the province or municipality where its headquarters is located within thirty (30) days from the effective date of the decision on issue of establishment license, except for plausible reasons.

2. Where an organization or individual finds out that a Commercial Mediation Center falls into one of the above three categories for revocation of its establishment license, the Department of Justice of the province or municipality where the Center registered for operation shall be informed. The Department of Justice shall review and verify the facts. Where a commercial mediation center is found to have its establishment license revocable under Clause 1 of this Article, the Department of Justice shall submit a written request to the Ministry of Justice for revocation of the establishment license, clearly stating the reasons enclosed and with supporting documents (if any).

3. Within fifteen (15) days from receipt of a request submitted by the Department of Justice, the Ministry of Justice shall consider and decide on the revocation of the establishment license of a Commercial Mediation center.

Within seven (07) working days from the effective date of the Ministry of Justice's decision to revoke the establishment license, the Department of Justice of the province or municipality where the practice license of the Commercial Mediation Center is issued shall make a decision to revoke the Center's practice license.

4. The Branch of a Commercial Mediation Center that has been administratively sanctioned for administrative violations related to commercial mediation under the provisions of the law on handling of administrative violations but has thereafter committed further violations shall have its practice license revoked. The practice license shall be revoked by the Department of Justice of the Province or Municipality where the branch's practice license is issued.

Article 31. Termination of the operation of a Commercial Mediation Center, commercial mediation practice of an Arbitration center

1. A commercial mediation center's practice shall be terminated in the following cases:

a) Voluntary termination of practice;

b) Having its establishment license revoked under the provisions of Clause 1 Article 30 of this Decree.

2. In case of termination of practice per the provisions of Point a, Clause 1 of this Article, at least thirty (30) days before the date of practice termination, a commercial mediation center shall notify in writing the fact of the practice termination to the Ministry of Justice, the Department of Justice of the province or municipality where the Center's practice is registered.

Within sixty (60) days from the date of the decision on practice termination, the commercial mediation center shall pay all debts and other property obligations, liquidate all its contracts and complete the cases accepted, unless otherwise agreed upon.

3. Within ten (10) days from the date of completion of the procedures provided in Paragraph 2 of this Article, a Commercial Mediation Center shall report in writing to the Ministry of Justice and the Department of Justice of the province or municipality where its operation is registered. Within seven (07) working days from the date of receipt of the report from the Commercial Mediation Center, the Ministry of Justice shall issue a decision to revoke the establishment license. Within five (05) working days from the effective date of the Ministry of Justice's decision to revoke the establishment license, the Department of Justice shall issue a decision to revoke the Center's practice license.

4. In case of termination of practice as prescribed at Point b Clause 1 of this Article, within 60 days from the effective date of the decision issued by the Ministry of Justice on the revocation of the establishment license of a commercial mediation center. The center shall pay all debts and other property obligations, liquidate contracts and complete the cases accepted, unless otherwise agreed upon.

5. Arbitration centers shall terminate commercial mediation practice in the following cases:

a) Where an Arbitration center terminates its practice in compliance with the law on commercial arbitration;

b) Where an Arbitration center terminates its commercial mediation practice under its Charter;

c) Where an Arbitration Center conducts no mediation practice within 5 years as from the effective date of the Ministry of Justice's decision on the addition of commercial mediation practice;

d) Where an Arbitration center has been administratively sanctioned for administrative violations related to commercial mediation practice under the provisions of the law on the handling of administrative violations but has thereafter committed further violations.

6. The termination of the practice of an arbitration center under Points (a) and (b) Clause 5 of this Article shall comply with the provisions of the law on commercial arbitration. The completion of the Center's obligations shall be in accordance with Clause 2 of this Article.

7. In cases where an arbitration center terminates its operation under the provisions at Points (c) and (d) Clause 5 of this Article, the Ministry of Justice shall issue a written decision to revoke the decision on supplementation of the Center's commercial mediation practice. Within 10 days from the date of revocation of the decision on supplementation of commercial mediation practice, the arbitration center shall change the contents of the practice license at the Department of Justice of the province or municipality where its operation is registered. The order and procedures for changing the contents of practice license shall comply with the law on commercial arbitration. The complete of the Center's obligations shall be in accordance with Clause 4 of this Article.

Article 32. Termination of operation of branches and representative offices of commercial mediation centers

1. A branch of a commercial mediation center shall terminate its operation in the following cases:

a) On the decision of the Commercial Mediation center;

b) Where the commercial mediation center terminates its operation per the provisions of Clause 1 Article 31 of this Decree;

c) Where the practice license of a branch is revoked under the provisions of Paragraph 4 of Article 30 of this Decree.

2. Within thirty (30) days from the date of the branch's termination of practice, the Commercial Mediation Center shall notify in writing the fact of the termination of the Branch's practice to the Ministry of Justice and the Department of Justice of the province or municipality where the Center has its operation registered and the Department of Justice of the province or municipality where the branch has its operation registered.

3. A representative office of a Commercial Mediation Center shall terminate its operation under the decision of the Commercial Mediation Center or when the Commercial Mediation Center terminates its operation as provided for in Clause 1 Article 31 of this Decree. At least ten (10) days before the date of termination of practice of a representative office, the Commercial Mediation Center shall notify on the termination of operation of its representative office to the Department of Justice of the province or municipality where the Center registers the operation and the Department of Justice of the province or municipality where the representative office is located.

CHAPTER V

THE OPERATION OF FOREIGN COMMERCIAL MEDIATION INSTITUTIONS IN VIETNAM

Article 33. Conditions and forms of operation of foreign commercial mediation institutions in Vietnam

1. Foreign commercial mediation institutions established and operating legally in foreign countries, and respecting the Constitution and law of the Socialist Republic of Vietnam, shall be permitted to practice in Vietnam in compliance with the provisions of this Decree.

2. Foreign commercial mediation institutions may practice in Vietnam in one of the following forms:

a) as a branch of a foreign commercial mediation institution (hereinafter referred to as branch(es));

b) as a representative office of a foreign commercial mediation institution (hereinafter referred to as representative office(s)).

Article 34. Branches, Representative Offices of foreign commercial mediation institutions in Vietnam

1. A branch is a dependent unit of a foreign commercial mediation institution, established and conducting commercial mediation practice in Vietnam in accordance with the provisions of this Decree. A foreign commercial mediation institution shall be responsible for the operation of its branches under the law of Vietnam. A foreign commercial mediation institution shall nominate a commercial mediator to act as the Head of branch. A Head of branch is an authorized representative of a foreign commercial mediation institution in Vietnam.

2. A representative office is a dependent unit of a foreign commercial mediation institution established to seek and promote opportunities for mediation practice in Vietnam in compliance with the provisions of this Decree. A foreign commercial mediation institution shall be responsible for the operation of its representative offices before the law of Vietnam.

3. The name of a branch of a foreign commercial mediation institution shall include the phrase “the branch”, and the name of such foreign commercial mediation institution

The name of a representative office of a foreign commercial mediation institution shall include the phrase “the representative office”, and the name of such foreign commercial mediation institution.

The name of a branch, representative office of a foreign commercial mediation institution shall be in line with the provisions of Clause 1 Article 20 of this Decree.

Article 35. Rights and obligations of branches and representative offices of foreign commercial mediation institutions in Vietnam

1. The rights and obligations of branches shall be:

a) To lease offices for their operation;

b) To recruit Vietnamese and foreign staff to work in their branches under the provisions of applicable laws;

c) To open accounts in Vietnam Dong or in foreign currencies at banks licensed to operate in Vietnam in service of their operations;

d) To transfer the income of the branches abroad in accordance with the law of Vietnam;

dd) To have seals as prescribed by law;

e) To operate for the purposes, scopes and durations specified in the establishment licenses;

g) To appoint mediators to conduct mediations under the auspices of the foreign commercial mediation institution;

h) To provide commercial mediation services;

i) To archive records and to provide copies of mediation results at the request of disputing parties or competent state authorities;

k) To reporting on the organization and operation of commercial mediation to Departments of Justice of provinces or municipalities where the branches have their operation registered on an annual basis and upon request;

l) Other rights and obligations under the law.

2. Rights and obligations of representative offices:

a) The rights and obligations prescribed at Points a, b, c, dd, e, and l Clause 1 of this Article shall apply;

b) To search for and promote opportunities for commercial mediation practice in Vietnam;

c) The representative office shall not conduct commercial mediation practice in Vietnam but may only carry out promotion and advertisement for commercial mediation practice in accordance with the provisions of Vietnamese law;

d) The representative office shall report on the organization and operation on commercial mediation to Departments of Justice of provinces or municipalities where the representative offices is located on an annual basis and upon request.

Article 36. Issue of establishment licenses to branches and representative offices of foreign commercial mediation institutions in Vietnam

1. A foreign commercial mediation institution that wishes to establish branches or representative offices in Vietnam shall submit one file of application documents to the Ministry of Justice. The application file shall include:

a) An application for establishment of a branch or a representative office in the form issued by the Ministry of Justice;

b) Certified copies of papers proving the lawful establishment of the foreign commercial mediation institution granted by a foreign competent authority or organization;

c) An introduction to the operation of the commercial mediation institution;

d) A decision to nominate a commercial mediator to be Head of branch or Head of representative office;

dd) Lists of commercial mediators, employees expected to work at the branch and of employees expected to work at the representative office.

3. Supporting documents for the application for establishment of a branch or representative office in foreign languages shall be translated into the Vietnamese language and the translations shall be certified in compliance with the laws of Vietnam.

Papers issued or notarized and authenticated by foreign authorities or organizations shall be legalized in accordance with Vietnamese laws unless otherwise exempted under international treaties to which the Socialist Republic of Vietnam is a Contracting Party.

4. Within thirty (30) days from the date of receipt of a valid dossier, the Ministry of Justice shall grant an establishment license to a branch or representative office of a foreign Commercial mediation institution; in case of refusal, the reasons therefor must be given in writing.

Article 37. Registration of practice of branches and notice on the establishment of representative offices of foreign commercial mediation institutions in Vietnam

1. Within sixty (60) days as of the effective date of the decision on establishment, the branch shall submit 01 application for registration of practice to the Department of Justice of the province or municipality where it is located. Upon the expiry of this time limit, if the branch fails to register its operation, the establishment license shall become invalid unless there are plausible reasons.

2. The application file shall include:

a) An application for practice registration in the form issued by the Ministry of Justice;

b) A certified copy⁸ or an *[uncertified]*⁹ copy enclosed to the original for verification¹⁰ of the branch's establishment license;

c) Papers proving the existence and location of headquarters of the branch.

3. Within ten (10) days from the full receipt of valid documents, the Department of Justice shall issue the practice license for the branch. The branch shall operate from the date of issue of the practice license.

Within seven (07) working days from the date of issue of the practice license to a branch, the Department of Justice shall send a copy of the branch's practice license to the Justice Ministry.

4. Within seven (07) working days from the effective date of the decision on establishment, the representative office shall submit a set of dossiers notifying the fact of its establishment to the Department of Justice of the province or municipality where it is located. Such set of documents shall include:

a) Notification on the establishment of a representative office;

b) A certified copy¹¹ or an *[uncertified]*¹² copy enclosed to the original for verification¹³ of the representative office's establishment license.

⁸ Translator's note: certified by Vietnam Notary Public

⁹ Translator's note

¹⁰ Translator's note: the original shall be returned after verification

¹¹ Translator's note: certified by Vietnam Notary Public

¹² Translator's note

¹³ Translator's note: the original shall be returned after verification

Article 38. Change of name, head of branch, address of a branch, a representative office of a foreign commercial mediation institution in Vietnam

1. Where there is a need to change the Branch's name or branch's Head or relocation of a Branch from one province or municipality to another, one set of documents proposing such changes shall be submitted to the Ministry of Justice. Such set of documents shall include:

- a) An application for changes in the form issued by the Ministry of Justice;
- b) Papers explaining and justifying the changes.

Within 15 days from the receipt of the proper documents, the Ministry of Justice shall issue official letters to approve the changes; in case of refusal, the reasons therefor shall be given in writing.

2. Within fifteen (15) days from the effective date of the written approval issued by the Ministry of Justice on the change of name or head of branch, the branch shall submit a written request for change of its name or head of branch in its practice license to the Department of Justice where its operation is registered. Within seven (07) working days from the date of receipt of the branch's request, the Department of Justice shall issue a decision to change the name, the head of branch in the branch's practice license.

3. Within twenty (20) days from the effective date of the Ministry of Justice's written approval on the relocation of the headquarters from one province or municipality to another, the branch shall register its operation at the Department of Justice of the province or municipality where the new headquarters is located. The order and procedures for practice registration shall comply with the provisions of Clauses 2 and 3 of Article 37 of this Decree.

Within seven (07) working days from the date of issue of the new practice license, the branch shall submit a written notice to the Department of Justice of the province or municipality where its former practice license is registered. The Department of Justice shall issue a decision to revoke the former practice license of the branch.

4. Regarding any change in the name of a representative office, head of representative office and relocation of the headquarters from one province or

municipality to another, within seven (07) working days from the date of the decision on changes, the Ministry of Justice and the Department of Justice of the province or municipality where the representative office is located shall be kept informed in writing.

Article 39. Re-issue of Establishment licenses, practice licenses of branches and establishment licenses of representative offices of foreign commercial mediation institutions in Vietnam

1. Where the establishment license or the practice license of a branch or the establishment license of a representative office of a foreign Commercial mediation institution in Vietnam is lost, burnt, torn or otherwise destroyed, a branch or a representative office of a foreign Commercial mediation institution in Vietnam shall submit a written request for re-issue to the competent authority which granted the establishment license and the practice license.

2. Within ten (10) days from the receipt of the application, the Ministry of Justice shall re-grant an establishment license to the branch or representative office of a foreign Commercial mediation institution in Vietnam; within five (05) working days as of the receipt of the application, the Department of Justice shall re-grant a practice license to the branch of a foreign Commercial mediation institution in Vietnam.

Article 40. Revocation of Establishment licenses, practice licenses of branches and establishment licenses of representative offices of foreign commercial mediation institutions in Vietnam

1. A branch of a foreign commercial mediation institution in Vietnam shall have its establishment license revoked in the following cases:

a) Where a branch that has been administratively sanctioned of administrative violations related to commercial mediation practice under the provisions of the law on handling of administrative violations but has thereafter committed further violations.

b) Where a branch has conducted no commercial mediation practice during five (05) consecutive years from the date of issue of its Establishment license;

c) Where a branch fails to register its operation within sixty (60) days from the effective date of the decision on the issue of the establishment license, unless there are plausible reasons.

2. Where a representative office of a foreign Commercial mediation institution has its establishment license revoked in the event of having been administratively sanctioned for administrative violations related to commercial mediation under the provisions of the law on handling of administrative violations but has thereafter committed further violations.

3. Where an organization or individual finds out that a branch or representative office falls into one of the reasons for revocation of the establishment license, the Department of Justice of the province or municipality where such branch or representative office is located should be kept informed. The Department of Justice shall review and verify the facts.

In cases where there are grounds to confirm that the branch or representative office falls into the categories prescribed in Clauses 1 and 2 of this Article, the Department of Justice shall submit a written request to the Ministry of Justice for revocation of the establishment license, clearly stating the reasons enclosed and with supporting documents (if any).

4. Within fifteen (15) days from the receipt of the request submitted by the Department of Justice, the Ministry of Justice shall consider and decide on the revocation of an establishment license of a branch or a representative office.

5. Within fifteen (15) working days from the effective date of the Ministry of Justice's decision to revoke the establishment license of a branch of a foreign commercial mediation institution in Vietnam, the Department of Justice of the province or municipality where the operation of such branch is registered shall make its decision to revoke the branch's practice license.

Article 41. Termination of operation of branches and representative offices of foreign commercial mediation institutions in Vietnam

1. Branches and representative offices of foreign commercial mediation institutions in Vietnam shall terminate their operation in the following cases:

a) Where the branches or representative offices terminate their operations by decision of the foreign commercial mediation institution;

b) Where the foreign commercial mediation institution which established branches or representative offices in Vietnam terminate their overseas operations;

c) Where branches or representative offices have their establishment licenses revoked under the provisions of Clauses 1 and 2 of Article 40 of this Decree.

2. In case of termination of operation per the provisions at Points (a) and (b), Clause 1 of this Article, at least 30 days prior to the date of operation termination, a branch or representative office shall notify in writing the fact of the termination to the Ministry of Justice and the Department of Justice of the province or municipality where the branch or representative office is located.

Within sixty (60) days from the date of termination of operations, the branch or representative office shall pay all its debts and other property obligations, shall liquidate its labor contracts and shall complete the cases accepted by the branch, unless otherwise agreed upon.

3. Within ten (10) days from the date of completion of the procedures provided in Clause 2 of this Article, the branch or representative office shall report in writing to the Ministry of Justice and the Department of Justice of the province or municipality where the branch's practice is registered or the representative office is located. Within seven working days from the date of receipt of the report from the branch or representative office, the Ministry of Justice shall issue a decision on revocation of the establishment license of the branch or representative office; the Department of Justice shall issue a decision on revocation of the branch's practice license.

4. In case of termination of operation as prescribed at Point c, Clause 1 of this Article, within sixty (60) days from the effective date of the decision issued by the Ministry of Justice on the revocation of the establishment license of a branch or representative office, the branch or representative office shall pay all debts and other property obligations, shall liquidate all its labor contracts and shall complete the cases accepted by the branch, unless otherwise agreed upon.

CHAPTER VI IMPLEMENTATION PROVISIONS

Article 42. State management of commercial mediation

1. The Ministry of Justice is the authority assisting the Government in uniformly performing the State management of commercial mediation nationwide, with the following tasks and powers:

a) Drafting and submitting to competent State authorities for promulgation or to promulgate within its competence, documents providing details and guidelines on the implementation of the law on commercial mediation;

b) Granting, revoking the Establishment licenses of commercial mediation centers, granting, revoking Establishment Licenses of branches and representative offices of foreign commercial mediation institutions in Vietnam; approving the changes in the contents of Establishment licenses of Commercial Mediation Centers; approving the changes in the contents of Establishment licenses of branches of foreign commercial mediation institutions in Vietnam; supplementing commercial mediation practice to arbitration centers;

c) Announcing the lists of commercial mediators, lists of commercial mediation institutions nationwide;

d) Promulgating and guiding the uniform use of samples of documents and papers in the field of commercial mediation;

dd) Taking measures to support the development of commercial mediation practice; creation of a Master plan for the development of commercial mediation institutions nationwide; propagating and disseminating the law and provide professional guidance on commercial mediation;

e) Investigating, inspecting and resolving complaints and denunciations and sanctioning violations of the law on commercial mediation;

g) Conducting international cooperation in the field of commercial mediation;

h) Implementing other tasks and authorities in accordance with this Decree and other relevant laws.

2. Provincial / municipal People's Committees shall, within the ambit of their respective competence, perform the State management of commercial mediation practice in their respective localities.

Provincial / municipal Departments of Justice shall assist the People's Committees of provinces and municipalities in performing the function of State management over the organization and operation of commercial mediation in their respective localities, having the following tasks and powers:

a) Registration of operation, registration of changes in the content of practice licenses of commercial mediation centers; registration of changes in the content of practice licenses of arbitration centers; registration of operation, registration of changes in the content of practice licenses of branches of Commercial Mediation Centers, branches of foreign commercial mediation institutions in Vietnam; revocation of practice licenses of Commercial Mediation Centers, branches of Commercial Mediation Centers; revocation of practice licenses of Branches of foreign commercial Mediation institutions in Vietnam;

b) Registering, inputting and deleting the name of ad-hoc commercial mediators from Departments' lists of ad-hoc commercial mediators.

c) Updating, announcing the lists of ad-hoc mediators, commercial mediation institutions on the website of the Departments of Justice; reviewing, reporting data on commercial mediators in their localities on an annual basis;

d) Propagating and disseminating the law and providing professional guidance on commercial mediation;

dd) Investigating, inspecting and resolving complaints, denunciations and sanctioning violations on commercial mediation practice in their respective localities per their competence;

e) Reporting to provincial, municipal People's Committees and the Ministry of Justice on commercial mediation practice in their respective localities on an annual basis or upon requests;

g) Other tasks and powers at the decisions of Chairmen of Provincial and municipal People's Committees or under the authorization of the Minister of Justice, as provided for by this Decree and other relevant laws.

3. Ministries and Ministerial-level Agencies shall, within their ambit of tasks and powers, be responsible to coordinate with the Ministry of Justice in exercising the State management over commercial mediation.

Article 43. Effect

This Decree takes effect on and from 15 April 2017.

Article 44. Implementation responsibility

Ministers, Heads of ministerial-level agencies, Heads of the authorities attached to the Government and Chairmen of Provincial / Municipal People's Committees shall be responsible for the implementation of this Decree.

Recipients:

- The Secretariat of the Central Party;
 - The Prime Minister, Deputy Prime Ministers;
 - Ministries, Ministerial-level Authorities, Governmental Authorities;
 - People's councils, people's committees of provinces and municipalities
 - Central Office and the Party's Committees;
 - The General Secretary's Office;
 - The President's Office;
 - The Ethnic Council and the National Assembly's Committees;
 - Office of National Assembly;
 - The Supreme People's Court;
 - The Supreme People's Procuracy;
 - State Audit;
 - National financial supervision commission;
 - Vietnam bank for social policies;
 - Vietnam Development Bank;
 - Central Committee of the Vietnam Fatherland Front;
 - Central bodies of the mass organizations;
 - The Government Office: - Minister of the Office of the Government, vice Ministers of the Office of the Government; Assistants of the Prime Minister; GD of Governmental electronic portal, Departments, Divisions and dependent units, the Official Gazettes;
- Achives: VT, KTTH (3b).

**P.P THE GOVERNMENT
THE PRIME MINISTER**

Nguyen Xuan Phuc