Article 1. Purpose of the Law

1.1. The purpose of this law shall be to determine a legal basis for settling the legal disputes through non-judicial methods with a support from the mediators and to regulate the relations concerning the implementation of mediation and conciliation.

/This paragraph was amended by the law of January 17, 2013/

Article 2. Legislation on Mediation


2.2. If an international treaty to which Mongolia is a party to, provides otherwise than this law, then the provisions of the international treaty shall prevail.

Article 3. Scope of the Law

3.1. Mediation shall be used for resolving the disputes arising out of civil relations as well as the disputes arising out of labor and family relations.

3.2. Mediation may be used for resolving the disputes other than those specified in the provision 3.1 of this Law only to the extent otherwise allowed by applicable law.

3.3. Mediation may be used to investigate and resolve disputes even after a civil action has been filed or referred to arbitration.
3.4. Mediation shall not be used for resolving disputes specified in the provision 3.1 if applying the provision adverse legal interest of a third party not involved in the mediation or the public interest.

3.5. Unless otherwise specified in the laws, the regulation of this Law is not applicable if parties voluntarily resolve the dispute in the absent of the mediator or judge’s ruling for amicable resolution.

3.6. Arbitrator will determine by its rule if the mediator should participate pursuant to applicable provision of law.

Article 4. Definitions of Terms

4.1. The following terms used in this Law shall be interpreted as follows:

4.1.1. “Mediation” means the activity of the mediator who attempts to settle a legal dispute arose between parties outside of the court pursuant to the rules specified in this law;

4.1.2. Pursuant to the provision 3.1 of this law, “Parties” means a citizen and legal entity initiated legal action or legal entity who has no legal rights but allowed to participate to the action by court’s order as the mediator;

/This paragraph was amended by the law of January 17, 2013 /

4.1.3. “Mediator” means a professional person have chosen and/or agreed by the Parties to provide assistance to mediate to resolve the dispute;

4.1.4. “Mediation agreement” means a written agreement parties reached as a result of the mediation with respect to the dispute and controversy.

CHAPTER TWO
MEDIATION ACTIVITY

Article 5. Purpose and Basic Principles of Mediation Activity

5.1. The purpose of mediation activity is to find a solution consistent to the interests of the parties and to regulate a conflict of relations or a dispute between the parties in an amicable, immediate and cost-effective way.

5.2. Mediation shall be carried out on the basis of the following principles:

5.2.1. implement on the basis of voluntarism of Parties;
5.2.2. keep confidentiality of participants involved in the mediation;

5.2.3. the mediator will not be biased;

5.2.4. ensure equality of parties to participate in the mediation

Article 6. Authority Resolving dispute on Mediation Basis

6.1. The parties shall make a request a mediation pursuant to Articles 14-16 of the Code of Civil Procedure with trial court mediator according to the jurisdiction specified or shall make request to the mediator pursuant to the provision 8 of this Law.

6.2. A court is under obligation to provide information about the mediation to the disputed parties in pre-litigation phase and provide an opportunity for mediation for all stages of litigation.

6.3. The mediation will be considered primary means to dispute resolution outside of the court for family relations disputes other than specified in Code of Civil Procedure 132.4.

6.4. If parties have agreed to use the mediation to the dispute resolution, it will be deemed that non-court method to dispute resolution has established.

6.5. Pursuant to the provision 65.1.3 of the Code of Civil Procedure, the Court will deny to accept any claims filed in violation of the provisions 6.3 and 6.4 of this Law.

Article 7. Mediator with the Court

7.1. The first instance court will employ full time or adjunct mediator.

/This paragraph was amended by the law of January 17, 2013/

7.2. General Council of Courts and office of a court of first instance shall be responsible for its budget, operation and human resource management pursuant to the provision 7.1 specified of this Law.

Article 8. Mediator for Governmental and Non-governmental Organizations

8.1. The governmental or non-governmental organizations and professional associations may employ the mediator to resolve legal disputes arise among their branches.

8.2. To comply with the provision 8.1, a professional mediator shall possess a higher education, trained in the mediator training course, certified and listed among the professional mediators’ list.

Article 9. Requirements of Mediator
9.1. Mediator specified in the provisions 7 and 8 of this law shall meet the following requirements:

9.1.1. be a legally eligible;
9.1.2. have a higher education;
9.1.3. completed the training and certified;
9.1.4. listed on the approved registered mediator’s list;
9.1.5. have no criminal record.

9.2. A mediator shall follow professional codes of conduct and other regulations accordance with the provision 10.1 of this Law.

Article 10. Mediators’ Council

10.1. The General Council of Courts shall establish an adjunct “Council” (hereinafter referred to as “Council”) to select, license mediators and organize continual education for mediators.

10.2. The Council shall consist of five individuals including judges, attorneys and analysts.

10.3. The General Council of Courts shall approve the design of forms for mediator’s petition, agreement and notice.

Article 11. The Powers of Council

11.1. The Council shall exercise the following rights:

11.1.1. to govern codes and conducts of mediators, workplace standards, determine cost, payment and promotion for mediators and oversee the implementation of the rules;

11.1.2. to develop training program for preparing and retraining of mediators and to organize training;

11.1.3. to select mediators and certify them;

11.1.4. to register mediators and announce certified list with the names to the public;

11.1.5. to suspend license, remove from the name list and to revoke certificates; and

11.1.6. to establish procedures of the Council meeting.
11.2. the Council shall offer mediator’s name list to governmental and non-governmental organizations, and professional associations.

11.3. An organization specified in the provision 8 of this Law and the General Council of Courts shall select and register a mediator from the name list offered by the Council and provide an opportunity to work according to the relevant procedure.

CHAPTER THREE
PARTICIPANT OF MEDIATION

Article 12. Participant of Mediation

12.1. Participants of mediation activity are disputed parties and their legal representatives, guardian, supporter, third party whose interest has been affected by the dispute and other legal entity.

(This paragraph was amended by the law of January 17, 2013)

12.2. Two or more parties can be participated in the mediation with one or more mediators.

12.3. The parties may participate in reconciliation mediation activity personally or through their representative.

12.4. Unless otherwise specified in the law, the parties may get assistance of advocates, translators, interpreters and other persons during the mediation based on mutual agreement.

Article 13. Rights and obligations of the parties participating in reconciliation mediation activity

13.1. The Parties participating in reconciliation mediation activity shall have the following rights:

13.1.1. to express their opinions without any pressure and exercise their rights to agree and/or refuse to use mediation;

13.1.2. to have broad scope of issues in order to agree, deny, accept and comply;

13.1.3. to make a request to select, accept or refuse the mediator;

13.1.4. to select method and form 13.1.4. to select the methods of mediation,
present and protect their positions, obtain information and provide additional
documents and assess the conditions of agreement;

13.1.5. to monitor the mediation results and calculate the consequences of signing
the mediation agreement;

13.1.6. to obtain information concerning the consequences of voluntary
incompliance with the agreement;

13.1.7. to refuse to have mediation anytime during such activity;

13.1.8. to sign in the mediation agreement;

13.1.9. rights to assert claim with respect to the mediation agreement pursuant to
the Article 8 if the mediation is not successful;

13.1.10. the other rights specified in the laws.

13.2. The Parties participating in mediation activity shall have the following obligations:

13.2.1. to comply with the agreement voluntarily in fairness If signed the mediation
agreement,

13.2.2. to be responsible for fees and costs for the mediation and other necessary
expenses according to the rules specified in this Law;

13.2.3. to participate the mediation in good faith and be present when the mediator
schedules the appointment;

13.2.4. the other obligations specified in the laws.

**Article 14. Rights and Obligations of Mediator**

14.1. A mediator shall have the following rights:

14.1.1 to accept fees for the mediator agreed by the parties and get
reimbursement for the mediation pursuant to the provision 8 depending on the
nature of the dispute.

14.1.2 to inform public about its activity and protect confidentiality;

14.1.3 to advise parties verbally and/or written form about the chosen method to
resolve the dispute pursuant of this law;

14.1.4 to appeal parties individually or jointly to participate the mediation;
14.1.5. to offer alternative options to resolve the dispute to the parties;
14.1.6. all other rights specified in the law.

14.2. A mediator shall have the following obligations:

14.2.1. to refuse to provide a mediation service if the mediation is not an option pursuant to the laws;
14.2.2. to conduct the mediation pursuant to the rules and procedure and protect the interests of the parties and provide an opportunity for equal participation of parties;
14.2.3. to inform about the purpose and process of the mediation and potential outcome;
14.2.4. to lead the mediation in neutral manner without any personal interest;
14.2.5. to comply with code of ethics of the mediator;
14.2.6. to return the documents and affidavits back to the parties;
14.2.7. not to give legal recommendations and assistance to any of the parties;
14.2.8. to maintain settings where the parties can address every issue and create condition where parties can compromise;
14.2.9. to maintain protocol of the mediation, ask questions from the parties and explain the rules and procedures of the mediation;
14.2.10. all other obligations specified in the law.

Article 15. Participation of an Attorney in the Mediation Activity

15.1. If an attorney participates in the mediation with request of his or her client, the attorney has duty to explain conditions and consequences of an agreement during mediation.

15.2. If an attorney is a professional mediator, he or she will be barred to give legal advice to the disputed issue addressed to involved party any time after the mediation. If an attorney has been represented any of the parties previously, he or she will be barred to be the mediator.

15.3. If an attorney is present at the mediation by the request of the parties, he or she will not hinder the mediation in anyways.
Article 16. Participation of Third Party in Mediation Activity

16.1. If third party’s interest could be affected by the mediation outcome, a third party may be allowed to participate in the mediation with its own request and/or request by the parties.

16.2. Family members, relatives of the parties and other persons may be allowed to participate in reconciliation mediation activity at the request of the parties.

Article 17. Dismissal of Mediator

17.1. The parties individually or jointly can dismiss the mediator based on the mutual agreement. If the mediator is dismissed after a civil action had filed, the dismissal shall be notified with the Court.

17.2. In the event that the mediation procedure is affected by with circumstances, the mediator will withdraw.

17.3. In addition to the specified in the provision 17.4 of this law, the mediator has right to refuse and/or to terminate it service if the mediator believes he or she cannot bring a resolution with his or her effort, or according to the opinion and consent of the parties.

17.4. The parties have rights to refuse to have the mediator if the mediator breached code of ethics, has any relationship with family and relatives or the mediator has disclosed confidential information to the one of the parties.

CHAPTER FOUR
RULES OF RECONCILIATION MEDIATION ACTIVITY

Article 18. Common Grounds for the Mediation Activity

18.1. The parties will be forbidden to meet the mediator without notifying the other party and initiate any action or non-action which affects the mediator to be neutral or request the mediator to be an attorney for the disputed matter.

18.2. The mediator shall not disclose any information obtained in the course of his/her involvement in the mediation and after being released from the work.

18.3. The mediator shall take measures to prevent from illegal use of documents obtained during the course of mediation process.
18.4. Unless otherwise specified in the law, the mediator will not be called to be a witness or give a deposition. If the privileged information is disclosed, the responsible party will be liable accordance with this law.

18.5. If parties have chosen and participated in the mediation pursuant to the Civil Law 79.1, 82.4, then it can be basis determine the statute of limitations.

18.6. Any statements made by the parties during the mediation will not be basis for the Court’s judgment.

/This paragraph was added by the law of January 17, 2013/

Article 19. Venue of Conducting Mediation Activity

19.1. The mediation will take place at a designed hall in private settings or any place where the parties have agreed to.

Article 20. Duration of Mediation Activity

20.1. The mediation will take place within 30 days and it can be extended once if parties request.

20.2. The mediation will take place within the time frame pursuant to the provision 30.1 of this law and the provision 71.1 of the Code of Civil Procedure.

Article 21. Conditions of Mediation Activity

21.1. Mediation activity shall commence from the time when the parties addressed to the mediator pursuant to provisions 7, 8 of this law, or the parties have agreed to use the mediation since a civil case is opened at a court, or if the judge ordered the mediation.

21.2. The mediation will take place in private including only the parties involved.

21.3. No parties will be influenced, coerced and intimidated any ways during the mediation.

21.4. Participants of reconciliation activity shall be forbidden to disclose any information received during the process of the activity without written consent of the information giver.

21.5. Pursuant to the article 8, the mediator will summon the party with their home address, mailing address or via phone.
21.6. A mediator specified in the Article 7 of this law shall call any of the parties or related persons by written notification of court accordance with the Code of Civil Procedure the Article 77.

**Article 22. Petition to Request the Mediator**

22.1. A person who wishes to use the mediation will make written request for the mediator.

22.2. The mediator will inform the parties about the receipt of the request and provide possible dates.

22.3. Parties may make a special request concerning the issues such as age, sex, professional background, experience of the mediator.

**Article 23. Selection of the Mediator**

23.1. The parties may choose one or more mediators for one case.

23.2. If more than one mediator has chosen, the mediators will elect their leader pursuant to the provision 23.1 of this law.

23.3. If Court’s mediator has heavy load or needed special mediator or the parties have chosen the different mediator then adjunct mediator will be used.

**Article 24. Form of Mediation**

24.1. The parties shall be present at the first meeting when the mediator explains the rules and procedures and rights and obligations and hears the demands and explanations of the parties and anticipate the direction.

24.2. The mediation process will include all parties unless it is necessary for the mediator to meet with the one party.

24.3. The duration of the mediation meeting will be determined by the time sufficient for the parties to make statements and to reach a mutual agreement.

**Article 25. Protocol**

25.1. The mediator or a designated staff by the mediator will make a protocol in timely manner.

25.2. Protocol shall be prepared in Mongolian language including dates, place, start and end time, mediator’s and party’s full names, addresses, questions and answers, mutual agreement and methods, forms and dates of the next action.
25.2. Protocol shall be prepared in Mongolian language or any other language as agreed by the Parties and include full names of the Parties, subject and duration of the activity, form and date of next activity.

25.3. A mediator and the parties shall sign in the protocol.

25.4. The mediator shall return the documents and affidavits provided by the parties by their request.

25.5. Parties will agree the scope and time of keeping the documents obtained during the mediation.

25.6. The mediator will be responsible for keeping and protection of the protocols and documents and disclose it if parties agreed to.

Article 26. Mediation Agreement

26.1. The parties can create a content of the mediation agreement or the mediator can prepare a draft with party’s request.

26.2. The mediation agreement will be created in Mongolian but if it is in other language, official translation will be attached as an integrated part of the agreement.

26.3. The mediation agreement will include date, the mediator’s full name, disputed parties’ full name, address, and commencement day of the mediation, date, content of the dispute, each party’s position and other issues and will be valid with parties and mediator’s signature.

26.4. The mediation agreement will comply with the Civil Code and shall not infringe the interest of the third party.

26.5. The parties may accept, implement the mediation agreement with assistance of the mediator or can withdraw their claim.

Article 27. Implementation of Mediation Agreement

27.1. If a party fails to comply with the mediation agreement pursuant to the Article 8 of this law, the other party has right to appeal to the Civil Court pursuant to the Code of Civil Procedure Article 3.1.

27.2. The Court pursuant to Code of Civil Procedure 74.2, 74.06 and Article 75, the appropriate court judge will affirm through the degree the mediation agreement created with the assistance of the mediator.
27.3. If the Court affirms the mediation agreement and dismissed the case accordance to the provision 30.2 of this Law, legal fees will be determined pursuant to the Code of Civil Procedure 74.5.

Article 28. Termination of Mediation Activity

28.1. By the request of the parties and the mediator, the mediation process may be terminated on the following grounds:

28.1.1. absence of one parties at the mediation

28.1.2. the mediation meetings failed to reach an agreement numerous times and foreseeable to fail; or mediation has failed;

28.1.3. the parties failed to have good faith attempt to reach an agreement;

28.1.4. the parties requested to terminate the mediation;

28.1.5. the mediation duration has expired and unable to extend;

28.1.6. the parties have dismissed the mediator and unable to continue the mediation.

Article 29. Fees and Charge of Mediation

29.1. Stamp fees will be for the mediation service provided by the Court to resolve the dispute. A party who requested the mediation will pay fee in advance.

29.2. A mediation cost will be related to the expense for the mediator to resolve the dispute. The court’s mediator will be funded by the state budget.

29.3. The Parties shall agree on the fee and expenses of the mediator specified in the Article 8 of this Law.

29.4. General Council of Courts shall establish the fees of adjunct mediator at the court.

CHAPTER FIVE
SCOPE OF RULES FOR MEDIATION

Article 30 Mediation for Civil Cases
30.1. The mediation will be used if the parties have requested the mediator after the parties have initiated a civil action or will be used if the judge orders the mediation as an appropriate means of dispute resolution.

30.2. If an agreement is reached during the mediation conference, the Court will accept the agreement and dismiss the case pursuant to the rules of civil procedure.

30.3. If the mediation completed without an agreement, the Court will continue the case according to its normal procedure.

30.4. If a civil action has more than one allegation, parties can use the mediator for one or all allegations.

30.5. If the mediator assisted to reach a partial agreement as to some allegations, the Court will include issues resolved during a mediation as a final judgment in Court’s ruling.

30.6. A judge will determine the duration of mediation after a civil action has been filed.

**Article 31. Mediation for Labor Disputes**

31.1. The Mediation for labor law will govern issues arise between an employer and an employee solely for labor disputes.

31.2. The decision rendered by the Commission of Labor Disputes specified in the provision 126.1 of Labor Law after parties presented their disputes will not bar to request the mediation pursuant to the provision 127.1 of Labor Law.

**Article 32. Mediation for Family Disputes**

32.1. As specified in the provision 6.3 of this Law, the failure to reach an agreement during the mediation outside of the Court will be not be a ground for refusal to use the mediation after a civil action has filed with the Court for family disputes.

32.2. Pursuant to the Civil Procedure 132.1, all the measures for reconciliation of marriage will be mediated through the Court’s mediator or the mediator parties have agreed to.

32.3. If the parties failed to reconcile during the time ordered by the Court, all disputes related with dividing pensions, benefits, allowances and mutual funds except dissolution of marriage will be mediated through the Court’s mediator or the mediator where parties have chosen.

32.4. A psychologist, relatives, friends and co-workers can be party to the mediation for marriage reconciliation.

**CHAPTER SIX**
MISCELLANEOUS

Article 33. Advocacy of Mediation Activity

33.1. The Office of the Court, judicial entity and mediators will implement to promote alternative dispute resolution methods to the public.

Article 34. Liability for Breach of Law

34.1. A person or legal entity who violated this Law shall be subject to the liability specified in the Law on Violation or the Law on Legal Status of Lawyers.

34.2. Any loss or damage caused by violation of the Law on Mediation shall be reimbursed by responsible party according to the Civil Code.

/This Article was revised by the law as of December 04, 2015/

Article 35. Come into Effect

35.1. This law shall come into effect from April 15, 2013.

/This paragraph was amended by the law as of January 17, 2013 /

D. DEMBEREL

CHAIRMAN OF THE STATE GREAT HURAL