

**CCC-ICLP INTERNATIONAL ADR CENTER
ARBITRATION RULES**

1. Applicability

- 1.1. These Rules shall apply where a Request for Arbitration is made to the IADR Center to conduct an arbitration in terms of these Rules in pursuance of an Arbitration Agreement in relation to a commercial dispute that has arisen between parties, whether domestic or international in nature.
- 1.2. Where a Request for arbitration is made, the administration of the arbitration shall be in terms of the Rules in force at the time the Request is made, unless the parties agree otherwise.

2. Interpretation

In these Rules:

“Arbitral Tribunal” shall mean the arbitrator or arbitrators appointed in terms of the Rules.

“Arbitration Agreement” means an agreement made in writing by the parties to submit to arbitration all or certain disputes which have arisen, or which may arise between them in respect of a defined legal relationship, whether contractual or not.

“Arbitration Board” shall mean the Arbitration Board of the IADR Center appointed by the Board of Directors of the CCC – ICLP IADR Center (Guarantee) Limited.

“Award” includes a partial, interlocutory, interim, or final award.

“Claimant” shall mean a party submitting a Request for arbitration under the Rules and includes a party added as a Claimant in terms of the Rules.

“Expedited procedure” shall mean the procedure set out in Rule 30.

“IADR Center” shall mean the center established for commercial dispute resolution by CCC-ICLP International Alternative Dispute Resolution Center (Guarantee) Limited, bearing Company Registration No. GL00201293.

“Party” shall mean a Claimant or a Respondent to the arbitration.

“Respondent” shall mean a party against whom a claim is made in the Request for Arbitration and includes a party added as a Respondent in terms of the Rules.

“Rules” shall mean the Arbitration Rules of the IADR Center.

“Secretariat” shall mean the office of the IADR Center comprising staff headed by the Secretary General to carry out functions assigned under the Rules.

The words importing the singular number only shall include the plural and vice-versa and words importing the masculine gender shall include the feminine gender and words importing persons shall include corporations and companies.

3. Jurisdiction

Any question regarding jurisdiction including any question regarding the existence or validity or scope of the Arbitration agreement or as to whether such agreement is contrary to public policy or is incapable of being performed shall be raised at the earliest reasonable opportunity but in any case, not later than the submission of the Response of the Respondent. Notwithstanding an objection to the jurisdiction, the Arbitral Tribunal shall have the right to proceed with the arbitral proceedings and make an award.

4. Request for Arbitration

4.1. A request for the resolution of a dispute by arbitration to be administered by the IADR Center (the “Request”) shall be made by the Claimant to the Secretary General along with the information and documents set out in Rule 4.2.

4.2. The Request, shall be submitted with the following information and documents:

- 4.2.1. a copy of the Arbitration agreement;
- 4.2.2. the names in full and contact details including the address, telephone numbers, facsimile numbers, and electronic mail addresses of each of the parties cited as Claimants and as Respondents and their representatives, if any;
- 4.2.3. the name of the person, address, telephone number and electronic mail address to which all notices under the Rules shall be submitted on behalf of the Claimant;
- 4.2.4. a description of the nature, circumstances, and facts of the dispute giving rise to the claim or claims and the basis of such claim or claims;
- 4.2.5. a Statement of Claim setting out the relief sought by the Claimant, and the amounts of any quantified claims and an estimate of the monetary value of any other claims;
- 4.2.6. a copy of the contract, agreement, or other instrument upon which the claim is based and any other relevant documents;

- 4.2.7. a request for the adoption of the Expedited Procedure in compliance with Rule 30;
 - 4.2.8. where the Arbitration agreement includes provision for –
 - 4.2.8.1. the parties to nominate an arbitrator, the name and contact details of the nominee; or
 - 4.2.8.2. the appointment of an arbitrator/s to be made by a third party, a statement to that effect.
 - 4.2.9. where the Arbitration agreement does not include any provision regarding the method of appointment of arbitrators, a statement to that effect.
 - 4.2.10. a letter authorising the Secretariat to forward the Request for Arbitration to the Respondent.
 - 4.2.11. such other documents and information as may, in the view of the Claimant, be relevant and will contribute to the efficient resolution of the dispute.
- 4.3. The Claimant may, at its discretion, and subject to the right to make a request at a later stage in compliance with these Rules, include a Request for Consolidation of arbitrations, in compliance with Rule 8.
- 4.4. The Request shall be submitted with such number of copies as are adequate to supply one each to the respondents named in the Request, the arbitrators to be appointed and the Secretariat, subject to supplying such additional copies as may be called for by the Secretariat, where additional parties are joined.
- 4.5. The Claimant shall, along with the Request for arbitration, submit proof of payment of the relevant fee set out in the Fee Schedule of the IADR Center
- 4.6. The Request is deemed to be fully compliant when the Secretariat determines that the requirements of Rules 4.1, 4.2, 4.4 and 4.5 are fulfilled.
- 4.7. If the Request made by the Claimant is not fully compliant, the Secretariat shall call upon the Claimant to comply with the requirements within such period as is specified by the Secretariat which shall not be more than ten (10) days.
- 4.8. If the Claimant fails to comply with the said requirements within the specified period, the Request shall be deemed withdrawn, without prejudice to the right of the Claimant to subsequently submit a Request in relation to the same claim or claims, in another Request.

5. Processing of the Request

- 5.1. Upon the receipt of a fully compliant Request, the Secretariat shall determine whether the arbitration can be proceeded with and-
- 5.1.1. where the Secretariat determines that the arbitration is one which can be proceeded with, the Secretariat shall, within seven (07) days of such determination forward a copy of the Request to each of the Respondents with a Notice to submit to the Secretariat a response thereto within thirty (30) days of the receipt of the Notice. A copy of such Notice shall be served on the Claimant; or
 - 5.1.2. where the Secretariat determines that the arbitration is not one which can be proceeded with, the Secretariat shall forthwith inform the Claimant accordingly, stating the reasons therefor.

6. The Response

- 6.1. The Respondent shall, within thirty (30) days of receipt of the Notice and the Request, submit to the Secretariat a response to the Request (the "Response").
- 6.2. The Response shall include the following information and documents:
- 6.2.1. the names in full and contact details including the address, telephone numbers, facsimile numbers, and electronic mail addresses of the Respondent/s and representatives, if any; and
 - 6.2.2. The name of the person, address, telephone number and electronic mail address to which all notices under the Rules shall be submitted on behalf of the Respondent;
 - 6.2.3. observations as to the nature and circumstances of the dispute giving rise to the claim and the basis of the claims as set out in the Request;
 - 6.2.4. response to the relief sought by the Claimant;
 - 6.2.5. Counter claim or set-off, if any, which shall include a brief statement of the nature, circumstances, quantum and basis of the counterclaim or set-off including each of the documents on which such counter claim or set off is based;
 - 6.2.6. a request for the adoption of the Expedited Procedure in compliance with Rule 30 or alternatively, agreement or rejection of a request made by the Claimant for the adoption of the Expedited procedure, as the case may be;

- 6.2.7. such other documents and information as may, in the view of the Respondent, be relevant and will contribute to the efficient resolution of the dispute;
 - 6.2.8. agreement or other observations on the nomination submitted by the Claimant for the appointment of arbitrators and the Respondent's nomination of arbitrators, as applicable.
- 6.3. The Respondent may, at its discretion, and subject to the right to make a request at a later stage in compliance with these Rules, include the following in the Response:
 - 6.3.1. a Request for Joinder of parties in compliance with Rule 7;
 - 6.3.2. a Request for Consolidation of arbitrations in compliance with Rule 8;
- 6.4. The Respondent shall, along with the Response, submit the following documents:
 - 6.4.1. such number of additional copies of the Response and supporting documents as are specified by the Secretariat; and
 - 6.4.2. proof of payment of the relevant fee set out in the Fee Schedule of the IADR Center.
- 6.5. Where the Respondent desires additional time to submit a response, the Respondent shall make an application to the Secretariat for an extension of time of not more than ten (10) days and shall submit therewith a document containing the observations of the Respondent expressing agreement or other observations on each the proposals of the Claimant regarding nomination and the appointment of arbitrators.
- 6.6. Where the Response is not fully compliant, the Secretariat shall grant the Respondent an extension of time of not more than ten (10) days to comply with the requirements.
- 6.7. On receipt of an application for an extension of time in compliance with Rule 6.5, the Secretariat may grant an extension of such period as is reasonable in the circumstances but not exceeding ten (10) days and shall also inform the Claimant of the new date by which the Response should be submitted.
- 6.8. The Secretariat shall, within ten (10) days of receipt of the Response, forward copies of same to the other parties to the arbitration.

- 6.9. The failure by the Respondent to submit a reply or failure or refusal by the Respondent to participate in the arbitration proceedings at any stage thereof shall not prevent the continuance of the arbitration proceedings.
- 6.10. Where the parties have agreed that the arbitration shall be conducted in compliance with the Expedited Procedure, the provisions of Rule 30 shall apply.

7. Joinder of Additional Parties

- 7.1. A party wishing to join an additional party or parties as a Claimant or a Respondent to an arbitration shall submit a "Request for Joinder" either prior to or after the constitution of the Arbitral Tribunal.
- 7.2. A Request for Joinder made prior to the constitution of an Arbitral Tribunal, shall be submitted to the Secretariat, and a Request for Joinder made after the constitution of the Arbitral Tribunal shall be submitted to the Arbitral Tribunal.
- 7.3. The Request for Joinder shall contain the following information-
- 7.3.1. the name, address and other contact details, of the party sought to be joined, and stating whether the party is sought to be joined as a Claimant or a Respondent;
 - 7.3.2. the written consent of the additional party or a statement that the party sought to be joined is prima facie bound by the Arbitration agreement to be a party to the arbitration;
 - 7.3.3. the information referred to in Rule 6.2 as is relevant to the party sought to be joined;
 - 7.3.4. such other documents and information as may, in the view of the party submitting the Request for Joinder, be relevant to support the Request for joinder.
- 7.4. The Request for Joinder shall be submitted to the Secretariat with the following -
- 7.4.1. such number of copies as are adequate to supply one each to the claimants, respondents, the party or parties to be joined and the Secretariat, subject to supplying such additional copies as may be called for by the Secretariat or the Arbitral Tribunal; and

- 7.4.2. proof of payment of the relevant fee set out in the Fee Schedule of the IADR Center
- 7.5. Where the Request for Joinder is made to the Secretariat, the Secretariat shall proceed as follows:
 - 7.5.1. where the Request is compliant with the requirements set out herein, the Secretariat shall, within ten (10) days of receipt thereof, forward a copy of the Request to the other parties and the party or parties sought to be joined, with a Notice calling upon the said parties to concur in the joinder or for observations thereon within ten (10) days of the receipt of the Notice.
 - 7.5.2. where the Request is non-compliant with the requirements set out herein, the Secretariat shall, within (10) days notify such party to ensure compliance within the period set out in such notification. Where a compliant request is not received within the period set out in the said notification the Request for Joinder shall be deemed to have been withdrawn by that party.
 - 7.5.3. The Secretariat shall, immediately upon receipt of the response to the notice, forward same together with the Request for Joinder to the Arbitration Board, for a determination thereon.
 - 7.5.4. The Arbitration Board shall, after consideration of the response received, including that of the party sought to be joined, and having regard to the circumstances of the matter, determine within ten (10) days of receipt of the Request for Joinder whether to grant in whole or in part the Request for Joinder, and shall immediately upon so determining, inform the Secretariat of the determination in writing and the Secretariat shall forthwith inform the parties of the decision.
 - 7.5.5. Where a Request for Joinder is granted by the Arbitration Board, the date on which the approval is so granted shall, for all purposes, be deemed to be the date on which the arbitration commences against the additional party.
- 7.6. The decision by the Arbitration Board shall be without prejudice to the power of the Arbitral Tribunal to subsequently decide any question as to its jurisdiction arising from such a decision.
- 7.7. Where the Request for Joinder is made to the Arbitral Tribunal, the Tribunal shall, after consideration of the views of all parties, including the party sought to be joined, and having

regard to the circumstances of the matter, decide whether to grant in whole or in part the Request for Joinder.

7.8. Where a Request for Joinder is so granted, any party who has not nominated an arbitrator or otherwise participated in the process of constituting the Arbitral Tribunal shall be deemed to have waived the right to nominate an arbitrator or to otherwise participate in the constitution of the Arbitral Tribunal, without prejudice however to the right of such party to challenge an arbitrator in accordance with these Rules.

7.9. Where a Request for Joinder is granted by the Arbitral Tribunal, the date on which the approval is so granted shall, for all purposes, be deemed to be the date on which the arbitration commences against the additional party.

8. Consolidation of Arbitrations

8.1. A party may make an application to consolidate two or more arbitrations pending under these Rules if the following requirements with regard to the arbitrations are satisfied-

- 8.1.1. the parties to the arbitrations have agreed to the consolidation;
- 8.1.2. all the claims in the arbitrations are made under the same Arbitration agreement;
- 8.1.3. all the claims in the arbitrations are made under more than one Arbitration agreement and the arbitrations are between the same parties; or
- 8.1.4. the disputes in the arbitrations arise in connection with the same legal relationship, transaction, or series of transactions and the Arbitration agreements are compatible.

8.2. A Request for Consolidation made prior to the constitution of an Arbitral Tribunal shall be submitted to the Secretariat, and a Request made after the constitution of the Arbitral Tribunal shall be submitted to the Arbitral Tribunal.

8.3. A Request for Consolidation shall include:

- 8.3.1. The case reference numbers of the arbitrations sought to be consolidated;
- 8.3.2. the names, addresses, telephone number and electronic mail addresses (if known) of all parties and their representatives, if any, and any arbitrators who have been nominated or appointed in those arbitrations;

- 8.3.3. a statement supporting the consolidation including specific references with regard to compliance with the matters set out in Rule 8.1;
 - 8.3.4. such other documents and information as may, in the view of the party submitting the Request for Consolidation, be relevant to support the Request.
- 8.4. The Request for Consolidation shall be submitted to the Secretariat with-
 - 8.4.1. such number of copies as are adequate to supply one each to the parties, and the Secretariat, subject to supplying such additional copies as may be called for by the Secretariat or the Arbitral Tribunal; and
 - 8.4.2. proof of payment of the relevant fee set out in the Fee Schedule of the IADR Center.
- 8.5. Where the Request for Consolidation is made to the Secretariat, the Secretariat shall proceed as follows-
 - 8.5.1. where the Request is compliant with the requirements set out herein the Secretariat shall, within ten (10) days of receipt thereof, forward a copy of the Request to the parties with a Notice calling for observations thereon within ten (10 days) of the receipt of the Notice.
 - 8.5.2. Where the Request is not compliant with the requirements set out herein, the Secretariat shall, within ten (10) days of receipt thereof, notify the party to ensure compliance within the period set out in such notification. Where a compliant request is not received within the period set out in the said notification the Request for Consolidation shall be deemed to have been withdrawn by that party.
 - 8.5.3. The Secretariat shall, immediately upon receipt of the observations, forward same along with the Request for Consolidation to the Arbitration Board, for a determination thereon.
 - 8.5.4. The Arbitration Board shall, after consideration of the observations received and having regard to the circumstances of the matter, including whether one or more arbitrators have been nominated or appointed to the Arbitral Tribunal in more than one of the arbitrations, determine within ten (10) days of receipt of the Request for Consolidation, whether to grant, in whole or in part, the Request for Consolidation, and shall immediately upon so determining,

inform the Secretariat of the determination in writing and the Secretariat shall forthwith inform the parties of the decision

- 8.6. The decision of the Arbitration Board to reject an application for consolidation, in whole or in part, shall be without prejudice to the right of any party to subsequently submit a Request for Consolidation to the Arbitral Tribunal.
- 8.7. The decision by the Arbitration Board shall be without prejudice to the power of the Tribunal to subsequently decide any question as to its jurisdiction arising from such a decision.
- 8.8. Where the Request for Consolidation is made to the Arbitral Tribunal, the Tribunal shall, after consideration of the views of all parties, and having regard to the circumstances of the matter, decide whether to grant in whole or in part the Request for Consolidation.
- 8.9. Where approval is granted for the consolidation of arbitrations, they shall be consolidated into the arbitration that commenced first, unless otherwise agreed to by the parties or by the Board or the Tribunal, as the case may be, having regard to all the circumstances.

9. Claims relating to Multiple Contracts

Claims arising out of or in connection with more than one contract may be made in a single arbitration, irrespective of whether such claims are made under one or more than one Arbitration agreement.

10. Appointment of Arbitrators and Constitution of the Arbitral Tribunal

- 10.1. The Arbitral Tribunal shall be constituted in compliance with this Rule unless the parties have agreed otherwise.
- 10.2. An Arbitral Tribunal shall comprise either a sole arbitrator or a panel of three arbitrators appointed in compliance with this Rule.
- 10.3. A sole arbitrator shall be appointed where –
 - 10.3.1. the parties have agreed that the Tribunal shall comprise a sole arbitrator; or
 - 10.3.2. the parties have not agreed on the number of arbitrators and the Arbitration Board has not made a determination that the dispute is such as to warrant the appointment of three Arbitrators.

- 10.4. Where a sole arbitrator is to be appointed, the appointments shall, subject to compliance with Rule 10.7, be made as follows-
- 10.4.1. where there are multiple Claimants and/or multiple Respondents, all the parties shall submit one nomination jointly;
 - 10.4.2. where the parties have agreed that the appointment should be made by the Arbitration Board, the Arbitration Board shall make the appointment;
 - 10.4.3. where the parties have agreed on the nomination, the nominee shall be appointed;
 - 10.4.4. where the parties have failed to nominate a sole Arbitrator or failed to agree on a sole arbitrator within the stipulated time periods, the Secretariat may grant an extension of time of not more than ten (10) days to agree on a sole arbitrator. Where the parties have failed to nominate a sole arbitrator within the extended date, a sole arbitrator shall be appointed by the Arbitration Board.
- 10.5. A Tribunal of three arbitrators shall be appointed where:
- 10.5.1. the parties have agreed that there shall be three arbitrators; or
 - 10.5.2. the parties have not agreed on the number of arbitrators and the Arbitration Board has determined that the dispute is such as to warrant the appointment of three arbitrators.
- 10.6. Where a Tribunal comprising three Arbitrators is to be appointed, the appointments shall, subject to compliance with Rule 10.7 be made as follows-
- 10.6.1. where there are multiple Claimants and/or multiple Respondents, all the Claimants shall submit one nomination jointly, and all the Respondents shall submit one nomination jointly.
 - 10.6.2. where the parties agree that all three arbitrators shall be appointed by the Arbitration Board, the Arbitration Board shall appoint all three arbitrators and shall appoint one of those so appointed as Chairperson of the Arbitral Tribunal;
 - 10.6.3. where the parties have submitted their nominations, the two Arbitrators so nominated shall, upon being appointed, be required to nominate a third Arbitrator who shall, upon appointment be also appointed as the Chairperson of the Tribunal.
 - 10.6.4. where one or more of the parties fail to submit nominations within the stipulated time, the Arbitration Board shall appoint the required Arbitrators, and

require the two Arbitrators so appointed to nominate a third Arbitrator who shall, upon appointment, be also appointed as the Chairperson of the Tribunal.

- 10.6.5. If the two arbitrators so appointed are unable to agree on the nomination of the third arbitrator within thirty (30) days from the appointment of the said two arbitrators, the Arbitration Board shall appoint a third arbitrator who shall, upon appointment to the Tribunal, be also appointed as the Chairperson of the Tribunal.
- 10.7. Prior to the making of any appointment, the Secretariat shall require each nominee to submit a declaration as to his/her ability to function independently and impartially and to disclose whether there are any circumstances likely to give rise to justifiable doubts as to his/her impartiality or independence and such declarations shall, on receipt, be forwarded to the Arbitration Board with the nominations.
- 10.8. In the event that the nominee discloses the existence of any such circumstances, the appointment shall be made only if the parties confirm in writing that they nevertheless agree to the appointment.
- 10.9. The decisions of the Arbitration Board regarding the appointment of arbitrators shall be final.
- 10.10. Upon the appointment and the constitution of the Arbitral Tribunal and upon the payment of costs due and payable in terms of the Rules, the Secretariat shall transmit all documents relating to the arbitration to the Arbitral Tribunal with notice to the parties.

11. Duties of an Arbitrator and nominee

- 11.1. The primary duty of an arbitrator is to ensure that the integrity of the arbitration process is preserved throughout the arbitration proceedings and, towards that end, to act impartially, fairly and take steps that are reasonably required and appropriate that suit the circumstances to avoid unnecessary delay, expense and to enable the proceedings to be conducted in an efficient and expeditious manner.
- 11.2. In accepting an appointment, an arbitrator agrees to fulfil the responsibilities as an arbitrator in strict compliance with these Rules.

- 11.3. A person who is nominated to serve on an Arbitral Tribunal shall, without undue delay comply with the requirement set out in Rule 10.7 to submit a declaration or a disclosure as set out therein.
- 11.4. If any fact or circumstance arises that may give rise to a doubt regarding the ability of an arbitrator to be independent and impartial after the appointment of an arbitrator and prior to the conclusion of an arbitration, the arbitrator shall forthwith disclose all relevant information in writing to the Secretariat and to the other parties.

12. Challenge to Arbitrators

- 12.1. A party to an arbitration may challenge the appointment of an arbitrator or the continued functioning of an arbitrator on the grounds that there are justifiable doubts as to the impartiality or independence of the arbitrator, in compliance with the following provisions, provided that a party may challenge the appointment of an arbitrator appointed upon the nomination made by that party or **I** in whose appointment he has participated only on the ground that the party became aware of the circumstances that give rise to doubts about the impartiality or independence of such arbitrator, after the appointment was made.
- 12.2. A challenge shall –
 - 12.2.1. be made in writing;
 - 12.2.2. set out the facts and circumstances upon which the challenge is based;
 - 12.2.3. be filed with the Secretariat within thirty (30) days from the receipt by the party challenging, of the notification of the appointment of the arbitrator against whose appointment the challenge is made, or within thirty (30) days from the date on which the party making the challenge became aware of the facts and circumstances on which the challenge is based, if such date is subsequent to the date of receipt of such notification;
 - 12.2.4. be accompanied by the relevant fee set out in the Fee Schedule of the IADR Center, **I** and
 - 12.2.5. be forwarded by copy to the other arbitrators, if any, and to each of the other parties.
- 12.3. Where the party filing the challenge fails to pay the relevant fee along with the challenge, the challenge shall be considered as withdrawn.

- 12.4. The party is deemed to have forfeited the right of challenge if the challenge is not compliant with clause 12.2.
- 12.5. The Secretariat shall forthwith forward a challenge so received, to the Arbitration Board for a determination thereon.
- 12.6. A party to an arbitration or all the parties to an arbitration jointly, may make an application to the Arbitration Board for the replacement of an arbitrator on grounds that shall be set out in such application.
- 12.7. The Arbitration Board shall, prior to arriving at a determination on a challenge to the appointment of an arbitrator or a request for the replacement of an arbitrator, provide an opportunity to the arbitrator whose appointment is challenged or whose replacement is requested, the party making the challenge or request, the other party or parties to the arbitration, and any other members of the Arbitral Tribunal to make observations in writing on the challenge or request, within a specified period. All such observations received shall be communicated to the parties and to the Arbitral Tribunal.
- 12.8. The determination of the Arbitration Board on the challenge or application for replacement shall be final and the Secretariat shall forthwith convey same to the arbitrators and to the parties.
- 12.9. Where the Arbitration Board upholds the challenge to the appointment of an arbitrator or the request for replacement of an arbitrator, the arbitrator shall stand removed from the Arbitral Tribunal of the relevant arbitration with effect from the date of the said determination.
- 12.10. In the event of a vacancy arising upon a determination of the Arbitration Board upholding a challenge to an arbitrator, the Arbitration Board may determine that the vacancy need not be filled, and that the remaining arbitrators shall continue the arbitration, where in its opinion it is appropriate to do so. In making such a decision, the Arbitration Board shall consider the views of the remaining arbitrators and all the parties.

13. Filling of vacancies on the Tribunal

- 13.1. The appointment of an arbitrator shall stand terminated upon-
 - 13.1.1. the death of the arbitrator;
 - 13.1.2. resignation which is accepted by the Arbitration Board;

- 13.1.3. a determination of the Arbitration Board upholding a challenge;
 - 13.1.4. a determination of the Arbitration Board upholding a request of all parties for the replacement of an arbitrator.
- 13.2. In filling a vacancy on the Arbitral Tribunal, the Arbitration Board shall in its discretion determine whether to follow the process of nomination and appointment as set out in the Rules or to adopt any other procedure.
- 13.3. Upon the reconstitution of the Arbitral Tribunal, the Arbitral Tribunal shall determine if and to what extent the prior proceedings should be repeated before the reconstituted Arbitral Tribunal.
- 13.4. In the event of a vacancy arising upon a determination of the Arbitration Board upholding the application for the replacement of an arbitrator, the Arbitration Board may determine that the vacancy need not be filled, and that the remaining arbitrators shall continue the arbitration, where in its opinion it is appropriate to do so. In making such a decision, the Arbitration Board shall consider the views of the remaining arbitrators and all the parties.

14. Seat of Arbitration

The seat of the arbitration shall be determined by the Arbitral Tribunal unless the parties have agreed upon the same, provided that the Arbitral Tribunal may conduct hearings and meetings at any location it considers expedient or appropriate, with the consent of the parties. The Arbitral Tribunal may deliberate at any location it considers convenient or appropriate.

15. Language of the Arbitration

Unless parties have agreed on the language or languages to be used in the arbitration, the Arbitral Tribunal shall determine the language of such arbitration.

16. Applicable Rules of Law

- 16.1. The parties shall be free to agree upon the rules of law to be applied by the Arbitral Tribunal to the substance of the dispute. Provided however where there is no such agreement by the parties, the Arbitral Tribunal shall decide upon the rules of law it deems appropriate to be applied.

- 16.2. In deciding upon the rules of law to be applied, the Arbitral Tribunal shall consider the provisions of the contract, if any, between the parties and any relevant trade usages, and conflict of law provisions, if applicable.
- 16.3. The Arbitral Tribunal shall assume the powers of an *amiable compositeur* or decide *ex aequo et bono* only if the parties have agreed or agree to give it such powers.

17. Conduct of the Arbitration

- 17.1. The Arbitral Tribunal and the parties shall make every effort to conduct the arbitration in an expeditious, practical, fair, and cost-effective manner. The Arbitral Tribunal may decide, after consulting the parties, and based on the relevant facts and circumstances of the case, that any hearing will be conducted by physical attendance or remotely by video conference, telephone or other appropriate means of communication.
- 17.2. The Arbitral Tribunal may require a party to be comprehensive in any or all statements filed in accordance with the Rules. The Arbitral Tribunal may dismiss the case if the Claimant fails to comply with such a requirement. If the Respondent fails to do so, such failure shall not prevent the continuation of the proceedings.
- 17.3. A party may amend a Request for Arbitration or a Response, including a prayer for relief, during the proceedings provided that such amendment is within the scope of the Arbitration agreement and the Arbitral Tribunal considers it appropriate, having regard to the point of time at which the request is made that no prejudice may be caused to other parties.
- 17.4. The Arbitral Tribunal may, after considering the views of parties, adopt such procedural measures as it considers appropriate for effective case management, provided that any such measures are not contrary to any agreement of the parties.
- 17.5. Upon the request of any party, the Arbitral Tribunal may make orders concerning the confidentiality of the arbitration proceedings or of any other matters in connection with the arbitration and may take measures for the protection of trade secrets and confidential information.
- 17.6. The Arbitral Tribunal shall give each party a reasonable opportunity to present its case.

- 17.7. The Arbitral Tribunal shall, as far as practicable, request the parties to provide documentary evidence and limit oral hearings only to matters that cannot be resolved by affidavit evidence and other documentary evidence.
- 17.8. Any witness who gives evidence may be questioned by each of the parties, their representatives, and by the Arbitral Tribunal in such manner as the Arbitral Tribunal may determine. The Arbitral Tribunal may limit the number of witnesses and appearances of witnesses to give oral evidence at any hearing.
- 17.9. At any time during the proceedings, the Arbitral Tribunal may summon any person to provide additional evidence.
- 17.10. The Arbitral Tribunal may request the parties to state the evidence on which they propose to rely on and to specify the issues they wish to prove thereby, and the parties shall do so.
- 17.11. The Arbitral Tribunal shall determine the relevance, admissibility and materiality of all evidence. The Arbitral Tribunal is not bound by any rules of evidence under any applicable law in making such determinations.
- 17.12. The Arbitral Tribunal may, after considering the views of the parties, appoint one or more experts to submit their opinion/opinions on a particular matter/matters. At the request of a party, the parties shall be given the opportunity to question any such expert at a hearing.
- 17.13. The parties shall comply with all orders made by the Arbitral Tribunal.
- 17.14. If a party fails to appear at a hearing or otherwise fails to comply with an order of the Arbitral Tribunal and does not show valid cause for such failure, such failure shall not prevent the Arbitral Tribunal from proceeding with the arbitration and from making an award.
- 17.15. The parties may appear in person or through duly authorized representatives at the arbitration proceedings. Additionally, parties may be assisted by advisors.
- 17.16. At any time during the proceedings, the Arbitral Tribunal or the Secretariat may require proof of the authority of any representative representing a party.

18. Waiver

A party who fails during the proceedings to object within a reasonable time to any deviation from the provisions of the Arbitration agreement, these Rules or any other rules applicable to the proceedings or any direction of the Arbitral Tribunal, shall be deemed to have waived its right to challenge such deviation.

19. Closure of the Proceedings

19.1. After the final hearing of the matters to be decided in an Award or the filing of the final authorized submission on such matters, whichever is later, the Arbitral Tribunal shall, without undue delay, declare the proceedings closed with respect to the matters to be decided in the Award.

19.2. After the proceedings are closed, no further submissions or arguments may be made or evidence produced, with respect to the matters to be decided in the Award, unless requested by the Arbitral Tribunal with notice to the Secretariat.

20. Conservatory and Interim Measures

The Arbitral Tribunal may, at the request of a party, order any interim or conservatory measure it deems appropriate. The Arbitral Tribunal may make the granting of any such measure conditional upon the furnishing of appropriate security by the requesting party. The grant of any such measure shall take the form of an order that the Arbitral Tribunal considers appropriate.

21. The Award

21.1. The Award shall be made no later than fifteen (15) months from the date from which documents were transmitted to the Arbitral Tribunal in terms of Rule 10.10: Provided that the Arbitration Board may, on an application made therefor by the Arbitral Tribunal after obtaining the prior agreement of the parties for such an application, and in exceptional circumstances that shall be stated, and subject to such conditions as the Arbitration Board considers appropriate, grant a single extension of not more than six (06) months, to make the Award.

21.2. Where the Arbitral Tribunal is comprised of more than one arbitrator, an Award is made by a majority decision.

- 21.3. An Arbitrator may attach a dissenting opinion to the Award.
- 21.4. The Award shall be in writing and shall state the reasons upon which it is based and contain an order or declaration.
- 21.5. The Award shall be deemed to be made at the seat of arbitration and on the date stated therein.
- 21.6. An Award may be made even in the absence of the signature of an arbitrator if it has been signed by majority of the arbitrators, or by the Chairperson, and contains a verification by the arbitrator(s) so signing that the arbitrator(s) whose signature does not appear on the award took part in deciding the dispute.
- 21.7. If any arbitrator refuses and/or fails to participate and/or co-operate in the making of an Award, the remaining arbitrators may upon a consideration of the matters set out in Rule 21.8, proceed nevertheless, after giving written notice to all parties and to the Arbitration Board of such refusal and/or failure.
- 21.8. In deciding whether to proceed with the making of the Award in the absence of an arbitrator, the remaining arbitrators may take into account, *inter alia*, the stage of the arbitration, the reasons, if any, for the refusal and/or the failure of the absent arbitrator to participate in the making of the Award and the effect thereof upon the enforceability of the Award should the Award be made without the absent arbitrator and the prejudice caused to any party by any delay in making the Award.
- 21.9. The remaining arbitrators shall state the reasons for proceeding without the absent arbitrator in any Award so made.
- 21.10. At the request of a party, a separate award may be made if the Arbitral Tribunal deems that there are exceptional reasons therefor.
- 21.11. Where a party has partially admitted a claim, the Arbitral Tribunal may make a separate Award on the part that has been admitted.

- 21.12. If the parties agree to a settlement after all documents relating to the arbitration have been transmitted to the Arbitral Tribunal in terms of Rule 10.10, such settlement may be recorded in the form of an Award made by the consent of the parties, if requested by the parties and if the Arbitral Tribunal agrees to do so.
- 21.13. The Arbitral Tribunal shall submit to the Secretariat the Award in such number of copies as advised by the Secretariat within a period of ten (10) days after the date of such Award.
- 21.14. The Secretariat shall within three (3) days of the receipt of an Award submit a copy or copies thereof to each party.
- 21.15. Every Award shall be binding on the parties and the parties shall be bound thereby to carry out any obligations in terms of the Award .

22. Correction, Change and/or Interpretation of the Award

- 22.1. The Arbitral Tribunal may, on its own initiative, correct a clerical, computational, or typographical errors contained in an Award provided that such correction is submitted for approval to the Arbitration Board within fourteen (14) days of the date of such Award.
- 22.2. An application of a party for the correction of an error as referred to in Rule 23.1, or for the interpretation of an Award, or for a decision on a question which should have been decided in the Award but was not decided therein, or for the issuance of an additional Award as to claims presented in the arbitration but not dealt with in the Award, shall be made to the Secretariat within seven (7) days of the date of the receipt of the Award by such party, in the number of copies as stated in Rule 26.7. Upon receipt of such application from the Secretariat, shall grant the other party a period not exceeding seven (7) from the date of the receipt of the application by that party to submit any observations s thereon. At the expiration of the said seven (7)) days the said application and observations, if any, shall be transmitted by the Secretariat to the Arbitral Tribunal.
- 22.3. The Arbitral Tribunal shall, if it considers appropriate, correct, interpret or make a decision with respect to an Award under this Rule within thirty (30) days of the date of the receipt of the application and the observations, if any from the Secretariat.

22.4. A decision by the Arbitral Tribunal under this Rule shall take the form of an addendum and shall constitute a part of the Award.

22.5. The Secretariat may extend any time granted to parties and/or to the Arbitral Tribunal respectively to make any application, comment, correction, interpretation, and/or decision in respect of an Award, if exceptional circumstances are urged and it's considered appropriate to do so.

23. Costs of Arbitration and payment of advance

23.1. The costs of the arbitration shall include the fees and costs of the arbitrators and the fees of the Secretariat for the conduct of the arbitration, as well as the fees and expenses of any experts appointed by the Arbitral Tribunal. The parties shall be responsible for their own costs in relation to the arbitration.

23.2. The fees of the Tribunal and of the Secretariat shall be as set out in the Fee Schedule of the IADR Center provided that the parties may, at their discretion agree that different sums shall be payable as fees to the Tribunal.

23.3. The Secretariat shall, at the commencement of the arbitration, call upon the parties to pay an advance of costs amounting to such sum and by such date as is stipulated. Unless otherwise determined by the Secretariat or agreed to by the parties, the claimant and respondent shall each be responsible to pay 50% of such advance.

23.4. The Secretariat may, from time to time, call upon the parties to make additional payments to defray the costs of conducting the arbitration and may draw on the sums paid, to meet the expenditures on account of the arbitration.

23.5. If a party fails to pay the advance as called upon by the Secretariat, and the other party is also not agreeable to making the payment on account of the defaulting party, the arbitration shall be deemed to have been withdrawn and the Secretariat shall inform the parties accordingly.

23.6. In the event that a party fails to pay an advance as advised by the Secretariat after the constitution of the Tribunal, the Tribunal may suspend its proceedings in whole or in part, and the Secretariat may accordingly terminate the administration of the arbitration in respect of the whole arbitration or part thereof.

- 23.7. At any time during the arbitral proceedings, the Arbitral Tribunal may make decisions as to its costs, except costs that are to be determined by the IADR Center and shall order payment of such costs.
- 23.8. The Arbitral Tribunal shall decide in the final award the costs of the arbitration (as set out in 24.1) and which of the parties shall bear such costs or in which proportion such costs shall be borne by each of the parties. In making such decision, the Arbitral Tribunal may consider such circumstances it considers relevant, including the extent to which each party has conducted the arbitration in an expeditious and cost-effective manner.
- 23.9. Where all claims have been withdrawn or the arbitration is terminated before all documents relating to the arbitration are transmitted to the Arbitral Tribunal in terms of Rule 11.11 the Secretariat shall determine the costs of the arbitration. Where all claims have been withdrawn or the arbitration is terminated after the constitution of the Arbitral Tribunal and before a Final Award has been made, the Arbitral Tribunal shall determine the costs of the arbitration.
- 23.10. An Award may be made even if it deals only with costs.

24. Limitation of Liability

The arbitrators, any person appointed by the Arbitral Tribunal, the Arbitration Board and its members, and the IADR Center and its directors and employees shall not be liable to any person for any act or omission in connection with the arbitration except to the extent that such limitation of liability is prohibited by applicable law.

25. Confidentiality

- 25.1. Unless otherwise agreed by the parties, a party, any arbitrator, and any person appointed by the Arbitral Tribunal, including any administrative personnel and any expert, shall always consider all matters relating to the proceedings and the Award as confidential. Matters relating to the proceedings include the existence of the proceedings, the pleadings, evidence, and other documents and material submitted in the arbitration, but excludes any matter that is otherwise in the public domain or required by applicable law.
- 25.2. The Arbitral Tribunal may take appropriate measures, including an order or an Award for sanctions or costs, for breach of this Rule by a party.

26. Notices and Calculation of Periods of Time

- 26.1. For the purpose of the Rules, any notice or communication shall be in writing and may be delivered by hand, registered post or courier service, or transmitted by any form of electronic communication (including electronic mail and facsimile) or delivered by any other appropriate means that provide a record of its delivery.
- 26.2. Any notice or communication shall be deemed to have been received if it is delivered-
- 26.2.1. to the addressee personally or to its authorised representative;
 - 26.2.2. to the addressee's habitual residence, place of business, or designated address;
 - 26.2.3. to any address agreed by the parties; or
 - 26.2.4. if, after reasonable efforts, none of these can be found, then to the addressee's last-known residence or place of business by a means that provides a record of delivery or of attempted delivery.
- 26.3. Any notice or communication shall be deemed to have been received on the day it was delivered in accordance with Rule 26.1.
- 26.4. For the purpose of calculating any period under the Rules, such period shall begin to run on the day following the day when a notice or communication is deemed to have been received. Unless the Arbitration Board or the Arbitral Tribunal determines otherwise, any period under the Rules is to be calculated in accordance with Sri Lanka time (GMT + 05:30).
- 26.5. Any non-business days at the place of receipt shall be excluded in calculating any period under the Rules. If the last day of any period under the Rules is not a business day at the place of receipt in accordance with Rule 27.1, the period is extended until the first business day which follows.
- 26.6. The parties shall file with the Secretariat a copy of any notice or communication concerning the arbitral proceedings.
- 26.7. The Secretariat may at any time vary any time limits prescribed under these Rules.
- 26.8. All pleadings and other written communications submitted by any party, as well as all documents annexed thereto, shall be supplied in several copies sufficient to provide one copy for each party, plus one for each arbitrator, and one for the Secretariat, unless otherwise

agreed. A copy of any notification or communication from the Arbitral Tribunal to the parties shall be sent to the Secretariat.

26.9. After the notification by the Secretariat that all documents relating to the arbitration have been transmitted to the Arbitral Tribunal in terms of Rule 11.11, all communications between the Arbitral Tribunal and the parties shall take place directly between them (with simultaneous copies to the Secretariat).

26.10. The Arbitral Tribunal shall send to the Secretariat a copy of each order, award or other decision that it makes.

27. Submission of documents to the Secretariat

All documentation submitted to the Secretariat in terms of these Rules shall be accompanied by an electronic submission addressed to secretariat@iadrc.lk

28. Practice Notes

The Arbitration Board may from time to time introduce practice notes to supplement, regulate, and implement the Rules for the purpose of facilitating the administration of arbitrations governed by the Rules.

29. General Rule

In all matters not expressly provided for in the Rules, the Arbitration Board and the Arbitral Tribunal shall act in the spirit of the Rules and make every effort to ensure the fair, cost effective and expeditious conclusion of the arbitration and enforcement of the Award.

30. Rules governing the Expedited Procedure.

30.1. A party that has not already submitted a request for the adoption of the Expedited Procedure either in the Claim or the Response, may do so prior to the constitution of the Arbitral Tribunal, by submitting a request therefor to the Secretariat, with a copy thereof to the other party or parties, and the Expedited Procedure shall be adopted, if the parties do agree.

30.2. The provisions of this Rule shall apply where the parties have agreed that the arbitration shall be conducted in terms of the Expedited Procedure.

30.3. By agreeing that the arbitration shall be conducted in terms of the Expedited Procedure, the parties agree that the provisions of this Rule shall apply despite any contrary terms that may be contained in the arbitration agreement.

- 30.4. In the conduct of the arbitration in terms of this Rule, the parties shall act expeditiously throughout the procedure and the Arbitral Tribunal shall conduct the proceedings expeditiously.
- 30.5. In an arbitration conducted in terms of the Expedited Procedure –
- 30.5.1. the Arbitration Board shall revise any time limits set out in these Rules for taking steps and stipulate shorter time limits;
 - 30.5.2. if an Arbitral Tribunal has not already been constituted, a sole arbitrator shall be appointed, unless the Arbitration Board determines otherwise;
 - 30.5.3. the Arbitral Tribunal shall use documentary evidence only, unless it's determined that a hearing is required for the examination of any witnesses and any expert witnesses as well as for any oral arguments;
 - 30.5.4. the Award shall be made within six (6) months from the date from which all documents relating to the arbitration are transmitted to the Arbitral Tribunal unless the Arbitration Board extends the time for making such Award in exceptional circumstances and subject to such conditions, upon an application made by the Arbitral Tribunal to the Arbitration Board:
Provided however that the Arbitral Tribunal shall make such an application only after having obtained the approval therefor of the parties to the arbitration;
 - 30.5.5. the Arbitral Tribunal may state the reasons upon which the Award is based in summary form, unless the parties have agreed that no reasons are to be given.
- 30.6. Where an arbitration has commenced in compliance with the Expedited Procedure, a party may make an application to the Arbitral Tribunal to suspend the Expedited Procedure, setting out the reasons therefor.
- 30.7. Upon the receipt of an application, the Arbitral Tribunal shall, after hearing the parties, make an order that the Expedited Procedure shall –
- 30.7.1. no longer apply; or
 - 30.7.2. continue to apply,
- and shall state the reasons for the determination.
- 30.8. Where the Arbitral Tribunal decides to grant an application under this Rule, the arbitration shall continue to be conducted by the same Arbitral Tribunal that was constituted to conduct the arbitration in accordance with the Expedited Procedure.