

ARBITRATION RULES

ADOPTED UNCITRAL ARBITRATION RULES 2010

APPLICABLE FOR INSTITUTIONAL ARBITRATION CONDUCTED
BY INDIAN INSTITUTE OF ARBITRATION & MEDIATION



APCAM



PEACEGATE



INDIAN INSTITUTE OF
ARBITRATION & MEDIATION

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FOREWORD

IIAM Arbitration is based on the Arbitration Rules published by the Indian Institute of Arbitration & Mediation (“IIAM”), which is intended to help parties and arbitrators to take maximum advantage of the flexible procedures available in arbitration for the resolution of disputes quickly and economically. The IIAM Arbitration Rules has adopted the UNCITRAL Arbitration Rules, 2010 with modifications and is intended to provide effective arbitration services through the use of administered arbitration on global standards. IIAM also provide for Expedited Arbitration under the IIAM Expedited Arbitration Rules, which is adopted based on the concept given under the UNCITRAL Expedited Arbitration Rules 2021. The IIAM Arbitration Rules allow the parties to choose the proceedings balancing the efficiency of the arbitral proceedings and the rights of the disputing parties to due process and fair treatment and to reach a final resolution of the dispute in a cost and time effective manner. The costs and expenses of arbitration will be governed by the Fee Schedule of the IIAM Arbitration Rules.

Where the parties seek to resolve any international dispute under the IIAM Arbitration Rules, they are deemed to have agreed to resolve such disputes as per the Arbitration Rules of the Asia-Pacific Centre for Arbitration & Mediation (“APCAM”).

For administered arbitration by IIAM, there should be an arbitration clause in their contract or in the absence of any such clause; there should be an agreement between the parties to arbitrate under the IIAM Rules.

Recommended clauses for arbitration, model forms and the guide to the Rules are given in this Rule Book.

The Rules applicable for arbitration shall be the IIAM Arbitration Rules made effective as on the date of commencement of arbitration and shall be accessed at the IIAM website at https://www.arbitrationindia.com/pdf/rules_arbitration.pdf

Further information about IIAM services, rules and procedures can be found in our website.

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IIAM ARBITRATION RULES

(Revised w.e.f. 01 April 2023)

(ADOPTED UNCITRAL ARBITRATION RULES 2010)

IIAM ARBITRATION RULES, 2023

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IIAM ARBITRATION RULES

(As revised w.e.f. 01 April 2023)

PART-I

1. The IIAM Arbitration Rules (hereinafter referred to as “Rules”) shall be the UNCITRAL Arbitration Rules modified in accordance with Part-I and shall also include the Schedules set out below.
2. “Rule” shall refer to Part-I of the Rules, “Article” shall refer to Part-II of the Rules and “Section” shall refer to Schedules in Part-IV.
3. All communication made to IIAM shall be addressed to the Administrator of IIAM.
4. Definitions of specific terms used under the Rules may be referred to in Schedule-1.
5. The costs and expenses of arbitration will be governed by the IIAM Arbitration Fee Schedule under the IIAM Arbitration Rules.

Rule 1

Scope and application

- (a) Where parties have agreed in writing to arbitrate their disputes by the Indian Institute of Arbitration & Mediation (“IIAM”) or under the Arbitration Rules of the Indian Institute of Arbitration & Mediation (“IIAM Arbitration Rules”), then
—
 - (i) It is deemed that the parties have made these Rules or such amended Rules or affiliated Rules as IIAM may have adopted, as part of their arbitration agreement and such disputes shall be settled

or resolved by arbitration in accordance with the Rules and shall be legally bound to comply with these Rules.

- (ii) The arbitration shall be conducted and administered by the IIAM in accordance with these Rules; and
 - (iii) The parties are deemed to have authorised IIAM to determine any or all issues, which the parties are free to determine as per the Arbitration & Conciliation Act, 1996 and as per these Rules.
- (b) The Rules applicable for arbitration shall be those in force at the time of commencement of the arbitration unless the parties have agreed otherwise.
 - (c) These Rules shall govern the arbitration except where any of these Rules are in conflict with any provision of law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.
 - (d) Nothing in these Rules shall prevent the parties to a dispute or arbitration agreement from naming IIAM as appointing authority, or from requesting certain administrative services from IIAM, without subjecting the arbitration to these Rules.
 - (e) The Rules are also subject to such modifications as the parties may agree in writing at any time.
 - (f) For avoidance of any doubt, in so far as there is any conflict between Part-I and Part-II of the Rules, the provisions in Part-I shall prevail.
 - (g) These Rules shall also apply to arbitration initiated under the Peacagate Application, the digital platform of IIAM, either through a Centre or by online arbitration.
 - (h) In the case of international or cross-border disputes, the parties shall resolve the disputes under the Arbitration Rules of the Asia-Pacific Centre for Arbitration & Mediation (“APCAM Arbitration Rules”), which shall be in force at the time of commencement of arbitration.



Section 1 Domestic Arbitration

Rule 2 Commencement of Arbitration

- (a) A party initiating recourse to arbitration under the Rules (“Claimant”) shall be required to make a Request for Arbitration to IIAM, which shall include the following —
- (i) The names, addresses, telephone numbers and e-mail addresses of the parties and their counsel;
 - (ii) The brief facts in dispute relied on by the Claimant;
 - (iii) The relief sought, including an estimate of the monetary value of the claims;
 - (iv) Copy or description of the arbitration agreement or clause under which the dispute is to be resolved and Notice of Arbitration served on the Respondent and the Reply to the Notice of Arbitration received from the Respondent, if any;
 - (v) Comments on the number of arbitrators and the seat of arbitration;
 - (vi) If the parties have agreed for more than one arbitrator, the name, address, telephone number and e-mail address of the arbitrator appointed by the Claimant; and
 - (vii) If the parties have agreed for more than one arbitrator, the name, address, telephone number and e-mail address of the arbitrator appointed by the respondent(s), if they have so appointed.

- (b) Upon filing the Request for Arbitration, the Claimant shall pay the appropriate registration/ filing fee as provided in the IIAM Arbitration Fee Schedule, in force on the date of filing of the Request.
- (c) If the registration/ filing fee is not paid upon filing the Request for Arbitration, IIAM shall set a time period within which the Claimant shall pay the fee. If the fee is not paid within this time period, IIAM shall dismiss the Request for Arbitration.
- (d) In case of arbitration initiated through the Peacegate Application, the Request for Arbitration can be filed along with the details as under sub-rule (a), through the App itself.
- (e) The date of receipt of Notice of Arbitration by the Respondent shall be deemed to be the commencement of arbitration (“Commencement of Arbitration”).

Rule 3

Response to Request and Decision

- (a) IIAM shall send a copy of the Request for Arbitration and any attached documents to the Respondent. IIAM shall set a time period of fifteen days within which the Respondent shall submit a Response to the Request to IIAM.
- (b) The Response to the Request, shall include the following —
 - (i) Any objections concerning the existence, validity or applicability of the arbitration agreement; however, failure to object shall not preclude the Respondent from raising such objections at any time up to and including the submission of the Statement of Defence;
 - (ii) Objection with respect to the number of arbitrators and the seat of arbitration;
 - (iii) If applicable, the name, address, telephone number and e-mail address of the arbitrator appointed by the Respondent.
- (c) If IIAM receives a Response as per sub-rule (b), it may be sent to the Claimant and the Claimant may be given an opportunity to submit comments on the Response, having regard to the circumstances of the case, within a period of seven days.
- (d) IIAM may request further details from either party regarding the Request or Response, having regard to the circumstances of the case.
- (e) In case of arbitration initiated through the Peacegate Application, the Response can be filed along with the details as under sub-rule (b), through the App itself.

- (f) Failure by the Respondent to submit a Response as per sub-rule (b) or (d) shall not prevent the arbitration from proceeding.
- (g) Based on the Request, Response or any further details, IIAM shall take a decision to proceed with arbitration or if IIAM manifestly lacks jurisdiction over the dispute, dismiss the Request.
- (h) The date of decision by IIAM to proceed with arbitration as under sub-rule (g), shall be treated as the date on which the institutional arbitration has commenced for all purposes under the Rules (“Commencement of Institutional Arbitration Process”).

Rule 4
Number of Arbitrators

- (a) Where the parties have agreed to these Rules, IIAM shall be the Appointing Authority, as under Article 6 and shall appoint the arbitrators as per Rules 4A-D, replacing Articles 8-10.
- (b) Parties are free to determine the number of arbitrators subject to the law governing the arbitration.
- (c) In general, the dispute under these Rules shall be decided by a sole arbitrator unless, otherwise agreed by the parties.
- (d) A dispute shall be decided by three arbitrators if the parties have agreed to do so or IIAM, in the absence of an agreement between the parties, taking into account the parties’ intentions, the amount in question, the complexity or other relevant factors of the dispute, considers it appropriate to appoint three arbitrators.
- (e) Notwithstanding sub-rule (d), if the parties inform IIAM that they are agreeable to a sole arbitrator, IIAM shall appoint a sole arbitrator pursuant to the procedure provided for in Rule 4A(a).

Appointment of Arbitrators (Rules 4A-D)

Rule 4A

- (a) If the parties have agreed that a sole arbitrator is to be appointed and if within 14 days after receipt by all other parties of a proposal for the appointment of a sole arbitrator the parties have not reached agreement thereon, a sole arbitrator shall be appointed by IIAM.
- (b) IIAM shall, within 7 days of the commencement of Institutional Arbitration Process, initiate the appointment of the sole arbitrator, by using the following list-procedure, unless the parties jointly agree on the appointment of the sole arbitrator —

- (i) IIAM shall communicate to each of the parties an identical list containing at least three names of arbitrators.
- (ii) Within 7 days after the receipt of this list, each party may return the list to IIAM showing its order of preference or objection with respect to a particular name.
- (iii) After the expiration of the above period of time IIAM shall appoint the sole arbitrator from among the names approved on the list returned to it and in accordance with the order of preference indicated by the parties.
- (iv) If no response is received from the parties or if no preferential consensus could be arrived at by the parties as under sub-rule (b)(ii), IIAM shall appoint the sole arbitrator from among the names given in list, or if all the names are disputed by the parties, appointment shall be made from among the panel of arbitrators maintained by IIAM, at its discretion.
- (v) If for any reason the appointment cannot be made according to this procedure, IIAM may exercise its discretion in appointing the sole arbitrator.

Rule 4B

- (a) If three arbitrators are to be appointed, the claimant shall appoint their arbitrator in the Notice of Arbitration and the respondent shall appoint their arbitrator in the Reply to the Notice of Arbitration.
- (b) If the claimant has not made the appointment as under sub-rule (a), they shall nominate their arbitrator in the Request for Arbitration filed under Rule 2(a).
- (c) If the respondent has not made the appointment as under sub-rule (a), they shall nominate their arbitrator in the Response filed under Rule 3(b).
- (d) In case, the respondent does not appoint their arbitrator even under sub-rule (c), IIAM shall notify the respondent to appoint their arbitrator after it decide to proceed with arbitration under Rule 3(f), and if the respondent does not appoint the arbitrator within 7 days after the receipt of such notification, IIAM shall appoint the arbitrator by exercising its discretion, within a further 7 days.
- (e) After the appointment of the two arbitrators, the presiding arbitrator shall be appointed by IIAM in consultation with the two appointed arbitrators, and if no consensus is reached within 14 days, the presiding arbitrator shall be appointed by IIAM from among the panel of arbitrators maintained by IIAM, at its discretion.

Rule 4C

- (a) For the purposes of Rule 4B(a), where three arbitrators are to be appointed and there are multiple parties as Claimant or as Respondent, unless the parties have agreed to another method of appointment of arbitrators, the multiple parties jointly, whether as Claimant or as Respondent, shall appoint one arbitrator each.
- (b) If the parties have agreed that the arbitral tribunal is to be composed of a number of arbitrators other than one or three, the arbitrators shall be appointed according to the method agreed upon by the parties.
- (c) In the event of any failure to constitute the arbitral tribunal as agreed by the parties, IIAM shall constitute the arbitral tribunal with a 3-member panel and as under Rule 4B.

Rule 4D

- (a) When an arbitrator is appointed by the party or by IIAM, IIAM shall obtain a Disclosure Statement as per Schedule-7, so as to verify and confirm that the Arbitrator is not ineligible to be appointed as an arbitrator in the said dispute under Schedule-5 or Schedule-6, and that the arbitrator can devote the time necessary to conduct the arbitration diligently, efficiently and in accordance with the time limits provided in the Rules.
- (b) In case, IIAM finds that there is an ineligibility for the arbitrator as per the Disclosure Statement given under sub-rule (a), IIAM shall appoint another arbitrator, as per the procedure that were applicable to the appointment of the arbitrator being replaced.
- (c) IIAM shall communicate the disclosure statement to the parties along with the confirmation of the constitution of the arbitral tribunal.
- (d) The date of receipt of intimation by the arbitral tribunal about the constitution of the arbitral tribunal shall be deemed to be the date when the arbitral tribunal enters upon reference under the Rules ("Date of Reference"). In case of arbitral tribunal consisting of multiple arbitrators, Date of Reference shall be the date of receipt of intimation by the presiding arbitrator, about the constitution of the arbitral tribunal.

Rule 5

Challenge to the Arbitrators

- (a) The challenge to the arbitrators under this Rule shall be pursuant to Articles 11 to 13 except Article 13(4) which is replaced by sub-rule (b).

- (b) If, within 15 days from the date of the notice of challenge, all parties do not agree to the challenge or the challenged arbitrator does not withdraw, the party making the challenge may elect to pursue it. In that case, within 21 days from the date of the notice of challenge, it shall seek a decision on the challenge from the arbitrator.
- (c) Upon such withdrawal or sustainment of the challenge, the substitute arbitrator shall be appointed as per the procedure that were applicable to the appointment of the arbitrator being replaced.
- (d) IIAM may fix the costs of the challenge and may direct by whom and how such costs should be borne.

Rule 6
Seat and Venue of Arbitration

- (a) The parties may agree on the seat of arbitration. Failing such agreement, for domestic arbitration, the seat of arbitration shall be the place where the agreement has been executed in India, unless the arbitral tribunal determines, having regard to all the circumstances of the case, that another seat is more appropriate. The award shall be deemed to have been made at the seat of arbitration.
- (b) The venue of arbitration may be fixed by IIAM, as it considers appropriate for deliberations and hearings. The arbitration shall nonetheless be considered for all purposes as an arbitration conducted at the seat.
- (c) In case, IIAM or the arbitral tribunal finds that the physical meeting of the parties is not possible due to any constraints, IIAM shall arrange for virtual or online meeting of the parties, which shall be considered as the venue of the arbitration session or meeting.
- (d) If the parties have initiated online arbitration through Peacegate Application, IIAM or the arbitral tribunal and the parties shall conduct the meeting online, either through digital chatrooms or through video chatrooms.

Rule 7
Notifications; Time Limits & Representation

- (a) All pleadings and other written communications submitted by any party, as well as all documents annexed thereto, shall be filed in sufficient numbers to provide one copy for each arbitrator(s) and one copy for IIAM, which shall be duly signed in all pages, plus certified true copies sufficient for serving to all other parties. If the party has served the certified copy to the other parties, then the party shall file such documents/confirmation to IIAM that the copies have been served on all other parties to the arbitration by such means of service to be identified in such confirmation.

- (b) A copy of any communication to or from the Arbitral Tribunal by or to the parties shall be sent to IIAM.
- (c) If the parties use Peacegate online platform for filing the pleadings and other written communications, the parties would be issued notifications in their registered email address about such filings and the parties would be able to access such filings from the Peacegate Case Dashboard and the same will be considered as valid electronic record under the IT Act.
- (d) If the circumstances of the case so justify and for sufficient reasons, IIAM may amend the time limits provided for in these Rules, as well as any time limits that it has set. IIAM shall not amend any time limits set by the Arbitral Tribunal unless it directs otherwise.
- (e) The time periods established in this Rules are to be strictly enforced and a Party's untimely Claim, Response, Request, Demand, Notice or Submission may be denied solely because it is untimely.
- (f) The parties may be represented or assisted by a counsel/ consultant/ adviser of their choice. The parties shall confer upon such advisers the necessary authority to represent them in the arbitral proceedings and file such authority before IIAM.
- (g) If any of the parties are not able to be present personally, they can be represented through their authorised persons or power of attorney holders.
- (h) The names, addresses, mobile phone numbers and emails of the arbitral tribunal, all parties in arbitration and those who will represent them, should be furnished to IIAM and exchanged between the parties.

Rule 8

Case Management Procedure

- (a) After the constitution of the arbitral tribunal, IIAM shall notify the arbitral tribunal about its constitution, with copy to all parties and intimating the date of conference for finalising Case Management Procedure.
- (b) The Case Management Procedure meeting would be convened by IIAM or the arbitral tribunal with all the parties to discuss procedural matters, as under Article 17(2) and 19.

The term "Parties" may include their respective counsels/ consultants/ advisers.

- (c) The Case Management Procedure will be finalised, in consultation with the parties. The normal time-frame would be as follows —
 - (i) For filing Claim statement by the claimant: 21 days;
 - (ii) For filing Statement of defence and counter claim, if any by the respondent: 21 days;
 - (iii) For filing Reply and statement of defence, if any by the claimant: 15 days;
 - (iv) For filing Rejoinder, if any by the respondent: 15 days.

The case management time frame shall be extended only in exceptional circumstances.

- (d) All filings shall be made at IIAM as per Rule 7(a) and Articles 20, 21, 22 and 24.
- (e) In case, any of the parties fail to appear or commit default in the Case Management Procedure, the arbitral tribunal shall proceed as per Article 30. In case the defaulting party appears subsequently and/or seeks suitable directions from the arbitral tribunal and if the arbitral tribunal considers appropriate to allow the defaulting party to file their pleadings, IIAM or the arbitral tribunal may again convene the Case Management Procedure.
- (f) After the Case Management Procedure, future communications to the parties, arbitral tribunal and IIAM can be agreed to be done through emails or such other electronic communications.

Rule 9

Interim Arbitral Tribunal (“Emergency Arbitrator”) and Arb-Med-Arb Procedure (“AMA Procedure”)

- (a) A party in need of emergency interim relief may appoint an Emergency Arbitrator pursuant to the procedures set forth in Schedule-2. The Application under Schedule-2 may, in addition to emergency interim relief, include a request to submit the case to mediation according to the AMA Procedure under Schedule-3.
- (b) Where any party invokes the AMA Procedure under Schedule-3 of the Rules, an Emergency Arbitrator shall be appointed to commence with the procedure so provided under said Schedule.

- (c) The AMA Procedure shall also apply to all disputes submitted to IIAM for resolution under IIAM “Arb-Med-Arb Clause” or other similar clause (“AMA Clause”) and/or any dispute which parties have agreed to submit for resolution under the AMA Procedure provided under Schedule-3.

Rule 10

Interim and Preliminary Reliefs

- (a) The Emergency Arbitrator or the arbitral tribunal may, at the request of a party, grant interim relief pursuant to Article 26.
- (b) A party may, without notice to any other party, make a request for an interim measure as under sub-rule (a), together with an application for a preliminary order directing a party not to frustrate the purpose of the interim measure requested.
- (c) The emergency arbitrator or the arbitral tribunal may grant a preliminary order only if it considers that prior disclosure of the request for the interim measure to the party against whom it is directed risks frustrating the purpose of the measure.

Provided, the emergency arbitrator or the arbitral tribunal shall require the party applying for a preliminary order to provide security in connection with the order unless the emergency arbitrator or the arbitral tribunal considers it inappropriate or unnecessary to do so.

Provided further that, immediately after the emergency arbitrator or the arbitral tribunal passes a preliminary order, the emergency arbitrator or the arbitral tribunal shall give notice to all parties of the request for the interim measure, along with the copy of the application for the preliminary order, the preliminary order, if any, and all other communications, between any party and the emergency arbitrator or the arbitral tribunal in relation thereto.

- (d) If an order is passed under sub-rule (c), the emergency arbitrator or the arbitral tribunal shall give an opportunity to any party against whom a preliminary order is directed to present its case at the earliest practicable time and shall decide promptly on any objection to the preliminary order.
- (e) A preliminary order passed under sub-rule (c) shall expire after twenty days from the date on which it was issued. However, the emergency arbitrator or the arbitral tribunal may issue an interim measure adopting or modifying the preliminary order, after the party against whom the preliminary order is directed has been given notice and an opportunity to present its case.

Rule 11

Fast-track Procedure

- (a) Where parties have agreed in writing to arbitrate their disputes by IIAM or under the IIAM Arbitration Rules, under Fast-track Procedure, then the procedure under sub-rule (d) would apply.
- (b) Notwithstanding sub-rule (a), prior to the full constitution of the arbitral tribunal, a party may apply to IIAM in writing for the arbitral proceedings to be conducted in accordance with the Fast-track Procedure under this Rules, where any of the following criteria is satisfied —
 - (i) The amount in the dispute does not exceed the equivalent of Rupees Five lakhs only, representing the aggregate of the claim, counterclaim and any set-off defence; or
 - (ii) In any other case, where the parties so agree.
- (c) When a party has applied to IIAM under sub-rule (b), and when IIAM determines, after considering the views of the parties, that the arbitral proceedings shall be conducted under Fast-track Procedure, then the procedure under sub-rule (d) would apply.
- (d) In case of arbitration under Fast-track Procedure, the following procedures shall apply —
 - (i) IIAM may abridge any time limits under these Rules.
 - (ii) The case shall be referred to a sole arbitrator, unless IIAM determines otherwise.
 - (iii) Unless the parties agree otherwise, the dispute shall be decided on the basis of documentary evidence only and the arbitral tribunal may hold a hearing on arguments based on the pleadings and documentary evidence.
 - (iv) IIAM shall determine the time for making the award, considering the case at hand but, not exceeding 6 months, unless, in exceptional circumstances, IIAM extends the time for a period not exceeding a further period of 3 months.
 - (v) The arbitral tribunal shall state the reasons upon which the award is based in summary form, unless the parties have agreed that no reasons are to be given.

Rule 12

Consolidation of Proceedings and Concurrent Hearings

- (a) At the request of a party, IIAM may decide to consolidate a newly commenced arbitration with a pending arbitration, if:
 - (i) The parties agree to consolidate;
 - (ii) All the claims are made under the same arbitration agreement; or
 - (iii) Where the claims are made under more than one arbitration agreement, the relief sought arises out of the same transaction or series of transactions and IIAM considers the arbitration agreements to be compatible.

- (b) In deciding whether to consolidate, IIAM shall consult with the parties and the Arbitral Tribunal and shall have regard to:
 - (i) The stage of the pending arbitration;
 - (ii) The efficiency and expeditiousness of the proceedings; and
 - (iii) Any other relevant circumstances.

- (c) Where IIAM decides to consolidate, IIAM may release any Arbitrator already appointed.

- (d) The parties may agree to have concurrent hearings of different arbitration proceedings, if:
 - (i) If the Arbitral Tribunal of different arbitration proceedings are the same;
 - (ii) If the claims made in the different arbitration proceedings arise under the same arbitration agreement; or
 - (iii) If the claims are made under more than one arbitration agreement, the relief sought arises out of the same transaction or series of transactions.

- (e) In deciding whether to have concurrent hearings, the Arbitral Tribunal shall consult with the parties and IIAM and shall have regard to:
 - (i) The stage of the pending arbitrations in different proceedings;

- (ii) The efficiency and expeditiousness of concurrent hearing; and
- (iii) Any other relevant circumstances.

Rule 13
Facilities

- (a) IIAM shall, at the request of the arbitral tribunal or either party, make available, or arrange for, such facilities and assistance for the conduct of the arbitral proceedings as may be required, including suitable accommodation for sittings of the arbitral tribunal, secretarial assistance, transcription services, video conferencing and interpretation facilities.
- (b) Arbitration process under the IIAM Arbitration Rules can be initiated and conducted using Peacegate online platform and filing of pleadings, applications and other written communications, could be done through the platform. The parties, arbitral tribunal and IIAM would be issued notifications in their registered email address about such filings and they would be able to access such filings from the Peacegate Case Dashboard. Such notifications shall be considered as proper notice of intimation under these Rules. The Case Dashboard can also be used to commence virtual and online hearings.

Rule 14
Arbitration Procedure

- (a) The arbitral tribunal may conduct the arbitration in such manner as it considers appropriate and without prejudice to the generality of the foregoing may, unless all parties to the arbitration otherwise agree, limit the time available for each party to present its case.
- (b) Except in the case of Fast-track arbitration, the arbitral tribunal shall complete the arbitral process, within 9 months from the date of reference, unless, in exceptional circumstances, IIAM extends the time for a period not exceeding a further period of 3 months.

Rule 15
Consultation on Evidentiary Issues

- (a) Each party shall have the burden of proving the facts relied on to support its claim or defence.
- (b) The arbitral tribunal shall consult the parties at the earliest appropriate time in the arbitral proceedings and invite them to consult each other with a view to agreeing on an efficient, economical and fair process for the taking of evidence.
- (c) The consultation on evidentiary issues may address the scope, timing and manner of the taking of evidence, including —

- (i) the preparation and submission of witness statements and expert reports;
 - (ii) the taking of oral testimony at any evidentiary hearing;
 - (iii) the requirements, procedure and format applicable to the production of documents;
 - (iv) the level of confidentiality protection to be afforded to evidence in the arbitration; and
 - (v) the promotion of efficiency, economy and conservation of resources in connection with the taking of evidence.
- (d) The arbitral tribunal is encouraged to identify to the parties, as soon as it considers it to be appropriate, any issues:
- (i) that the arbitral tribunal may regard as relevant to the case and material to its outcome; and / or
 - (ii) for which a preliminary determination may be appropriate.
- (e) Within the time ordered by the arbitral tribunal, each party shall identify the witnesses on whose testimony it intends to rely and the subject matter of that testimony.
- (f) Any person may present evidence as a witness, including a party or a party's officer, employee or other representative.
- (g) The arbitral tribunal may order each party to submit within a specified time to the arbitral tribunal and to the other party's witness statements by each witness on whose testimony it intends to rely.
- (h) Each witness statement shall contain —
- (i) the full name and address of the witness, a statement regarding his or her present and past relationship (if any) with any of the parties, and a description of his or her background, qualifications, training and experience, if such a description may be relevant to the dispute or to the contents of the statement;
 - (ii) a full and detailed description of the facts, and the source of the witness's information as to those facts, sufficient to serve as that witness's evidence in the matter in dispute. Documents on which the witness relies that have not already been submitted shall be provided;

- (iii) a statement as to the language in which the witness statement was originally prepared and the language in which the witness anticipates giving testimony at the evidentiary hearing;
 - (iv) an affirmation of the truth of the witness statement; and
 - (v) the signature of the witness and its date and place.
- (i) A party may rely on an expert appointed by it (“party-appointed expert”) as a means of evidence on specific issues. Within the time ordered by the arbitral tribunal —
 - (i) each party shall identify any party-appointed expert on whose testimony it intends to rely and the subject-matter of such testimony; and
 - (ii) the party-appointed expert shall submit an expert report.
- (j) Any party may, with the prior approval of the arbitral tribunal, submit to the arbitral tribunal and to the other parties revised or additional witness statements, including statements from persons not previously named as witnesses or experts.
- (k) Within the time ordered by the arbitral tribunal, each party shall inform the arbitral tribunal and the other parties of the witnesses or experts whose appearance it requests. Each witness or expert shall appear for testimony at the evidentiary hearing if such person’s appearance has been requested by any party or by the arbitral tribunal.
- (l) The arbitral tribunal may request any person to give oral or written evidence on any issue that the arbitral tribunal considers to be relevant to the case and material to its outcome. Any witness or expert called and questioned by the arbitral tribunal may also be questioned by the parties.
- (m) If a witness or expert whose appearance has been requested pursuant to sub-rule (k) fails without a valid reason to appear for testimony at an evidentiary hearing, the arbitral tribunal shall disregard any witness statement or expert report related to that evidentiary hearing by that witness unless, in exceptional circumstances, the arbitral tribunal decides otherwise.
- (n) If a party wishes to present evidence from a person who will not appear voluntarily at its request, the party may, within the time ordered by the arbitral

tribunal, ask it to take whatever steps are legally available to obtain the testimony of that person, or seek leave from the arbitral tribunal to take such steps itself. The arbitral tribunal shall decide on this request and shall take, authorize the requesting party to take or order any other party to take, such steps as the arbitral tribunal considers appropriate.

Explanation —This Rule is applicable on experts appointed by the arbitral tribunal as well as the parties.

Rule 16
Early Dismissal of Claims and Defences

- (a) A party may apply to the Arbitral Tribunal to decide by way of summary procedure, without necessarily undertaking every procedural step that might otherwise be adopted for the arbitration, on the basis that —
- (i) A claim or defence is manifestly without legal merit; or
 - (ii) A claim or defence is manifestly outside the jurisdiction of the arbitral tribunal.

Explanation – An application under sub-rule (a) can be filed on the same grounds raised by any party, in spite of a decision already rendered by IIAM under Rule 3(g).

- (b) An application for the early dismissal of a claim or defence under sub-rule (a) shall state in detail the facts and legal basis supporting the application. The party applying for early dismissal shall, at the same time as it files the application with the arbitral tribunal, send a copy of the application to the other party, and shall notify the arbitral tribunal that it has done so, specifying the mode of service employed and the date of service.
- (c) The arbitral tribunal may, in its discretion, allow the application for the early dismissal of a claim or defence under sub-rule (a) to proceed. If the application is allowed to proceed, the arbitral tribunal shall, after giving the parties the opportunity to be heard, decide whether to grant, in whole or in part, the application for early dismissal under sub-rule (a).
- (d) In determining whether to grant a request for summary procedure, the arbitral tribunal shall have regard to all relevant circumstances, including the extent to which the summary procedure contributes to a more efficient and expeditious resolution of the dispute.
- (e) If the application is allowed to proceed, the arbitral tribunal shall make an order or Award on the application, with reasons, which may be in summary form. The order or Award shall be made within sixty days of the date of filing of the application, unless, in exceptional circumstances, IIAM extends the time.

Rule 17

Awards

- (a) The arbitral tribunal shall render its final award within a period which is limited to 45 days. Such time limit shall start to run from the date of the closing of final oral or written submissions. The arbitral tribunal shall inform IIAM of such date.
- (b) Such time limit may be extended by the arbitral tribunal with the consent of the parties and upon consultation with IIAM, in exceptional circumstances, but not exceeding a further period of 45 days.
- (c) The arbitral tribunal shall deliver sufficient copies of the completed award to IIAM. The award shall only be released to the parties upon full settlement of the costs of arbitration.
- (d) IIAM shall notify the parties of its receipt of the award from the arbitral tribunal. The award shall be deemed to have been received by the parties upon collection by hand by an authorised representative or upon delivery by registered mail.
- (e) In the event the parties reach a settlement after the commencement of the arbitration, the arbitral tribunal shall, if so requested by the parties, record the settlement in the form of an award made by consent of the parties. If the parties do not require a consent award, the parties shall inform IIAM that a settlement has been reached. The arbitration shall only be deemed concluded and the arbitral tribunal discharged upon full settlement of the costs of arbitration.
- (f) By agreeing to arbitration under these Rules, it is agreed that the award shall be final and binding on the parties from the date it is made. The parties undertake to carry out the award immediately and without delay.
- (g) Unless the parties have agreed otherwise, the arbitral tribunal may —
 - (i) Award interest on any sum of money ordered to be paid by the award on the whole or any part of the period between the date on which the cause of action arose and to the date of realisation of the award; and
 - (ii) Determine the rate of interest.

Rule 18

Interpretation, Correction or Additional Award

- (a) The interpretation or correction of the award or additional award under this Rule shall be pursuant to Articles 37 to 39 except to the time-frame fixed by Rule 18(b).

- (b) The arbitral tribunal shall make the interpretation or correction, if so justified, within a period of 30 days after the receipt of such request, and additional award within a period of 45 days after the receipt of such request.

Rule 19

Scrutiny of the Award

If so agreed by the parties, IIAM shall notify a Scrutiny Board, consisting of one or more arbitration experts and before signing any award, the arbitral tribunal shall submit the award in draft form to IIAM.

- (b) IIAM shall submit the draft award to the Scrutiny Board and they may lay down modifications as to the form of the award and, without affecting the arbitral tribunal's liberty of decision, may also draw its attention to points of substance.
- (c) The Scrutiny Board shall return the award with comments within 15 days from the date of submission by IIAM and the same shall be immediately forwarded to the arbitral tribunal.
- (d) The arbitral tribunal shall, at its own discretion, accept or discard the comments given by the Scrutiny Board and make the final arbitral award.

Rule 20

Costs

- (a) The arbitral tribunal shall fix the costs of arbitration under this Rule, pursuant to Article 40, except Article 40(2)(f) which is replaced by Rule 20(b).
- (b) The arbitral tribunal shall include towards costs, any fees and expenses of the appointing authority, if applicable; and the administrative charges as per the IIAM Arbitration Fee Schedule.
- (c) If the arbitration is abandoned, suspended or concluded, by agreement or otherwise, before the final award is made, the parties shall be jointly and severally liable to pay the costs of the arbitration as determined by the arbitral tribunal. In that event, if the costs so determined are less than the deposits made, there shall be a refund in such proportions as the parties may agree, or failing agreement, in the same proportions as the deposits were made.

Rule 21

Fee and Deposits

- (a) In lieu of the provisions of Article 41 and 43, the following provisions shall apply.

- (b) Subsequent to the commencement of institutional arbitration process, IIAM shall fix a provisional advance deposit in an amount intended to cover the costs of the arbitration. Any such provisional advance deposit shall be paid by the parties in equal shares and will be considered as a partial payment by the parties of any deposits of costs under Rule 20.
- (c) The fees of the arbitral tribunal shall be fixed by IIAM in accordance with the IIAM Arbitration Fee Schedule, unless otherwise agreed by the parties and the arbitral tribunal and intimated to IIAM within a period of 15 days from the date of reference.
- (d) The administrative costs of the arbitration shall be fixed by IIAM in accordance with the IIAM Arbitration Fee Schedule.
- (e) The term “costs” as specified in Rule 20 shall include the expenses reasonably incurred by IIAM in connection with the arbitration, the administrative costs, as well as the costs of the facilities made available by IIAM under Rule 13.
- (f) IIAM may direct each party to deposit an equal amount as an advance of the costs referred to in Rule 20, as per the payment schedule mentioned in the IIAM Arbitration Fee Schedule.
- (g) During the course of the arbitration proceedings, IIAM may request supplementary deposits from the parties.
- (h) In the event that orders under sub-rules (b), (f) or (g) are not complied with, the Tribunal may refuse to hear the claims or counterclaims by the non-complying party, although it may proceed to determine claims or counterclaims by complying parties.

Rule 22

Mediation to Arbitration

Where the parties have referred their dispute to mediation under IIAM Mediation Rules and they have failed to reach a settlement and thereafter proceed to arbitration under the Rules, then twenty-five percent of the administrative fee paid to IIAM for the mediation shall be credited towards the administrative fee of the arbitration.

Rule 23

Confidentiality

- (a) The arbitral tribunal, the parties, all experts, all witnesses and Administrator and staff of IIAM shall keep confidential all matters relating to the arbitral proceedings including any award except where disclosure is necessary for

purposes of implementation and enforcement or to the extent that disclosure may be required of a party by legal duty, to protect or pursue a legal right or to challenge an award in bona fide legal proceedings before a court or other judicial authority.

- (b) Under sub-rule (a), “matters relating to the proceedings” means the existence of the proceedings, and the pleadings, evidence and other materials in the arbitration proceedings and all other documents produced by another party in the proceedings or the award arising from the proceedings, but excludes any matter that is otherwise in the public domain.

Rule 24

Exclusion of Liability and Waiver

- (a) IIAM, arbitral tribunal or the online Admin shall not be liable to any party for any act or omission related to the conduct of the arbitral proceedings.
- (b) The parties and the arbitral tribunal agree that statements or comments whether written or oral made in the course of the arbitral proceedings shall not be relied upon to institute or commence or maintain any action for defamation, libel, slander or any other complaint.
- (c) A party who knows that any provision of, or requirement under, these Rules has not been complied with and yet proceeds with the arbitration without promptly stating its objection to such non-compliance, shall be deemed to have waived its right to object.

Rule 25

General Provisions

- (a) Under these Rules a decision to be taken by IIAM, shall be taken by the Administrator. The Administrator may, if required delegate such of its duties and functions to a Registrar or Case Manager and such Registrar or Case Manager may decide such issues so specifically authorized by the Administrator.
- (b) The Administrator or Registrar shall issue a certified copy of any document filed in the proceedings, if a party seeks for the same.
- (c) IIAM may destroy all documents served on it pursuant to the Rules after the expiry of a period of two years after the date of the last correspondence received by IIAM relating to the arbitration.
- (d) The Fee structure under the Rules shall be the fee published by IIAM in the IIAM Arbitration Fee Schedule as on the date of submission of arbitration. The current fee schedule of IIAM shall be notified by IIAM from time to time or published in its official web site.

- (e) Any of the above procedures may be altered by the Administrator, in his sole discretion, to fit the circumstances of a particular case. Any matter not specifically addressed by these rules, or any conflict or ambiguity in these rules, will be decided by the Administrator. The Administrator, in his sole discretion, has authority to prepare forms, resolve procedural disputes, impose time limits on the parties, and otherwise require a party to take action or refrain from taking action.
- (f) In the case of arbitration referred by other ADR Institutions or in the case of administration of arbitration of disputes which is to be jointly administered by IIAM and any other institution, the rules, including the fee schedule may be decided by IIAM jointly with the other institution.
- (g) IIAM shall have the power and authority to effectuate the purposes of these Rules, including establishing appropriate rules, procedures, guidelines and advisories governing arbitration and altering, amending or modifying these Rules in accordance with the law.
- (h) All decisions taken by IIAM in the matter of prima-facie jurisdiction, lack of jurisdiction, administrative matters, time-frames and institutional matters under these Rules are final and binding on the parties.
- (i) In all matters not expressly provided for in these Rules, IIAM, the arbitral tribunal and the parties shall act in the spirit of these Rules and shall make every reasonable effort to ensure that any award is legally enforceable.
- (j) In the event a court of competent jurisdiction finds any portion of this Rules to be in violation of the law or otherwise unenforceable, that portion shall not be effective and the remainder of the Rules shall remain effective.



Section 2 International Arbitration

Rule 26

Scope

- (a) Where any agreement, submission or reference provides for arbitration by Indian Institute of Arbitration & Mediation (“IIAM”) or under the Arbitration Rules of the Indian Institute of Arbitration & Mediation (“IIAM Arbitration Rules”), and if such arbitration arises on international or cross-border disputes, such international or cross-border disputes shall be conducted in accordance with the Arbitration Rules of the Asia-Pacific Centre for Arbitration & Mediation (“APCAM Arbitration Rules”), which shall be in force at the time of commencement of arbitration.
- (b) Where any agreement, submission or reference provides for arbitration by the Asia-Pacific Centre for Arbitration & Mediation (“APCAM”) or under the Arbitration Rules of the Asia-Pacific Centre for Arbitration & Mediation (“APCAM Arbitration Rules”), the parties shall be taken to have agreed that the arbitration shall be conducted in accordance with the APCAM Arbitration Rules, or such amended Rules as APCAM may have adopted to take effect before the commencement of arbitration.
- (c) In case of Sub-rule, (a) and (b), the parties shall be taken to have agreed that the administration of arbitration under the APCAM Arbitration Rules, shall be conducted by IIAM, which shall be the APCAM Centre in India, if the venue of such arbitration is in India.

Rule 27

Role of IIAM

- (a) IIAM shall be an APCAM Centre in India and a constituent member of APCAM, along with institutions from other countries.

- (b) As an APCAM Centre in India, IIAM shall make necessary arrangements for arbitration, including —
 - (i) Administering international or cross-border arbitration in India under the APCAM Arbitration Rules.

 - (ii) Co-ordinating with the constituent members of APCAM in other countries for referring an international or cross-border arbitration of a party from India in any such countries.

 - (iii) Providing general administrative support for APCAM.



PART-II

UNCITRAL ARBITRATION RULES

(As revised in 2010)

SECTION I. INTRODUCTORY RULES

Scope of Application

Article 1

1. Where parties have agreed that disputes between them in respect of a defined legal relationship, whether contractual or not, shall be referred to arbitration under the UNCITRAL Arbitration Rules, then such disputes shall be settled in accordance with these Rules subject to such modification as the parties may agree.
2. The parties to an arbitration agreement concluded after 15 August 2010 shall be presumed to have referred to the Rules in effect on the date of commencement of the arbitration, unless the parties have agreed to apply a particular version of the Rules. That presumption does not apply where the arbitration agreement has been concluded by accepting after 15 August 2010 an offer made before that date.
3. These Rules shall govern the arbitration except that where any of these Rules is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

Notice and Calculation of Periods of Time

Article 2

1. A notice, including a notification, communication or proposal, may be transmitted by any means of communication that provides or allows for a record of its transmission.

2. If an address has been designated by a party specifically for this purpose or authorized by the arbitral tribunal, any notice shall be delivered to that party at that address, and if so delivered shall be deemed to have been received. Delivery by electronic means such as facsimile or e-mail may only be made to an address so designated or authorized.
3. In the absence of such designation or authorization, a notice is:
 - a. Received if it is physically delivered to the addressee; or
 - b. Deemed to have been received if it is delivered at the place of business, habitual residence or mailing address of the addressee.
4. If, after reasonable efforts, delivery cannot be effected in accordance with paragraphs 2 or 3, a notice is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means that provides a record of delivery or of attempted delivery.
5. A notice shall be deemed to have been received on the day it is delivered in accordance with paragraphs 2, 3 or 4, or attempted to be delivered in accordance with paragraph 4. A notice transmitted by electronic means is deemed to have been received on the day it is sent, except that a notice of arbitration so transmitted is only deemed to have been received on the day when it reaches the addressee's electronic address.
6. For the purpose of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. Official holidays or non business days occurring during the running of the period of time are included in calculating the period.

Notice of Arbitration

Article 3

1. The party or parties initiating recourse to arbitration (hereinafter called the "Claimant") shall communicate to the other party or parties (hereinafter called the "Respondent") a Notice of Arbitration.
2. Arbitral proceedings shall be deemed to commence on the date on which the Notice of Arbitration is received by the respondent.

3. The Notice of Arbitration shall include the following:
 - a. A demand that the dispute be referred to arbitration;
 - b. The names and contact details of the parties;
 - c. Identification of the arbitration agreement that is invoked;
 - d. Identification of any contract or other legal instrument out of or in relation to which the dispute arises or, in the absence of such contract or instrument, a brief description of the relevant relationship;
 - e. A brief description of the claim and an indication of the amount involved, if any;
 - f. The relief or remedy sought;
 - g. A proposal as to the number of arbitrators, language and place of arbitration, if the parties have not previously agreed thereon.
4. The Notice of Arbitration may also include:
 - a. A proposal for the designation of an appointing authority referred to in Article 6, paragraph 1;
 - b. A proposal for the appointment of a sole arbitrator referred to in Article 8, paragraph 1;
 - c. Notification of the appointment of an arbitrator referred to in Article 9 or 10.
5. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the sufficiency of the Notice of Arbitration, which shall be finally resolved by the arbitral tribunal.

Response to the Notice of Arbitration

Article 4

1. Within 30 days of the receipt of the Notice of Arbitration, the respondent shall communicate to the claimant a Response to the Notice of Arbitration, which shall include:

- a. The name and contact details of each respondent;
 - b. A response to the information set forth in the notice of arbitration, pursuant to Article 3, paragraphs 3 (c) to (g).
2. The Response to the Notice of Arbitration may also include:
- a. Any plea that an arbitral tribunal to be constituted under these Rules lacks jurisdiction;
 - b. A proposal for the designation of an appointing authority referred to in Article 6, paragraph 1;
 - c. A proposal for the appointment of a sole arbitrator referred to in Article 8, paragraph 1;
 - d. Notification of the appointment of an arbitrator referred to in Article 9 or 10;
 - e. A brief description of counterclaims or claims for the purpose of a set-off, if any, including where relevant, an indication of the amounts involved, and the relief or remedy sought;
 - f. A Notice of Arbitration in accordance with Article 3 in case the respondent formulates a claim against a party to the arbitration agreement other than the claimant.
3. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the respondent's failure to communicate a Response to the Notice of Arbitration, or an incomplete or late response to the Notice of Arbitration, which shall be finally resolved by the arbitral tribunal.

Representation and Assistance

Article 5

Each party may be represented or assisted by persons chosen by it. The names and addresses of such persons must be communicated to all parties and to the arbitral tribunal. Such communication must specify whether the appointment is being made for purposes of representation or assistance. Where a person is to act as a representative of a party, the arbitral tribunal, on its own initiative or at the request of any party, may at any time require proof of authority granted to the representative in such a form as the arbitral tribunal may determine.

Designating and Appointing Authorities

Article 6

1. Unless the parties have already agreed on the choice of an appointing authority, a party may at any time propose the name or names of one or more institutions or persons, including the Secretary-General of the Permanent Court of Arbitration at The Hague (hereinafter called the “PCA”), one of whom would serve as appointing authority.
2. If all parties have not agreed on the choice of an appointing authority within 30 days after a proposal made in accordance with paragraph 1 has been received by all other parties, any party may request the Secretary-General of the PCA to designate the appointing authority.
3. Where these Rules provide for a period of time within which a party must refer a matter to an appointing authority and no appointing authority has been agreed on or designated, the period is suspended from the date on which a party initiates the procedure for agreeing on or designating an appointing authority until the date of such agreement or designation.
4. Except as referred to in Article 41, paragraph 4, if the appointing authority refuses to act, or if it fails to appoint an arbitrator within 30 days after it receives a party’s request to do so, fails to act within any other period provided by these Rules, or fails to decide on a challenge to an arbitrator within a reasonable time after receiving a party’s request to do so, any party may request the Secretary General of the PCA to designate a substitute appointing authority.
5. In exercising their functions under these Rules, the appointing authority and the Secretary-General of the PCA may require from any party and the arbitrators the information they deem necessary and they shall give the parties and, where appropriate, the arbitrators, an opportunity to present their views in any manner they consider appropriate. All such communications to and from the appointing authority and the Secretary-General of the PCA shall also be provided by the sender to all other parties.
6. When the appointing authority is requested to appoint an arbitrator pursuant to Articles 8, 9, 10 or 14, the party making the request shall send to the appointing authority copies of the Notice of Arbitration and, if it exists, any Response to the Notice of Arbitration.

7. The appointing authority shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and shall take into account the advisability of appointing an arbitrator of a nationality other than the nationalities of the parties.

SECTION II. COMPOSITION OF THE ARBITRAL TRIBUNAL

Number of Arbitrators

Article 7

1. If the parties have not previously agreed on the number of arbitrators, and if within 30 days after the receipt by the respondent of the notice of arbitration the parties have not agreed that there shall be only one arbitrator, three arbitrators shall be appointed.
2. Notwithstanding paragraph 1, if no other parties have responded to a party's proposal to appoint a sole arbitrator within the time limit provided for in paragraph 1 and the party or parties concerned have failed to appoint a second arbitrator in accordance with Article 9 or 10, the appointing authority may, at the request of a party, appoint a sole arbitrator pursuant to the procedure provided for in Article 8, paragraph 2, if it determines that, in view of the circumstances of the case, this is more appropriate.

Appointment of Arbitrators (Articles 8 to 10)

Article 8

1. If the parties have agreed that a sole arbitrator is to be appointed and if within 30 days after receipt by all other parties of a proposal for the appointment of a sole arbitrator the parties have not reached agreement thereon, a sole arbitrator shall, at the request of a party, be appointed by the appointing authority.
2. The appointing authority shall appoint the sole arbitrator as promptly as possible. In making the appointment, the appointing authority shall use the following list-procedure, unless the parties agree that the list-procedure should not be used or unless the appointing authority determines in its discretion that the use of the list-procedure is not appropriate for the case:
 - a. The appointing authority shall communicate to each of the parties an identical list containing at least three names;

- b. Within 15 days after the receipt of this list, each party may return the list to the appointing authority after having deleted the name or names to which it objects and numbered the remaining names on the list in the order of its preference;
- c. After the expiration of the above period of time the appointing authority shall appoint the sole arbitrator from among the names approved on the lists returned to it and in accordance with the order of preference indicated by the parties;
- d. If for any reason the appointment cannot be made according to this procedure, the appointing authority may exercise its discretion in appointing the sole arbitrator.

Article 9

- 1. If three arbitrators are to be appointed, each party shall appoint one arbitrator. The two arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator of the arbitral tribunal.
- 2. If within 30 days after the receipt of a party's notification of the appointment of an arbitrator the other party has not notified the first party of the arbitrator it has appointed, the first party may request the appointing authority to appoint the second arbitrator.
- 3. If within 30 days after the appointment of the second arbitrator the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the appointing authority in the same way as a sole arbitrator would be appointed under Article 8.

Article 10

- 1. For the purposes of Article 9, paragraph 1, where three arbitrators are to be appointed and there are multiple parties as claimant or as respondent, unless the parties have agreed to another method of appointment of arbitrators, the multiple parties jointly, whether as claimant or as respondent, shall appoint an arbitrator.
- 2. If the parties have agreed that the arbitral tribunal is to be composed of a number of arbitrators other than one or three, the arbitrators shall be appointed according to the method agreed upon by the parties.

3. In the event of any failure to constitute the arbitral tribunal under these Rules, the appointing authority shall, at the request of any party, constitute the arbitral tribunal and, in doing so, may revoke any appointment already made and appoint or reappoint each of the arbitrators and designate one of them as the presiding arbitrator.

Disclosures by and Challenge of Arbitrators¹ (Articles 11 to 13)

Article 11

When a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. An arbitrator, from the time of his or her appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties and the other arbitrators unless they have already been informed by him or her of these circumstances.

Article 12

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
2. A party may challenge the arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made.
3. In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of his or her performing his or her functions, the procedure in respect of the challenge of an arbitrator as provided in Article 13 shall apply.

Article 13

1. A party that intends to challenge an arbitrator shall send notice of its challenge within 15 days after it has been notified of the appointment of the challenged arbitrator, or within 15 days after the circumstances mentioned in Articles 11 and 12 became known to that party.
 2. The notice of challenge shall be communicated to all other parties, to the arbitrator who is challenged and to the other arbitrators. The notice of challenge shall state the reasons for the challenge.
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¹ Model statements of independence pursuant to Article 11 can be found in the annex to the Rules

4. If, within 15 days from the date of the notice of challenge, all parties do not agree to the challenge or the challenged arbitrator does not withdraw, the party making the challenge may elect to pursue it. In that case, within 30 days from the date of the notice of challenge, it shall seek a decision on the challenge by the appointing authority.

Replacement of an Arbitrator

Article 14

1. Subject to paragraph 2, in any event where an arbitrator has to be replaced during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in Articles 8 to 11 that was applicable to the appointment or choice of the arbitrator being replaced. This procedure shall apply even if during the process of appointing the arbitrator to be replaced, a party had failed to exercise its right to appoint or to participate in the appointment.
2. If, at the request of a party, the appointing authority determines that, in view of the exceptional circumstances of the case, it would be justified for a party to be deprived of its right to appoint a substitute arbitrator, the appointing authority may, after giving an opportunity to the parties and the remaining arbitrators to express their views: (a) appoint the substitute arbitrator; or (b) after the closure of the hearings, authorize the other arbitrators to proceed with the arbitration and make any decision or award.

Repetition of Hearings in the event of the Replacement of an Arbitrator

Article 15

If an arbitrator is replaced, the proceedings shall resume at the stage where the arbitrator who was replaced ceased to perform his or her functions, unless the arbitral tribunal decides otherwise.

Exclusion of Liability

Article 16

Save for intentional wrongdoing, the parties waive, to the fullest extent permitted under the applicable law, any claim against the arbitrators, the appointing authority and any person appointed by the arbitral tribunal based on any act or omission in connection with the arbitration.

SECTION III. ARBITRAL PROCEEDINGS

General Provisions

Article 17

1. Subject to these Rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at an appropriate stage of the proceedings each party is given a reasonable opportunity of presenting its case. The arbitral tribunal, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the parties' dispute.
2. As soon as practicable after its constitution and after inviting the parties to express their views, the arbitral tribunal shall establish the provisional timetable of the arbitration. The arbitral tribunal may, at any time, after inviting the parties to express their views, extend or abridge any period of time prescribed under these Rules or agreed by the parties.
3. If at an appropriate stage of the proceedings any party so requests, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.
4. All communications to the arbitral tribunal by one party shall be communicated by that party to all other parties. Such communications shall be made at the same time, except as otherwise permitted by the arbitral tribunal if it may do so under applicable law.
5. The arbitral tribunal may, at the request of any party, allow one or more third persons to be joined in the arbitration as a party provided such person is a party to the arbitration agreement, unless the arbitral tribunal finds, after giving all parties, including the person or persons to be joined, the opportunity to be heard, that joinder should not be permitted because of prejudice to any of those parties. The arbitral tribunal may make a single award or several awards in respect of all parties so involved in the arbitration.

Place of Arbitration

Article 18

1. If the parties have not previously agreed on the place of arbitration, the place of arbitration shall be determined by the arbitral tribunal having regard to the

circumstances of the case. The award shall be deemed to have been made at the place of arbitration.

2. The arbitral tribunal may meet at any location it considers appropriate for deliberations. Unless otherwise agreed by the parties, the arbitral tribunal may also meet at any location it considers appropriate for any other purpose, including hearings.

Language

Article 19

1. Subject to an agreement by the parties, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. This determination shall apply to the statement of claim, the statement of defence, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.
2. The arbitral tribunal may order that any documents annexed to the statement of claim or statement of defence, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Statement of Claim

Article 20

1. The claimant shall communicate its Statement of Claim in writing to the respondent and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The claimant may elect to treat its Notice of Arbitration referred to in Article 3 as a statement of claim, provided that the Notice of Arbitration also complies with the requirements of paragraphs 2 to 4 of this Article.
2. The Statement of Claim shall include the following particulars:
 - a. The names and contact details of the parties;
 - b. A statement of the facts supporting the claim;
 - c. The points at issue;
 - d. The relief or remedy sought;
 - e. The legal grounds or arguments supporting the claim.

3. A copy of any contract or other legal instrument out of or in relation to which the dispute arises and of the arbitration agreement shall be annexed to the Statement of Claim.
4. The Statement of Claim should, as far as possible, be accompanied by all documents and other evidence relied upon by the claimant, or contain references to them.

Statement of Defence

Article 21

1. The respondent shall communicate its Statement of Defence in writing to the claimant and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The respondent may elect to treat its Response to the Notice of Arbitration referred to in Article 4 as a Statement of Defence, provided that the response to the notice of arbitration also complies with the requirements of paragraph 2 of this Article.
2. The Statement of Defence shall reply to the particulars (b) to (e) of the Statement of Claim (art. 20, para. 2). The Statement of Defence should, as far as possible, be accompanied by all documents and other evidence relied upon by the respondent, or contain references to them.
3. In its Statement of Defence, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a Counterclaim or rely on a claim for the purpose of a set-off provided that the arbitral tribunal has jurisdiction over it.
4. The provisions of Article 20, paragraphs 2 to 4, shall apply to a counterclaim, a claim under Article 4, paragraph 2 (f), and a claim relied on for the purpose of a set-off.

Amendments to the Claim or Defence

Article 22

During the course of the arbitral proceedings, a party may amend or supplement its claim or defence, including a counterclaim or a claim for the purpose of a set-off, unless the arbitral tribunal considers it inappropriate to allow such amendment or supplement having regard to the delay in making it or prejudice to other parties or any other circumstances. However, a claim or defence, including a counterclaim or a claim for the purpose of a set-off, may not be amended or supplemented in such a manner that the amended or supplemented claim or defence falls outside the jurisdiction of the arbitral tribunal.

Pleas as to the Jurisdiction of the Arbitral Tribunal

Article 23

1. The arbitral tribunal shall have the power to rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause that forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null shall not entail automatically the invalidity of the arbitration clause.
2. A plea that the arbitral tribunal does not have jurisdiction shall be raised no later than in the statement of defence or, with respect to a counterclaim or a claim for the purpose of a set-off, in the reply to the counterclaim or to the claim for the purpose of a set-off. A party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.
3. The arbitral tribunal may rule on a plea referred to in paragraph 2 either as a preliminary question or in an award on the merits. The arbitral tribunal may continue the arbitral proceedings and make an award, notwithstanding any pending challenge to its jurisdiction before a court.

Further Written Statements

Article 24

The arbitral tribunal shall decide which further written statements, in addition to the statement of claim and the statement of defence, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

Periods of Time

Article 25

The periods of time fixed by the arbitral tribunal for the communication of written statements (including the statement of claim and statement of defence) should not exceed 45 days. However, the arbitral tribunal may extend the time limits if it concludes that an extension is justified.

Interim Measures

Article 26

1. The arbitral tribunal may, at the request of a party, grant interim measures.
2. An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to:
 - a. Maintain or restore the status quo pending determination of the dispute;
 - b. Take action that would prevent, or refrain from taking action that is likely to cause, (i) current or imminent harm or (ii) prejudice to the arbitral process itself;
 - c. Provide a means of preserving assets out of which a subsequent award may be satisfied; or
 - d. Preserve evidence that may be relevant and material to the resolution of the dispute.
3. The party requesting an interim measure under paragraphs 2 (a) to (c) shall satisfy the arbitral tribunal that:
 - a. Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and
 - b. There is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.
4. With regard to a request for an interim measure under paragraph 2 (d), the requirements in paragraphs 3 (a) and (b) shall apply only to the extent the arbitral tribunal considers appropriate.
5. The arbitral tribunal may modify, suspend or terminate an interim measure it has granted, upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative.

6. The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.
7. The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which the interim measure was requested or granted.
8. The party requesting an interim measure may be liable for any costs and damages caused by the measure to any party if the arbitral tribunal later determines that, in the circumstances then prevailing, the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.
9. A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

Evidence

Article 27

1. Each party shall have the burden of proving the facts relied on to support its claim or defence.
2. Witnesses, including expert witnesses, who are presented by the parties to testify to the arbitral tribunal on any issue of fact or expertise may be any individual, notwithstanding that the individual is a party to the arbitration or in any way related to a party. Unless otherwise directed by the arbitral tribunal, statements by witnesses, including expert witnesses, may be presented in writing and signed by them.
3. At any time during the arbitral proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time as the arbitral tribunal shall determine.
4. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Hearings

Article 28

1. In the event of an oral hearing, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof.

2. Witnesses, including expert witnesses, may be heard under the conditions and examined in the manner set by the arbitral tribunal.
3. Hearings shall be held in camera unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses, including expert witnesses, during the testimony of such other witnesses, except that a witness, including an expert witness, who is a party to the arbitration shall not, in principle, be asked to retire.
4. The arbitral tribunal may direct that witnesses, including expert witnesses, be examined through means of telecommunication that do not require their physical presence at the hearing (such as videoconference).

Experts appointed by the Arbitral Tribunal

Article 29

1. After consultation with the parties, the arbitral tribunal may appoint one or more independent experts to report to it, in writing, on specific issues to be determined by the arbitral tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.
2. The expert shall, in principle before accepting appointment, submit to the arbitral tribunal and to the parties a description of his or her qualifications and a statement of his or her impartiality and independence. Within the time ordered by the arbitral tribunal, the parties shall inform the arbitral tribunal whether they have any objections as to the expert's qualifications, impartiality or independence. The arbitral tribunal shall decide promptly whether to accept any such objections. After an expert's appointment, a party may object to the expert's qualifications, impartiality or independence only if the objection is for reasons of which the party becomes aware after the appointment has been made. The arbitral tribunal shall decide promptly what, if any, action to take.
3. The parties shall give the expert any relevant information or produce for his or her inspection any relevant documents or goods that he or she may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the arbitral tribunal for decision.
4. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties, which shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his or her report.

5. At the request of any party, the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing, any party may present expert witnesses in order to testify on the points at issue. The provisions of Article 28 shall be applicable to such proceedings.

Default

Article 30

1. If, within the period of time fixed by these Rules or the arbitral tribunal, without showing sufficient cause:
 - a. The claimant has failed to communicate its statement of claim, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings, unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so;
 - b. The respondent has failed to communicate its response to the notice of arbitration or its statement of defence, the arbitral tribunal shall order that the proceedings continue, without treating such failure in itself as an admission of the claimant's allegations; the provisions of this subparagraph also apply to a claimant's failure to submit a defence to a counterclaim or to a claim for the purpose of a set-off.
2. If a party, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.
3. If a party, duly invited by the arbitral tribunal to produce documents, exhibits or other evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the award on the evidence before it.

Closure of Hearings

Article 31

1. The arbitral tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.
2. The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own initiative or upon application of a party, to reopen the hearings at any time before the award is made.

Waiver of Right to Object

Article 32

A failure by any party to object promptly to any non-compliance with these Rules or with any requirement of the arbitration agreement shall be deemed to be a waiver of the right of such party to make such an objection, unless such party can show that, under the circumstances, its failure to object was justified.

SECTION IV. THE AWARD

Decisions

Article 33

1. When there is more than one arbitrator, any award or other decision of the arbitral tribunal shall be made by a majority of the arbitrators.
2. In the case of questions of procedure, when there is no majority or when the arbitral tribunal so authorizes, the presiding arbitrator may decide alone, subject to revision, if any, by the arbitral tribunal.

Form and Effect of the Award

Article 34

1. The arbitral tribunal may make separate awards on different issues at different times.
2. All awards shall be made in writing and shall be final and binding on the parties. The parties shall carry out all awards without delay.
3. The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
4. An award shall be signed by the arbitrators and it shall contain the date on which the award was made and indicate the place of arbitration. Where there is more than one arbitrator and any of them fails to sign, the award shall state the reason for the absence of the signature.
5. An award may be made public with the consent of all parties or where and to the extent disclosure is required of a party by legal duty, to protect or pursue a legal right or in relation to legal proceedings before a court or other competent authority.

6. Copies of the award signed by the arbitrators shall be communicated to the parties by the arbitral tribunal.

Applicable Law, *Amiable Compositeur*

Article 35

1. The arbitral tribunal shall apply the rules of law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the arbitral tribunal shall apply the law which it determines to be appropriate.
2. The arbitral tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the parties have expressly authorized the arbitral tribunal to do so.
3. In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract, if any, and shall take into account any usage of trade applicable to the transaction.

Settlement or Other Grounds for Termination

Article 36

1. If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by the parties and accepted by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.
2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the arbitral tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so.
3. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the arbitral tribunal to the parties. Where an arbitral award on agreed terms is made, the provisions of Article 34, paragraphs 2, 4 and 5, shall apply.

Interpretation of the Award

Article 37

1. Within 30 days after the receipt of the award, a party, with notice to the other parties, may request that the arbitral tribunal give an interpretation of the award.
2. The interpretation shall be given in writing within 45 days after the receipt of the request. The interpretation shall form part of the award and the provisions of Article 34, paragraphs 2 to 6, shall apply.

Correction of the Award

Article 38

1. Within 30 days after the receipt of the award, a party, with notice to the other parties, may request the arbitral tribunal to correct in the award any error in computation, any clerical or typographical error, or any error or omission of a similar nature. If the arbitral tribunal considers that the request is justified, it shall make the correction within 45 days of receipt of the request.
2. The arbitral tribunal may within 30 days after the communication of the award make such corrections on its own initiative.
3. Such corrections shall be in writing and shall form part of the award. The provisions of Article 34, paragraphs 2 to 6, shall apply.

Additional Award

Article 39

1. Within 30 days after the receipt of the termination order or the award, a party, with notice to the other parties, may request the arbitral tribunal to make an award or an additional award as to claims presented in the arbitral proceedings but not decided by the arbitral tribunal.
2. If the arbitral tribunal considers the request for an award or additional award to be justified, it shall render or complete its award within 60 days after the receipt of the request. The arbitral tribunal may extend, if necessary, the period of time within which it shall make the award.
3. When such an award or additional award is made, the provisions of Article 34, paragraphs 2 to 6, shall apply.

Definition of Costs

Article 40

1. The arbitral tribunal shall fix the costs of arbitration in the final award and, if it deems appropriate, in another decision.
2. The term “costs” includes only:
 - a. The fees of the arbitral tribunal to be stated separately as to each arbitrator and to be fixed by the tribunal itself in accordance with Article 41;
 - b. The reasonable travel and other expenses incurred by the arbitrators;
 - c. The reasonable costs of expert advice and of other assistance required by the arbitral tribunal;
 - d. The reasonable travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;
 - e. The legal and other costs incurred by the parties in relation to the arbitration to the extent that the arbitral tribunal determines that the amount of such costs is reasonable;
 - f. Any fees and expenses of the appointing authority as well as the fees and expenses of the Secretary-General of the PCA.
3. In relation to interpretation, correction or completion of any award under Articles 37 to 39, the arbitral tribunal may charge the costs referred to in paragraphs 2 (b) to (f), but no additional fees.

Fees and Expenses of Arbitrators

Article 41

1. The fees and expenses of the arbitrators shall be reasonable in amount, taking into account the amount in dispute, the complexity of the subject matter, the time spent by the arbitrators and any other relevant circumstances of the case.
2. If there is an appointing authority and it applies or has stated that it will apply a schedule or particular method for determining the fees for arbitrators in international cases, the arbitral tribunal in fixing its fees shall take that schedule or method into account to the extent that it considers appropriate in the circumstances of the case.

3. Promptly after its constitution, the arbitral tribunal shall inform the parties as to how it proposes to determine its fees and expenses, including any rates it intends to apply. Within 15 days of receiving that proposal, any party may refer the proposal to the appointing authority for review. If, within 45 days of receipt of such a referral, the appointing authority finds that the proposal of the arbitral tribunal is inconsistent with paragraph 1, it shall make any necessary adjustments thereto, which shall be binding upon the arbitral tribunal.
4.
 - a. When informing the parties of the arbitrators' fees and expenses that have been fixed pursuant to article 40, paragraphs 2 (a) and (b), the arbitral tribunal shall also explain the manner in which the corresponding amounts have been calculated;
 - b. Within 15 days of receiving the arbitral tribunal's determination of fees and expenses, any party may refer for review such determination to the appointing authority. If no appointing authority has been agreed upon or designated, or if the appointing authority fails to act within the time specified in these Rules, then the review shall be made by the Secretary-General of the PCA;
 - c. If the appointing authority or the Secretary-General of the PCA finds that the arbitral tribunal's determination is inconsistent with the arbitral tribunal's proposal (and any adjustment thereto) under paragraph 3 or is otherwise manifestly excessive, it shall, within 45 days of receiving such a referral, make any adjustments to the arbitral tribunal's determination that are necessary to satisfy the criteria in paragraph 1. Any such adjustments shall be binding upon the arbitral tribunal;
 - d. Any such adjustments shall either be included by the arbitral tribunal in its award or, if the award has already been issued, be implemented in a correction to the award, to which the procedure of article 38, paragraph 3, shall apply.
5. Throughout the procedure under paragraphs 3 and 4, the arbitral tribunal shall proceed with the arbitration, in accordance with article 17, paragraph 1.
6. A referral under paragraph 4 shall not affect any determination in the award other than the arbitral tribunal's fees and expenses; nor shall it delay the recognition and enforcement of all parts of the award other than those relating to the determination of the arbitral tribunal's fees and expenses.

Allocation of Costs

Article 42

1. The costs of the arbitration shall in principle be borne by the unsuccessful party or parties. However, the arbitral tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.
2. The arbitral tribunal shall in the final award or, if it deems appropriate, in any other award, determine any amount that a party may have to pay to another party as a result of the decision on allocation of costs.

Deposit of Costs

Article 43

1. The arbitral tribunal, on its establishment, may request the parties to deposit an equal amount as an advance for the costs referred to in Article 40, paragraphs 2 (a) to (c).
2. During the course of the arbitral proceedings the arbitral tribunal may request supplementary deposits from the parties.
3. If an appointing authority has been agreed upon or designated, and when a party so requests and the appointing authority consents to perform the function, the arbitral tribunal shall fix the amounts of any deposits or supplementary deposits only after consultation with the appointing authority, which may make any comments to the arbitral tribunal that it deems appropriate concerning the amount of such deposits and supplementary deposits.
4. If the required deposits are not paid in full within 30 days after the receipt of the request, the arbitral tribunal shall so inform the parties in order that one or more of them may make the required payment. If such payment is not made, the arbitral tribunal may order the suspension or termination of the arbitral proceedings.
5. After a termination order or final award has been made, the arbitral tribunal shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

ANNEX

Possible Waiver Statement

Note. If the parties wish to exclude recourse against the arbitral award that may be available under the applicable law, they may consider adding a provision to that effect as suggested below, considering, however, that the effectiveness and conditions of such an exclusion depend on the applicable law.

Waiver

The parties hereby waive their right to any form of recourse against an award to any court or other competent authority, insofar as such waiver can validly be made under the applicable law.

Model Statements of Independence pursuant to Article 11 of the Rules

No Circumstances to Disclose

I am impartial and independent of each of the parties and intend to remain so. To the best of my knowledge, there are no circumstances, past or present, likely to give rise to justifiable doubts as to my impartiality or independence. I shall promptly notify the parties and the other arbitrators of any such circumstances that may subsequently come to my attention during this arbitration.

Circumstances to Disclose

I am impartial and independent of each of the parties and intend to remain so. Attached is a statement made pursuant to Article 11 of the UNCITRAL Arbitration Rules of (a) my past and present professional, business and other relationships with the parties and (b) any other relevant circumstances. [Include statement.] I confirm that those circumstances do not affect my independence and impartiality. I shall promptly notify the parties and the other arbitrators of any such further relationships or circumstances that may subsequently come to my attention during this arbitration.

Note. Any party may consider requesting from the arbitrator the following addition to the statement of independence:

I confirm, on the basis of the information presently available to me, that I can devote the time necessary to conduct this arbitration diligently, efficiently and in accordance with the time limits in the Rules.

PART-III

SCHEDULES

SCHEDULE-1
DEFINITIONS

In this Rules, unless the context otherwise requires —

- (a) “Administrator” means the IIAM official assigned under these Rules who shall perform all the functions to be done by IIAM as required under these Rules.
- (b) “AMA Procedure” means a hybrid procedure of Arbitration-Mediation-Arbitration Procedure under these Rules, where a party submits disputes for resolution for arbitration under the IIAM “Arb-Med-Arb Clause” or “AMA Clause”.
- (c) “Appointing Authority” means an institution or person and agreed upon and designated by the parties to appoint the arbitrators and under these Rules shall mean IIAM.
- (d) “Arbitral Tribunal” means a sole arbitrator or panel of arbitrators appointed for the purpose of resolving a referred dispute by way of arbitration.

Arbitral Tribunal shall also include Interim Arbitral Tribunal or Emergency Arbitrator as appointed under Rule 9, wherever the context so requires.

- (e) “Arbitration Agreement” means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them to arbitration, which can also be in the form of a separate agreement or in the form of a clause in the contract between them. Under these Rules, Arbitration Agreement means an agreement wherein the parties have agreed to resolve their disputes under the IIAM Arbitration Rules.

- (f) “Arbitration session” means a meeting arranged as under these Rules, between the arbitral tribunal or IIAM and one or more of the parties to the dispute and includes any activity undertaken to arrange or prepare for such a meeting, whether or not the meeting takes place; and includes any follow up on any matter or issue raised in such a meeting.

Meeting includes a meeting conducted by electronic communication, video conferencing or other electronic or digital means.

- (g) “Award” includes, inter alia, an interim, partial or final Award, including a Fast-track arbitration award, interpretation, correction or additional award and consent award.
- (h) “Case Manager” means the IIAM official assigned under these Rules who shall perform all the functions to be done by IIAM, as delegated by the Administrator.
- (i) “Commencement of Arbitration” means the date on which a party receives a Notice of Arbitration issued by the other party.
- (j) “Commencement of Institutional Arbitration Process” means the date on which a completed and proper Request for Arbitration is accepted by IIAM.
- (k) “Date of Reference” means the date on which the arbitral tribunal receives the intimation about its constitution and it will be deemed to be the date when the arbitral tribunal enters upon reference.
- (l) “Digital Administrator” or “ODR Administrator” means the entity that carries out such administration and coordination of an online negotiation, mediation or ODR in the digital platform of Peacegate, or such other digital platform.
- (m) “Domestic Arbitration” means an arbitration referred by parties for resolution of all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not and done in India.
- (n) “Emergency Arbitrator” means an interim arbitral tribunal appointed under Schedule-2 or Schedule-3.
- (o) “Expedited Arbitration” means the expedited arbitration conducted under the IIAM Expedited Arbitration Rules.
- (p) “IIAM” means Indian Institute of Arbitration & Mediation.
- (q) “IIAM Arbitration Fee schedule” means the fee schedule of IIAM applicable as on the date of submission of arbitration under these Rules.

- (r) “International arbitration” or “Cross-border arbitration” means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India and where at least one of the parties is –
- (i) An individual who is a national of, or habitually resident in, any country other than India; or
 - (ii) A body corporate which is incorporated in any country other than India; or
 - (iii) An association or a body of individuals whose central management and control is exercised in any country other than India; or
 - (iv) The Government of a foreign country.
- (s) “Mediated Settlement Agreement” or “MSA”, in relation to a mediation, means an agreement in writing reached by some or all of the parties to mediation, settling the whole or part of the dispute, or finalising the terms of the deal and signed by the parties and the mediator, as more specifically defined in the IIAM Mediation Rules.
- (t) “Notice of Arbitration” means a notice issued by a party to the other, invoking the arbitration agreement and referring the disputes to arbitration.
- (u) “Online Arbitration” means arbitration initiated and/or conducted as an ODR mechanism, conducted using the electronic platform of Peacegate or such other platforms as agreed by the parties, to be conducted as per Schedule-4.
- (v) “Online Dispute Resolution” or “ODR” means a mechanism for resolving disputes through the use of electronic or digital platform and other information and communication technology, without the need for physical presence at a meeting or hearing and could also have hybrid processes comprising both online and offline elements, which could comprise of negotiation, mediation, arbitration. The Arbitration process has to be conducted as per Schedule-4.
- (w) “Online meeting” or “Virtual meeting” means a meeting arranged as under these Rules, between the arbitral tribunal or IIAM and one or more of the parties for conducting arbitration proceedings by audio-conference, video-conference, or other similar means of communication. The Online meeting has to be conducted as per Schedule-4.
- (x) “Party to Arbitration” means any party to an arbitration agreement.

Party may include multiple parties, which includes claimants as well as respondents.

“Claimant” means the party who initiate the recourse to arbitration under these Rules.

“Respondent” means the party against whom the claimant initiates arbitration under these Rules.

- (y) “Peacegate App” means an exclusive and unique ADR-ERP software and digital platform of IIAM which provides facility to conduct negotiation, mediation and arbitration, through Centre or online, which can used in web platform from www.peacegate.in and can also be used as App in Apple iOS and Android instruments.
- (z) “Peacegate Case Dashboard” means the designated online platform under the Peacegate App, where the filings, pleadings, applications, proceedings, orders, etc. in a numbered arbitration matter is displayed and can be accessed by all the parties, arbitral tribunal and IIAM. The Dashboard will also provide access to web conferencing and online hearing of the arbitration process.
- (aa) “Registrar” means the IIAM official assigned under these Rules who shall perform all the functions to be done by IIAM, as delegated by the Administrator.
- (bb) “Reply to the Notice of Arbitration” means a reply issued by a party in response to the Notice of Arbitration.
- (cc) “Request for Arbitration” means the filing of a request to initiate recourse to arbitration under the Rules by the Claimant.
- (dd) “Response to Request” means a reply issued by the Respondent to the Request of Arbitration.
- (ee) “Seat/ Place of Arbitration” means the place agreed upon by the parties, which is designated as the jurisdictional place for the arbitration proceedings.
- (cc) “Venue of Arbitration” means the place agreed upon by the parties for conducting the physical meetings for arbitration proceedings.

SCHEDULE-2 EMERGENCY ARBITRATION

Section 1 Scope

- (a) In the case of exceptional urgency, any party requiring an emergency interim relief may, concurrent with or following the filing of Request for Arbitration, but prior to the constitution of the final arbitral tribunal, submit the application for Emergency Arbitration (“EA Submission Form”) to IIAM for an expedited appointment of an interim arbitral tribunal of an Emergency Arbitrator to conduct emergency arbitration.

- (b) An Emergency Arbitrator shall be a sole arbitrator, even if the arbitration agreement of the parties, stipulates more number of arbitrators for arbitration.

Section 2

Initiation of Emergency Arbitration

- (a) The Application for Emergency Arbitration shall be submitted in accordance with any means specified in Rule 2. The application shall include the following information —
 - (i) The names and (in so far as known) the address, telephone and email addresses of the parties to the Application and of their counsel or legal representative, if any;
 - (ii) A description of circumstances giving rise to the application and of the underlying disputes referred to arbitration;
 - (iii) A statement of the emergency relief sought;
 - (iv) The reasons why the Applicant is entitled to such emergency relief;
 - (v) Comments on the language, the seat of the emergency relief proceedings, and the applicable law;
 - (vi) Confirmation of payment of the amount for Emergency submission, referred to in the IIAM Arbitration Fee Schedule;
 - (vii) Confirmation that copies of the Application and any exhibits included therewith have been or are being served simultaneously on all other parties to the arbitration by one or more means of service to be identified in such confirmation.
- (b) The Application may contain such other documents or information as the Applicant considers appropriate or as may contribute to the efficient examination of the application.
- (c) The Application may, in addition to request for emergency interim relief, include a request to invoke the AMA Procedure under Schedule-3.
- (d) The Application shall be filed in sufficient numbers to provide one copy for the arbitrator and one copy for IIAM, which shall be duly signed in all pages, plus certified true copies sufficient for serving to all other parties. If the party has served the certified copy to the other parties, then the party shall file such documents/confirmation to IIAM that the copies have been served on all other parties to the arbitration by such means of service to be identified in such confirmation.

- (e) The submissions, filings and communications under this Schedule includes electronic or online communication.

Section 3

Appointment of Emergency Arbitrator

- (a) If IIAM determines that it should accept the Application, IIAM shall seek to appoint an Emergency Arbitrator within 3 days after the receipt of a duly filed Application.
- (b) In the case of appointment of Emergency Arbitrator, the procedure under Rules 4A-4C shall not apply and IIAM shall appoint the Emergency Arbitrator from among the panel of arbitrators maintained by IIAM, at its discretion.
- (c) Once the Emergency Arbitrator has been appointed, IIAM shall notify the parties to the Application and shall transmit the file to the Emergency Arbitrator. Thereafter, all written communications from the parties shall be submitted directly to the Emergency Arbitrator with a copy to the other parties to the Application and IIAM. A copy of any communication from the Emergency Arbitrator to the parties shall also be copied to IIAM.

Section 4

Challenge & Replacement of Emergency Arbitrator

- (a) For the purpose of challenging an Emergency Arbitrator, Rule 5 shall apply, except that all the time periods set out in Rule 5 (or as referred to in Articles 11 to 13) shall be abridged to 3 days.
- (b) If an Emergency Arbitrator withdraws or a party agrees to terminate an Emergency Arbitrator's appointment under Section 3(c), no acceptance of the validity of any ground referred to in Article 12 shall be implied.
- (c) Where an Emergency Arbitrator is unable to perform or has been successfully challenged or otherwise removed or has resigned, IIAM shall appoint the substitute Emergency Arbitrator within 3 days.
- (d) If the Emergency Arbitrator is replaced, the emergency reliefs or orders already made shall remain valid and emergency relief proceedings shall resume from the stage where the Emergency Arbitrator was replaced or ceased to perform his/her functions, unless the substitute Emergency Arbitrator decides otherwise.

Section 5

Seat and Venue of Emergency Arbitration

- (a) If the parties have agreed on the seat of the arbitration, such seat shall be the seat of the emergency arbitration proceedings. Where the parties have not agreed on the seat of arbitration, and without prejudice to the reconstituted arbitral tribunal's determination of the seat of arbitration pursuant to Rule 5, the seat of the emergency arbitration shall be the place where the agreement has been executed in India.
- (b) The venue of emergency arbitration proceedings may be fixed by IIAM, as it considers appropriate. The emergency arbitration proceedings shall nonetheless be considered for all purposes as an arbitration conducted at the seat.
- (c) In case, IIAM or the Emergency Arbitrator finds that the physical meeting of the parties is not possible due to any constraints or not feasible due to the emergent requirement, IIAM shall arrange for virtual or online meeting of the parties, which shall be considered as the venue of the emergency arbitration session.
- (d) If the parties have initiated online arbitration through Peacegate Application, IIAM or the Emergency Arbitrator and the parties shall conduct the meeting online, either through digital chatrooms or through video chatrooms.

Section 6

Procedure for Emergency Arbitration

- (a) Taking into account the urgency inherent in the emergency relief proceedings and ensuring that each party has a reasonable opportunity to be heard on the Application, the Emergency Arbitrator may conduct proceedings in such manner as the Emergency Arbitrator considers appropriate, including document-only proceedings.
- (b) In document-only proceedings, the application, objection and interim relief can be made by online proceedings or by emails. In such situation, the online platform will be treated as the venue under Section 5(b).
- (c) The Emergency Arbitrator shall have the power to rule on objections that the Emergency Arbitrator has no jurisdiction, including any objections with respect to the existence, validity or scope of the arbitration clause(s) or the separate arbitration agreement(s), and shall resolve any dispute over the applicability of this Schedule.

- (d) The Emergency Arbitrator shall also have the power to pass ex-parte ad-interim emergency orders, if it finds that such orders are necessary to preserve the subject-matter of arbitration.
- (e) Where it is so requested in the Application, the Emergency Arbitrator shall submit the case to mediation under the AMA Procedure provided for in Schedule-3. The Emergency Arbitrator shall have the power to render a consent award on the terms agreed to by the parties in the event of a settlement of the dispute by mediation between the parties.

Section 7

Emergency Decision on Emergency Interim Relief

- (a) Any decision or order, of the Emergency Arbitrator on the Application (the Emergency Decision) shall be made within 7 days from the date on which IIAM transmits the file to the Emergency Arbitrator. This period of time may be extended by the agreement of the parties or, in appropriate circumstances, by IIAM.
- (b) Any Emergency Decision shall —
 - (i) Be made in writing;
 - (ii) State the date when it was made and summary reasons upon which the emergency relief is based (including a determination on whether the Application is admissible under Rule 9 and whether the Emergency Arbitrator has jurisdiction to grant the emergency relief); and
 - (iii) Be signed by the Emergency Arbitrator.
- (c) Any Emergency Decision shall have the same effect as an interim measure granted pursuant to Rule 10 and shall be binding on the parties when rendered. By agreeing to arbitration under these Rules, the parties undertake to comply with the Emergency Decision without delay.
- (d) The Emergency Arbitrator shall be entitled to order the provision of appropriate security by the party seeking Emergency Relief.
- (e) Any Emergency Decision may, upon a reasoned request by a party, be modified, suspended or terminated by the Emergency Arbitrator or the reconstituted arbitral tribunal (“final arbitral tribunal”).
- (f) Any Emergency Decision ceases to be binding —

- (i) If the Emergency Arbitrator (i.e. the interim arbitral tribunal) or the final arbitral tribunal so decides; or
- (ii) Upon the final arbitral tribunal rendering a final award unless the arbitral expressly decides otherwise; or
- (iii) Upon the withdrawal of all claims or the termination of the arbitration before the rendering of a final award.

Section 8

Costs

- (a) Any Emergency Decision shall fix the costs of the emergency relief proceedings and decide which of the parties shall bear them or in what proportion they shall be borne by the parties, subject always to the power of the final arbitral tribunal to determine finally the apportionment of such costs in accordance with Rule 20.
- (b) The costs of the emergency relief proceedings include IIAM's administrative expenses, the Emergency Arbitrator's fees and expenses and the reasonable and other legal costs incurred by the parties for the emergency relief proceedings.

Section 9

Fees

- (a) The fees of the Emergency Arbitrator and the administrative costs of the Emergency Relief Proceedings shall be fixed by IIAM in accordance with the IIAM Arbitration Fee Schedule.
- (b) IIAM shall fix a provisional advance deposit as per the IIAM Arbitration Fee Schedule.

Section 10

Termination of Emergency Arbitrator and Reconstitution of Arbitral Tribunal

- (a) The mandate of the Emergency Arbitrator shall not terminate till it undergoes reconstitution into the final arbitral tribunal.
- (b) When the final arbitral tribunal is ready to substitute the Emergency Arbitrator, thereon, the Emergency Arbitrator's mandate shall be terminated and have no further power to act.

- (c) The process of constituting the final arbitral tribunal shall run parallel to emergency proceedings, initiated under Schedule-2, according to the regular procedure provided under Rules 4 and 4A to 4D except that IIAM may abridge any period of time under the Rules to constitute the final arbitral tribunal as expeditiously as possible in the circumstances.
- (d) The constitution of the final arbitral tribunal and thereby terminating the Emergency Arbitrator shall be deemed to be a replacement or substitution of Arbitrator as under Article 14, by the consent of parties.

Section 11

Miscellaneous

- (a) The Emergency Arbitrator may not act as arbitrator in any arbitration relating to the dispute that gave rise to the Application and in respect of which the Emergency Arbitrator has acted, unless otherwise agreed by the parties to the arbitration.
- (b) The Emergency Arbitration Procedures are not intended to prevent any party from seeking urgent interim or conservatory measures from a competent judicial authority at any time.
- (c) In all matters not expressly provided for in this Schedule, the Emergency Arbitrator shall act in the spirit of the Rules.

SCHEDULE-3

IIAM ARB-MED-ARB PROCEDURE

(AMA Procedure)

Section 1

Scope

- (a) Under this AMA Procedure, parties agree that any dispute settled in the course of mediation at Indian Institute of Arbitration and Mediation (“IIAM”) shall fall within the scope of their arbitration agreement.
- (b) A party requiring to commence an arbitration under the AMA Procedure or a party invoking an AMA Clause shall file an EA Submission with IIAM requesting the Emergency Arbitrator to submit the case to mediation under the AMA Procedure.

Section 2

Initiation of AMA Procedure

- (a) The Emergency Arbitrator shall be appointed by IIAM in accordance with the provisions of Schedule-2 and/or the parties' arbitration agreement.
- (b) The Emergency Arbitrator shall stay the arbitration and inform IIAM that the case be submitted for mediation. IIAM will initiate mediation pursuant to the IIAM Mediation Rules or as per any other Mediation Rules adopted by the parties. All subsequent steps in the arbitration shall be stayed, subject to Section 3(c), pending the outcome of mediation.

Section 3

AMA Procedure

- (a) The mediation conducted under IIAM shall be completed within 8 weeks from the Mediation Commencement Date, unless, IIAM considers it appropriate to extend the time. For the purposes of calculating any time period in the arbitration proceeding, the time period will stop running at the Mediation Commencement Date and resume upon notification of IIAM to the Tribunal of the termination of the mediation proceeding.
- (b) After the commencement of the AMA Procedure, in the event —
 - (i) The dispute has not been settled by mediation either partially or entirely, IIAM will inform the emergency arbitrator or the final arbitral tribunal, as the case may be, that the arbitration proceedings shall resume, unless otherwise agreed by the parties. Upon the date of IIAM's notification to the arbitral tribunal, the arbitration proceeding in respect of the dispute or remaining part of the dispute (as the case may be) shall resume in accordance with the IIAM Arbitration Rules;
 - (ii) The dispute has been settled by mediation between the parties, IIAM will make a formal note that a settlement has been reached. If the parties request the arbitral tribunal to record their settlement in the form of a consent award, the parties or IIAM shall refer the Mediated Settlement Agreement (MSA) to the arbitral tribunal and the arbitral tribunal may render a consent award on the terms agreed to by the parties.

- (c) Notwithstanding the continuation of the mediation proceedings initiated under Section 2(b), the process of constituting the final arbitral tribunal to replace the Emergency Arbitrator can be initiated by IIAM, if the parties so require, as per the regular procedure provided under Rules 4 and 4A to 4D, except that IIAM may abridge any period of time under the Rules to constitute the final arbitral tribunal as expeditiously as possible in the circumstances.
- (d) The fees of the Emergency Arbitrator and the administrative costs of the AMA Procedure shall be fixed by IIAM in accordance with Section 9 of Schedule-2 and mediation, as per the IIAM Mediation Fee Schedule.

SCHEDULE-4 ONLINE ARBITRATION

Section 1 Scope

- (a) Where any agreement, submission or reference provides for arbitration by IIAM or under IIAM Arbitration Rules, a party can opt to initiate and/or conduct the same through digital platform, using Peacegate Application or such other platforms as agreed by the parties, in the following matters —
 - (i) In the case of Emergency Arbitration or Arbitration under the AMA Procedure, interim or preliminary measures, filings and conducting of sessions; or
 - (ii) In the case of Fast-track arbitration, for commencement of arbitration, appointment of arbitrators and filing of applications. For other processes, the parties can agree with the consent of the arbitral tribunal, at any stage of an arbitration proceedings to opt procedures comprising both online and offline elements; or
 - (iii) In the case of regular arbitration, for commencement of arbitration and filing of applications. For other processes, the parties can agree with the consent of the arbitral tribunal, at any stage of an arbitration proceedings to opt procedures comprising both online and offline elements.
- (b) These Rules shall also apply to online arbitration of present or future disputes where the parties seek amicable settlement of such disputes, under the IIAM ODR clause, where the parties have designated the IIAM Mediation/ Arbitration Rules.

Section 2

Commencement and Process

- (a) The claimant can commence online arbitration by serving the Request for Arbitration/ EA Submission form to the Digital Administrator, providing the details of the claimant so as to confirm his/her identity and also the details of the respondent, which shall include the mobile number and email address.
- (b) In the case of initiating a process under ODR, the claimant can negotiate directly with the respondent through the online platform and if the negotiation fails, can commence the next process of mediation and arbitration online.
- (c) The parties can initiate online process from the beginning of the arbitration process or at any stage of an offline arbitration process and can also opt for processes comprising both online and offline elements.
- (d) The process for appointment of arbitrator and the process of arbitration is subject to the same due process standards that apply to that process in an offline context, as under these Rules.
- (e) When a request is made for online process as under sub-section (c), the arbitral tribunal may, adopt such approaches suitable to the particular circumstances of arbitration, so as conduct the arbitration in an expeditious and cost-effective manner.

Section 3

Virtual Hearing

- (a) In case of regular arbitration, if the parties agree, and/or the arbitral tribunal determines, that convening of a physical arbitration session is not possible or feasible, they can opt for virtual hearing in consultation with IIAM. An agreement to conduct arbitration under the IIAM Rules, it is deemed that the parties' agree to conduct virtual hearing, if so required.
- (b) While fixing virtual hearing, the arbitral tribunal shall consider and discuss with the parties the following —
 - (i) Different time zones, if applicable and the start and finish times, breaks and length of each hearing session.
 - (ii) Logistics of the location of participants, total number of participants, number of remote locations, extent to which any participants will be in the same physical venue, extent to which members of the arbitral tribunal may be in the same physical venue as one another and/or any other participants, availability and control of break out rooms.

- (iii) Procedures for the taking of evidence from witnesses and experts to ensure that the integrity of any oral testimonial evidence is preserved.
- (iv) Procedures for hearing and exchange of documents, ensuring that agreed bundle of documents are shared online to the Digital Administrator well in advance of the hearing date, so that they are shared to the arbitral tribunal and all the parties.

Agreed Bundle of Documents shall mean the indexed documents filed in the proceedings submitted to the arbitral tribunal for the purposes of the hearing.

The filing of pleadings and documents online shall be considered as valid electronic record under the IT Act and such pleadings and records would be accessible to the parties and arbitral tribunal for subsequent reference.

- (v) Use of virtual transcription and the use of stenographers and interpreters that are capable and able to deliver the necessary level of service in a virtual environment.
- (c) Once the above procedures are finalised, the arbitral tribunal shall issue a procedural order, recording the details as under sub-section (b) and consult with IIAM about the scheduling of the virtual hearing.

Section 4

Examination of Witness

- (a) In case of giving evidence by witnesses in an online arbitration session —
 - (i) Only those persons present in the Remote Venue shall be the Witness giving evidence (with his/her counsel, if applicable) and interpreters, if any. Each Party shall provide the identities of every individual in the room to the other Party/Parties and to the arbitral tribunal prior to the video conference and the tribunal shall take steps to verify the identity of each individual present at the start of the video conference.
 - (ii) The Witness shall give his/her evidence sitting at an empty desk and the Witness's face shall be clearly visible.

- (b) The arbitral tribunal may terminate the video conference at any time if the tribunal deems the video conference so unsatisfactory that it is unfair to either Party to continue.
- (c) No recordings of the video conference shall be taken without leave of the arbitral tribunal.

Provided, if allowed, any recordings of the video conference shall be circulated to the arbitral tribunal and the Parties within 24 hours of the end of the video conference.

Section 5

Online Security and Presumptions

- (a) The digital platform used for online arbitration should ensure the following features and safety measures —
 - (i) Allow the parties to opt for textual communications – chat rooms, audio conferencing or video conferencing.
 - (ii) Allow the parties facilities for online waiting rooms and general discussion rooms.
 - (iii) The entry to the rooms is restricted to registered parties only, with list of participants issued to all participating parties and password protected.
- (b) During online arbitration, if a party is not able to get connectivity or if loses connectivity or faces interruptions during the arbitration session, all the parties and the arbitral tribunal shall be notified of the said fact by the Digital Admin and the Sole Arbitrator/ Presiding Arbitrator or the Digital Admin shall notify the disconnected party through digital notification on registered mobile phones or in their registered email address and seek the clarification from such disconnected party.

Provided that if a party, without intimation, gets disconnected from an ongoing arbitration session for fifteen continuous minutes or more, it shall be deemed as a connectivity issue.

- (c) In case of such disruption of connectivity, the arbitration session shall be kept in abeyance till such party reconnects in the platform.

- (d) If a party has not attended the arbitration session as per the sitting schedule on the online platform, it shall not prima-facie be considered as an absence, but shall be presumed as a disruption or interruption in connectivity. The Sole Arbitrator/ Presiding Arbitrator shall contact the non-appeared party through email, notification, telephone or any other recognized medium of communication and clarify the position. In case the party does not respond to such email, within a period of 3 days, it shall be considered as a failure of the party to attend the proceedings as under Article 30.

SCHEDULE-5
INELIGIBILITY TO BE APPOINTED AS ARBITRATOR

Arbitrator's Relationship with the Parties or Counsel

1. The arbitrator is an employee, consultant, advisor or has any other past or present business relationship with the party.
2. The arbitrator currently represents or advises one of the parties or an affiliate of one of the parties.
3. The arbitrator currently represents the lawyer or law firm acting as counsel for one of the parties.
4. The arbitrator is a lawyer in the same law firm which is representing one of the parties.
5. The arbitrator is a manager, director or part of the management, or has similar controlling influence, in an affiliate of one of the parties if the affiliate is directly involved in the matters in dispute in the arbitration.
6. The arbitrator's law firm had a previous but terminated involvement in the case without the arbitrator being involved himself or herself.
7. The arbitrator's law firm currently has a significant commercial relationship with one of the parties or an affiliate of one of the parties.
8. The arbitrator regularly advises the appointing party or an affiliate of the appointing party even though neither the arbitrator nor his or her firm derives a significant financial income therefrom.
9. The arbitrator has a close family relationship with one of the parties and in the case of companies with the persons in the management and controlling the company.

10. A close family member of the arbitrator has a significant financial interest in one of the parties or an affiliate of one of the parties.
11. The arbitrator is a legal representative of an entity that is a party in the arbitration.
12. The arbitrator is a manager, director or part of the management, or has a similar controlling influence in one of the parties.
13. The arbitrator has a significant financial interest in one of the parties or in the outcome of the case.
14. The arbitrator regularly advises the appointing party or an affiliate of the appointing party, and the arbitrator or his or her firm derives a significant financial income therefrom.

Relationship of the Arbitrator to the Dispute

15. The arbitrator has given legal advice or provided an expert opinion on the dispute to a party or an affiliate of one of the parties.
16. The arbitrator has previous involvement in the case.

Arbitrator's Direct or Indirect Interest in the Dispute

17. The arbitrator holds shares, either directly or indirectly, in one of the parties or an affiliate of one of the parties that is privately held.
18. A close family member of the arbitrator has a significant financial interest in the outcome of the dispute.
19. The arbitrator or a close family member of the arbitrator has a close relationship with a third party who may be liable to recourse on the part of the unsuccessful party in the dispute.

Explanation 1 – The term “close family member” refers to a spouse, sibling, child, parent or life partner.

Explanation 2 – The term “affiliate” encompasses all companies in one group of companies including the parent company.

SCHEDULE-6
IBA GUIDELINES ON CONFLICTS OF INTEREST IN INTERNATIONAL
ARBITRATION

Can be downloaded from IIAM website:

http://www.arbitrationindia.com/pdf/iba_guidelines.pdf

SCHEDULE-7
DISCLOSURE STATEMENT BY ARBITRATOR

Can be downloaded from IIAM website:

http://www.arbitrationindia.com/pdf/form_a4.doc

SCHEDULE-8
MODEL ARBITRATION CLAUSES

Future Disputes

Parties to a contract who wish to have any future disputes referred to arbitration under the IIAM Arbitration Rules may insert in the contract a clause in the following form:

Suggested Arbitration Clause

“Any dispute, difference or controversy arising out of or in connection with this contract, including any question regarding its existence, operation, termination, validity or breach thereof shall be referred to and finally resolved by arbitration as per the Arbitration & Conciliation Act, 1996* and shall be conducted by the Indian Institute of Arbitration & Mediation, in accordance with their Arbitration Rules (“IIAM Arbitration Rules”) for the time being in force.”**

Suggested Med-Arb Clause

“Any dispute, difference or controversy arising out of or in connection with this contract shall first be referred to mediation at the Indian Institute of Arbitration & Mediation (IIAM) and in accordance with its then current Mediation Rules and as per the Arbitration & Conciliation Act, 1996*. If the mediation is abandoned by the mediator or is otherwise concluded without the dispute or difference being resolved, then such dispute difference or controversy shall be referred to and determined by arbitration as per the Arbitration & Conciliation Act, 1996* by IIAM in accordance with its Arbitration Rules”.**

Suggested Arb-Med-Arb Clause

“Any dispute, difference or controversy arising out of or in connection with this contract, including any question regarding its existence, operation, termination, validity or breach thereof shall be referred to and finally resolved by arbitration as per the Arbitration & Conciliation Act, 1996* and shall be conducted by the Indian Institute of Arbitration & Mediation, in accordance with their Arbitration Rules (“IIAM Arbitration Rules”) for the time being in force.

It is further agreed that following the commencement of arbitration, the parties will attempt in good faith to resolve such dispute, difference or controversy through mediation, as per the IIAM Arb-Med-Arb Procedure for the time being in force. Any settlement reached in the course of mediation shall be referred to the arbitral tribunal appointed by IIAM and may be made a consent award on agreed terms.”**

* In the case of domestic arbitration in India. For international arbitration, the parties may specify the law applicable as per the seat of arbitration.

** The parties may wish to consider adding —

- “The number of arbitrators shall be (one or three)”;
- “The seat/venue of arbitration shall be (city and/or country)” (seat would denote the jurisdictional place and venue the physical place);
- “The language of the arbitration shall be (language)”;

Existing Disputes:

Parties who wish to arbitrate an existing dispute, where there is no agreement to arbitrate, can enter into an IIAM Arbitration agreement. (Schedule-9)

For more information please contact IIAM Director: dir@arbitrationindia.com

SCHEDULE-9 MODEL ARBITRATION AGREEMENT

Can be downloaded from IIAM website:
http://www.arbitrationindia.com/pdf/form_oa1.pdf

SCHEDULE-10 IIAM ARBITRATION FEE SCHEDULE

Can be downloaded from IIAM website:
http://www.arbitrationindia.com/pdf/arbitration_fee.pdf

SCHEDULE-11 IIAM ARBITRATION FORMS

Can be downloaded from IIAM website:
<http://www.arbitrationindia.com/downloads.html>

PART-IV

GUIDE TO IIAM ARBITRATION RULES

1. What is the importance of IIAM Arbitration Rules?

The IIAM Arbitration Rules are a set of procedural rules covering all aspects of the institutional arbitration process, which the parties may agree to in part or in whole in order to help resolve their domestic or international disputes. The IIAM Arbitration Rules adopts the UNCITRAL Arbitration Rules 2010, which enables the IIAM Rules to administer arbitration at accepted global standards.

IIAM provides administrative assistance to the arbitral tribunal and parties by making available facilities, through the appointment of arbitrators, by getting involved in resolving procedural issues, acting as the registry and by providing a reasonable fixed schedule of fees, thereby ensuring smooth progress of the arbitral process in an efficient and time bound manner. IIAM Rules also provide for methods for expedited and innovative procedures like, Emergency Arbitrator, Arb-Med-Arb Procedure, fast-track procedure, Consolidation of proceedings and Concurrent hearings, Scrutiny of award etc., which would ensure fast, economic and efficient disputes resolution process. IIAM's roles and functions are identified in Part-I of the Rules. The IIAM Arbitration Rules incorporates the UNCITRAL Arbitration Rules which are comprehensive, time-tested and internationally accepted.

The details of institutions globally which has adopted UNCITRAL Arbitration Rules 2010 is available at the UNCITRAL Website (http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/2010Arbitration_rules_status.html)

For updated information of the Status of UNCITRAL conventions and model laws, see the Secretariat Note dated 17 May 2016 published by the UNCITRAL (At page 26) (http://www.arbitrationindia.com/pdf/uncitral_status.pdf)

2. Where can I find the model arbitration clause under the IIAM Arbitration Rules?

Parties who wish to have arbitration under the IIAM Arbitration Rules may incorporate the IIAM model clause in their agreement. The model clause can be found under Schedule-8 of the Rules or in the official IIAM website.

3. What do I do if I do not have a model arbitration clause in my agreement?

If both parties are agreeable that the dispute can be resolved according to the IIAM Arbitration Rules, but there is no arbitration clause in their original agreement; then they may enter into an arbitration agreement in the form as specified in Schedule-9 of the Rules.

4. Why do the Rules have Part I and Part II? Which part is applicable to the arbitration?

The IIAM Arbitration Rules has two Parts. Part-I consist of two sections, Section-1 deals with Domestic Arbitration and Section-2 deals with International Arbitration. Part-II specifies the UNCITRAL Rules. Modifications to the UNCITRAL Rules however appear under Part I of the Rules. Thus, for IIAM Institutional Arbitration, Part II of the Rules shall be read subject to Part I of the Rules.

5. What type of disputes can be resolved by arbitration under the IIAM Arbitration Rules?

Any civil, commercial, contractual or business disputes can generally be resolved through arbitration. As per general practice, matters involving moral questions or questions of public law cannot be resolved by arbitration. For instance, the following matters cannot be referred to arbitration:

- Matrimonial matters, like divorce or maintenance;
- Insolvency matters, like declaring a person as an insolvent;
- Criminal offences;
- Dissolution or winding up of a company.

6. How do I begin a matter under the IIAM Arbitration Rules?

It is very simple. A party initiating a domestic dispute shall be required to submit the Request for Arbitration (Form A1), available in Schedule-11, to IIAM together with a copy of the Notice of Arbitration served on the Respondent in the manner required under Rule 2 of Part-I, along with the Registration fees.

IIAM is the APCAM Centre for India and international arbitration are conducted as per the APCAM Arbitration Rules. This is done as per Rule 1(h). APCAM Arbitration Rules can be seen at <https://apcam.asia/arbitration-rules>.

7. How much will it cost to arbitrate under the IIAM Arbitration Rules?

IIAM Arbitration is very cost-effective, especially considering the time-bound manner in which the dispute is resolved and the effective administrative services offered for ensuring smooth the progression of the proceedings. The costs and expenses of arbitration will be governed by the IIAM Arbitration Fee Schedule. The current fee schedule of IIAM, mentioned in Schedule-10, shall be notified by IIAM from time to time or published in its official web site. Appendix-1, provide the fee schedule for domestic arbitration (for Claims more than Rs. 5 lakhs), Appendix-2 for small cause domestic arbitration (for Claims less than Rs. 5 lakhs), Appendix-3 for international arbitration, and Appendix-4 for miscellaneous charges.

For international Arbitration refer the APCAM Arbitration Fee Schedule, available at <https://apcam.asia/arbitration-rules/#schedule7>

8. How are arbitrators appointed under the IIAM Arbitration Rules?

The arbitrator appointment under the IIAM Rules, assure that the arbitral tribunal is formed at the earliest, and confirms that the arbitral tribunal is neutral and efficient on international standards. In an unlikely case of any doubts, the parties are able to challenge the arbitrator and effective provisions are made in the Rules to address such challenge.

9. Are arbitration proceedings confidential in nature?

Yes. Arbitration under the IIAM Arbitration Rules is private and confidential. As per Rule 23, the arbitral tribunal, the parties and the IIAM shall keep confidential all matters relating to the arbitral proceedings. Article 28 of the IIAM Arbitration Rules specifies that hearings shall be held in camera unless the parties agree otherwise.

10. Are parties restricted to appointing arbitrators from IIAM Panel of Arbitrators when arbitrating under the IIAM Arbitration Rules?

No. There are no restrictions imposed and parties are free to appoint arbitrators of their choice. The parties and the arbitral tribunal can also agree upon a different arbitrator fee other than under the IIAM Fee Schedule as under Rule 21(c).

11. What is Expedited Arbitration and how does a party opt for it?

Expedited arbitration is a streamlined and simplified procedure with a shortened time frame, which makes it possible for the parties to reach a final resolution of the dispute in a cost and time effective manner. Expedited arbitration will be by default online and document only process. For expedited arbitration by IIAM, there should be an expedited arbitration clause in the contract.

12. How does a party apply for an Emergency Arbitrator?

The provision for the appointment of emergency arbitrators is found under Schedule-2. Rule 10 and Schedule-2 allows the party in need of emergency interim relief to make such application along with EA Submission (Form A3) and the said application can be made concurrently with or after the filing of the Request for Arbitration, but not after the constitution of the arbitral tribunal.

13. What are the powers of the Emergency Arbitrator?

The emergency arbitrator shall act to determine all applications for emergency interim relief until the constitution of the proper arbitral tribunal. Emergency interim relief order or award granted by an emergency arbitrator shall have a binding effect on the parties (Refer Schedule-2).

14. How can a party invoke AMA Procedure?

The AMA or the Arb-Med-Arb Procedure under the IIAM Rules, is an effective way by which the party can invoke arbitration and simultaneously try to resolve the dispute through mediation and if successful, make the outcome as an arbitral award or in case of failure of mediation, continue with arbitration. The Party can initiate AMA Procedure by filing the EA Submission (Form A3) along with an application for the said purpose. The AMA procedure helps to save time and also helps to make mediation settlement binding, especially in international disputes, as the mediation settlement would become enforceable under the New York Convention.

15. How long does the entire proceedings take?

A regular arbitration under the IIAM Rules would be completed within 9 months from the date of appointment of the arbitral tribunal. The award would be rendered within 45 days. Under the fast-track procedure, the entire arbitration gets over within 6 months.

16. What is the advantage of scrutiny of award?

This is a unique feature of the IIAM Arbitration Rules, which affords an opportunity for the parties to get a second opinion about the legality of the process so as to make sure that the award does not suffer any irregularity making it vulnerable to a challenge. This is especially useful, when the arbitral tribunal consists of technical arbitrators, who may not be experts in the field of law. This is not an appeal provision and the Scrutiny Board will not have any authority to interfere with the arbitral tribunal's decision-making liberty.

The Rules applicable for arbitration shall be IIAM Arbitration Rules made effective as on the date of commencement of arbitration



Access latest IIAM Arbitration Rules at:
www.arbitrationindia.com/pdf/rules_arbitration.pdf

Arbitration Rules of the
Indian Institute of Arbitration & Mediation

For more details:

Email: info@arbitrationindia.com

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