

ARBITRATION SUBMISSION FORM

FORM NO KAC 301

DETAILS OF PARTIES:

Name of the Submitting Party/ies:

Address:

Telephone/Mobile/Email:

Name of the Opposite Party/ies:

Address:

Telephone/Mobile/Email:

DETAILS OF DISPUTE:

Nature of Dispute

Contractual

Non -
Contractual

Domestic

International

Date of agreement (In case of contractual dispute):

Whether agreement provides Arbitration clause (In case of contractual dispute)

Yes

No

*Attach copy of Agreement

KAC
Arbitration
Clause

If no, whether the parties have entered into an agreement to arbitrate their dispute

Yes

No

*Attach copy of Agreement

Whether KAC is the Institution designated by the parties, as per the agreement:

Yes

No

Date, when the arbitration clause was invoked:

*Attach copy of Notice

Approximate Quantum of Claim/Dispute:

Type of Arbitration selected:

Regular

Fast Track

Brief Synopsis of Dispute:

In case of Sole Arbitrator, whether parties

Yes

No

have agreed on the Arbitrator:

If yes, Name & Address of the Arbitrator:

In case of multi-arbitrators, whether parties have appointed their respective Arbitrators:

Yes

No

If yes, Name & Address of the Arbitrators:

In case the Dispute Resolution Clause provides for mediation or any amicable dispute resolution process, has the same been exhausted:

Yes

No

If no, reason for not exhausting the same:

If yes, details of the same:

Have any of the parties moved the Court for

Yes

No

Interim Protection :

If yes, details of the same:

Has the Party moved for Emergent Arbitration?:

Yes

No

Is the Party opting for Arbitration – Mediation – Arbitration Process:

Yes

No

Furnish additional information that is deemed relevant:

Date:

Name & Signature:

Submit Form with the appropriate registration/filing fee as provided in the KAC Arbitration Fee Schedule

Use additional sheets if space provided is insufficient

KACARBITRATIONRULES

PART-I

1. The KAC Arbitration Rules (hereinafter referred to as “Rules”) shall be the UNCITRAL Arbitration Rules modified in accordance with the rules set out below.
2. Rules are contained in Part – I & Articles are contained in Part – II.
3. All communication made to KAC shall be addressed to the Administrator of KAC.
4. Definitions of specific terms used under the Rules may be referred to in Schedule-3.
5. The costs and expenses of arbitration will be governed by the KAC Arbitration Fee Schedule under the KAC Arbitration Rules, referred in Schedule-9.

Rule 1

General

1. Where parties have agreed in writing to arbitrate their disputes by the KCCI Alternative Dispute Resolution Centre (hereinafter referred to as “KAC”) or under the Arbitration Rules of the Kanara Chamber of Commerce & Industry Alternative Dispute Resolution Centre (hereinafter referred to as “KAC Arbitration Rules”), then:
 - a. It is deemed that the parties have made these Rules 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;
 - b. The arbitration shall be conducted and administered by the KAC in accordance with the Rules; and
 - c. The parties are deemed to have authorised KAC to determine any or all issues, which the parties are free to determine as per the Arbitration & Conciliation Act, 1996 and as per the UNCITRAL Arbitration Rules.
2. The Rules applicable to the arbitration shall be those in force at the time of commencement of the arbitration unless the parties have agreed otherwise.
3. These Rules shall govern the arbitration except that where any of these Rules are in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

4. Nothing in these Rules shall prevent the parties to a dispute or arbitration agreement from naming KAC as appointing authority, or from requesting certain administrative services from KAC, without subjecting the arbitration to these Rules.

Rule 2

Commencement of Arbitration

1. The party or parties initiating recourse to arbitration under the Rules shall be required to submit an Arbitration Submission Form (Form No. 301) to KAC and shall be accompanied by the following:

a. A copy of the Arbitration Agreement and Notice of Arbitration served on the Opposite Party/Respondent;

b. Documents/Confirmation to KAC that the Notice of Arbitration has been or is being served on all other parties to the arbitration by such means of service to be identified in such confirmation; and

c. The appropriate registration / filing fee as provided in the KAC Arbitration Fee Schedule.

2. The date of receipt by KAC of the Arbitration Submission Form, complete with all the accompanying documentation and the appropriate filing fee shall be treated as the date on which the institutional arbitration has commenced for all purposes under the Rules (“Commencement of Institutional Arbitration Process”).

3. 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”).

4. The date of receipt of Notice of Arbitration by the Opposite Party/Respondent shall be deemed to be the commencement of arbitration (“Commencement of Arbitration”).

Rule 3

Notifications; Time Limits

1. 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), which shall be duly signed in all pages, plus certified true copies sufficient for serving to all other parties and one for KAC. If the party has served the certified copy to the other parties, then the party shall file such documents/confirmation to KAC that the copies have been served on all other parties to the arbitration by such means of service to be identified in such confirmation.

2. A copy of any communication to or from the Arbitral Tribunal by or to the parties shall be sent to KAC.

3. If the circumstances of the case so justify and for sufficient reasons, KAC may amend the time limits provided for in these Rules, as well as any time limits that it has set. KAC shall not amend any time limits set by the Arbitral Tribunal unless it directs otherwise.

4. 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.

Rule 4

NumberofArbitrators

1. Where the parties have agreed to the Rules, KAC shall be the Appointing Authority.

2. Parties are free to determine the number of arbitrators' subject to the law governing the arbitration.

3. In general, the dispute under these Rules shall be decided by a sole arbitrator unless, otherwise agreed by the parties.

4. A dispute shall be decided by three arbitrators if the parties have agreed to do so or KAC, 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.

5. Notwithstanding Rule 4(4), if no other parties have responded to a party's proposal to appoint an arbitrator in accordance with Rule 4B or 4C, KAC may, at the request of a party, appoint a sole arbitrator pursuant to the procedure provided for in Rule 4A(2), if it determines that, in view of the circumstances of the case, that would be more appropriate.

AppointmentofArbitrators(Rules4A-D)Rule4A

1. If the parties have agreed that a sole arbitrator is to be appointed and if within 21 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 KAC.

2. KAC shall appoint the sole arbitrator as promptly as possible and at any rate within a period of 21 days. In making the appointment, KAC shall use the following list-procedure, unless the parties agree that the list-procedure should not be used or unless KAC determines in its discretion that the use of the list- procedure is not appropriate for the case:

- a. KAC shall communicate to each of the parties an identical list containing at least three names;
- b. Within 7 days after the receipt of this list, each party may return the list to KAC after having deleted the name or names to which it objects and number the remaining names on the list in the order of its preference;
- c. After the expiration of the above period of time KAC 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, KAC may exercise its discretion in appointing the sole arbitrator.

Rule 4B

1. If three arbitrators are to be appointed, each party shall appoint, in the Notice of Arbitration and the Response to the Notice of Arbitration, respectively, one arbitrator.
2. If within 21 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 KAC to appoint the second arbitrator and KAC shall appoint the second arbitrator by exercising its discretion, within 7 days.
3. After appointment of the two arbitrators, the presiding arbitrator shall be appointed by KAC in consultation with the two arbitrators, and if no consensus is reached within 7 days, the presiding arbitrator shall be appointed in the same way as a sole arbitrator would be appointed under Rule 4A.

Rule 4C

1. For the purposes of Rule 4B(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 one arbitrator each.
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 as agreed by the parties, KAC 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.

Rule 4D

1. When an arbitrator is appointed by the party or by KAC, KAC shall obtain a Disclosure Statement as per Schedule-6, so as to verify and confirm that the Arbitrator is not ineligible to be appointed as an arbitrator in the said dispute under Schedule-4, in the case of domestic arbitration and under Schedule-5, in the case of international arbitration and that the arbitrator can devote the time necessary to conduct the arbitration diligently, efficiently and in accordance with the time limits in the Rules.

2. In case, KAC finds that there is an ineligibility for the arbitrator as per the Disclosure Statement given under Rule 4D(1), KAC shall appoint another arbitrator, as per the Rules that were applicable to the appointment of the arbitrator being replaced.

Rule 5

Challenge to the Arbitrators

1. The challenge to the arbitrators under this Rule shall be pursuant to Articles 11 to 13 except Article 13(4) which is replaced by Rule 5(2).

2. 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 KAC.

3. Upon such withdrawal or sustainment of the challenge, the substitute arbitrator shall be appointed in accordance with the procedure provided in Rule 4 or Rules 4A-4D, as the case may be.

4. KAC 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

1. The parties may agree on the seat of arbitration. Failing such agreement, for domestic arbitration, the seat of arbitration shall be Mangaluru, the Republic of 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.

2. The venue of arbitration may be fixed by KAC, as it considers appropriate for deliberations and hearings. The arbitration shall nonetheless be considered for all purposes as an arbitration conducted at the seat.

Rule 7

Case Management Procedure

1. After the constitution of the arbitral tribunal, KAC shall notify the arbitral tribunal about its constitution.

2. A meeting would be convened by KAC or the arbitral tribunal to discuss procedural matters.

3. A true copy of the Disclosure statement of the arbitrator(s) shall be given to the Parties.

4. The Case Management Procedure will be finalised, in consultation with the parties. The normal timeframe would be as follows:

a. For filing Claim statement by the claimant: 21 days

b. For filing Statement of defence and counter claim, if any by the respondent: 21 days

c. For filing Reply and statement of defence, if any by the claimant: 15 days

d. For filing Rejoinder, if any by the respondent: 15 days

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

5. All filings shall be made at KAC as per Rule 3(1) and Articles 17, 20, 21 and

6. 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, KAC or the arbitral tribunal may again convene the Case Management procedure.

Rule 8

Interim Relief

The arbitral tribunal may, at the request of a party, grant interim measures pursuant to Article 26.

Rule 9

Interim Arbitral Tribunal ("Emergency Arbitrator") and Arbitration-Mediation-Arbitration Procedure ("Arb-Med-Arb Procedure or AMAP Procedure")

1. A party in need of emergency interim relief may appoint an Emergency Arbitrator pursuant to the procedures set forth in Schedule-1. The Application under Schedule-1 may,

in addition to emergency interim relief, include a request to submit the case to mediation according to the AMA Procedure under Schedule- 2.

2. Where a party invokes the AMA Procedure under Schedule-2 of the Rules, an Emergency Arbitrator shall be appointed to commence with the procedure so provided under said Schedule.

3. The AMA Procedure shall also apply to all disputes submitted to KAC for resolution under KAC “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-2.

Rule 10

Expedited Fast-track Procedure

1. Prior to the full constitution of the arbitral tribunal, a party may apply to KAC in writing for the arbitral proceedings to be conducted in accordance with the Expedited Fast-track Procedure under this Rule, where any of the following criteria is satisfied:

- a. 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
- b. The parties so agree.

2. When a party has applied to KAC under Rule 10(1), and when KAC determines, after considering the views of the parties, that the arbitral proceedings shall be conducted in accordance with the Expedited Fast-track Procedures, the following procedures shall apply:

- a. KAC may abridge any time limits under these Rules;
- b. The case shall be referred to a sole arbitrator, unless KAC determines otherwise;
- c. Unless the parties agree that the dispute shall be decided on the basis of documentary evidence only, the arbitral tribunal shall hold a hearing for the examination of all witnesses as well as for any argument;
- d. KAC shall determine the time for making the award, considering the case at hand but, not exceeding 6 months, unless, in exceptional circumstances, KAC extends the time for a period not exceeding a further period of 3 months; and
- e. 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 11

Consolidation of Proceedings and Concurrent Hearings

1. The parties may agree –
 - a. That the arbitration proceedings shall be consolidated with other arbitration proceedings;
or
 - b. That concurrent hearings shall be held, on such terms as may be agreed; or
 - c. That claims arising out of or in connection with more than one contract be made in a single arbitration, irrespective of whether such claims are made under one or more than one arbitration agreement under the Rules.
2. Unless the parties agree to confer such power on the arbitral tribunal, the tribunal has no power to order consolidation of arbitration proceedings or concurrent hearings.

Rule 12

Facilities

KAC 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.

Rule 13

Arbitration Procedure

1. 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.
2. 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, KAC extends the time for a period not exceeding a further period of 3 months.

Rule 14

Awards

1. 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 KAC of such date.
2. Such time limit may be extended by the arbitral tribunal with the consent of the parties and upon consultation with KAC, in exceptional circumstances, but not exceeding a further period of 45 days.

3. The arbitral tribunal shall deliver sufficient copies of the completed award to KAC. The award shall only be released to the parties upon full settlement of the costs of arbitration.

4. KAC 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.

5. 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 KAC 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.

6. 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.

7. Unless the parties have agreed otherwise, the arbitral tribunal may:

a. 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

b. Determine the rate of interest.

Rule 15

Interpretation, Correction or Additional Award

1. 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 15(2).

2. The arbitral tribunal shall make the interpretation or correction, if so justified, within a period of 30 days after the receipt of such request.

Rule 16

Scrutiny of the Award

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

2. The draft award would be submitted 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.

3. The Scrutiny Board shall return the award with comments within 15 days from the date of submission to KAC and KAC shall immediately forward the same to the arbitral tribunal.

Rule 17

Costs

1. 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 17(2).

2. The arbitral tribunal shall include towards costs, any fees and expenses of the appointing authority, if applicable; and the administrative charges as per the KAC Arbitration Fee Schedule.

3. 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 18

FeeandDeposits

1. In lieu of the provisions of Article 41 and 43, the following provisions shall apply.

2. Subsequent to the commencement of institutional arbitration process, KAC 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 17.

3. The fees of the arbitral tribunal shall be fixed by KAC in accordance with the KAC Arbitration Fee Schedule, unless otherwise agreed by the parties and the arbitral tribunal and intimated to KAC within a period of 15 days from the date of reference.

4. The administrative costs of the arbitration shall be fixed by KAC in accordance with the KAC Arbitration Fee Schedule.

5. The term “costs” as specified in Rule 17 shall include the expenses reasonably incurred by KAC in connection with the arbitration, the administrative costs, as well as the costs of the facilities made available by KAC under Rule 12.

6. KAC may direct each party to deposit an equal amount as an advance of the costs referred to in Rule 17, as per the payment schedule mentioned in the KAC Arbitration Fee Schedule.

7. During the course of the arbitration proceedings, KAC may request supplementary deposits from the parties.

8. In the event that orders under Rules 18(2), 18(6) or 18(7) 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 19

Mediation to Arbitration

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

Rule 20

Confidentiality

1. The arbitral tribunal, the parties, all experts, all witnesses and Administrator and staff of KAC 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.

2. Under Rule 20(1), “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 21

Exclusion of Liability and Waiver

1. Neither KAC nor the arbitral tribunal shall be liable to any party for any act or omission related to the conduct of the arbitral proceedings.
2. 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.
3. 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 22

General Provisions

1. Under these Rules a decision to be taken by KAC, shall be taken by the Administrator. The Administrator may, if required delegate such of its duties and functions to a Registrar and the Registrar may decide such issues so specifically authorized by the Administrator.
2. KAC 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 KAC relating to the arbitration.
3. The Fee structure under the Rules shall be fee published by KAC in the KAC Arbitration Fee Schedule as on the date of submission of arbitration. The current fee schedule of KAC, mentioned in Schedule-9, shall be notified by KAC from time to time or published in its official web site.
4. 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.
5. 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 KAC and any other institution, the rules, including the fee schedule may be decided by KAC jointly with the other institution.

6. KAC shall have the power and authority to effectuate the purposes of these Rules, including establishing appropriate rules and procedures governing arbitrations and altering, amending or modifying these Rules in accord with the law.

7. In the event a court of competent jurisdiction shall find 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.

PART-II

SECTION 1 - GENERAL

Article 1

ScopeofApplication

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. 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.

Article 2

NoticeandCalculationofPeriodsofTime

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.

Article 3

Notice of Arbitration

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.

Article 4

Response to the Notice of Arbitration

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.

Article 5

Representation and Assistance

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.

Article 6

Designating and Appointing Authorities

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 2 - COMPOSITION OF THE ARBITRAL TRIBUNAL

Article 7

Number of Arbitrators

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.

Article 8

Appointment of Arbitrators (Articles 8 to 10)

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.

Article 11

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

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.
3. When an arbitrator has been challenged by a party, all parties may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his or her office. In neither case does this imply acceptance of the validity of the grounds for the challenge.
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.

Article 14

Replacement of an Arbitrator

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.

Article 15

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

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.

Article 16

Exclusion of Liability

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 3 - ARBITRAL PROCEEDINGS

Article 17

General Provisions

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.

Article 18

Place of Arbitration

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.

Article 19

Language

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.

Article 20

Statement of Claim

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.

Article 21

Statement of Defence

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.

Article 22

AmendmentstotheClaimorDefence

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.

Article 23

PleasastotheJurisdictionoftheArbitralTribunal

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.

Article 24

FurtherWrittenStatements

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.

Article 25

PeriodsofTime

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.

Article 26

InterimMeasures

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.

Article 27

Evidence

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.

Article 28

Hearings

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).

Article 29

Experts appointed by the Arbitral Tribunal

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.

Article 30

Default

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.

Article 31

Closure of Hearings

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.

Article 32

Waiver of Right to Object

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 4 - THE AWARD

Article 33

Decisions

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.

Article 34

Form and Effect of the Award

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.

Article 35

Applicable Law, Amiable Compositeur

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.

Article 36

Settlement or Other Grounds for Termination

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.

Article 37

Interpretation of the Award

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.

Article 38

Correction of the Award

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.

Article 39

Additional Award

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.

Article 40

Definition of Costs

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 Articles 37 to 39, the arbitral tribunal may charge the costs referred to in paragraphs 2 (b) to (f), but no additional fees.

Article 41

Fees and Expenses of Arbitrators

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.

Article 42

Allocation of Costs

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.

Article 43

Deposit of Costs

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.

ANNEXURE

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

EMERGENCY ARBITRATION (EA) SUBMISSION FORM

(For Appointment of Emergency Arbitrator)

FORM NO KAC 302

Emergency Arbitrator required for

Interim
measures of
Protection

Arb-Med-
Arb (AMA)
Procedure

DETAILS OF PARTIES:

Name of the Applicant:

Address:

Telephone/Mobile/Email:

Name of the Opposite Party/ies:

Address:

Telephone/Mobile/Email:

1. A separate application for appointment of Emergency Arbitrator for the above purpose, detailing the circumstances giving rise to the application and reliefs sought, with the details of the underlying disputes referred to arbitration, along with a copy of the arbitration agreement is attached.
2. Sufficient number of application, to provide one copy for the arbitrator, plus certified true copies sufficient for serving to all other parties and one for KAC is filed
3. Appropriate registration / filing fee as provided in the KAC Arbitration Fee Schedule has been paid.

Date:

Name & Signature:

Use additional sheets if space provided is insufficient

Section 1

Emergency Arbitration

1. In the case of exceptional urgency, any party requiring an emergency interim relief may, concurrent with or following the filing of Arbitration Submission Form (Form No. KAC 301) but prior to the constitution of the final arbitral tribunal, submit the Emergency Arbitration Submission Form (Form No. KAC 302), to the Kanara Chamber of Commerce & Industry Alternative Dispute Resolution Centre (KAC) for an expedited appointment of an interim arbitral tribunal of an Emergency Arbitrator to conduct emergency proceedings.

2. 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

Application for Emergency Arbitration

1. The Application for Emergency Arbitration shall include the following information:

a. 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;

b. A description of circumstances giving rise to the application and of the underlying disputes referred to arbitration;

c. A statement of the emergency relief sought;

d. The reasons why the Applicant is entitled to such emergency relief;

e. Any relevant agreement(s) and, in particular, the arbitration agreement(s)

f. Comments on the language, the seat of the emergency relief proceedings, and the applicable law;

g. Confirmation of payment of the amount referred to in the KAC Arbitration Fee Schedule;

h. 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.

2. 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.

3. The Application may, in addition to request for emergency interim relief, include a request to invoke the AMA Procedure under Schedule-2.

4. The Application shall be filed in sufficient numbers to provide one copy for the arbitrator, plus certified true copies sufficient for serving to all other parties and one for KAC. If the

party has served the certified copy to the other parties, then the party shall file such documents/confirmation to KAC that the copies have been served on all other parties to the arbitration by such means of service to be identified in such confirmation.

Section 3

Appointment of Emergency Arbitrator

1. If KAC determines that it should accept the Application, KAC shall seek to appoint an Emergency Arbitrator within 3 days after the receipt of a duly filed Application along with the EA Submission Form.
2. Once the Emergency Arbitrator has been appointed, KAC shall so 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 party to the Applicant and KAC. A copy of any written communication from the Emergency Arbitrator to the parties shall also be copied to KAC.
3. For the purpose of challenging an Emergency Arbitrator, Rule 5 shall apply to the Emergency Arbitrator, 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.
4. If an Emergency Arbitrator withdraws or a party agrees to terminate an Emergency Arbitrator's appointment under Section 3(3), no acceptance of the validity of any ground referred to in Article 12 shall be implied.

Section 4

Replacement of Emergency Arbitrator

1. Where an Emergency Arbitrator is unable to perform or has been successfully challenged or otherwise removed or has resigned, KAC shall seek to appoint a substitute Emergency Arbitrator within 3 days.
2. If the Emergency Arbitrator is replaced, the emergency relief proceedings shall resume at the stage where the Emergency Arbitrator was replaced or ceased to perform his or her functions, unless the substitute Emergency Arbitrator decides otherwise.

Section 5

Seat and Venue of Emergency Relief

1. If the parties have agreed on the seat of the arbitration, such seat shall be the seat of the emergency relief 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 6, the seat of the emergency relief shall be Mangaluru, the Republic of India.

2. The venue of emergency relief proceedings may be fixed by KAC, as it considers appropriate. The emergency relief proceedings shall nonetheless be considered for all purposes as an arbitration conducted at the seat.

Section 6

Procedure for Emergency Relief

1. 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.

2. In document-only proceedings, the application, objection and interim relief can be made by online proceedings or by emails. In such situation, the online procedure will be treated as the venue under Section 5(2).

3. 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.

4. 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-2. 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

1. Any decision, order or award, of the Emergency Arbitrator on the Application (the Emergency Decision) shall be made within 10 days from the date on which KAC 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 KAC.

2. Any Emergency Decision shall:

a. Be made in writing;

b. 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 8 and whether the Emergency Arbitrator has jurisdiction to grant the emergency relief); and

c. Be signed by the Emergency Arbitrator.

3. Any Emergency Decision shall have the same effect as an interim measure granted pursuant to Rule 8 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.

4. The Emergency Arbitrator shall be entitled to order the provision of appropriate security by the party seeking Emergency Relief.

5. 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").

6. Any Emergency Decision ceases to be binding:

a. If the Emergency Arbitrator (i.e. the interim arbitral tribunal) or the final arbitral tribunal so decides; or

b. Upon the final arbitral tribunal rendering a final award unless the arbitral expressly decides otherwise; or

c. Upon the withdrawal of all claims or the termination of the arbitration before the rendering of a final award.

Section 8

Costs

1. 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 17.

2. The costs of the emergency relief proceedings include KAC'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

1. The fees of the Emergency Arbitrator and the administrative costs of the Emergency Relief Proceedings shall be fixed by KAC in accordance with the KAC Arbitration Fee Schedule.

2. KAC shall fix a provisional advance deposit as per the KAC Arbitration Fee Schedule.

Section 10

Termination of Emergency Arbitrator and Reconstitution of Arbitral Tribunal

1. The mandate of the Emergency Arbitrator shall not terminate till it undergoes reconstitution into the final arbitral tribunal.

2. 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.

3. The process of constituting the final arbitral tribunal shall run parallel to emergency proceedings, initiated under Schedule-1, according to the regular procedure provided under Rules 4 and 4A to 4D except that KAC may abridge any period of time under the Rules to constitute the final arbitral tribunal as expeditiously as possible in the circumstances.

4. 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

1. 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.

2. The Emergency Arbitrator Procedures are not intended to prevent any party from seeking urgent interim or conservatory measures from a competent judicial authority at any time.

3. In all matters not expressly provided for in this Schedule, the Emergency Arbitrator shall act in the spirit of the Rules.

SCHEDULE-2

KAC ARB-MED-ARB PROCEDURE (AMA Procedure)

1. Under this AMA Procedure, parties agree that any dispute settled in the course of mediation at Kanara Chamber of Commerce & Industry Alternative Dispute Resolution Centre (KAC) shall fall within the scope of their arbitration agreement.

2. A party requiring to commence an arbitration under the AMA Procedure or a party invoking an AMA Clause shall file an EA Submission Form (Form No KAC 302) with KAC requesting the Emergency Arbitrator to submit the case to mediation under the AMA Procedure.
3. The Emergency Arbitrator shall be appointed by KAC in accordance with the provisions of Schedule-1 and/or the parties' arbitration agreement.
4. The Emergency Arbitrator shall stay the arbitration and inform KAC that the case be submitted for mediation. KAC will initiate mediation pursuant to the KAC Mediation Rules or as per any other Mediation Rules adopted by the parties. All subsequent steps in the arbitration shall be stayed, subject to clause 6, pending the outcome of mediation.
5. The mediation conducted under KAC shall be completed within 8 weeks from the Mediation Commencement Date, unless, KAC 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 KAC to the Tribunal of the termination of the mediation proceeding.
6. After the commencement of the AMA Procedure, in the event:
 - a. The dispute has not been settled by mediation either partially or entirely, KAC 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 KAC'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 KAC Arbitration Rules;
 - b. The dispute has been settled by mediation between the parties, KAC 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 KAC shall refer the settlement agreement to the arbitral tribunal and the arbitral tribunal may render a consent award on the terms agreed to by the parties.
7. Notwithstanding the continuation of the mediation proceedings initiated under clause 4, the process of constituting the final arbitral tribunal to replace the Emergency Arbitrator can be initiated by KAC, if the parties so require, as per the regular procedure provided under Rules 4 and 4A to 4D, except that KAC may abridge any period of time under the

Rules to constitute the final arbitral tribunal as expeditiously as possible in the circumstances.

8. The fees of the Emergency Arbitrator and the administrative costs of the AMA Procedure shall be fixed by KAC in accordance with Section 9 of Schedule-1 and mediation, as per the KAC Mediation Fee Schedule.

SCHEDULE-3

DEFINITIONS

1. "Arbitral Tribunal" includes one or more arbitrators.
2. "Award" includes, inter alia, an interim, partial or final Award.
3. "Claimant" includes one or more claimants and "Respondent" includes one or more respondents.
4. "Emergency Arbitrator" means an interim arbitral tribunal appointed under Schedule-1 or Schedule-2.
5. "KAC Arbitration Fee schedule" means the fee schedule of KAC applicable as on the date of submission of arbitration under these Rules.
6. "KAC " means KCCI ADR Centre.

SCHEDULE-4

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 Director 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-5

IBA GUIDELINES ON CONFLICTS OF INTEREST IN INTERNATIONAL ARBITRATION

(The guidelines can be downloaded from the IIAM website:

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

SCHEDULE-6

ARBITRATOR DISCLOSURE STATEMENT FORM

1. Name:
2. Contact details:
3. Prior experience (including experience with arbitrations):
4. Number of ongoing arbitrations:
5. Circumstances disclosing any past or present relationship with or interest in any of the parties or in relation to the subject matter in dispute, whether financial, business, professional, or other kind, which is likely to give justifiable doubts as to your independence or impartiality (list out):
6. Circumstances which are likely to affect your ability to devote sufficient time to the arbitration and in particular your ability to finish the entire arbitration within nine (9) months and render an award within forty-five (45) days (list out):

Dated:

Name:

SCHEDULE-7

MODEL ARBITRATION CLAUSES

To avail the services of the KCCI ADR Centre (KAC in short), it is suggested that Members of KCCI & the general public incorporate the following clauses in the agreements that they enter into.

Suggested Arbitration Clause

“Any claim, dispute or difference relating to or arising out of this Agreement, including any question regarding its existence, operation, termination, validity or breach thereof, shall be referred to the arbitration, of a sole arbitrator*. The arbitration shall be subject to the Arbitration and Conciliation Act, 1996 as may be amended from time to time. The KCCI ADR Centre, will appoint the Sole Arbitrator* and will conduct the Arbitration in accordance with its rules for conduct of Arbitration proceedings then in force and applicable to the proceeding. The seat and venue of arbitration shall be Mangaluru**. The proceedings shall be undertaken in English. The arbitration award shall be final and binding on the parties.”

* The number of arbitrators shall be one or three.

** The seat & venue of arbitration shall be the city/town where the Arbitration would take place. (seat would denote the jurisdictional place and venue the physical place)

Suggested Mediation & Arbitration Clause

“Any dispute, difference or controversy arising out of or in connection with this Agreement shall first be referred to mediation at the KCCI ADR Centre in accordance with its then current Mediation Rules. 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, including any question regarding its existence, operation, termination, validity or breach thereof, shall be referred to and determined by arbitration as per the Arbitration & Conciliation Act, 1996 by KCCI ADR in accordance with its Arbitration Rules”.

Suggested Arbitration–Mediation–Arbitration Clause

"Any dispute, difference or controversy arising out of or in connection with this Agreement, 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 KCCI ADR Centre, in accordance with their 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 KCCI ADR Centre Procedure for the time being in force. Any settlement reached in

the course of mediation shall be referred to the arbitral tribunal appointed by KCCI ADR Centre and may be made a consent award on agreed terms."

NOTE

Parties can initiate mediation even without any agreement.

Where there is no agreement between the parties for mediation or arbitration, parties who wish to mediate or arbitrate an existing dispute, can enter into an KCCI ADR Centre Mediation or Arbitration agreement.

**SCHEDULE-8
MODEL ARBITRATION AGREEMENT**

AGREEMENT TO ARBITRATE

1. This agreement to arbitrate is made by the parties hereunder, on the date mentioned below.

Name of Party 1:

Address:

Telephone/Mobile/Email:

Name of Party 2:

Address:

Telephone/Mobile/Email:

2. The parties to this agreement has entered into an agreement dated:

With respect to:

3. The parties would like to refer:

Future Disputes arising out of or in connection with the above agreement, including any question regarding its existence, operation, termination, validity or breach thereof, to be finally resolved by arbitration as per the Arbitration & Conciliation Act, 1996 and to be conducted by the KCCI ADR Centre, in accordance with the KCCI ADR Arbitration Rules.

Pending Disputes relating to _____ which has arisen out of the above agreement, including any question regarding its existence, operation, termination, validity or breach thereof, to be finally resolved by arbitration as per the Arbitration & Conciliation Act, 1996 and to be conducted by the KCCI ADR Centre, in accordance with the KCCI ADR Arbitration Rules.

Signature of Party No 1:

Signature of Party No 2:

4. The parties would like to have their disputes resolved by:

Fast Track
Arbitration

Regular Arbitration

AMA Procedure

5. The parties hereby agree that:

1. They shall follow the KAC Arbitration Rules and procedures for arbitration.
2. They shall select the arbitrator(s) and otherwise conduct the arbitration in accordance with the Arbitration & Conciliation Act, 1996 and the KAC Arbitration Rules.
3. They shall pay the Arbitrator(s) fee and the KAC Administrative charges as intimated by the KAC Administrator and as per the current KAC Rules and Fee schedule,
4. The award of the arbitrator shall be final and binding upon them.

Date:

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Signature of Party No 1

Signature of Party No 2

SCHEDULE-9

ARBITRATION FEE SCHEDULE

Schedule 1

SMALL CAUSE DOMESTIC ARBITRATION

(For Claims less than Rs. 5 lakhs)

REGISTRATION CHARGES

Filing fee

Arbitration:	Rs. 1,000
Arbitration – Mediation – Arbitration:	Rs. 2,000
Consultation (If availed)	Rs. 750

Filing of Applications

Interpretation, correction or additional Award:	Rs. 1,000
Scrutiny of Award:	Rs. 1,000

ARBITRAL TRIBUNAL FEE

(Per Arbitrator)

<u>Quantum of Claim</u>	<u>Arbitrator Fee</u>
Up to Rs. 3,00,000	Rs. 7,500

From Rs. 3,00,001 to Rs. 5,00,000	Rs. 10,000
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- In case the Arbitral Tribunal is a Sole Arbitrator, he will be entitled to an additional 20% of the above fee schedule.
- In the case of Fast Track Arbitration, the fee will be 80% of the fees mentioned above.
- For disputes, where the claim cannot be quantified, the fee will be finalized by KAC based on the dispute submitted to arbitration.

Additional Fees for the Arbitral Tribunal:

(Per Arbitrator)

Interpretation, correction or additional Award: Rs. 2,500
 Scrutiny fees: Rs. 2,500

Travel Allowance for Arbitrators:

Local Sitting: Rs. 300 per sitting

KAC Administrative Fee

<u>Quantum of Claim</u>	<u>Administrative Fee</u>
Up to Rs. 3,00,000	Rs. 2,500
From Rs. 3,00,001 to Rs. 5,00,000	Rs. 4,000

- For disputes, where the claim cannot be quantified, the fee will be finalized by KAC based on the dispute submitted to arbitration.

FEE PAYMENT SCHEDULE

Registration Charges:

The filing fee to be paid by the Claimant on the filing of Notice of Arbitration

Consultation/Orientation fee (if availed) to be paid by the party when making the appointment.

The application filing fee is to be paid by the party, making the application.

Arbitral Tribunal & Administrative Fee:

- 25% To be deposited by the Claimant at the time of Claim Statement.
- 25% To be deposited by the Respondent at the time of filing the Response or Statement of Defence.
- 25% To be deposited by the Parties (Claimant & Respondent(s)) equally within 10 days of the completion of pleadings.
- 25% To be deposited by the Parties (Claimant & Respondent(s)) equally before the hearing date.

Balance To be deposited by the Parties (Claimant & Respondent (s)) within 10 days after the matter is reserved for Award.

Schedule 2

DOMESTIC ARBITRATION

(For Claims more than Rs. 5 lakhs)

REGISTRATION CHARGES

Filing fee

Arbitration:	Rs. 2,500
Arbitration – Mediation – Arbitration:	Rs. 4,000
Consultation (If availed)	Rs. 1,000

Filing of Applications

Interpretation, correction or additional Award:	Rs. 1,500
Scrutiny of Award:	Rs. 1,500

ARBITRAL TRIBUNAL FEE (Per Arbitrator)

{Fourth Schedule of the Arbitration & Conciliation (Amendment) Act 2015}

<u>Quantum of Claim</u>	<u>Arbitrator Fee</u>
From Rs. 5,00,000 to Rs. 20,00,000	Rs. 45,000 plus 3.5 per cent of the claim amount over and above Rs. 5,00,000
From Rs. 20,00,001 to Rs.100,00,000	Rs. 97,500 plus 3 per cent of the claim amount over and above Rs. 20,00,000
From Rs. 100,00,001 to Rs.10,00,00,000	Rs. 3,37,500 plus 1 per cent of the claim amount over and above Rs. 1,00,00,000
From Rs. 10,00,00,001 to Rs.20,00,00,000	Rs. 12,37,500 plus 0.75 per cent of the claim amount over and above Rs. 10,00,00,000
More than Rs. 20,00,00,000	Rs. 19,87,500 plus 0.5 per cent of the claim amount over and above Rs. 20,00,00,000 with a ceiling of Rs. 30,00,000

- In case the Arbitral Tribunal is a Sole Arbitrator, he will be entitled to an additional 20% of the above fee schedule.
- In the case of Fast Track Arbitration, the fee will be 80% of the fees mentioned above.
- For disputes, where the claim cannot be quantified, the fee will be finalized by KAC based on the dispute submitted to arbitration.

Additional Fees for the Arbitral Tribunal:

(Per Arbitrator)

Interpretation, correction or additional Award

<u>Quantum of Claim</u>	<u>Amount</u>
From Rs. 5,00,000 to Rs. 20,00,000	Rs. 5,000

From Rs. 20,00,001 to Rs.100,00,000	Rs. 7,500
From Rs. 100,00,001 to Rs.10,00,00,000	Rs. 10,000
From Rs. 10,00,00,001 to Rs.20,00,00,000	Rs. 12,500
More than Rs. 20,00,00,000	Rs. 15,000

Scrutiny Fees

(Per Arbitrator)

<u>Quantum of Claim</u>	<u>Amount</u>
From Rs. 5,00,000 to Rs. 20,00,000	Rs. 5,000
From Rs. 20,00,001 to Rs.100,00,000	Rs. 7,500
From Rs. 100,00,001 to Rs.10,00,00,000	Rs. 10,000
From Rs. 10,00,00,001 to Rs.20,00,00,000	Rs. 12,500
More than Rs. 20,00,00,000	Rs. 15,000

Travel, Boarding & Lodging for Arbitrators:

Local Sitting:	Travelling allowance of INR 500.00 per sitting.
Outstation Sitting:	Actuals by Air, Rail or Car, plus out-of-pocket expenses at actuals for boarding, lodging and local transport are subject to maximum Rs. 7,500.00 per day in Metropolitan cities and Rs. 5,000.00 per day in other cities. (An Arbitrator who makes his own arrangements for boarding, lodging, local transport etc. may be paid out of pocket expenses at the rate of INR 4,000.00 per day, without producing vouchers.)

KAC Administrative Fee

<u>Quantum of Claim</u>	<u>Administrative Fee</u>
From Rs. 5,00,000 to Rs. 20,00,000	Rs. 5,000 plus 3.5 per cent of the claim amount over and above Rs. 5,00,000
From Rs. 20,00,001 to Rs.100,00,000	Rs. 7,500 plus 3 per cent of the claim amount over and above Rs. 20,00,000
From Rs. 100,00,001 to Rs.10,00,00,000	Rs. 15,000 plus 1 per cent of the claim amount over and above Rs. 1,00,00,000
From Rs. 10,00,00,001 to Rs.20,00,00,000	Rs. 20,000 plus 0.75 per cent of the claim amount over and above Rs. 10,00,00,000
More than Rs. 20,00,00,000	Rs. 30,000 plus 0.5 per cent of the claim amount over and above Rs. 20,00,00,000 with a ceiling of Rs. 30,00,000

- For disputes, where the claim cannot be quantified, the fee will be finalized by KAC based on the dispute submitted to arbitration.

FEE PAYMENT SCHEDULE

Registration Charges:

The filing fee to be paid by the Claimant on the filing of Notice of Arbitration

Consultation/Orientation fee (if availed) to be paid by the party when making the appointment.

The application filing fee to be paid by the party making the application.

Arbitral Tribunal & Administrative Fee:

- 25% To be deposited by the Claimant at the time of Claim Statement.
- 25% To be deposited by the Respondent at the time of filing the Response or Statement of Defence.
- 25% To be deposited by the Parties (Claimant & Respondent(s)) equally within 10 days of the completion of pleadings.
- 25% To be deposited by the Parties (Claimant & Respondent(s)) equally before the hearing date.
- Balance To be deposited by the Parties (Claimant & Respondent (s)) within 10 days after the matter is reserved for Award.

Schedule 3

INTERNATIONAL ARBITRATION

REGISTRATION CHARGES

Filing fee

Arbitration: US\$ 100
Consultation (If availed) US\$ 100

Filing of Applications

Interpretation, correction or additional Award: US\$ 150
Scrutiny of Award: US\$ 150

ARBITRAL TRIBUNAL FEE

(Per Arbitrator)

<u>Quantum of Claim (In US\$)</u>	<u>Arbitrator Fee (In US\$)</u>
Upto 50,000	2,000
From 50,001 to 5,00,000	3,000 plus 3 per cent of the claim amount over and above 50,000
From 5,00,001 to 10,00,000	5,000 plus 1.5 per cent of the claim amount over & above 5,00,000
From 10,00,001 to 50,00,000	15,000 plus 0.75 per cent of the claim amount over and above 10,00,000
From 50,00,001 to 100,00,000	20,000 plus 0.25 per cent of the claim amount over and above 50,00,000

More than 100,00,000	25,000 plus 0.5 per cent of the claim amount over and above 100,00,00,000 with a ceiling of 1,20,000
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- In case the Arbitral Tribunal is a Sole Arbitrator, he will be entitled to an additional 15% of the above fee schedule.
- In the case of Fast Track Arbitration, the fee will be 75% of the fees mentioned above.
- For disputes, where the claim cannot be quantified, the fee will be finalized by KAC based on the dispute submitted to arbitration.

Additional Fees for the Arbitral Tribunal:

(Per Arbitrator)

Interpretation, correction or additional Award

<u>Quantum of Claim</u>	<u>Amount</u>
Up to US\$ 50,000	US\$ 500
From US\$ 50,0001 to US\$ 10,00,000	US\$ 1000
More than US\$ 10,00,000	US\$ 2000

Scrutiny Fees

(Per Arbitrator)

<u>Quantum of Claim</u>	<u>Amount</u>
Up to US\$ 50,000	US\$ 750
From US\$ 50,0001 to US\$ 10,00,000	US\$ 1250
More than US\$ 10,00,000	US\$ 2000

Travel, Boarding & Lodging for Arbitrators:

Local Sitting:	Travelling allowance of US\$ 50.00 per sitting.
Outstation Sitting:	Actuals by Air, Rail or Car, plus out-of-pocket expenses at actuals for boarding, lodging and local transport subject to a maximum of US\$ 300 per day

KAC Administrative Fee

<u>Quantum of Claim (In US\$)</u>	<u>Administrative Fee (In US\$)</u>
Upto 50,000	500
From 50,001 to 5,00,000	750 plus 0.75 per cent of the claim amount over and above 50,000
From 5,00,001 to 10,00,000	1,000 plus 0.30 per cent of the claim amount over & above 5,00,000
From 10,00,001 to 50,00,000	1,500 plus 0.15 per cent of the claim amount over and above 10,00,000
From 50,00,001 to 100,00,000	2,000 plus 0.10 per cent of the claim amount over and above 50,00,000
More than 100,00,000	5,000 plus 0.5 per cent of the claim amount over and above 100,00,00,000 with a ceiling of 12,500

- For disputes, where the claim cannot be quantified, the fee will be finalized by KAC based on the dispute submitted to arbitration.

FEE PAYMENT SCHEDULE

Registration Charges:

The filing fee to be paid by the Claimant on the filing of Notice of Arbitration

Consultation/Orientation fee (if availed) to be paid by the party when making the appointment.

The application filing fee to be paid by the party making the application.

Arbitral Tribunal & Administrative Fee:

25%	To be deposited by the Claimant at the time of Claim Statement.
25%	To be deposited by the Respondent at the time of filing the Response or Statement of Defence.
25%	To be deposited by the Parties (Claimant & Respondent(s)) equally within 10 days of the completion of pleadings.
25%	To be deposited by the Parties (Claimant & Respondent(s)) equally before the hearing date.
Balance	To be deposited by the Parties (Claimant & Respondent (s)) within 10 days after the matter is reserved for Award.

Schedule 4

EMERGENCY ARBITRATION

Filing Fee:

(Domestic Arbitration)

For Interim Measure:	Rs. 1,500
For AMA Procedure:	(Paid along with Arbitration Filing Fee)

(International)

For Interim Measure:	US\$ 200
For AMA Procedure	(Paid along with Arbitration Filing Fee)

For Interim Measures Domestic

<u>Quantum of Claim</u>	<u>Arbitrator Fee</u>	<u>Administrative Fee</u>
Upto Rs. 25,00,000	Rs. 7,500	Rs. 1,000
From Rs. 25,00,001 to Rs.100,00,000	Rs. 15,000	Rs. 2,500
More than Rs.100,00,000	Rs. 20,000	Rs. 5,000

- For disputes, where the claim cannot be quantified, the fee will be finalized by KAC based on the dispute submitted to arbitration.

For Interim Measures International

<u>Quantum of Claim</u>	<u>Arbitrator Fee</u>	<u>Administrative Fee</u>
Up to US\$ 50,000	US\$ 750	US\$ 250
From US\$ 50,001 to US\$10,00,000	US\$ 1500	US\$ 500
More than US\$10,00,000	US\$ 3000	US\$ 750

- For disputes, where the claim cannot be quantified, the fee will be finalized by KAC based on the dispute submitted to arbitration.

For AMA Procedure (Domestic)

<u>Quantum of Claim (In Rs.)</u>	<u>Referring to Mediation (in Rs.)</u>	<u>Making Consent Award (In Rs.)</u>
Upto 25,00,000	<u>Arbitrator Fee</u>	<u>Arbitrator Fee</u>
	5,000	5,000
	<u>Administrative Fee</u>	<u>Administrative Fee</u>
	2,000	2,000
From 25,00,001 to 100,00,000	<u>Arbitrator Fee</u>	<u>Arbitrator Fee</u>
	10,000	12,500
	<u>Administrative Fee</u>	<u>Administrative Fee</u>
	3,000	4,000
More than 100,00,000	<u>Arbitrator Fee</u>	<u>Arbitrator Fee</u>
	12,500	25,000
	<u>Administrative Fee</u>	<u>Administrative Fee</u>
	5,000	7,500

- For disputes, where the claim cannot be quantified, the fee will be finalized by KAC based on the dispute submitted to arbitration.

For AMA Procedure (International)

<u>Quantum of Claim (In US\$)</u>	<u>For Referring to Mediation (In US\$)</u>	<u>For Making Consent Award (In US\$)</u>
Upto 50,000	<u>Arbitrator Fee</u>	<u>Arbitrator Fee</u>
	300	300
	<u>Administrative Fee</u>	<u>Administrative Fee</u>
	100	100
From 50,001 to 10,00,000	<u>Arbitrator Fee</u>	<u>Arbitrator Fee</u>
	600	750
	<u>Administrative Fee</u>	<u>Administrative Fee</u>
	200	250
More than 10,00,000	<u>Arbitrator Fee</u>	<u>Arbitrator Fee</u>
	1000	1500
	<u>Administrative Fee</u>	<u>Administrative Fee</u>
	300	500

- For disputes, where the claim cannot be quantified, the fee will be finalized by KAC based on the dispute submitted to arbitration.

FEE PAYMENT SCHEDULE

Registration Charges:

The filing fee to be paid by the party on the filing of the application

Arbitral Tribunal & Administrative Fee:

In the case of the Interim Measure, the entire fee will be deposited by the party, making the application at the time of making the application.

In the AMA Procedure case, the mediation reference fee will be deposited by the Claimant when filing the Arbitration Submission Form.

If the matter is referred back to the arbitrator for making an award, the balance fee shall be deposited by the Parties equally at the time of making such reference.

Schedule 5

RentforKACConferenceRooms

BoardRoom (1st Floor – 10 persons – Air Conditioned)

Rs. 500 upto 1 hour

Rs. 1000 upto 3 hours

Rs. 300 for every additional hour or part thereof

MeetingRoom (Ground Floor – 15 persons – Air Conditioned)

Rs. 750 upto 1 hour

Rs. 1,500 upto 3 hours

Rs. 500 for every additional hour or part thereof

MeetingHall (1st Floor – 75 persons – Air Conditioned)

Rs. 1,500 upto 1 hour

Rs. 3,000 upto 3 hours

Rs. 1,000 for every additional hour or part thereof

LCDProjector/Screen:

Rs. 250 upto 3 hours

Rs. 75 for every additional hour or part thereof.

Stenographer: Rates on actuals

Photocopy: Rs. 1 per page

Printout: Rs. 3 per page

Coffee/Tea/Snacks/ExecutiveLunch: Rates on actuals

StaffOver-time:

(Beyond 5.30 p.m. Monday to Friday/ Beyond 1.30 p.m. Saturdays/Sundays & Public Holidays)

Rs. 75 upto 1 hour

Rs. 150 up to 3 hours

Rs. 50 for every additional hour or part thereof.

TERMS

In case a counterclaim is made, the fee will be fixed based on the claim or counter claim, whichever is higher.

The fee shall be payable in equal shares by the parties, provided that where one party fails to pay his share, the other party may pay that share, provided further that where the other party also does not pay the aforesaid share in respect of the claim or the counter-claim, the Arbitral proceedings may be suspended or terminated.

If the amount referred in arbitration is in a currency other than Indian Rupees, it shall be converted into Indian Rupees at the current official rate of exchange.

Additional 18% GST will be levied on all amounts

All payments shall be made by cheque payable to 'KAC'. Alternatively, the amounts can be paid into the KAC's Bank account via Bank Transfer