



RULES OF INTERNATIONAL COMMERCIAL ARBITRATION

(As amended on and with effect from 1st April, 2016)



INDIAN COUNCIL OF ARBITRATION

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Rules
of
International Commercial
Arbitration

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Introduction:

For the purpose of administering and resolving cross border disputes, the Indian Council of Arbitration has adopted and introduced the following International Commercial Arbitration Rules (hereinafter referred to as "the Rules"), to be used by the parties in dispute, seeking a proficient and regulated conduct of arbitration proceedings for settlement of disputes. These Rules of the ICA shall be effective from April 1, 2016 and shall apply to any International Commercial Arbitration, which is commenced on or after that date.

The Indian Council of Arbitration recommends to all parties, desirous of making reference to arbitration by the Indian Council of Arbitration, the use of the following arbitration clause in writing in their contracts:

"Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this agreement or the validity or the breach thereof shall be settled by arbitration in accordance with the Rules of International Commercial Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the parties."

1. Scope of Application and Interpretation:

Where parties have agreed in writing to submit, refer, specify to arbitrate their disputes in accordance with the Rules, such disputes shall be settled or resolved by arbitration in accordance with the Rules.

The arbitration shall be conducted and administered by the Indian Council of Arbitration in accordance with the Rules.

2. Definitions:

- (a) "Arbitration Costs" means costs relating to the fees of the arbitrators and expenses including expenses on account of travelling, boarding and lodging of the arbitrators and witnesses, experts, administrative charges of the Council including stamp duty charges, legal charges and fees, conference hall charges, conveyance, refreshments, photocopying and all other expenses incurred in connection with the arbitral proceedings and the award.
- (b) "Award" means decision of the Tribunal on a particular dispute and includes an interim or final Award or an Award of an emergency arbitrator.
- (c) "Business Day" means all days from Monday to Friday and "Non-business Day" means Saturday, Sunday and include any other day which is a public holiday.
- (d) "Chairman" means the Chairman of the Committee.
- (e) "Claim" or "Claims" include any Claim made by one party against the other including the Counter Claim.

- (f) "Committee" means the Arbitration Committee of the Council and shall consist of the President of the Council, who shall be the ex officio Chairman of the Committee and three members of the Governing Body of the Council elected by the Governing Body from amongst themselves.
- (g) "Council" means the Indian Council of Arbitration.
- (h) "Governing Body" means the Governing Body of the Council.
- (i) "International Commercial Arbitration" means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India and where at least one of the parties is;
 - (i) An individual who is a national of, or habitually resident in any country other than India; or
 - (ii) A body corporate, which is incorporated in any country other than India; or
 - (iii) An association or a body of individuals or a partnership firm, whether incorporated or not, whose central management and control is exercised in any country other than India; or
 - (iv) The Government of a foreign country.
- (j) "Panel" means the roster of arbitrators maintained by the Council.
- (k) "President" means the President of the Governing Body of the Council.
- (l) "Party" means a party to an arbitration agreement.
- (m) "Registrar" means the Registrar for the time being appointed by the Committee and includes such other persons as the Committee may nominate for carrying out the duties of the Registrar under these Rules.
- (n) "Tribunal" means a Tribunal composed of a Sole Arbitrator or all the arbitrators where more than one is appointed.
- (o) "Act" means the Arbitration and Conciliation Act, 1996 and any amendment thereof.

Any pronoun shall be understood to be gender-neutral.

Words importing the singular noun include, where the context admits or requires, the plural number and vice versa.

3. Request for Arbitration:

- (1) A party wishing to commence an arbitration (the "Claimant") shall file with the Registrar a written request for arbitration (the "request") which shall, inter alia, contain the following information:

- (i) the names, address(es), telephone number(s), facsimile number(s) and electronic mail address(es), if known, of the parties to the arbitration and their representatives, if any;
 - (ii) a copy of the written arbitration clause or the separate arbitration agreement invoked by the Claimant;
 - (iii) a reference to the contract or other legal instrument out of or in relation to which the dispute arises and a copy of it;
 - (iv) a brief description on the nature of the dispute and an indication of the amount of Claim involved along with the relief or remedy sought;
 - (v) unless the parties have agreed otherwise, the nomination of an arbitrator if the arbitration agreement provides for three arbitrators, or a proposal for a Sole Arbitrator if the arbitration agreement provides for a Sole Arbitrator;
 - (vi) any comment as to the applicable rules of law; and
 - (vii) details of payment of non-refundable registration fee as applicable on the date of the application.
- (2) The Claimant shall submit to the Registrar two copies of the Statement of Claim along with all the documents and information in support of or having a bearing on the matter, and one copy for the Council, one copy for each arbitrator(s) and one copy for each of the Respondent(s).
 - (3) The Claimant shall also make an advance payment of his share of arbitration costs on the Claim value in terms of the schedule of fee along with the request.
 - (4) In the event, the Claimant/s fails to comply with any of the aforesaid requirements, the Registrar may fix a time limit (not exceeding 15 days) within which the Claimant must comply, failing which, the file shall be closed without prejudice to the right of the Claimant to submit the Claims at a later date by way of a fresh request.
 - (5) If any information or particulars regarding the arbitration agreement furnished by Claimant with the application for arbitration are found to be incorrect or false, at any time subsequently, the Registrar shall have the power to reject the application for arbitration.

4. Notice of Arbitration to the Respondent:

- (1) The Registrar shall send a notice of arbitration to the Respondent(s) along with a copy of the Statement of Claim and documents annexed thereto, at the earliest for their response to the Statement of Claim.
- (2) The arbitral proceedings in respect of the dispute shall commence on the date on which a notice of arbitration in writing for that dispute is received by the Respondent from the Council.

5. Response to the Notice of Arbitration:

- (1) Within 30 days from the date of the receipt of the notice of arbitration and the Statement of Claim from the Registrar, the Respondent shall send his Defence Statement to the Registrar, which shall, inter-alia, include:
 - (i) Confirmation or denial of all or part of the Claim(s) made by the Claimant(s) in the Statement of Claim;
 - (ii) Comments in response to and/or with respect to all matters discussed in the Statement of Claim and all documents / information in support of or having a bearing on the matter, including seat of arbitration, number of arbitrators;
 - (iii) The Defence Statement along with advance payment of his share of arbitration costs on Claim value in terms of the schedule of fee as applicable on the date of the request;
 - (iv) A brief description of the nature and circumstances of the dispute along with Counter Claims or Claims for the purpose of set-off, if any, including, where relevant, an indication of the amounts involved and the relief or Claim put forth;
 - (v) Additional advance deposit of the Respondent's share of arbitration costs on the Counter Claim value in terms of the schedule of fees as applicable on the date of the request;
 - (vi) unless the parties have agreed otherwise, the nomination of an arbitrator if the arbitration agreement provides for three arbitrators or, if the arbitration agreement provides for a Sole Arbitrator, agreement with Claimant's proposal for a Sole Arbitrator or a counter-proposal;
 - (vii) any comments on the applicable rules of law;
- (2) The Registrar may on reasonable grounds, at the request of the Respondent, grant an extension of time for filing of the Defence Statement and/ or Counter Claim, to the Respondent for a period not exceeding 30 days.
- (3) In case the Respondent fails to file his Defence Statement and / or Counter Claim within the time stipulated or the extended time it will tantamount to a waiver of the Respondent's right to file the Defence Statement and/or the Counter Claim.
- (4) The Respondent shall submit two copies of the Defence Statement and/or Counter Claim to the Registrar along with all the documents and information in support of or having a bearing on the matter and also one copy of the same to the Council and one copy for each of the arbitrator(s), and one copy for each of the Claimants.
- (5) A copy of the Defence Statement and Counter Claim, if any, along with the documents annexed thereto shall be sent by the Registrar to each of the Claimant(s).

- (6) In the event, the Respondent or any of the Respondents fails to make any advance payment of their share of payments as referred to in rule 5 (1)(iii) of the Rules, the Registrar shall call upon the Claimant to make such payment and upon such payment being made shall take all steps required for the adjudication of disputes. In the event of such payments not being made, no further steps shall be taken and the Registrar shall refund to the Claimant the payment made towards arbitration costs on account of arbitrators fees and 75 per cent of the administrative charges.

6. Rejoinder to the Defence Statement and Defence Statement to the Counter Claim:

- (1) Within thirty days of the receipt of the Defence Statement and Counter Claim, if any, the Claimant shall file a Rejoinder to the Defence Statement and Defence Statement to the Counter Claim along with the advance payment of his share of arbitration costs on the Counter Claim value in terms of the schedule of fee as applicable.
- (2) The Registrar may on reasonable grounds, at the request of the claimant, grant an extension of time for filing the Rejoinder and / or Defence Statement to the Counter Claim, to the claimant for a period not exceeding 30 days.
- (3) In case the Claimant fails to file his Defence Statement and / or Rejoinder within the time stipulated or the extended time it will tantamount to a waiver of the Claimant's right to file the Defence Statement and / or Rejoinder.
- (4) In the event the Claimant fails to make payment of his share of payments as referred to in rule 6 (1) of the Rules, the Registrar shall call upon the Respondent to make such payment and upon such payment being made shall take all steps required for the adjudication of the Counter Claim. In the event of such payments not being made, no further steps shall be taken in respect of the Counter Claim and the Registrar shall refund to the Respondent the payment made towards his share of the arbitration costs on the Counter Claim value towards arbitrators' fees and 75 per cent of the administrative charges.

7. Deposits:

- (a) Arbitration costs shall be borne by the Claimant(s) and the Respondent(s) in equal share in accordance with the Schedule of Fees applicable at the time of request. Alternative methods of determining the fees of the Arbitrator(s) may be agreed by the parties prior to the constitution of the Tribunal. The arbitrator's fee and administrative charges, payable to the Council shall be as prescribed in the Schedule of Fee provided, however, alternative method for determining the Arbitrator(s) fees as stated above shall not be applicable for the Arbitrator appointed by the Registrar in consultation with the Chairman/Committee.
- (b) When the party instituting a case desires to withdraw it before an arbitral tribunal has been constituted, the Registrar shall return to him any deposit made by him, under Rule 7(a), after

deducting such charges as he might have incurred in connection with the cases. The registration fee, however, shall not be refundable.

- (c) If the arbitration is terminated by the act or default of any parties after constitution of the arbitral tribunal and before the award is made, any fee, charges, deposited by the Parties shall not be refunded.

8. Written Notices:

- (1) For the purposes of these Rules, any notice, communication or proposal, shall be in writing. Any such written communication may be delivered or sent by registered post or courier service or transmitted by any form of electronic communication (including e-mail and facsimile) or delivered by any other means that provides a record of its delivery. The notice shall be considered to have been delivered when:
 - (i) it is delivered to the last known address of the party which will include the last known electronic mail address of the party; or
 - (ii) it is delivered or received personally by the party; or
 - (iii) it is delivered to an address agreed to by the parties prior to the commencement of arbitral proceedings; or
 - (iv) it is delivered to party's habitual residence, and / or place of business
- (2) The notice or communication is deemed to have been received on the day it is delivered.
- (3) The parties shall file with the Registrar a copy of any notice or communication concerning the arbitral proceedings.

9. Formation of Tribunal:

- (1) The parties are free to determine the number of arbitrators, provided that such number shall not be an even number.
- (2) Failing the determination referred to in sub-rule (1), the Tribunal shall consist of a Sole Arbitrator.
- (3) The terms of appointment of each arbitrator shall be fixed by the Registrar in accordance with these Rules.
- (4) The Arbitral Tribunal shall be deemed to have entered on the reference on the day on which the arbitrator or all the arbitrators, as the case may be, have received notice in writing of their appointment by the Registrar after disposal of the challenge to their appointment, if any, made.
- (5) The Registrar shall send copies of all papers relating to arbitration such as claim statement, defence statement, counter claims, reply, statements, or other documents received from the parties to the dispute to the Arbitrator/s constituting the Arbitral Tribunal with a request to proceed with the arbitration.

10. Sole Arbitrator:

- (1) Where the agreement provides for appointment of a Sole Arbitrator, either party may propose to the other, names of one or more persons, one of whom would serve as the Sole Arbitrator.
- (2) If the parties fail to agree on the person to be appointed as Sole Arbitrator within 30 days of the receipt of notice of arbitration by the Respondent, or if at any time either party so requests, the Sole Arbitrator shall be appointed by the Registrar in consultation with the Chairman from among the Panel of Arbitrators of the Council.

11. Three Arbitrators:

- (1) If three arbitrators are to be appointed, each party shall nominate one arbitrator.
- (2) If any of the parties fails to make the nomination of an arbitrator within 30 days of the receipt of notice of arbitration by the Respondent, the Registrar in consultation with the Chairman shall proceed to appoint the arbitrator on his or their behalf.
- (3) Unless the parties have agreed upon another procedure for appointing the Presiding Arbitrator, or if such agreed procedure does not result in a nomination of Presiding Arbitrator within 45 days of the commencement of the arbitration proceedings, the Presiding Arbitrator shall be appointed by the Registrar in consultation with the Chairman from among the Panel of Arbitrators of the Council.

12. Multi-party Appointment of Arbitrator(s):

- (1) Where there are more than two parties in the arbitration and a Sole Arbitrator is to be appointed, all parties shall jointly nominate a Sole Arbitrator. In the absence of such a joint nomination having been made within 30 days of the receipt of notice of arbitration by the Respondent, the Registrar in consultation with the Chairman shall appoint the Sole Arbitrator from among the Panel of Arbitrators of the Council.
- (2) Where there are more than two parties as Claimant and Respondent in the arbitration, and three arbitrators are to be appointed, the Claimant(s) shall jointly nominate a Sole Arbitrator and the Respondent(s) shall jointly nominate one arbitrator. In the event, any of the parties fails to make the joint nomination within 30 days of the receipt of notice of arbitration by the Respondent, the Registrar in consultation with the Chairman shall appoint a arbitrator or arbitrators as the case may be and shall also appoint a Presiding Arbitrator from among the Panel of Arbitrators of the Council.

13. Challenge of Arbitrators:

- (1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose in writing any circumstances likely to give rise to justifiable doubts as to his independence or impartiality.

- (2) The arbitrator while making the aforesaid disclosure should take notice of the grounds enumerated in the Fifth Schedule of the Act or such other schedule of amendment as may be made from time to time in respect thereof.
- (3) Any person, whose relationship with the parties or counsel or the subject matter of the dispute falls under any of the categories specified in the Seventh Schedule of the Act, shall be ineligible to be appointed as an arbitrator provided that the parties may waive the applicability of the categories provided in the Seventh Schedule or such other schedule or amendment as may be made from time to time by an express agreement in relation to the appointment of arbitrators.
- (4) An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall, without delay, disclose to the parties in writing any circumstance referred to in sub-rule (1) above unless they have already been informed of them by him.
- (5) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his independence or impartiality.
- (6) A party may challenge an arbitrator appointed by him or by another party, or in whose appointment he has participated, only for reasons which he becomes aware after the appointment has been made.
- (7) Notice of such challenge shall be filed with the Registrar within 15 days after receipt of notice of the constitution of the Tribunal or within 15 days after the circumstances referred in sub-rule (3) of this Rule become known to the party and shall be sent simultaneously to the other party, the arbitrator in question and the other Members of the Tribunal.
- (8) The notice of challenge shall be in writing and shall state the reasons for the challenge. The challenge by one party to the appointment of an arbitrator may be agreed to by the other party. The challenged arbitrator may also resign or withdraw from office. However, this will not in any way imply acceptance of the validity of the grounds of challenge.
- (9) However, if within 10 days of the receipt of notice of challenge, the other party does not agree to the challenge and/or the arbitrator who is being challenged, does not withdraw voluntarily, either the Registrar or any one member of the Committee as may be decided by its Chairman shall be the sole judge of the grounds of challenge and its decision shall be final and binding on the parties.

14. Removal of Arbitrator:

- (1) The Committee may in its discretion, direct the removal of an arbitrator, who refuses or fails to act or becomes de jure or de facto unable to perform his functions or if he is not fulfilling his functions in accordance with the Rules or within the prescribed time limits.
- (2) In the event of such removal, the arbitrator or arbitrators as the case may be and whose authority has been terminated by the decision of the Committee under Rule 13 (9) or Rule 14 (1), shall not be entitled to any fee.

- (3) In the event any arbitrator is removed, the Registrar shall inform him accordingly.

15. Substitution of Arbitrator:

- (1) In case of the resignation or death or termination of authority of an appointed arbitrator under Rules 13 & 14 above, a substitute arbitrator shall be appointed in his place in accordance with the Rules that were applicable to the appointment of the arbitrator being substituted.
- (2) The arbitrator(s) appointed as above will be informed about the reconstitution of the Tribunal and the reconstituted Tribunal shall make the award expeditiously within the time prescribed under these Rules. The reconstituted Tribunal shall proceed with the arbitration.
- (3) If one or all of the arbitrators are substituted, the arbitral proceedings shall continue from the stage already reached and on the basis of the evidence and material already on record, and the arbitrator(s) appointed under this rule shall be deemed to have received the said evidence and material.
- (4) In the event of arbitrator(s) being so appointed, the Arbitral Tribunal thus reconstituted shall be deemed to be in continuation of the previously appointed Arbitral Tribunal.

16. Jurisdiction of the Tribunal:

- (1) The Tribunal may rule on its jurisdiction, including ruling on any objections with respect to the existence or validity of the arbitration agreement, and for that purpose:
 - (i) an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract; and
 - (ii) a decision by the Tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.
- (2) A plea that the Tribunal does not have jurisdiction shall be raised not later than the submission of the Defence Statement. However, a party shall not be precluded from raising such a plea merely because that he has appointed, or participated in the appointment of an arbitrator.
- (3) A plea that the 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.
- (4) The Tribunal may, in either of the cases, referred to in sub-rule (2) or sub-rule (3) herein above, admit a subsequent plea if it considers the delay justified.
- (5) The Tribunal shall decide on a plea referred to in sub-rule (2) or sub-rule (3) herein above, and where the Tribunal takes a decision rejecting the plea, continue with the arbitral proceedings and make an award.

17. Conduct of the arbitration proceeding:

- (1) The parties shall be treated with equality and each party shall be given a full opportunity to present his case.
- (2) The Tribunal shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) or the Indian Evidence Act, 1872 (1 of 1872).
- (3) The Tribunal and the parties shall make every effort to conduct the arbitration in an expeditious and cost-effective manner.
- (4) The Tribunal shall have the power to conduct the arbitration proceedings by video conference, telephone or any similar means of communication in respect of such matters as may be feasible.
- (5) The power of the Tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.
- (6) The Tribunal may, with the consent of the parties, direct consolidation of two or more arbitral proceedings before it, if the disputes or differences therein are identical and between the same parties or between the parties having commonality of interest or where such disputes arise out of separate contract but relate to the same transactions.
- (7) The Tribunal may require either of the parties to give notice of the identity of witnesses including expert witnesses, the subject matter of their testimony and its relevance to the issues in writing before the commencement of any hearing.
- (8) The Tribunal has discretion to allow, refuse or limit the appearance of witnesses.
- (9) Any witness who gives evidence either by affidavit or orally may be examined by each of the parties, their representatives and the Tribunal in such manner as the Tribunal shall determine.
- (10) The Tribunal may direct the testimony of witnesses to be presented in written form, either as signed statements or sworn affidavits or any other form of recording. Subject to sub-rule (2) of this Rule, any party may request that such witness be examined orally. If the witness fails to attend, the Tribunal may place such weight on the written testimony as it thinks fit, disregard it or exclude it altogether.

18. Place of Arbitration:

The parties may agree on the place of arbitration to be held anywhere in India. Failing such an agreement, the place of arbitration shall be Delhi, and the venue shall preferably be the Federation House, Tansen Marg, New Delhi, unless otherwise agreed upon by the parties.

19. Language of Arbitration:

The documents and the language to be used in the arbitration proceedings and before the Tribunal shall be English. If any document(s) filed by a party are in language other than English, the party filing

such documents shall simultaneously furnish an English translation of the documents duly authenticated in the manner as may be directed by the Tribunal and/or the Registrar as the case may be.

20. Party Representation and assistance:

At the hearing, a party shall be entitled to appear through Attorney, Advocate or a duly authorized Advisor or Representative or in person, subject to such proof of authority to the satisfaction of the Registrar or the Tribunal.

21. Hearings:

- (1) Unless otherwise agreed by the parties, either party may amend or supplement his Claim or Defence during the course of the arbitral proceedings, unless the Tribunal considers it inappropriate to allow the amendment or supplement having regard to the delay in making it.
- (2) Unless the parties have agreed on arbitration through documents only, the Tribunal shall, if either party requests or if the Tribunal so decides, hold a hearing for the presentation of evidence and for oral submissions on the merits of the dispute, including, without limitation any issue as to jurisdiction.
- (3) The parties shall be given sufficient advance notice of any hearing and of any meeting of the Tribunal for the purpose of inspection of documents, or other property.
- (4) All statements, documents or other information supplied to, or applications made to the Tribunal by one party shall be communicated to the other party, and any expert report or evidentiary document on which the Tribunal may rely in making its decision shall be communicated to the parties.

22. Effects of default of a party:

Unless otherwise agreed by the parties, where, without showing sufficient cause a party fails to file defence statement or fails to appear at an oral hearing or fails to produce documentary evidence, the Tribunal may continue the proceedings and make the award on the basis of document and / or evidence before it.

23. Appointment of Experts:

- (1) Unless otherwise agreed by the parties, the Tribunal may:
 - (a) appoint one or more experts to report to it on specific issues to be determined by the Tribunal, and
 - (b) require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.
- (2) Unless otherwise agreed by the parties, if a party so requests or if the Tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in an oral

hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.

- (3) Unless otherwise agreed by the parties, the expert shall, on the request of a party, make available to that party for examination all such documents, goods or other property in the possession of the expert with which he was provided in order to prepare his report.

24. Interim Measures:

- (1) A party may, during the arbitral proceedings or at any time after the making of the arbitral award but before it is enforced, apply to the arbitral tribunal -
 - (i) for the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or
 - (ii) for an interim measure of protection in respect of any of the following matters, namely:
 - (a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;
 - (b) securing the amount in dispute in the arbitration;
 - (c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorizing for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorizing any samples to be taken, or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;
 - (d) interim injunction or the appointment of a receiver;
 - (e) such other interim measure of protection as may appear to the arbitral tribunal to be just and convenient, and the arbitral tribunal shall have the same power for making orders, as the court has for the purpose of, and in relation to, any proceedings before it.
- (2) Subject to any orders passed in an appeal under the Act, any order issued by the arbitral tribunal under this Rules shall be deemed to be an order of the Court for all purposes and shall be enforceable under the Code of Civil Procedure, 1908, in the same manner as if it were an order of the Court.

25. Applicable Law:

- (1) The 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 Tribunal shall apply the law which it determines to be appropriate.

- (2) The Tribunal shall decide as amiable compositeur only if the parties have expressly authorized the Tribunal to do so.
- (3) The procedural law shall be the laws of India and the parties shall be deemed to have submitted to the jurisdiction of the Courts in India.

In all cases, the 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.

26. The Award:

- (1) The award must be in writing and signed by the members of the Tribunal.
- (2) For the purpose of sub-rule (1) above, in arbitral proceedings with more than one arbitrator the signatures of the majority of all the members of the Tribunal shall be sufficient so long as the reason for any omitted signature is stated.
- (3) The award shall state the reasons upon which it is based, unless the parties have otherwise agreed or where the award is by consent.
- (4)
 - (a) The award shall state its date and the place of arbitration and the award shall be deemed to have been made at that place.
 - (b) Whenever there is more than one arbitrator, the award of the majority shall prevail and be taken as the decision of arbitral tribunal. Failing a majority, the Presiding Arbitrator of the arbitral tribunal alone shall make the award.
- (5) The Tribunal shall make the award as expeditiously as possible, preferably within six months, from the date of the reference subject to a maximum limit of twelve months from the date on which arbitral entered into reference in terms of Rule 9(4).
- (6) The parties mutually agreed to waive their right of consent and confer upon the Registrar the right to extend the time for making of an award for a further period of six months, if applied for, by any of the parties, provided such request is to be found reasonable and necessary.
- (7) If the award is not made within the aforesaid period of 12 months or 18 months, as the case may be, the mandate of the arbitrator shall terminate unless the Court has either prior to or after the expiry of the period further extended the period for passing of award.
- (8) In the event, the arbitrators are substituted by the Court under the Act, the arbitration proceedings may continue from the stage it has reached and on the basis of the evidence and material already on record and the arbitrator(s), so appointed, shall be deemed to have received the said evidence and material. The Arbitral Tribunal, so reconstituted, shall deemed to be in continuation of the previously appointed Arbitral Tribunal.
- (9) The arbitrators shall not be entitled to any fees in the event of cancellation of their mandate for not making of the award within the time specified.

- (10) Unless otherwise agreed by the parties, where and in so far as an award is for the payment of money, the Tribunal may include in the sum, for which the award is made, interest, at such rate as it deems reasonable, on the whole or any part of the money, for the whole or any part of the period between the date on which the cause of action arose and the date on which the award is made. A sum directed to be paid with interest shall carry interest from the date of the award till the date of payment.
- (11) In its award, the Tribunal may, subject to any contrary agreement by the parties and in the light of all the circumstances and the outcome of the arbitration, order a party to pay the whole or part of arbitration costs incurred by the other party.
- (12) The arbitrators constituting the Tribunal shall sign the award and the Registrar shall give notice in writing to the parties of the making and signing thereof and of the amount of costs, expenses and charges payable in respect of the arbitration and the award. The arbitrator/s fee shall be payable by the Council on receipt of the award and upon requisite deposit of the arbitration cost made by the parties.
- (13) Should the parties arrive at a settlement of the dispute by common agreement before the Tribunal and the Tribunal is satisfied that such agreement is genuine and not to defeat the purpose of any law, the Tribunal shall render a consent Award as per agreement of the parties.
- (14) When an Award has been made, a copy of the Award certified by the Registrar shall be furnished to the parties provided the arbitration costs have been fully paid to the Council by the parties or by one of them.
- (15) Additional copies of the Award certified true by the Registrar shall be made available to the parties, but to no one else, at all times at request and on payment as fixed by the Registrar.
- (16) Stamp duties are to be paid by the parties in equal share in all cases in accordance with the scale of stamp duties for the time being imposed by law.
- (17) The Council may publish any Award with the names of the parties and other identifying information in redacted form.
- (18) The Tribunal may make an ex-parte award.
- (19) In case of an ex-parte Award, the entire stamp duty shall be paid by the Claimant in accordance with the scale of stamp duties for the time being imposed by law.
- (20) If the arbitral tribunal decides to make an order as to the payment of costs with interest on costs, the general rule is that the unsuccessful party shall be ordered to pay such costs with interest as may be determined by the arbitral tribunal to the successful party or the arbitral tribunal may make different orders for reasons to be recorded in writing.
- (21) In determining the costs, the arbitral tribunal shall refer to all the circumstances including:-

- (a) The conduct of all the parties;
 - (b) whether a part has succeeded partly in the case;
 - (c) whether the party had made a frivolous counter claim leading to delay in disposal of arbitral proceedings;
 - (d) whether any reasonable offer to settle the dispute is made by a party and refused by the other party.
- (22) After the constitution of the arbitral tribunal and during the arbitral proceedings if any party makes a challenge as to the independence and impartiality of the arbitrator, the arbitral proceedings shall remain suspended during the period such challenge is decided.
- (23) If such challenge is rejected, the arbitral tribunal shall be at liberty to impose such exemplary cost on the party making challenge as it may be decided by the arbitral tribunal.
- (24) In the event such challenge is upheld, the arbitrators so challenged shall stand discharged and shall not be entitled to any fees.
- (25) The period during which the arbitral proceedings remain suspended shall be excluded from the period within which the award is to be made in terms of Rule 26(5).

27. Correction, Interpretation and Remission of Awards:

- (a) Within thirty days from the receipt of arbitral award, a party, through the Registrar, may request the Arbitral Tribunal to correct any computation errors, any clerical or typographical errors or any other errors of similar nature occurring in the Award.
- (b) The Registrar shall thereafter forward the request to the Tribunal with a copy to the other party.
- (c) A party, through the Registrar, may request the Tribunal to give an interpretation of a specific point or part of the award.
- (d) If Tribunal considers the request made under sub-section (c) to be justified, it shall make the corrections or give the interpretation within thirty days from the receipt of such request and interpretation shall form part of the arbitral award.
- (e) The Tribunal may also correct any error of the type referred to under sub-section (a), on its own initiative, within thirty days from the date of the arbitral award.
- (f) A party, through the Registrar may request, within thirty days from the receipt of the arbitral award, the Tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award. The Registrar shall forward the request to the Tribunal with the copy to the parties.
- (g) If the Tribunal considers the request made under sub-section (f) to be justified, it shall make the additional arbitral award within sixty days from the receipt of such request.

- (h) The Tribunal may extend, if necessary, the period of time within which it shall make a correction, give an interpretation or make an additional arbitral award under sub-sections (a), (c) and (f).

28. Indemnity of the Council, the Committee, the Governing Body, the Chairman, the President, the Registrar and the Arbitrators:

- (1) The Council, the Committee, the Governing Body, the Chairman, the President, the Registrar and the arbitrators shall not be liable for any act or omission in whatever capacity they may have acted in connection with or in relation to an arbitration under these Rules. Parties are themselves required to contest the proceedings regarding the validity of the arbitration agreement before the Court.
- (2) No party shall bring or prosecute any suit or proceedings whatsoever against the Tribunal, or any member thereof, for or in respect of any matter or thing purporting to be done under these Rules.

29. Confidentiality

- (1) Unless the parties have otherwise agreed, the Tribunal and the parties at all times shall follow a general principle to maintain the confidentiality of the arbitration and the award.
- (2) The Tribunal or a party, without prior written consent of all the other parties shall not disclose any such matter to a third party unless:
 - (a) Disclosure may be required of a party by legal duty; or
 - (b) It is to protect or pursue legal right; or
 - (c) To enforce or challenge an award in bona fide legal proceedings before a Court or other judicial authority.

30. General Provisions:

- (1) A party who knows that any provision or requirement under these Rules has not been complied with intentionally or unintentionally and yet proceeds with the arbitration without stating his objection to such non-compliance without undue delay shall be deemed to have waived his right to so object at a later stage.
- (2) The decisions of the Chairman, the Committee and the Registrar with respect to all matters relating to these rules shall be conclusive and binding upon the parties. The Chairman, the Committee, the Registrar and any officer of the Council shall not be required to provide reasons for such decisions.
- (3) The parties shall be deemed to have waived any right of challenge or appeal or review in respect of any decisions of the Chairman, the Committee, the Registrar and / or any officer of the Council in any court or other judicial authority.

- (4) Unless required to be filed in a Court of law, the arbitral tribunal shall have full discretion to retain/to return all books, documents or papers produced before it and may direct at any time that the books, documents or papers produced before it or any of them may be returned to the parties producing them on such terms and conditions as the arbitral tribunal may impose.

31. Duties of the Registrar:

- (1) The Registrar shall receive request for arbitration, receive payment of arbitration costs, appoint, in consultation with the Chairman, and in his absence in consultation with the members of the Committee, an arbitrator or arbitrators as it may be required.
- (2) The Registrar shall also receive all communications made to the Tribunal by the parties and communicate to them the orders and directions of the Tribunal, keep a register of all applications or requests made to the Council and of awards made by the Tribunal, keep such other books or memoranda and make such other records or returns as the Committee shall from time to time require and generally carry out the directions of a Tribunal so constituted under these Rules and take such other steps as may be necessary to assist such Tribunal in carrying out of its functions.
- (3) The Registrar may delegate to any officer of the Council, Chambers of Commerce or any Trade Association at the venue where the arbitration proceedings are taking place, to discharge such of the functions and administrative duties of the Registrar as are deemed proper and necessary from time to time, with reference to a particular case or cases.

32. Summary Procedure:

The Parties may mutually opt for a Summary Procedure and request the Tribunal, to decide the reference in a fixed time frame of 3 to 6 months, according to the Summary Procedure, as under:

- (1) The Tribunal shall be authorized to decide the dispute on the written pleadings, documents and written submissions filed by the Parties without any oral hearings.
- (2) The Tribunal shall have power to call for any further information/clarification from the parties in addition to the pleading and documents filed by them.
- (3) An oral hearing may be held if both the parties make a joint request or if the Tribunal considers an oral hearing necessary in any particular case.
- (4) If an oral hearing is held, the Tribunal may dispense with any technical formalities and adopt such procedure as it deems appropriate and necessary for economic and expeditious disposal of the case.

33. Emergency Arbitrator:

- (1) If a party is in requirement of urgent interim or conservatory measures, that cannot await formation of the Tribunal, it may make an application for emergency interim relief. The party

shall notify the Registrar with a simultaneous copy thereof to the other parties to the arbitration agreement for such measures.

- (2) The party making such an application shall:
 - a) describe the circumstances and the nature of the urgency and the measures sought
 - b) file proof of service of such application upon the opposite parties.
- (3) The party invoking the provision of Emergency Arbitrator shall deposit the necessary fees prescribed in the relevant schedule of fee within 7 days from the date of demand made by the Registrar.
- (4) The Registrar in consultation with the Chairman and in his absence the Committee shall appoint the Emergency Arbitrator as soon as possible but not later than seven days from the date of receipt of the fee as above.
- (5) The Emergency Arbitrator so appointed shall schedule a hearing including filing of pleadings as soon as possible but not later than seven days of his appointment. The Emergency Arbitrator shall provide reasonable opportunity of being heard to all the parties and upon being satisfied shall have the power to pass an interim order as provided under Rule 24.
- (6) The Registrar shall ensure that the entire process from the appointment of the Emergency Arbitrator to making the Order shall be completed within thirty days (excluding non-business days).
- (7) The Emergency Arbitrator shall become functus officio after the Order is made.
- (8) The order for urgent interim or conservatory measures passed by the Emergency Arbitrator shall not bind the Tribunal on the merits of any issue or dispute that the said Tribunal may be required to determine.
- (9) An order or award pursuant to the appointment of Emergency Arbitrator shall be binding on the parties when rendered. By agreeing to arbitration under these Rules, the parties undertake to comply with such an order or award without delay.
- (10) The order passed by the Emergency Arbitrator shall remain operative unless modified, substituted or vacated by the Tribunal.
- (11) The Emergency Arbitrator for all purpose shall be treated as ad hoc Arbitral Tribunal.

34. Amendment of Rules:

The Governing Body may revise, amend, alter or delete any or all of these Rules or the Schedule of Fee and other monies to be charged and paid as and when it so decides.

35. Residuary Powers of the Committee:

The Committee may take decisions, as it considers appropriate and exigential in respect of all matters, which are not specifically provided in these Rules.

36. Fee Schedule:

- (1) A Non-Refundable Registration Fee: U S Dollars 1,650 plus applicable tax.
- (2) Schedule of Arbitration Costs:

Arbitrator's Fee:

Amount of Claim & Counter Claim (in US Dollars)	Arbitrator's fee for each Arbitrator (In US Dollars)
Upto 50,000	4,000
From 50,001 to 1,00,000	4,000 plus 4% of amount over and above 50,000
From 1,00,001 to 5,00,000	6,000 plus 2% of amount over and above 1,00,000
5,00,001 to 10,00,000	14,000 plus 1.5% of amount over and above 5,00,000
Over 10,00,000	21,500 plus 1% of amount over and above 10,00,000

Administrative Charges:

Amount of Claim & Counter Claim (In US Dollars)	ICA Administrative Charges (In US Dollars)
Upto 50,000	2,000
From 50,001 to 1,00,000	2,000 plus 2% of amount over and above 50,000
From 1,00,001 to 5,00,000	3,000 plus 0.5% of amount over and above 1,00,000
5,00,001 to 10,00,000	11,000 plus 0.4% of amount over and above 5,00,000
Over 10,00,000	13,000 plus 0.3% of amount over and above 10,00,000

Note:

In addition to the Arbitrator's Fee and Administrative Charges referred to herein above, the parties shall also deposit any applicable taxes thereon including the requisite stamp duties.

The ICA will be entitled to receive a Special Fee of much of USD 150 plus applicable taxes per hearing for providing facilities of hearing rooms, secretarial assistance in advance initially for 10 sittings. Such expenses shall be deposited by the parties in advance as demanded by the Registrar from time to time.

- (3) **Emergency Arbitrator's Fee:** The Emergency Arbitrator's Fee shall be between US Dollars 1650 to 2000 as may be fixed by the Registrar in consultation with the Chairman of the Arbitration Committee and in his absence the Committee. Such fee shall be deposited by the party applying for the appointment of the emergency arbitrator within seven days of the date of demand.
- (4) Other Costs, charges and expenses shall also include all costs, charges and expenses on account of travelling, boarding, lodging of Arbitrators, witnesses, experts including stamp duty charges, legal charges and fees, conference hall charges, conveyance, refreshments, photocopying charges incurred or to be incurred in connection with the arbitration proceedings and the award, which shall be deposited by the parties within 7 days from the date of demand made by the Registrar from time to time. The determination of such costs, charges and expenses by the Registrar shall not be questioned by any party and the failure of payment thereof shall result in suspension of arbitration proceedings until the payments are made.
- (5) The Registrar in consultation with the Chairman and in his absence the Committee, shall be entitled to fix additional arbitrators fees over and above the Schedule here in above for arbitrators residing out of India.
- (6) In the event a party appoints or requests appointment of an Arbitrator who resides outside India, the cost of boarding and lodging and travelling of such an Arbitrator by such party at whose instance such appointment is made, shall be borne by the concerned party.
- (7) The arbitrator and/or the Emergency Arbitrator's fee shall be paid at the rate of exchange at which such fee was received by the Council subject to such deductions as may be required to be made by any rules, regulations or laws as then prevailing.
- (8) Any dispute or differences raised by any party or any member of the Tribunal in relation to the payment concerning the applicable rate of exchange shall be referred to the Registrar. The Registrar in consultation with the Chairman and in his absence the Committee shall decide on the said matter. The decision so communicated by the Registrar shall be binding on all concerned.
- (9) If the arbitration proceedings is terminated by the act or default of any of the parties after constitution of arbitral tribunal and before the award is made, any fee and/or charge deposited by the parties shall not be refunded.

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