



# ARBITRATION RULES 2023



ASIAN INTERNATIONAL ARBITRATION CENTRE



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## DIRECTOR'S MESSAGE

The Asian International Arbitration Centre (“**AIAC**”) stands resolute in delivering dispute resolution services with a pragmatic and cost-efficient framework. It is a legacy that we upheld for more than 45 years. This is in line with our commitment to meet the growing expectations of the ADR community.

It is my pleasure to present the latest edition of our ADR rules: **AIAC Arbitration Rules 2023, AIAC i-Arbitration 2023, and AIAC Mediation Rules 2023** (“**Rules**”). The rationale behind the inception of our Rules is as follows:

First, our strong collaboration with the United Nations Commission on International Trade Law (“**UNCITRAL**”) plays a key role. UNCITRAL has developed the most widely used set of arbitration rules through in-depth negotiations amongst State representatives and observing organisations. In line with the above, our Rules are rooted in UNCITRAL’s Arbitration Rules and UNCITRAL’s Mediation Rules which are time-tested mechanisms.

Second, the AIAC Rules offer clear guidance for arbitrators, lawyers, and disputing parties, in order to reduce confusion. While we prioritise precision, adopt a hands-off approach that allows for customisation and flexibility, allowing customisation for various disputes.

Third, we sought to streamline the process in order to provide efficiency and minimise the duration or the costs associated with lengthy legal proceedings.

Fourth, selected experts from the four corners of the globe gave their opinion on the application of these Rules. This is in line with our endeavour to have a stronger international presence and to cater for the needs of different users from around the world.

Fifth, the AIAC's credentials in terms of fairness and impartiality are self-evident. In this regard, the Centre is accorded immunity and privileges under the Host Country Agreement and the International Organization (Privileges and Immunities) Act 1992.

The ADR community can be assured that the AIAC and its Rules ensure fair and impartial grounds for the parties wishing to bring their dispute before it.

The AIAC presents to you these Rules embodying innovation, quality, and UNCITRAL's ADR expertise.

Thank you.

Yours sincerely,



**Datuk Sundra Rajoo**

Director

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## Model Arbitration Clause and Submission Agreement

The following model arbitration clause may be adopted by the Parties:

*“Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof shall be settled by arbitration in accordance with the AIAC Arbitration Rules.”*

At the option of the Parties, the following may be included in the Model Arbitration Clause:

- *The seat of arbitration shall be [city and country];*
- *The Arbitral Tribunal shall be comprised of [a sole arbitrator/ a panel of three arbitrators];*
- *The language to be used in the arbitral proceedings shall be [...]. (e.g. English)*
- *The arbitration [clause/agreement] shall be governed by [...]; (e.g. Malaysian Law)*
- *Before referring the dispute to arbitration, the Parties shall attempt to seek an amicable settlement of that dispute by mediation within [... days] (e.g. 30 days) of the dispute arising in accordance with the AIAC Mediation Rules as in force on the date of the commencement of mediation.*

Parties wishing to substitute an existing arbitration clause for one referring the dispute to arbitration under the AIAC Arbitration Rules may adopt the following model submission agreement:

*“The parties hereby agree that the dispute arising out of the contract dated \_\_\_\_\_ shall be settled by arbitration under the AIAC Arbitration Rules.”*

The model submission agreement may also be used where a contract does not contain an arbitration clause.

## Optional Fast Track Procedure Inclusion

The following clause may be adopted by Parties who wish to have their dispute settled under the AIAC Fast Track procedure.

*“Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Fast Track procedure of the AIAC Arbitration Rules.”*

Note: Parties should consider adding:

- (a) *The seat of arbitration shall be . . . [city and country];*
- (b) *The language to be used in the arbitral proceedings shall be [...]. (e.g. English)*



## Preamble

The Asian International Arbitration Centre (the "AIAC") Arbitration Rules 2023 (the "AIAC Arbitration Rules") take effect from 24<sup>th</sup> August 2023. Any reference to the AIAC Fast Track Arbitration Rules after this date shall be taken as a reference to the Fast Track Procedure in Schedule 4 of the AIAC Arbitration Rules.

Upon the coming into effect of the AIAC Arbitration Rules, all previous editions of the AIAC Arbitration Rules shall no longer be applicable to arbitration proceedings commenced after this date, unless otherwise agreed to by the Parties.

Under any arbitration agreement referring to the AIAC Arbitration Rules, the Parties shall be deemed to have agreed that the following rules, or such amended rules, in force on the date of the commencement of the arbitration, or the filing of an application for the appointment of an Emergency Arbitrator, shall be applied unless otherwise agreed by the Parties.

All approvals, directions, notices, guidelines, circulars, guidance notes, practice notes, rulings, decisions, notifications, exemptions and other executive acts, howsoever called, made available by the AIAC through their website on or before 24<sup>th</sup> August 2023, shall continue to remain in full force and effect, until amended, replaced, rescinded or revoked.

This preamble shall constitute an integral part of the AIAC Arbitration Rules.

## Guide To The AIAC Arbitration Rules

1. The English text of the AIAC Arbitration Rules prevails over other language versions.
2. All references in the AIAC Arbitration Rules to the singular shall include the plural where applicable and vice versa.
3. Definitions used in the AIAC Arbitration Rules:

**“AIAC”** means the Asian International Arbitration Centre (AIAC);

**“Arbitral Tribunal”** means a sole arbitrator, an emergency arbitrator, or a panel of three arbitrators appointed pursuant to the AIAC Arbitration Rules.

**“Article”** or **“Articles”** shall refer to the numbered provisions of the UNCITRAL Arbitration Rules (as revised in 2021) contained in Part II of the AIAC Arbitration Rules;

**“Award”** means a decision of the Arbitral Tribunal and includes any Final Award, Interim Award, Partial Award, Consent Award, Emergency Decision, and any award on costs or interest but does not include interlocutory orders;

**“Clause”** means the numbered provisions of the Schedules as contained in Part III of the AIAC Arbitration Rules;

**“Days”** means calendar days by 11:59 p.m. (GMT +8) on any given day, unless specified otherwise, and includes weekends and public holidays;

**“Director”** means the Director of the Asian International Arbitration Centre;

**“Domestic Arbitration”** means any arbitration which is not an international arbitration;

**“International Arbitration”** means an arbitration where –

- (a) one of the Parties to an arbitration agreement, at the time of the conclusion of that agreement, has its place of business in any State other than Malaysia;
- (b) one of the following is situated in any State other than Malaysia notwithstanding the Parties having their places of business in Malaysia:
  - (i) the seat of arbitration if determined in, or pursuant to, the arbitration agreement;
  - (ii) any place where a substantial part of the obligations of any commercial or other relationship is to be performed or the place with which the subject matter of the dispute is most closely connected;
- (c) the Parties have expressly agreed that the subject matter of the arbitration agreement relates to more than one State.

**“Rule” or “Rules”** shall refer to the numbered provisions of the AIAC Arbitration Rules as contained in Part I of the AIAC Arbitration Rules;

**“Virtually”** means the use of technology to remotely participate in the arbitral proceedings, including attending or appearing at meetings, conferences, deliberations or hearings including the taking of testimony of witnesses and experts by using a video conferencing platform, telephone or any other appropriate means.

**Part I**

**AIAC  
ARBITRATION  
RULES**

## Introductory Provisions

1. The AIAC Arbitration Rules consist of the following parts: Part I – AIAC Arbitration Rules, Part II – UNCITRAL Arbitration Rules (as revised in 2021)<sup>1</sup>, and Part III – Schedules.
2. References to Rules relate to Part I - AIAC Arbitration Rules whereas references to Articles relate to Part II – UNCITRAL Arbitration Rules.

## Rule 1 – General

1. Where the Parties have agreed in writing, by an arbitration agreement or otherwise, to refer their dispute to arbitration in accordance with the AIAC Arbitration Rules, then:
  - (a) such dispute shall be settled or resolved by arbitration in accordance with the AIAC Arbitration Rules;
  - (b) the arbitration shall be conducted and administered by the AIAC in accordance with the AIAC Arbitration Rules; and
  - (c) if the seat of arbitration is Malaysia, Section 41 and Section 46 of the Malaysian Arbitration Act 2005 (as amended) shall not apply.
2. The AIAC Arbitration Rules applicable to the arbitration shall be those in force at the time of commencement of the arbitration, unless otherwise agreed by the Parties.
3. To the extent that there is a conflict between Part I and Part II of the AIAC Arbitration Rules, the provisions in Part I shall prevail.
4. In all matters not expressly provided for in the AIAC Arbitration Rules, the AIAC, the Arbitral Tribunal, and the Parties shall make every reasonable effort to ensure the fair, expeditious and economical conclusion of the arbitration and the enforceability of any Award.
5. For investor-State arbitration initiated pursuant to a treaty providing for the protection of investments or investors, these Rules include the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (“Rules on Transparency”), subject to article 1 of the Rules on Transparency.

<sup>1</sup> Without annexes and/ or appendices.

## Rule 2 – Commencement of Arbitration

1. The Party or Parties commencing arbitration under the AIAC Arbitration Rules shall file a notice of arbitration, as described in Article 3, with the AIAC, accompanied by the following:
  - (a) a copy of the written arbitration clause or a separate arbitration agreement;
  - (b) confirmation that all existing pre-conditions to arbitration have been satisfied; and
  - (c) proof of payment of the non-refundable registration fee, as prescribed in Schedule 2, Clause 4.
2. The date on which the AIAC receives the complete notice of arbitration, with all the accompanying documentation, shall be treated as the date on which the arbitration commenced. The AIAC will notify the Parties of the date of commencement of arbitration.
3. The claimant shall, at the same time as it files the notice of arbitration with the AIAC, send a copy of the notice of arbitration to the respondent, and shall notify the AIAC that it has done so, specifying the mode of service employed and the date of service.

## Rule 3 – Appointment

1. Where the Parties have agreed to arbitration under the AIAC Arbitration Rules, the Director shall be the appointing authority.
2. The Parties are free to decide whether the case shall be referred to a sole arbitrator or to three arbitrators.
3. Where the Parties have not agreed on the number of arbitrators, the Director shall after consultation with the Parties decide whether the Arbitral Tribunal shall consist of a sole arbitrator or three arbitrators, having regard to the complexity of the case, the amount in dispute and any other relevant circumstances.
4. If the Parties have agreed that a sole arbitrator is to be appointed, the procedure for the appointment, unless the Parties have agreed otherwise, shall be:
  - (a) the Parties are free to nominate the sole arbitrator; or
  - (b) if the Parties are unable to agree on the sole arbitrator within 30 days of the other Party's receipt of the notice of arbitration, then either Party may request the Director to appoint the sole arbitrator.

5. If the Parties have agreed that three arbitrators are to be appointed, the procedure for the appointment, unless the Parties have agreed otherwise, shall be:
  - (a) each Party shall nominate one arbitrator, and both arbitrators shall thereafter nominate the third arbitrator, who will act as the presiding arbitrator of the Arbitral Tribunal;
  - (b) if a Party fails to nominate an arbitrator within 30 days after the service of the notice of arbitration, then either Party may request the Director to appoint the arbitrator;
  - (c) if within 30 days after the confirmation of the second arbitrator, both arbitrators have not agreed on the nomination of the presiding arbitrator, then either Party may request the Director to appoint the presiding arbitrator.
6. Save where Schedule 3 or 4 applies, where the Director is requested to appoint an arbitrator under Rule 3, unless otherwise agreed by the Parties or determined by the Director, the list procedure as provided in Article 8(2) shall apply.
7. The Director shall have the discretion to confirm any nomination or agreement by the Parties to nominate a member of the Arbitral Tribunal or the joint nomination of the president of the Arbitral Tribunal by the confirmed Party-appointed arbitrators under the AIAC Arbitration Rules.

## **Rule 4 – Challenge of an Arbitrator**

1. An arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence, or if the arbitrator does not possess any of the requisite qualifications on which the Parties agreed.
2. A challenge to an arbitrator shall be made by sending a notice of challenge within 15 days of receipt of the notice of appointment of the challenged arbitrator, or within 15 days after the circumstances specified in Rule 4(1) became known to the Party making such challenge. The notice of challenge shall be in writing and shall state the grounds for the challenge.
3. An application to challenge an arbitrator (the "Challenge Application") shall be sent to the AIAC pursuant to Article 13(4) and shall consist of the following:
  - (a) a copy of the notice of challenge pursuant to Rule 4(2);
  - (b) confirmation that the notice of challenge has been sent to the other Parties, the arbitrator who is challenged, any other members of the Arbitral Tribunal, along with the proof of service of the notice of challenge on each of the above; and

- (c) proof of payment of the non-refundable challenge fee, as prescribed in Schedule 2, Clause 5.1.
- 4. The Director may order the suspension of the arbitration until the challenge is resolved.
- 5. The Director shall decide on the challenge in writing and state reasons for the decision as soon as practicable.

### **Rule 5 – Replacement of the Arbitral Tribunal**

- 1. An arbitrator shall be replaced by the Director as soon as practicable in the following circumstances:
  - (a) death of the arbitrator;
  - (b) resignation of the arbitrator;
  - (c) agreement of the Parties; or
  - (d) decision of the Director pursuant to Rule 4.
- 2. Unless otherwise agreed by the Parties, the Director shall appoint the replacement arbitrator in conformity with the procedure that was applicable to the appointment or choice of the arbitrator being replaced.

### **Rule 6 – Additional Powers of the Arbitral Tribunal**

The Arbitral Tribunal may conduct the arbitration in such a manner as it deems appropriate. Unless otherwise agreed by the Parties, the Arbitral Tribunal may:

- (a) limit or extend the time available for each Party to present its case;
- (b) conduct such enquiries as may appear to the Arbitral Tribunal to be necessary or expedient, including whether and to what extent the Arbitral Tribunal shall itself take the initiative in identifying relevant issues applicable to the dispute;
- (c) conduct enquiries by inviting the Parties to make their respective submissions on such issues;
- (d) order the Parties to make any property, goods or sites in their possession or control, which the Arbitral Tribunal deems relevant to the case, available for inspection;



- (e) appoint an administrative secretary to the Arbitral Tribunal with no additional fees;
- (f) order any Party to produce any documents in its possession or control which the Arbitral Tribunal deems relevant and material to the case, and to supply these documents and/or their copies to the Arbitral Tribunal and to the other Parties;
- (g) decide whether or not to apply any rules of evidence as to the admissibility, relevance or weight of any material tendered by a Party on any issue of fact or expert opinion, and decide the time, manner and form in which such material shall be exchanged between the Parties and presented to the Arbitral Tribunal;
- (h) award costs including making any such determination on the proportion of costs to be borne by the Parties; and
- (i) award simple or compound interest from such date, at such rate and with such rest as the Arbitral Tribunal considers appropriate, for any period ending no later than the date of payment on the whole or any part of –
  - (i) any sum which is awarded by the Arbitral Tribunal in the arbitral proceedings;
  - (ii) any sum which is in issue in the arbitral proceedings but is paid before the date of the Award; or
  - (iii) costs awarded or ordered by the Arbitral Tribunal in the arbitral proceedings.

## **Rule 7 – Seat of Arbitration**

1. The Parties may agree on the seat of arbitration. Failing such agreement, the seat of arbitration shall be Kuala Lumpur, Malaysia, unless the Arbitral Tribunal determines, having regard to the circumstances of the case, that another seat is more appropriate.
2. Unless otherwise agreed by the Parties, the Arbitral Tribunal may, after consulting the Parties, conduct meetings, and arbitral hearings virtually or in person at a place or venue other than the seat of arbitration. Such agreement shall not change the seat of arbitration as determined in Rule 7(1).
3. The Award shall be deemed to have been made at the seat of arbitration.

## **Rule 8 – Interim Measures**

The Arbitral Tribunal may, at the request of a Party, grant interim measures pursuant to Article 26.

## **Rule 9 – Joinder of Parties**

If the Arbitral Tribunal allows one or more third persons to be joined in an arbitration in accordance with Article 17(5), the Arbitral Tribunal must indicate the date on which the complete joinder request was received, the latter is deemed to be the date the commencement of the arbitration in respect of the joined Party.

## **Rule 10 – Consolidation of Proceedings**

1. At the request of a Party, the Director may decide to consolidate a newly commenced arbitration with a pending arbitration, if:
  - (i) the Parties agree to consolidate;
  - (ii) all the claims are made under the same arbitration agreement; or
  - (iii) where the claims are made under more than one arbitration agreement, the relief sought arises out of the same transaction or series of transactions and the Director considers the arbitration agreements to be compatible.
2. In deciding whether to consolidate, the Director shall consult with the Parties and the Arbitral Tribunal and shall have regard to:
  - (i) the stage of the pending arbitrations;
  - (ii) the efficiency and expeditiousness of the proceedings; and
  - (iii) any other relevant circumstances.
3. Where the Director decides to consolidate, the Director may release any arbitrator already appointed.

## **Rule 11 – Summary Determination**

1. The Arbitral Tribunal shall have the power, at the request of any Party and after hearing from all other parties, to decide one or more points of law or fact by way of summary determination, on the basis that a claim or a counterclaim is manifestly without legal merit or is manifestly outside the jurisdiction of the Arbitral Tribunal.
2. Where the Arbitral Tribunal has allowed the summary determination wholly or partially, the Director shall determine the arbitration cost in accordance with Rule 17(5).

## **Rule 12 – Third-Party Funding**

1. The party that is funded by a third party in relation to the proceedings and/or its outcome shall disclose the existence of the funding and the identity of the funder.
2. The declaration under Rule 12(1) shall be repeated along the proceedings, until its conclusion, where supervening facts so require or upon request by the Arbitral Tribunal or the AIAC.

## **Rule 13 – Facilities and Additional Services**

1. The AIAC may, at the request of the Arbitral Tribunal or either Party, make available or arrange for facilities and additional services in the conduct of the arbitral proceedings as required.
2. The facilities and additional services may include: suitable accommodation, catering or refreshments for sittings of the Arbitral Tribunal, transcription services, in-person hearing facilities, interpretation services, and virtual hearing facilities.
3. The costs of such additional facilities and services shall be borne in equal shares by the Parties, unless otherwise agreed to by the Parties or ordered by the Arbitral Tribunal.

## **Rule 14 – Settlement Negotiations**

With the agreement of the Parties, the Arbitral Tribunal may take steps to facilitate the settlement of the dispute before it. Any such agreement by a Party shall constitute a waiver of its right to challenge an arbitrator's impartiality based on the arbitrator's participation and knowledge acquired in taking the agreed steps.

## **Rule 15 – Closure of Proceedings**

1. Following the delivery of the final submissions, the Arbitral Tribunal shall declare the closure of proceedings.
2. The Arbitral Tribunal's declaration of the closure of proceedings and the date on which the proceedings are closed shall be notified in writing to the Parties and the AIAC.
3. Notwithstanding the above, the Arbitral Tribunal may on its own initiative or upon the application of a Party, and after consulting the Director, decide to re-open the arbitral proceedings at any time before the Final Award is made, provided that exceptional circumstances exist.
4. Where the arbitral proceedings are re-opened pursuant to Rule 15(3), the Arbitral Tribunal shall thereafter re-declare the closure of proceedings.

## **Rule 16 – Technical Review**

1. The Arbitral Tribunal shall, within 90 days from the date of the closure of proceedings pursuant to Rule 15, and before signing the Final Award, submit its draft Final Award to the AIAC for a technical review.
2. The time limit specified in Rule 16(1) may be extended by the Director after consulting the Parties, if requested by the Arbitral Tribunal.
3. Where the Arbitral Tribunal re-opens the arbitral proceedings pursuant to Rule 15(3), the time limit for submitting the draft Final Award to the AIAC for technical review shall recommence.
4. The technical review shall entail the AIAC drawing the Arbitral Tribunal's attention to any perceived irregularity as to the form of the draft Final Award, including any matters relating to the procedural history, general content issues, and any clerical, typographical or computational errors, without affecting the Arbitral Tribunal's liberty of decision on merits.
5. If there are any perceived irregularities pursuant to Rule 16(4), the Arbitral Tribunal shall resubmit the draft Final Award to the AIAC within 10 days from the date on which the Arbitral Tribunal is notified of such irregularities, subject to any extension granted by the Director, if requested by the Arbitral Tribunal.
6. If there are no perceived irregularities pursuant to Rule 16(4) or upon completion of the technical review pursuant to Rule 16(5), the AIAC shall notify the Arbitral Tribunal and the Parties in writing that the technical review has been completed by the AIAC.
7. The Arbitral Tribunal shall, before signing any Award rendered prior to the Final Award, submit its draft Award to the AIAC for a technical review.
8. The Director has the discretion to waive the technical review of any Award.

## **Rule 17 – Delivery of Award**

1. The Arbitral Tribunal shall deliver sufficient originals of the Award to the AIAC for authentication.
2. The AIAC shall notify the Parties of its receipt of the Award from the Arbitral Tribunal which shall only be released to the Parties by the AIAC upon full settlement of the costs of the arbitration, including any government or statutory imposed taxes or other charges where applicable.

3. The Award shall be delivered by the AIAC to the Parties and shall be deemed to have been delivered on the day of the Parties' earliest receipt or collection.
4. By agreeing to arbitration under the AIAC Arbitration Rules, the Parties undertake to carry out the Award immediately and without delay, and irrevocably waive their rights to any form of appeal, review or recourse to any court, or other judicial authority, as well as to the validity and/or enforcement of any Award made by the Arbitral Tribunal, insofar as such waiver may be validly made. The Parties further agree that an Award shall be final and binding on the Parties from the date it is made.
5. Notwithstanding that a settlement has been reached or that the Arbitral Tribunal has otherwise terminated the arbitral proceedings in accordance with Article 36, the arbitration shall only be deemed concluded and the Arbitral Tribunal discharged upon full settlement of the costs of the arbitration as determined by the Director pursuant to Schedule 2, Clause 1.1(i).

## **Rule 18 – Costs**

1. The term "costs" as specified in Article 40 shall also include the expenses reasonably incurred by the AIAC in connection with the arbitration, the administrative fees of the AIAC as well as the costs of the facilities made available by the AIAC under Rule 13.
2. The Director shall fix the fees of the Arbitral Tribunal and the AIAC Administrative Fee in accordance with Schedule 1(A) for international arbitrations (USD scale) and Schedule 1(B) for domestic arbitrations (RM scale). The calculation of fees shall be based on the amount in dispute comprising of the value of any claims, counterclaims, and any defence of set-off. Where claims and/or counterclaims are unquantified, the Director shall ascertain the amount in dispute, in consultation with the Arbitral Tribunal and the Parties, for the purpose of the deposit calculation.
3. Notwithstanding the above, all Parties and the Arbitral Tribunal are at liberty to agree on the fees and expenses of the Arbitral Tribunal within 30 days from the appointment of the Arbitral Tribunal (the "Fee Agreement"). The Fee Agreement shall only enable the Arbitral Tribunal to negotiate the quantum and/or calculation of its fees and expenses and/or the scheduling of any interim release of fees, subject to Schedule 2, Clause 1.1(h). The Arbitral Tribunal shall inform the Director that the Fee Agreement has been executed. If the Fee Agreement is executed after the 30-day period has expired, the Fee Agreement shall be subject to approval by the Director.
4. Notwithstanding any Fee Agreement, the deposits towards the costs of the arbitration shall be deposited to and held by the AIAC, and any interest earned on the deposits shall be kept by the AIAC.

## Rule 19 – Deposits

In lieu of the provisions of Article 43, the following provisions shall apply:

1. Following the AIAC's letter confirming the commencement of the arbitration pursuant to Rule 2(2), the AIAC shall request a provisional advance deposit to cover approximately 30% of the estimated costs of the arbitration.
2. If the amount in dispute is unquantified at the time the Commencement Request is submitted to the AIAC, the provisional advance deposit shall be fixed at USD10,000.00 for an international arbitration and RM10,000.00 for a domestic arbitration.
3. In the event the provisional advance deposit has not been paid in full:
  - (a) the AIAC shall give the other Party an opportunity to make the required payment within a specified time limit;
  - (b) if the Arbitral Tribunal has yet to be constituted, after 30 days of the AIAC's final reminder for the provisional advance deposit, the AIAC may treat the claims for which the provisional advance deposit remains outstanding, as withdrawn without prejudice; or
  - (c) if the Arbitral Tribunal has been constituted, without affecting the liberty of the Parties and the Arbitral Tribunal to execute any Fee Agreement pursuant to Rule 18(3), the arbitral proceedings shall not proceed until the provisional advance deposit is paid in full.
4. Following the preliminary meeting or upon issuance of the first procedural order in the arbitral proceedings, the AIAC shall request for the advance preliminary deposit to cover the remainder of the estimated fees and expenses of the Arbitral Tribunal and the AIAC Administrative Fee for the arbitration.
5. If the claims and counterclaims are unquantified at the time the first Procedural Order is delivered, the Director shall determine the amount in dispute, after consulting the Arbitral Tribunal and the Parties, for the purpose of fixing the advance preliminary deposit.
6. During the course of the arbitral proceedings, the AIAC may request additional deposits from the Parties, subject to changes to the amount in dispute, the estimated expenses of the arbitrators or any other factors.
7. The provisional advance deposit, advance preliminary deposit and additional deposits shall be borne by the Parties in equal shares and shall be payable by the Parties to the AIAC within 21 days upon receiving the request from the AIAC.

8. Notwithstanding the above, where counterclaims are submitted by the Respondent, the Director may, at his discretion, fix separate deposits on costs for the claims and counterclaims. When the Director has fixed separate deposits on costs, each of the Parties shall pay the deposit corresponding to its claims.
9. In the event that either the advance preliminary deposit or the additional deposits have not been paid in full:
  - (a) the AIAC shall give the other Party an opportunity to make the required payment within a specified time limit; and
  - (b) after 30 days of the AIAC's final reminder, if the requested deposits remain outstanding, the Arbitral Tribunal may, after consulting the Director, suspend or terminate the arbitral proceedings, or any part thereof.
10. Notwithstanding the above, the Director shall have the discretion to determine the proportion of deposits required to be paid by the Parties, including such instances where the Director has fixed separate deposits on costs for the claims and counterclaims.
11. The AIAC shall have the discretion to extend any deadline for payment of the deposits.
12. The AIAC may apply the deposits towards the AIAC Administrative Fee, the Arbitral Tribunal's fees and the Arbitral Tribunal's out-of-pocket and per diem expenses in such manner and at such times as the Director deems appropriate.
13. Following the closure of proceedings pursuant to Rule 15, where there is a change in the amount in dispute, the AIAC shall undertake an adjustment of the deposits to reflect the correct amount in dispute.
14. After the Final Award has been delivered, or following the settlement or termination of the arbitral proceedings pursuant to Rule 17(5), the AIAC shall render an accounting of the deposits received to the Parties and return any unexpended balance to the Parties based on the Parties' respective contributions.

## **Rule 20 – Mediation to Arbitration**

If the Parties have referred their dispute to mediation under the AIAC Mediation Rules and they have failed to reach a settlement, and/or the mediation has been terminated, and thereafter decided to proceed to arbitration under the AIAC Arbitration Rules, then half of the AIAC Administrative Fee for the mediation shall be credited towards the AIAC Administrative Fee in relation to the arbitration.

## Rule 21 – Confidentiality

1. Unless otherwise agreed by the Parties, all matters relating to the arbitral proceedings shall be kept confidential by the Parties and their representatives, except where disclosure is necessary for the implementation and enforcement of the Award or, to the extent that disclosure may be required of a Party by a legal duty, to protect or pursue a legal right or to challenge an Award in legal proceedings before a court or other judicial authority.
2. In Rule 21(1), “matters relating to the arbitral proceedings” means the existence of the proceedings, the deliberations of the Arbitral Tribunal, the pleadings, evidence, other materials in the arbitration proceedings, and all other documents produced by another Party in the proceedings or the Award arising from the proceedings, save where such is in the public domain.
3. Rule 21(1) equally applies to the Arbitral Tribunal, the Director, the AIAC, any administrative secretary of the Arbitral Tribunal, any witness or expert appointed by the Arbitral Tribunal, and any person involved in the arbitration.
4. The Arbitral Tribunal has the power to take appropriate measures, including issuing an order or Award for sanctions or costs, if a Party breaches the provisions of this Rule 21.
5. Unless otherwise informed to the Director in writing by any of the Parties or the Arbitral Tribunal, before an award is made, the Parties and the Arbitral Tribunal in an arbitration shall be deemed to have consented to the AIAC disclosing, producing or publishing the award by any means as the AIAC deems fit after 2 years from the release of the Award to the Parties.
6. The disclosure, production, or publication in the term of Rule 21(5) is made provided that the following confidential information and details as determined by the AIAC are deleted:
  - (a) the names of the parties;
  - (b) the name of the arbitrator;
  - (c) details of the subject matter;
  - (d) the amount in dispute;
  - (e) the counterclaim or set-off amount; and
  - (f) the awarded amount.

## Rule 22 – No Liability

Neither the AIAC, the arbitrators, the administrative secretary of the Arbitral Tribunal, nor any expert appointed by the Arbitral Tribunal are liable to any Party for any act or omission in connection with the arbitration, unless such act or omission constitutes wilful misconduct or gross negligence.



### **Rule 23 – Non-Reliance**

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, commence or maintain any action for defamation, libel, or slander.

### **Rule 24 – Vacancy of the Position of Director**

In the event the position of Director of the AIAC becomes vacant, the following officers, in order of precedence, shall assume the powers of the Director under these Rules until the appointment of a new Director:

- (i) the Deputy Director;
- (ii) the Assistant Director; or
- (iii) the Head of Legal Services.

**Part II**

**UNCITRAL  
ARBITRATION  
RULES**

**(As revised in 2021)**

## Section I. Introductory Rules

### Scope of application<sup>2</sup>

#### *Article 1*

1. Where parties have agreed that disputes between them in respect of a defined legal relationship, whether contractual or not, shall be referred to arbitration under the UNCITRAL Arbitration Rules, then such disputes shall be settled in accordance with these Rules subject to such modification as the parties may agree.
2. The parties to an arbitration agreement concluded after 15 August 2010 shall be presumed to have referred to the Rules in effect on the date of commencement of the arbitration, unless the parties have agreed to apply a particular version of the Rules. That presumption does not apply where the arbitration agreement has been concluded by accepting after 15 August 2010 an offer made before that date.
3. These Rules shall govern the arbitration except that where any of these Rules is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.
4. For investor-State arbitration initiated pursuant to a treaty providing for the protection of investments or investors, these Rules include the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration ("Rules on Transparency"), subject to article 1 of the Rules on Transparency.
5. The Expedited Arbitration Rules in the appendix shall apply to the arbitration where the parties so agree.

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<sup>2</sup> A model arbitration clause for contracts can be found before the preamble of the Rules

## Notice and calculation of periods of time

### *Article 2*

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

## Notice of arbitration

### Article 3

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

## Response to the notice of arbitration

### *Article 4*

1. Within 30 days of the receipt of the notice of arbitration, the respondent shall communicate to the claimant a response to the notice of arbitration, which shall include:
  - (a) The name and contact details of each respondent;
  - (b) A response to the information set forth in the notice of arbitration, pursuant to article 3, paragraphs 3 (c) to (g).
2. The response to the notice of arbitration may also include:
  - (a) Any plea that an arbitral tribunal to be constituted under these Rules lacks jurisdiction;
  - (b) A proposal for the designation of an appointing authority referred to in article 6, paragraph 1;
  - (c) A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;
  - (d) Notification of the appointment of an arbitrator referred to in article 9 or 10;
  - (e) A brief description of counterclaims or claims for the purpose of a set-off, if any, including where relevant, an indication of the amounts involved, and the relief or remedy sought;
  - (f) A notice of arbitration in accordance with article 3 in case the respondent formulates a claim against a party to the arbitration agreement other than the claimant.
3. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the respondent's failure to communicate a response to the notice of arbitration, or an incomplete or late response to the notice of arbitration, which shall be finally resolved by the arbitral tribunal.

## Representation and assistance

### *Article 5*

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

## Designating and appointing authorities

### Article 6

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

6. When the appointing authority is requested to appoint an arbitrator pursuant to articles 8, 9, 10 or 14, the party making the request shall send to the appointing authority copies of the notice of arbitration and, if it exists, any response to the notice of arbitration.
7. The appointing authority shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and shall take into account the advisability of appointing an arbitrator of a nationality other than the nationalities of the parties.



## Section II. Composition of the Arbitral Tribunal

### Number of arbitrators

#### *Article 7*

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

### Appointment of arbitrators (Articles 8 to 10)

#### *Article 8*

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

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

### ***Article 9***

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

### ***Article 10***

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

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

## **Disclosures by and challenge of arbitrators (Articles 11 to 13)**

### ***Article 11***

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

### ***Article 12***

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

### ***Article 13***

1. A party that intends to challenge an arbitrator shall send notice of its challenge within 15 days after it has been notified of the appointment of the challenged arbitrator, or within 15 days after the circumstances mentioned in articles 11 and 12 became known to that party.

2. The notice of challenge shall be communicated to all other parties, to the arbitrator who is challenged and to the other arbitrators. The notice of challenge shall state the reasons for the challenge.
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.

## **Replacement of an arbitrator**

### ***Article 14***

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

## **Repetition of hearings in the event of the replacement of an arbitrator**

### ***Article 15***

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

## **Exclusion of liability**

### ***Article 16***

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

## Section III. Arbitral proceedings

### General provisions

#### *Article 17*

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

## Place of arbitration

### *Article 18*

1. If the parties have not previously agreed on the place of arbitration, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case. The award shall be deemed to have been made at the place of arbitration.
2. The arbitral tribunal may meet at any location it considers appropriate for deliberations. Unless otherwise agreed by the parties, the arbitral tribunal may also meet at any location it considers appropriate for any other purpose, including hearings.

## Language

### *Article 19*

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

## Statement of claim

### *Article 20*

1. The claimant shall communicate its statement of claim in writing to the respondent and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The claimant may elect to treat its notice of arbitration referred to in article 3 as a statement of claim, provided that the notice of arbitration also complies with the requirements of paragraphs 2 to 4 of this article.

2. The statement of claim shall include the following particulars:
  - (a) The names and contact details of the parties;
  - (b) A statement of the facts supporting the claim;
  - (c) The points at issue;
  - (d) The relief or remedy sought;
  - (e) The legal grounds or arguments supporting the claim.
3. A copy of any contract or other legal instrument out of or in relation to which the dispute arises and of the arbitration agreement shall be annexed to the statement of claim.
4. The statement of claim should, as far as possible, be accompanied by all documents and other evidence relied upon by the claimant, or contain references to them.

## Statement of defence

### *Article 21*

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



## **Amendments to the claim or defence**

### ***Article 22***

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

## **Pleas as to the jurisdiction of the arbitral tribunal**

### ***Article 23***

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

## Further written statements

### *Article 24*

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

## Periods of time

### *Article 25*

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

## Interim measures

### *Article 26*

1. The arbitral tribunal may, at the request of a party, grant interim measures.
2. An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to:
  - (a) Maintain or restore the status quo pending determination of the dispute;
  - (b) Take action that would prevent, or refrain from taking action that is likely to cause, (i) current or imminent harm or (ii) prejudice to the arbitral process itself;
  - (c) Provide a means of preserving assets out of which a subsequent award may be satisfied; or
  - (d) Preserve evidence that may be relevant and material to the resolution of the dispute.

3. The party requesting an interim measure under paragraphs 2 (a) to (c) shall satisfy the arbitral tribunal that:
  - (a) Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and
  - (b) There is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.
4. With regard to a request for an interim measure under paragraph 2 (d), the requirements in paragraphs 3 (a) and (b) shall apply only to the extent the arbitral tribunal considers appropriate.
5. The arbitral tribunal may modify, suspend or terminate an interim measure it has granted, upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative.
6. The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.
7. The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which the interim measure was requested or granted.
8. The party requesting an interim measure may be liable for any costs and damages caused by the measure to any party if the arbitral tribunal later determines that, in the circumstances then prevailing, the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.
9. A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

## **Evidence**

### ***Article 27***

1. Each party shall have the burden of proving the facts relied on to support its claim or defence.

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

## Hearings

### *Article 28*

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

## Experts appointed by the arbitral tribunal

### *Article 29*

1. After consultation with the parties, the arbitral tribunal may appoint one or more independent experts to report to it, in writing, on specific issues to be determined by the arbitral tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.

2. The expert shall, in principle before accepting appointment, submit to the arbitral tribunal and to the parties a description of his or her qualifications and a statement of his or her impartiality and independence. Within the time ordered by the arbitral tribunal, the parties shall inform the arbitral tribunal whether they have any objections as to the expert's qualifications, impartiality or independence. The arbitral tribunal shall decide promptly whether to accept any such objections. After an expert's appointment, a party may object to the expert's qualifications, impartiality or independence only if the objection is for reasons of which the party becomes aware after the appointment has been made. The arbitral tribunal shall decide promptly what, if any, action to take.
3. The parties shall give the expert any relevant information or produce for his or her inspection any relevant documents or goods that he or she may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the arbitral tribunal for decision.
4. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties, which shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his or her report.
5. At the request of any party, the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing, any party may present expert witnesses in order to testify on the points at issue. The provisions of article 28 shall be applicable to such proceedings.

## Default

### *Article 30*

1. If, within the period of time fixed by these Rules or the arbitral tribunal, without showing sufficient cause:
  - (a) The claimant has failed to communicate its statement of claim, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings, unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so;

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

## **Closure of hearings**

### ***Article 31***

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

## **Waiver of right to object**

### ***Article 32***

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

## Section IV. The award

### Decisions

#### *Article 33*

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

### Form and effect of the award

#### *Article 34*

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

## **Applicable law, amiable compositeur**

### ***Article 35***

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

## **Settlement or other grounds for termination**

### ***Article 36***

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



## Interpretation of the award

### *Article 37*

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

## Correction of the award

### *Article 38*

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

## Additional award

### *Article 39*

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

## Definition of costs

### *Article 40*

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

## Fees and expenses of arbitrators

### *Article 41*

1. The fees and expenses of the arbitrators shall be reasonable in amount, taking into account the amount in dispute, the complexity of the subject matter, the time spent by the arbitrators and any other relevant circumstances of the case.

2. If there is an appointing authority and it applies or has stated that it will apply a schedule or particular method for determining the fees for arbitrators in international cases, the arbitral tribunal in fixing its fees shall take that schedule or method into account to the extent that it considers appropriate in the circumstances of the case.
3. Promptly after its constitution, the arbitral tribunal shall inform the parties as to how it proposes to determine its fees and expenses, including any rates it intends to apply. Within 15 days of receiving that proposal, any party may refer the proposal to the appointing authority for review. If, within 45 days of receipt of such a referral, the appointing authority finds that the proposal of the arbitral tribunal is inconsistent with paragraph 1, it shall make any necessary adjustments thereto, which shall be binding upon the arbitral tribunal.
4.
  - (a) When informing the parties of the arbitrators' fees and expenses that have been fixed pursuant to article 40, paragraphs 2 (a) and (b), the arbitral tribunal shall also explain the manner in which the corresponding amounts have been calculated;
  - (b) Within 15 days of receiving the arbitral tribunal's determination of fees and expenses, any party may refer for review such determination to the appointing authority. If no appointing authority has been agreed upon or designated, or if the appointing authority fails to act within the time specified in these Rules, then the review shall be made by the Secretary- General of the PCA;
  - (c) If the appointing authority or the Secretary-General of the PCA finds that the arbitral tribunal's determination is inconsistent with the arbitral tribunal's proposal (and any adjustment thereto) under paragraph 3 or is otherwise manifestly excessive, it shall, within 45 days of receiving such a referral, make any adjustments to the arbitral tribunal's determination that are necessary to satisfy the criteria in paragraph 1. Any such adjustments shall be binding upon the arbitral tribunal;
  - (d) Any such adjustments shall either be included by the arbitral tribunal in its award or, if the award has already been issued, be implemented in a correction to the award, to which the procedure of article 38, paragraph 3, shall apply.
4. Throughout the procedure under paragraphs 3 and 4, the arbitral tribunal shall proceed with the arbitration, in accordance with article 17, paragraph 1.

5. A referral under paragraph 4 shall not affect any determination in the award other than the arbitral tribunal's fees and expenses; nor shall it delay the recognition and enforcement of all parts of the award other than those relating to the determination of the arbitral tribunal's fees and expenses.

## **Allocation of costs**

### ***Article 42***

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

## **Deposit of costs**

### ***Article 43***

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

**Part III**

# SCHEDULES

## SCHEDULE 1 – ARBITRATOR’S FEES AND AIAC ADMINISTRATIVE FEE

The fees prescribed in Schedule 1 relate to a sole arbitrator. Where there are three arbitrators, the Arbitral Tribunal’s total fees shall be derived by multiplying the prescribed fees by the number of arbitrators.

### 1A – INTERNATIONAL ARBITRATION FEES

Amount in Dispute (USD)	Arbitrator’s Fees (USD)	AIAC Administrative Fee (USD)
Up to 50,000	3,500	2,050
From 50,001 to 100,000	3,500 + 8.2% excess over 50,000	2,050 + 1.26% excess over 50,000
From 100,001 to 500,000	7,600 + 3.6% excess over 100,000	2,680 + 0.705% excess over 100,000
From 500,001 to 1,000,000	22,000 + 3.02% excess over 500,000	5,500 + 0.5% excess over 500,000
From 1,000,001 to 2,000,000	37,100 + 1.39% excess over 1,000,000	8,000 + 0.35% excess over 1,000,000
From 2,000,001 to 5,000,000	51,000 + 0.8166% excess over 2,000,000	11,500 + 0.1733% excess over 2,000,000
From 5,000,001 to 10,000,000	75,500 + 0.35% excess over 5,000,000	16,700 + 0.088% excess over 5,000,000
From 10,000,001 to 50,000,000	93,000 + 0.181% excess over 10,000,000	21,100 + 0.052% excess over 10,000,000
From 50,000,001 to 80,000,000	165,300 + 0.0713% excess over 50,000,000	Above 50,000,001: 41,900 (maximum)
From 80,000,001 to 100,000,000	186,700 + 0.0535% excess over 80,000,000	
From 100,000,001 to 500,000,000	197,400 + 0.0386% excess over 100,000,000	

Above 500,000,001	351,800 + 0.03% excess over 500,000,000 up to a maximum of 2,000,000	
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## 1B – DOMESTIC ARBITRATION FEES

Amount in Dispute (RM)	Arbitrator's Fees (RM)	AIAC Administrative Fee (RM)
Up to 150,000	11,200	6,600
From 150,001 to 300,000	11,200 + 8.7334% excess over 150,000	6,600 + 1.333% excess over 150,000
From 300,001 to 1,500,000	24,300 + 3.8333% excess over 300,000	8,600 + 0.7500% excess over 300,000
From 1,500,001 to 3,000,000	70,300 + 3.2200% excess over 1,500,000	17,600 + 0.5267% excess over 1,500,000
From 3,000,001 to 6,000,000	118,600 + 1.4800% excess over 3,000,000	25,500 + 0.3667% excess over 3,000,000
From 6,000,001 to 15,000,000	163,000 + 0.8700% excess over 6,000,000	36,500 + 0.1822% excess over 6,000,000
From 15,000,001 to 30,000,000	241,300 + 0.3727% excess over 15,000,000	52,900 + 0.0927% excess over 51,000,000
From 30,000,001 to 150,000,000	297,200 + 0.1924% excess over 30,000,000	66,800 + 0.0550% excess over 30,000,000
From 150,000,001 to 240,000,000	528,100 + 0.0760% excess over 150,000,000	Above 150,000,001: 132,800 (maximum)
From 240,000,001 to 300,000,000	596,500 + 0.0570% excess over 240,000,000	
From 300,000,001 to 1,500,000,000	630,700 + 0.0411% excess over 300,000,000	

Above 1,500,000,001	1,123,900 + 0.0400% excess over 1,500,000,000 up to a maximum of 6,000,000	
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## IC – INTERNATIONAL ARBITRATION FEES (FAST TRACK)

Amount in Dispute (USD)	Arbitrator's Fees (USD)	AIAC Administrative Fee (USD)
Up to 50,000	3,500	20% of Arbitral Tribunal's total fees
From 50,001 to 100,000	3,500 + 5.40% excess over 50,000	
From 100,001 to 500,000	6,200 + 2.475% excess over 100,000	
From 500,001 to 1,000,000	16,100 + 1.80% excess over 500,000	
From 1,000,001 to 2,000,000	25,100 + 0.90% excess over 1,000,000	
From 2,000,001 to 5,000,000	34,100 + 0.45% excess over 2,000,000	
From 5,000,001 to 10,000,000	47,600 + 0.225% excess over 5,000,000	
From 10,000,001 to 50,000,000	58,850 + 0.1125% excess over 10,000,000	
From 50,000,001 to 80,000,000	103,850 + 0.045% excess over 50,000,000	
From 80,000,001 to 100,000,000	117,350 + 0.03375% excess over 80,000,000	
Above 100,000,001	124,100	



**ID – DOMESTIC ARBITRATION FEES (FAST TRACK)**

Amount in Dispute (RM)	Arbitrator's Fees (RM)	AIAC Administrative Fee (RM)
Up to 150,000	10,500	20% of Arbitral Tribunal's total fees
From 150,001 to 300,000	10,500 + 5.400% excess over 150,000	
From 300,001 to 1,500,000	18,600 + 2.475% excess over 300,000	
From 1,500,001 to 3,000,000	48,300 + 1.800% excess over 1,500,000	
From 3,000,001 to 6,000,000	75,300 + 0.900% excess over 3,000,000	
From 6,000,001 to 15,000,000	102,300 + 0.450% excess over 6,000,000	
From 15,000,001 to 30,000,000	142,800 + 0.225% excess over 15,000,000	
From 30,000,001 to 150,000,000	176,550 + 0.1125% excess over 30,000,000	
From 150,000,001 to 240,000,000	311,550 + 0.045% excess over 150,000,000	
From 240,000,001 to 300,000,000	352,050 + 0.03375% excess over 240,000,000	
Above 300,000,001	372,300	

## **SCHEDULE 2 – GENERAL PROVISIONS ON FEES, EXPENSES AND DEPOSITS**

### **Clause 1 – Arbitrator’s Fees and Expenses**

#### **1.1. Arbitrator’s Fees**

- (a) The arbitrator’s fees shall be payable by the Parties in equal shares, unless otherwise determined by the Director, and shall form a part of the deposits.
- (b) Save where a Fee Agreement has been executed pursuant to Rule 18(3), the arbitrator’s fees shall be calculated pursuant to Schedule 1.
- (c) The fees payable to the arbitrator in Schedule 1 are exclusive of any applicable taxes or charges.
- (d) The Parties have a duty to pay and are liable for any government or statutory imposed taxes or other charges which amounts shall be included in the final calculation of the deposits, should the AIAC be requested by the arbitrator to collect such taxes or charges.
- (e) Any government or statutory imposed taxes or other charges not included in the final calculation of the deposits, may be recoverable by the arbitrator as against the Parties directly.
- (f) Where the Arbitral Tribunal consists of more than one arbitrator and Schedule 1 applies, the total arbitrators’ fee shall be derived by multiplying the amount of an arbitrator’s fees by the number of the arbitrators, with the presiding arbitrator receiving 40% of the total arbitrators’ fee and the co-arbitrators receiving the remaining 60% in equal shares, unless otherwise agreed by the Arbitral Tribunal.
- (g) The arbitrator’s fees shall only be payable upon the delivery to the AIAC of the Final Award pursuant to Rule 17(1) and the Emergency decision pursuant to Clause 1.6(c) of Schedule 3, unless otherwise agreed to by the Parties and the Arbitral Tribunal.
- (h) An arbitrator shall not be entitled to any interim fees, unless a Fee Agreement executed pursuant to Rule 18(3) permits such interim release, and provided always that the total proportion of fees subject to interim release throughout the arbitral proceedings does not exceed 50% of the Arbitral Tribunal’s fees and expenses.
- (i) Where an arbitration is settled or has otherwise been terminated prior to the issuance of the Final Award, the costs of the arbitration, including the proportion of the costs of the arbitration to be borne by the Parties, shall be determined by the Director after consulting the Arbitral Tribunal.

## **1.2. Arbitrator's Expenses**

- (a) An arbitrator shall be entitled to claim reasonable out-of-pocket expenses and any per diem or other miscellaneous expenses incurred during the arbitral proceedings.
- (b) As part of the deposits, the AIAC may collect an amount towards the Arbitral Tribunal's estimated expenses including out-of-pocket and per diem expenses, which shall be borne by the Parties in equal shares.
- (c) Out-of-pocket expenses reasonably incurred by the Arbitral Tribunal shall be reimbursed upon submission and verification by the AIAC of the supporting invoices and receipts, in original or electronic copy, at the conclusion of the arbitral proceedings.
- (d) An arbitrator who is required to travel outside of the arbitrator's place of residence shall be reimbursed with the cost of business class airfares, subject to the submission of the invoice or receipt in original or electronic copy to the AIAC for verification.
- (e) In addition to out-of-pocket expenses, an arbitrator shall be entitled to a per diem where the arbitrator is required to travel outside of the arbitrator's place of residence, and unless otherwise agreed to by the Parties and the Arbitral Tribunal in the Fee Agreement,
  - (i) a per diem of RM1,800 shall be payable to the arbitrator whenever overnight accommodation is required; and
  - (ii) a per diem of RM900 shall be payable to the arbitrator if no overnight accommodation is required.
- (f) For the purposes of Clause 1.2(e), per diem shall include:
  - (i) hotel accommodation;
  - (ii) meals/beverages;
  - (iii) laundry/dry cleaning/ironing;
  - (iv) city transportation (excluding airport transfers);
  - (v) correspondence costs (telephone, faxes, internet usage etc.); and
  - (vi) tips.
- (g) The Arbitral Tribunal shall provide the AIAC with a reasonable estimation of its expenses prior to the hearing, or at the latest, prior to the closure of the proceedings pursuant to Rule 15.

## **Clause 2 – AIAC Administrative Fee**

- 2.1. The AIAC Administrative Fee shall be payable by the Parties in equal shares, unless otherwise determined by the Director, and shall form a part of the deposits.

- 2.2. The AIAC Administrative Fee shall be calculated pursuant to Schedule 1.
- 2.3. The AIAC Administrative Fee payable in Schedule 1 is exclusive of any applicable taxes or charges.
- 2.4. The Parties have a duty to pay and are liable for any government or statutory imposed taxes or other charges which amounts shall be included in the final calculation of the deposits, recoverable by the AIAC as against the Parties directly.
- 2.5. The AIAC Administrative Fee is not inclusive of other services such as suitable accommodation, catering or refreshments for sittings of the Arbitral Tribunal, administrative secretary of the Arbitral Tribunal services, transcription services, in-person hearing facilities, interpretation services and virtual hearing facilities, which shall be chargeable to the requesting Party separately.

### Clause 3 – Deposits

- 3.1. The provisional advance deposit, advance preliminary deposit and additional deposit pursuant to Rule 19 shall include:
  - (a) the Arbitral Tribunal's fees and estimated expenses;
  - (b) the AIAC Administrative Fee;
  - (c) any government or statutory imposed taxes or other charges; and
  - (d) bank charges required by the bank in the following amounts

International arbitration	Domestic arbitration
USD150	RM150

### Clause 4 – Registration Fee

- 4.1. A registration fee of RM1,500 for domestic arbitrations and USD750 for international arbitrations shall be payable to the AIAC upon the submission of a commencement request pursuant to Rule 2.
- 4.2. The registration fee is exclusive of any government or statutory imposed taxes or other charges and an additional sum reflecting any such taxes or charges on the registration fee shall be payable at the prevailing rate.
- 4.3. The registration fee is non-refundable and, save where expressly stated otherwise in the AIAC Arbitration Rules, is inclusive of the services rendered by the AIAC and the Director thereunder.
- 4.4. The registration fee does not constitute a part of the AIAC Administrative Fee.

- 4.5. The registration fee shall be payable in full by the Party submitting the commencement Request and shall not be subject to any deductions.

## Clause 5 – Challenge Application Fee

- 5.1. The following fee shall be payable upon submitting a Challenge Application to the AIAC pursuant to Rule 4(3):

International Arbitration	Domestic Arbitration
USD5,000	RM10,000

- 5.2. The Challenge Application Fee is exclusive of any government or statutory imposed taxes or other charges and an additional sum reflecting any such taxes or charges on the Challenge Application Fee shall be payable at the prevailing rate.
- 5.3. The Challenge Application Fee is non-refundable, unless otherwise determined by the Director, and does not constitute a part of the registration fee or the AIAC Administrative Fee.

## Clause 6 – Emergency Arbitration Fees

- 6.1. The following fees shall be payable upon submitting an Emergency Arbitrator Application to the AIAC pursuant to Schedule:

Fee Type	International Arbitration (USD)	Domestic Arbitration (RM)
Emergency Arbitrator Application Fee	2,000	5,000
Emergency Arbitrator's Fee	10,000	30,000

- 6.2. The Emergency Arbitrator Application Fee is exclusive of any government or statutory imposed taxes or other charges and an additional sum reflecting any such taxes or charges on the Emergency Arbitrator Application Fee or the Emergency Arbitrator's Fees shall be payable at the prevailing rate.
- 6.3. The Emergency Arbitrator's Fees is exclusive of any applicable taxes or charges and the Parties have a duty to pay and are liable for any government or statutory imposed taxes or other charges which shall be collected by the AIAC if requested by the arbitrator, or otherwise recoverable by the arbitrator as against the Parties directly.
- 6.4. The Emergency Arbitrator Application Fee is non-refundable and does not constitute a part of the registration fee or the AIAC Administrative Fee.

## **SCHEDULE 3 – EMERGENCY ARBITRATION**

### **Clause 1 – Emergency Arbitrator Application**

#### ***1.1. Emergency arbitrator***

- (a) A Party may apply for the appointment of an emergency arbitrator until the appointment of the Arbitral Tribunal pursuant to Rule 3.
- (b) The powers of the emergency arbitrator shall be those set out in Article 26 (1), (2), (6), and (7) of the Arbitration Rules. Such powers terminate on referral of the case to an Arbitral Tribunal pursuant to Rule 4, or when an emergency decision ceases to be binding according to Clause 1.7(d) of this Schedule.

#### ***1.2. Application for the appointment of an emergency arbitrator***

- (a) The Emergency Arbitrator Application shall be in writing and shall include, among others:
  - (i) the documents and payments required under Rule 2;
  - (ii) a statement of the interim relief sought and the reasons therefore;
  - (iii) a statement confirming that the Emergency Arbitrator Application has been sent to all other Parties or an explanation of the steps taken in good faith to notify the other Parties; and
  - (iv) comments on the seat of the emergency proceedings, the applicable law(s) and the language(s) of the proceedings; and
  - (v) proof of payment of the Emergency Arbitrator Application fee and the Emergency Arbitrator's fee, as prescribed in Schedule 2, Clause 6.

#### ***1.3. Appointment of the emergency arbitrator***

- (a) The Director shall seek to appoint an emergency arbitrator within 48 hours of receipt of the application.
- (b) An emergency arbitrator shall not be appointed if the AIAC manifestly lacks jurisdiction over the dispute.
- (c) Rule 4 of the Rules applies to the challenge to an emergency arbitrator, except that a challenge must be made within 24 hours from the time the circumstances giving rise to the challenge became known to the Party.
- (d) An emergency arbitrator may not act as an arbitrator in any future arbitration relating to the dispute, unless otherwise agreed by the Parties.

#### **1.4. Seat of the emergency proceedings**

- (a) The seat of the emergency proceedings shall be that which has been agreed upon by the Parties as the seat of the arbitration. If the seat of the arbitration has not been agreed upon by the Parties, the Emergency Arbitrator shall determine the seat of the emergency proceedings, without prejudice to the determination of the seat of arbitration pursuant to Rule 7(1) of the AIAC Arbitration Rules.

#### **1.5. Conduct of the emergency proceedings**

Article 17(1) shall apply to the emergency proceedings, taking into account the urgency inherent in such proceedings.

#### **1.6. Emergency decisions on interim measures**

- (a) Any emergency decision on interim measures shall be made no later than 14 days from the date the application was referred to the emergency arbitrator pursuant to Clause 1.2 of this Schedule. The Director may extend this time limit upon a reasoned request from the emergency arbitrator, or if otherwise deemed necessary.
- (b) Any emergency decision on interim measures shall:
  - (i) be made in writing;
  - (ii) state the date when it was made, the seat of the emergency proceedings and the reasons upon which the decision is based; and
  - (iii) be signed by the emergency arbitrator.
- (c) The emergency arbitrator shall promptly deliver a copy of the emergency decision to each of the Parties and to the AIAC.

#### **1.7. Binding effect of emergency decisions**

- (a) An emergency decision shall be binding on the Parties when rendered.
- (b) Upon a reasoned request of a Party, the emergency arbitrator may amend or revoke the emergency decision.
- (c) By agreeing to arbitration under the Arbitration Rules, the Parties undertake to comply with any emergency decision without delay.
- (d) The emergency decision ceases to be binding if:
  - (i) the emergency arbitrator or an Arbitral Tribunal so decides;
  - (ii) an Arbitral Tribunal makes a final award; or
  - (iii) arbitration is not commenced within 30 days from the date of the emergency decision.

(e) An Arbitral Tribunal is not bound by the decision(s) and reasons of the emergency arbitrator.

### ***1.8. Costs of the emergency proceedings***

- (a) The Party applying for the appointment of an emergency arbitrator shall pay the deposits set out in Schedule 2, Clause 6 above, upon filing the application.
- (b) The cost of the emergency proceedings include:
  - (i) the Emergency Arbitrator Request Fee;
  - (ii) the Emergency Arbitrator's Fee; and
  - (iii) the reasonable costs incurred by the Parties, including costs for legal representation.
- (c) If payment of the costs set out in Schedule 2, Clause 6 above is not made in due time, the AIAC shall dismiss the application.
- (d) At the request of a Party, the emergency arbitrator shall in the emergency decision apportion the costs of the emergency proceedings between the Parties.
- (e) The emergency arbitrator shall apply the principles of Rule 18 and Article 40 of the AIAC Arbitration Rules when apportioning the costs of the emergency proceedings.



## SCHEDULE 4 - AIAC Fast Track Procedure<sup>4</sup>

### Clause 1 - Scope of application

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 AIAC Fast Track Procedure of the AIAC Arbitration Rules ("Fast Track Procedure"), then such disputes shall be settled in accordance with this schedule.
2. A Party may submit a Commencement Request pursuant to Clause 4 of the Fast Track Procedure, provided that any of the following criteria is satisfied:
  - (a) the Parties have agreed in writing, by an arbitration agreement or otherwise, to arbitrate their dispute or refer their dispute to arbitration under the AIAC Fast Track Procedure; or
  - (b) The amount in dispute is quantified at less than USD300,000.00 for an international arbitration or less than RM1,000,000.00 for a domestic arbitration; orthen such disputes shall be settled in accordance with the AIAC Arbitration Rules (Part I – AIAC Arbitration Rules, Part II – UNCITRAL Arbitration Rules) as modified by this Fast Track Procedure.
3. To the extent that there is a conflict between the Fast Track Procedure, Part I and Part II of the AIAC Arbitration Rules, provisions in the Fast Track Procedure shall prevail.

### Clause 2 - Opting out of Fast Track Procedure

1. At any time during the proceedings, the Parties may agree that the Fast Track Procedure shall no longer apply to the arbitration.
2. At the request of a Party, the Arbitral Tribunal may, in exceptional circumstances and after inviting the Parties to express their views, determine that the Fast Track Procedure shall no longer apply to the arbitration. The Arbitral Tribunal shall state the reasons upon which that determination is based.
3. When the Fast Track Procedure no longer apply to the arbitration pursuant to paragraph 1 or 2 of this Schedule, the Arbitral Tribunal shall remain in place and conduct the arbitration in accordance with the AIAC Arbitration Rules.

<sup>4</sup> The provisions under the Fast Track Procedure of the AIAC Arbitration Rules ("Fast Track Procedure") in Schedule 4 supersedes the UNCITRAL Expedited Arbitration Rules.

### **Clause 3 - Conduct of the Parties and the Arbitral Tribunal**

1. The Parties shall act expeditiously throughout the proceedings.
2. The Arbitral Tribunal shall conduct the proceedings expeditiously taking into account the fact that the Parties agreed to refer their dispute to expedited arbitration and the time frames in the Fast Track Procedure.
3. The Arbitral Tribunal may utilize any technological means as it considers appropriate to conduct the proceedings.

### **Clause 4 - Commencement of arbitration and statement of claim**

1. The Party or Parties commencing arbitration under the Fast Track Procedure shall follow the procedure set out in Rule 2.
2. When communicating its notice of arbitration to the respondent, the claimant shall also communicate its statement of claim.
3. The AIAC shall communicate the notice of arbitration, including the statement of claim, to Arbitral Tribunal as soon as it is constituted.

### **Clause 5 - Response to the notice of arbitration and statement of defence**

1. Within 15 days of the receipt of the notice of arbitration, the respondent shall communicate to the claimant and the AIAC a response to the notice of arbitration, which shall also include responses to the information set forth in the notice of arbitration.
2. The AIAC shall communicate the response to the notice of arbitration to the Arbitral Tribunal as soon as it is constituted.
3. The respondent shall communicate its statement of defence to the claimant and the Arbitral Tribunal and the AIAC within 15 days of the constitution of the Arbitral Tribunal.

### **Clause 6 - Appointment of a sole arbitrator**

1. The arbitration shall be decided by a sole arbitrator.
2. The Parties are free to agree on the sole arbitrator.
3. If the Parties are unable to agree on the sole arbitrator within 15 days of the other Party's receipt of the notice of arbitration, a sole arbitrator shall, at the request of a Party, be appointed by the Director of the AIAC.

## **Clause 7 – Consultation with the Parties**

Promptly after and within 15 days of its constitution, the Arbitral Tribunal shall consult the Parties, through a case management conference or otherwise, on the manner in which it will conduct the arbitration.

## **Clause 9 - Discretion of the Arbitral Tribunal with regard to periods of time**

Subject to Clause 15 of the Fast Track Procedure, the Arbitral Tribunal may at any time, after inviting the Parties to express their views, extend or abridge any period of time prescribed under the AIAC Arbitration Rules and the Fast Track Procedure or agreed by the Parties.

## **Clause 10 – Hearings**

The Arbitral Tribunal may, after inviting the Parties to express their views and in the absence of a request to hold hearings, decide that hearings shall not be held.

## **Clause 11 - Counterclaims or claims for the purpose of set-off**

1. A counterclaim or a claim for the purpose of a set-off shall be made no later than in the statement of defence provided that the Arbitral Tribunal has jurisdiction over it.
2. The respondent may not make a counterclaim or rely on a claim for the purpose of a set-off at a later stage in the arbitral proceedings, unless the Arbitral Tribunal considers it appropriate to allow such claim having regard to the delay in making it or prejudice to other Parties or any other circumstances.

## **Clause 12- Amendments and supplements to a claim or defence**

During the course of the arbitral proceedings, a Party may not 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 appropriate to allow such amendment or supplement having regard to when it is requested 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.

### **Clause 13 - Further written statements**

The Arbitral Tribunal may, after inviting the Parties to express their views, decide whether any further written statement shall be required from the Parties or may be presented by them.

### **Clause 14 - Evidence**

1. The Arbitral Tribunal may decide which documents, exhibits or other evidence the Parties should produce. The Arbitral Tribunal may reject any request, unless made by all Parties, to establish a procedure whereby each Party can request another Party to produce documents.
2. Unless otherwise directed by the Arbitral Tribunal, statements by witnesses, including expert witnesses, shall be presented in writing and signed by them.
3. The Arbitral Tribunal may decide which witnesses, including expert witnesses, shall testify to the Arbitral Tribunal if hearings are held.

### **Clause 15 - Period of time for making the award**

1. The award shall be made within six months from the date of the constitution of the Arbitral Tribunal unless otherwise agreed by the Parties.
2. The Arbitral Tribunal may, in exceptional circumstances and after inviting the Parties to express their views, extend the period of time established in accordance with paragraph 1. The extended period of time shall not exceed a total of nine months from the date of the constitution of the Arbitral Tribunal.
3. If the Arbitral Tribunal concludes that it is at risk of not rendering an award within nine months from the date of the constitution of the Arbitral Tribunal, it shall propose a final extended time limit, state the reasons for the proposal, and invite the Parties to express their views within a fixed period of time. The extension shall be adopted only if all Parties express their agreement to the proposal within the fixed period of time.
4. If there is no agreement to the extension in paragraph 3, any Party may make a request that the Fast Track Procedure no longer apply to the arbitration. After inviting the Parties to express their views, the Arbitral Tribunal may determine to continue to conduct the arbitration in accordance with the AIAC Arbitration Rules.

### **Clause 16 – Fees and Costs of Fast Track Arbitration**

Schedule 1 and Schedule 2 of the AIAC Arbitration Rules shall apply.

# ARBITRATION RULES 2023



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## ASIAN INTERNATIONAL ARBITRATION CENTRE (AIAC)

(ESTABLISHED UNDER THE AUSPICES OF THE  
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