



INTERNATIONAL CENTRE
FOR DISPUTE RESOLUTION®

DRAFT INTERNATIONAL DISPUTE RESOLUTION PROCEDURES

(Including Mediation and Arbitration Rules)

*Rules Amended and Effective May TBD
Fee Schedule Amended and Effective June 1, 2010*

available online at
icdr.org

Draft Version International Dispute Resolution Procedures (Including Mediation and Arbitration Rules)

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Introduction

These Procedures are designed to provide a complete dispute resolution framework for disputing parties, their counsel, arbitrators and mediators. They provide a balance between the autonomy of the parties to agree to the dispute resolution process they want and the need for necessary process management by mediators and arbitrators.

The International Centre for Dispute Resolution (“ICDR”) is the international division of American Arbitration Association (“AAA”). ICDR provides dispute resolution services around the world in locations chosen by the parties. ICDR arbitrations and mediations may be conducted in any language chosen by the parties. ICDR procedures reflect best international practices and are designed to deliver efficient, economic and fair proceedings.

International Arbitration

A dispute can be submitted to an arbitral tribunal for a final and binding decision. In ICDR arbitration each party is given the opportunity to make a case presentation, following the process provided by these Rules and the tribunal.

Parties can provide for arbitration of future disputes by inserting the following clause into their contracts:

“Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be determined by arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules”

The parties should consider adding:

- (a) “The number of arbitrators shall be (one or three)”;
- (b) “The place of arbitration shall be [city, (province or state), country] ”; and
- (c) “The language(s) of the arbitration shall be _____.”

For more complete clause drafting guidance please refer to the “ICDR Guide to Drafting International Dispute Resolution Clauses” on the Clause Drafting page at www.icdr.org. When writing a clause or agreement for dispute resolution the parties may choose to confer with the ICDR on useful options. Please see the contact information provided below.

International Expedited Procedures

The Expedited Procedures provide parties with an expedited and simplified arbitration procedure designed to reduce the time and cost of an arbitration.

The Expedited Procedures shall apply in any case in which no disclosed claim or counterclaim exceeds USD \$250,000 exclusive of interest and the costs of arbitration. The parties may agree to the application of these Expedited Procedures on matters of any claim size.

Sample clauses:

“Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be determined by arbitration administered by the International Centre for Dispute Resolution in accordance with its’ International Arbitration Rules and International Expedited Procedures.”

The parties should consider adding:

- (a) "The place of arbitration shall be [city, (province or state), country] "; and
- (b) "The language(s) of the arbitration shall be _____."

Features of the International Expedited Procedures;

- Parties may choose to apply the Expedited procedures to cases of any size;
- Comprehensive filing requirements;
- Expedited arbitrator appointment process with party input;
- Appointment from an experienced pool of arbitrators ready to serve on an expedited basis;
- Early preparatory conference call with the arbitrator requiring participation of parties and their representatives;
- Presumption that cases up to \$100,000.00 will be decided on documents only;
- Expedited schedule and limited hearing days, if any;
- An award within 30 calendar days of the close of the hearing or the date established for the receipt of the parties' final statements and proofs.

Whenever a singular term is used in the Rules, such as "party," "claimant" or "arbitrator," that term shall include the plural if there is more than one such entity.

The English language version of the Rules is the official text for questions of interpretation.

How to File a Case with the ICDR

Parties initiating a case with the International Centre for Dispute Resolution, or the American Arbitration Association, may file online via AAWebFile® (File & Manage a Case) at www.icdr.org, by mail or facsimile. For filing assistance, parties may directly contact the ICDR at any ICDR or AAA office.

Mail:

International Centre for Dispute Resolution, a division of the AAA, Case Filing Services, 1101 Laurel Oak Road, Suite 100 Voorhees, NJ 08043

AAWebFile at www.icdr.org

Email box: casefiling@adr.org Phone: +1.856-435-6401

Facsimile: +1.212-484-4178

Toll free number in the US & Canada: +1.877-495-4185

Toll free Facsimile number in the US & Canada: +1.877-304-8457

For further information about these Rules visit ICDR website at www.icdr.org or by phone at +1.212.484.4181.

International Mediation Rules

1. Agreement of Parties

Whenever parties have agreed in writing to mediate disputes under these International Mediation Rules, or have provided for mediation or conciliation of existing or future international disputes under the auspices of the International Centre for Dispute Resolution ("ICDR"), the international division of the American Arbitration Association ("AAA"), or the AAA without designating particular Rules, they shall be deemed to have made these Rules, as amended and in effect as of the date of the submission of the dispute, a part of their agreement. The parties by mutual agreement may vary any part of these Rules including, but not limited to, agreeing to conduct the mediation via telephone or other electronic or technical means.

2. Initiation of Mediation

- (1) Any party or parties to a dispute may initiate mediation under the ICDR's auspices by making a request for mediation to any ICDR or AAA office or case management center via telephone, email, regular mail or facsimile. Requests for mediation may also be filed online via AAA WebFile at www.icdr.org.
- (2) The party initiating the mediation shall simultaneously notify the other party or parties of the request. The initiating party shall provide the following information to the ICDR and the other party or parties as applicable:
 - (a) a copy of the mediation provision of the parties' contract or the parties' stipulation to mediate.
 - (b) the names, regular mail addresses, email addresses, and telephone numbers of all parties to the dispute and representatives, if any, in the mediation.

- (c) a brief statement of the nature of the dispute and the relief requested any specific qualifications the mediator should possess.

- (3) Where there is no preexisting stipulation or contract by which the parties have provided for mediation of existing or future disputes under the auspices of the ICDR, a party may request the ICDR to invite another party to participate in “mediation by voluntary submission”. Upon receipt of such a request, the ICDR will contact the other party or parties involved in the dispute and attempt to obtain a submission to mediation.

3. Representation

Subject to any applicable law, any party may be represented by persons of the party’s choice. The names and addresses of such persons shall be communicated in writing to all parties and to the ICDR.

4. Appointment of the Mediator

If the parties have not agreed to the appointment of a mediator and have not provided any other method of appointment, the mediator shall be appointed in the following manner:

- (a) Upon receipt of a request for mediation, the ICDR will send to each party a list of mediators from the ICDR’s Panel of Mediators. The parties are encouraged to agree to a mediator from the submitted list and to advise the ICDR of their agreement.
- (b) If the parties are unable to agree upon a mediator, each party shall strike unacceptable names from the list, number the remaining names in order of preference, and return the list to the ICDR. If a party does not return the list within the time specified, all mediators on the list shall be deemed acceptable. From among the mediators who have been mutually approved by the parties, and in accordance with the designated order of mutual preference, the ICDR shall invite a mediator to serve.
- (c) If the parties fail to agree on any of the mediators listed, or if acceptable mediators are unable to serve, or if for any other reason the appointment cannot be made from the submitted list, the ICDR shall have the authority to make the appointment from

among other members of the Panel of Mediators without the submission of additional lists.

5. Mediator’s Impartiality and Duty to Disclose

- (1) ICDR mediators are required to abide by the Model Standards of Conduct for Mediators in effect at the time a mediator is appointed to a case. Where there is a conflict between the Model Standards and any provision of these Mediation Rules, these Mediation Rules shall govern. The Standards require mediators to (i) decline a mediation if the mediator cannot conduct it in an impartial manner, and (ii) disclose, as soon as practicable, all actual and potential conflicts of interest that are reasonably known to the mediator and could reasonably be seen as raising a question about the mediator’s impartiality.
- (2) Prior to accepting an appointment, ICDR mediators are required to make a reasonable inquiry to determine whether there are any facts that a reasonable individual would consider likely to create a potential or actual conflict of interest for the mediator. ICDR mediators are required to disclose any circumstance likely to create a presumption of bias or prevent a resolution of the parties’ dispute within the time frame desired by the parties. Upon receipt of such disclosures, the ICDR shall immediately communicate the disclosures to the parties for their comments.
- (3) The parties may, upon receiving disclosure of actual or potential conflicts of interest of the mediator, waive such conflicts and proceed with the mediation. In the event that a party disagrees as to whether the mediator shall serve, or in the event that the mediator’s conflict of interest might reasonably be viewed as undermining the integrity of the mediation, the mediator shall be replaced.

6. Vacancies

If any mediator shall become unwilling or unable to serve, the ICDR will appoint another mediator, unless the parties agree otherwise, in accordance with section 4.

7. Duties and Responsibilities of the Mediator

- (1) The mediator shall conduct the mediation based on the principle of party self-determination. Self-determination is the act of coming to a voluntary, uncoerced decision in which each party makes free and informed choices as to process and outcome.
- (2) The mediator is authorized to conduct separate or ex parte meetings and other communications with the parties and/or their representatives, before, during, and after any scheduled mediation conference. Such communications may be conducted via telephone, in writing, via email, online, in person or otherwise.
- (3) The parties are encouraged to exchange all documents pertinent to the relief requested. The mediator may request the exchange of memoranda on issues, including the underlying interests and the history of the parties' negotiations. Information that a party wishes to keep confidential may be sent to the mediator, as necessary, in a separate communication with the mediator.
- (4) The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution of their dispute. Subject to the discretion of the mediator, the mediator may make oral or written recommendations for settlement to a party privately or, if the parties agree, to all parties jointly.
- (5) In the event that a complete settlement of all or some issues in dispute is not achieved within the scheduled mediation conference(s), the mediator may continue to communicate with the parties, for a period of time, in an ongoing effort to facilitate a complete settlement.
- (6) The mediator is not a legal representative of any party and has no fiduciary duty to any party.

8. Responsibilities of the Parties

The parties shall ensure that appropriate representatives of each party, having authority to consummate a settlement, attend the mediation conference. Prior to and during the scheduled mediation conference(s) the parties and their representatives shall, as appropriate to each party's circumstances, exercise their best efforts to prepare for and engage in a meaningful and productive mediation.

9. Privacy

Mediation conferences and related mediation communications are private proceedings. The parties and their representatives may attend mediation conferences. Other persons may attend only with the permission of the parties and with the consent of the mediator.

10. Confidentiality

- (1) Subject to applicable law or the parties' agreement, confidential information disclosed to a mediator by the parties or by other participants (witnesses) in the course of the mediation shall not be divulged by the mediator. The mediator shall maintain the confidentiality of all information obtained in the mediation, and all records, reports, or other documents received by a mediator while serving in that capacity shall be confidential.
- (2) The mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum.
- (3) The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding the following, unless agreed to by the parties or required by applicable law:
 - (a) Views expressed or suggestions made by a party or other participant with respect to a possible settlement of the dispute;
 - (b) Admissions made by a party or other participant in the course of the mediation proceedings;
 - (c) Proposals made or views expressed by the mediator; or
 - (d) The fact that a party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

11. No Stenographic Record

There shall be no stenographic record of the mediation process.

12. Termination of Mediation

The mediation shall be terminated:

- (a) By the execution of a settlement agreement by the parties; or
- (b) By a written or verbal declaration of the mediator to the effect that further efforts at mediation would not contribute to a resolution of the parties' dispute; or
- (c) By a written or verbal declaration of all parties to the effect that the mediation proceedings are terminated; or
- (d) When there has been no communication between the mediator and any party or party's representative for 21 days following the conclusion of the mediation conference.

13. Exclusion of Liability

Neither the ICDR nor any mediator is a necessary party in judicial proceedings relating to the mediation. Neither the ICDR nor any mediator shall be liable to any party for any error, act or omission in connection with any mediation conducted under these Rules.

14. Interpretation and Application of Rules

The mediator shall interpret and apply these Rules insofar as they relate to the mediator's duties and responsibilities. All other Rules shall be interpreted and applied by the ICDR.

15. Deposits

Unless otherwise directed by the mediator, the ICDR will require the parties to deposit in advance of the mediation conference such sums of money as it, in consultation with the mediator, deems necessary to cover the costs and expenses of the mediation and shall render an accounting to the parties and return any unexpended balance at the conclusion of the mediation.

16. Expenses

All expenses of the mediation, including required traveling and other expenses or charges of the mediator, shall be borne equally by the parties unless they agree otherwise. The expenses of participants for either side shall be paid by the party requesting the attendance of such participants.

17. Cost of Mediation

- (1) There is no filing fee to initiate a mediation or a fee to request the ICDR to invite parties to mediate.
- (2) The cost of mediation is based on the hourly mediation rate published on the mediator's ICDR profile. This rate covers both mediator compensation and an allocated portion for the ICDR's services. There is a four-hour minimum charge for a mediation conference. Expenses referenced in Section M-16 may also apply.
- (3) If a matter submitted for mediation is withdrawn or cancelled or results in a settlement after the agreement to mediate is filed but prior to the mediation conference the cost is \$250 plus any mediator time and charges incurred.
- (4) The parties will be billed equally for all costs unless they agree otherwise.
- (5) If you have questions about mediation costs or services visit our website at www.icdr.org or contact us at + 1.212.484.4181.

18. Language

If the parties have not agreed otherwise, the language(s) of the mediation shall be that of the documents containing the mediation agreement.

Conference Room Rental

The costs described above do not include the use of ICDR conference rooms. Conference rooms are available on a rental basis. Please contact your local ICDR office for availability and rates.

International Arbitration Procedures

Scope of these Rules

Article 1

- (1) Where parties have agreed to arbitrate disputes under these International Arbitration Rules (“Rules”) or have provided for arbitration of an international dispute by the International Centre for Dispute Resolution (“ICDR”) or the American Arbitration Association (“AAA”) without designating particular rules, the arbitration shall take place in accordance with these Rules, as in effect at the date of commencement of the arbitration, subject to whatever modifications the parties may adopt in writing. The ICDR is the Administrator of these Rules.
- (2) These Rules govern the arbitration, except that, where any such rule is in conflict with any provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.
- (3) These Rules specify the duties and responsibilities of the ICDR, a division of the AAA as the Administrator. The Administrator may provide services through any of the ICDR’s case management offices, or through the facilities of the AAA or arbitral institutions with which the ICDR or the AAA has agreements of cooperation.
- (4) Unless the parties agree or the Administrator determines otherwise, the International Expedited Procedures shall apply in any case in which no disclosed claim or counterclaim exceeds USD \$250,000 exclusive of interest and the costs of arbitration. The parties may also agree to use the International Expedited Procedures in other cases. The International Expedited Procedures shall be applied as described in Articles E-1 through E-10 of these Rules, in addition to any other portion of these Rules that is not in conflict with the Expedited Procedures. Where no party’s claim or counterclaim exceeds USD \$100,000, exclusive of interest, attorneys’ fees and other arbitration costs, the dispute shall be resolved by written submissions only unless the arbitrator determines that an oral hearing is necessary.

Commencing the Arbitration

Notice of Arbitration

Article 2

- (1) The party initiating arbitration (“Claimant”) shall, in compliance with Article 10, give written Notice of Arbitration to the Administrator and at the same time to the party against whom a claim is being made (“Respondent”). The Claimant may also initiate the arbitration through the Administrator’s on-line filing system located at www.ICDR.org.
- (2) The arbitration shall be deemed to commence on the date on which the Administrator receives the Notice of Arbitration.
- (3) The Notice of Arbitration shall contain the following information:
 - (a) a demand that the dispute be referred to arbitration;
 - (b) the names, addresses, telephone numbers, facsimile numbers, and e-mail addresses of the parties and, if known, of their representatives;
 - (c) a copy of the entire arbitration clause or agreement being invoked, and, where claims are made under more than one arbitration agreement, a copy of the arbitration agreement under which each claim is made;
 - (d) a reference to any contract out of or in relation to which the dispute arises;
 - (e) a description of the claim and of the facts supporting it;
 - (f) the relief or remedy sought and any amount claimed; and
 - (g) optionally, proposals, consistent with any prior agreement between or among the parties, as to the means of designating the arbitrators, the number of arbitrators, the place of arbitration, the language(s) of the arbitration, and any interest in mediating the dispute.

- (4) The Notice of Arbitration shall be accompanied by the appropriate filing fee.
- (5) Upon receipt of the Notice of Arbitration, the Administrator shall communicate with all parties with respect to the arbitration and shall acknowledge the commencement of the arbitration.

Answer and Counterclaim

Article 3

- (1) Within 30 days after the commencement of the arbitration, a Respondent shall submit to the Claimant, to any other parties, and to the Administrator a written Answer to the Notice of Arbitration.
- (2) At the time a Respondent submits its Answer, a Respondent may make any counterclaims or assert any setoffs as to any claim covered by the agreement to arbitrate and the Claimant shall within 30 days submit to the Respondent, to any other parties, and to the Administrator a written Answer to the counterclaim or setoffs.
- (3) A counterclaim or setoff shall contain the same information required of a Notice of Arbitration under Article 2(3) and shall be accompanied by the appropriate filing fee.
- (4) A Respondent shall within 30 days after the commencement of the arbitration submit to the Claimant, to any other parties, and to the Administrator a response to any proposals by the Claimant not previously agreed upon, or submit its own proposals, consistent with any prior agreement between or among the parties, as to the means of designating the arbitrators, the number of arbitrators, the place of the arbitration, the language(s) of the arbitration, and any interest in mediating the dispute.
- (5) The arbitral tribunal, or the Administrator if the tribunal has not yet been constituted, may extend any of the time limits established in this Article if it considers such an extension justified.
- (6) Failure of a Respondent to submit an Answer shall not preclude the arbitration from proceeding.
- (7) In arbitrations with multiple parties, a Respondent may make claims or assert setoffs against another Respondent in accordance with the provisions of this Article 3.

Administrative Conference

Article 4

The Administrator may conduct an administrative conference before the arbitral tribunal is constituted to address issues such as arbitrator selection, mediating the dispute, process efficiencies and any other administrative matters.

Mediation

Article 5

Following the time for submission of an Answer, the Administrator may invite the parties to mediate in accordance with the ICDR's International Mediation Rules. At any stage of the proceedings, the parties may agree to mediate in accordance with the ICDR's International Mediation Rules. Unless the parties agree otherwise the mediation shall proceed concurrently with arbitration and the mediator shall not be an arbitrator appointed to the case.

Emergency Measures of Protection

Article 6

- (1) A party may apply for emergency relief before the constitution of the arbitral tribunal by submitting a written notice to the Administrator and to all other parties setting forth the nature of the relief sought, the reasons why such relief is required on an emergency basis, and the reasons why the party is entitled to such relief. The notice shall be submitted concurrent with or following the submission of a Notice of Arbitration. Such notice may be given by e-mail, or as otherwise permitted by Article 10, and must include a statement certifying that all parties have been notified or an explanation of the steps taken in good faith to notify all parties.
- (2) Within one business day of receipt of the notice as provided in Article 6(1), the Administrator shall appoint a single emergency arbitrator. Prior to accepting appointment, a prospective emergency arbitrator shall disclose to the Administrator any circumstances that may give rise to justifiable doubts as to the arbitrator's impartiality or independence. Any challenge to the appointment of the emergency arbitrator must be made within one business day of the communication by the Administrator to the

parties of the appointment of the emergency arbitrator and the circumstances disclosed. The provisions of Article 13 shall apply subject to this Article 6(2).

- (3) The emergency arbitrator shall as soon as possible, and in any event within two business days of appointment, establish a schedule for consideration of the application for emergency relief. Such schedule shall provide a reasonable opportunity to all parties to be heard, and may provide for proceedings by telephone, video, written submissions, or other suitable means, as alternatives to an in-person hearing. The emergency arbitrator shall have the authority vested in the arbitral tribunal under Article 19, including the authority to rule on her/his own jurisdiction, and shall resolve any disputes over the applicability of this Article.
- (4) The emergency arbitrator shall have the power to order or award any interim or conservancy measures which the emergency arbitrator deems necessary, including injunctive relief and measures for the protection or conservation of property. Any such measures may take the form of an interim award or of an order. The emergency arbitrator shall give reasons in either case. The emergency arbitrator may modify or vacate the interim award or order. Any interim award or order shall have the same effect as an interim measure made pursuant to Article 24 and shall be binding on the parties when rendered. The parties undertake to comply with such an interim award or order without delay.
- (5) The emergency arbitrator shall have no further power to act after the arbitral tribunal is constituted. Once the tribunal has been constituted, the tribunal may reconsider, modify or vacate the interim award or order of emergency relief issued by the emergency arbitrator. The emergency arbitrator may not serve as a member of the tribunal unless the parties agree otherwise.
- (6) Any interim award or order of emergency relief may be conditioned on provision by the party seeking such relief of appropriate security.
- (7) A request for interim measures addressed by a party to a judicial authority shall not be deemed incompatible with this Article 6 or with the agreement to arbitrate or a waiver of the right to arbitrate.
- (8) The costs associated with applications for emergency relief shall be addressed by the emergency arbitrator, subject to the power of the arbitral tribunal to determine finally the apportionment of such costs.

Joinder

Article 7

- (1) A party wishing to join an additional party to the arbitration shall submit to the Administrator a Notice of Arbitration against the additional party. No additional party may be joined after the appointment of any arbitrator, unless all parties, including the additional party, otherwise agree. The party wishing to join the additional party shall, at that same time, submit the Notice of Arbitration to the additional party and all other parties. The date on which such Notice of Arbitration is received by the Administrator shall be deemed to be the date of the commencement of arbitration against the additional party. Any joinder shall be subject to the provisions of Articles 12 and 19.
- (2) The request for joinder shall contain the same information required of a Notice of Arbitration under Article 2(3) and shall be accompanied by the appropriate filing fee.
- (3) The additional party shall submit an Answer in accordance with the provisions of Article 3.
- (4) The additional party may make claims, counterclaims or assert setoffs against any other party in accordance with the provisions of Article 3.

Consolidation

Article 8

- (1) At the request of a party, the Administrator may appoint a consolidation arbitrator who will have the power to consolidate two or more arbitrations pending under these Rules, or these and other arbitration rules administered by the AAA or ICDR, into a single arbitration where:
 - (a) the parties have expressly agreed to consolidation; or
 - (b) all of the claims, including counterclaims and setoffs, in the arbitrations are made under the same arbitration agreement; or
 - (c) the claims, counterclaims, or setoffs in the arbitrations are made under more than one arbitration agreement, the arbitrations involve the same parties, the disputes in the arbitrations arise in connection with the same legal relationship, and the consolidation arbitrator finds the arbitration agreements to be compatible.

- (2) A consolidation arbitrator shall be appointed as follows:
- (a) The Administrator shall notify the parties in writing of its intention to appoint a consolidation arbitrator and invite the parties to agree upon a procedure for the appointment of a consolidation arbitrator.
 - (b) If the parties have not within 15 days of such notice agreed upon a procedure for appointment of a consolidation arbitrator, the Administrator shall appoint the consolidation arbitrator.
 - (c) Absent the agreement of all parties, the consolidation arbitrator shall not be an arbitrator who is appointed to any pending arbitration subject to potential consolidation under this Article.
 - (d) The provisions of Articles 13-15 of these Rules shall apply to the appointment of the consolidation arbitrator.
- (3) In deciding whether to consolidate, the consolidation arbitrator shall consult the parties and may consult the arbitral tribunal(s), and may take into account all relevant circumstances, including:
- (a) applicable law;
 - (b) whether one or more arbitrators have been appointed in more than one of the arbitrations and, if so, whether the same or different persons have been appointed;
 - (c) the progress already made in the arbitrations;
 - (d) whether the arbitrations raise common issues of law and/or facts; and
 - (e) whether the consolidation of the arbitrations would serve the interests of justice and efficiency.
- (4) The consolidation arbitrator may order that any or all arbitrations subject to potential consolidation be stayed pending a ruling on a request for consolidation.
- (5) When arbitrations are consolidated, they shall be consolidated into the arbitration that commenced first, unless otherwise agreed by all parties or the consolidation arbitrator finds otherwise.
- (6) Where the consolidation arbitrator decides to consolidate an arbitration with one or more other arbitrations, each party in those arbitrations shall be deemed to have waived its' right to appoint an arbitrator. The consolidation arbitrator may revoke

the appointment of any arbitrators and may select one of the previously appointed tribunals to serve in the consolidated proceeding. The Administrator shall, as necessary, complete the appointment of the tribunal in the consolidated proceeding. Absent the agreement of all parties, the consolidation arbitrator shall not be appointed in the consolidated proceeding.

- (7) The decision as to consolidation, which need not include a statement of reasons, shall be rendered within 15 days of the date for final submissions on consolidation.

Amendment or Supplement of Claim, Counterclaim or Defense

Article 9

Any party may amend or supplement its claim, counterclaim or defense unless the arbitral tribunal considers it inappropriate to allow such amendment or supplement because of the party's delay in making it, prejudice to the other parties or any other circumstances. A party may not amend or supplement a claim or counterclaim if the amendment or supplement would fall outside the scope of the agreement to arbitrate. The tribunal may permit an amendment or supplement subject to an award of costs and/or the payment of filing fees as determined by the Administrator.

Notices

Article 10

- (1) Unless otherwise agreed by the parties or ordered by the arbitral tribunal, all notices and written communications may be transmitted by any means of communication that allows for a record of its transmission including mail, courier, facsimile transmission or other written forms of electronic communication addressed to the party or its representative at its last known address, or by personal service.
- (2) 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 made. If the last day of such period is an official holiday at the place received, the period is extended until the first business day which follows. Official holidays occurring during the running of the period of time are included in calculating the period.

The Tribunal

Number of Arbitrators

Article 11

If the parties have not agreed on the number of arbitrators, one arbitrator shall be appointed unless the Administrator determines in its discretion that three arbitrators are appropriate because of the size, complexity or other circumstances of the case.

Appointment of Arbitrators

Article 12

- (1) The parties may agree upon any procedure for appointing arbitrators and shall inform the Administrator as to such procedure. In the absence of the parties' agreement as to the method of appointment, the Administrator may utilize the ICDR list method as provided in Article 12(6).
- (2) The parties may agree to select arbitrators, with or without the assistance of the Administrator. When such selections are made, the parties shall take into account the arbitrators' availability to serve and shall notify the Administrator so that a Notice of Appointment can be communicated to the arbitrators, together with a copy of these Rules.
- (3) If within 45 days after the commencement of the arbitration, all parties have not agreed on a procedure for appointing the arbitrator(s) or have not agreed on the selection of the arbitrator(s), the Administrator shall, at the written request of any party, appoint the arbitrator(s). Where the parties have agreed upon a procedure for selecting the arbitrator(s), but all appointments have not been made within the time limits provided by that procedure, the Administrator shall, at the written request of any party, perform all functions provided for in that procedure that remain to be performed.
- (4) In making appointments, the Administrator shall, after inviting consultation with the parties, endeavor to appoint suitable arbitrators, taking into account their availability to serve. At the request of any party or on its own initiative, the Administrator may appoint nationals of a country other than that of any of the parties.
- (5) If there are more than two parties to the arbitration,

the Administrator may appoint all arbitrators unless the parties have agreed otherwise no later than 45 days after the commencement of the arbitration.

- (6) If the parties have not selected an arbitrator(s) and have not agreed upon any other method of appointment, the Administrator, at its' discretion, may appoint the arbitrator(s) in the following manner using the ICDR list method. The Administrator shall send simultaneously to each party an identical list of names of persons for consideration as arbitrator(s). The parties are encouraged to agree to an arbitrator(s) from the submitted list and shall advise the Administrator of their agreement. If, after receipt of the list, the parties are unable to agree upon an arbitrator(s), each party shall have 15 days from the transmittal date in which to strike names objected to, number the remaining names in order of preference, and return the list to the Administrator. The parties are not required to exchange selection lists. If a party does not return the list within the time specified all persons named therein shall be deemed acceptable. From among the persons who have been approved on the parties' lists, and in accordance with the designated order of mutual preference, the Administrator shall invite an arbitrator(s) to serve. If the parties fail to agree on any of the persons listed, or if acceptable arbitrators are unable or unavailable to act, or if for any other reason the appointment cannot be made from the submitted lists, the Administrator shall have the power to make the appointment without the submission of additional lists. The Administrator shall, if necessary, designate the presiding arbitrator in consultation with the tribunal.
- (7) The appointment of an arbitrator is effective upon receipt by the Administrator of the Administrator's Notice of Appointment completed and signed by the arbitrator.

Impartiality and Independence of Arbitrator

Article 13

- (1) Arbitrators acting under these Rules shall be impartial and independent, and shall act in accordance with the terms of the Administrator's Notice of Appointment.
- (2) Before accepting appointment, a prospective arbitrator shall sign a Notice of Appointment affirming that the prospective arbitrator is available to serve and is independent and impartial. The arbitrator shall disclose any circumstances that may give rise to

justifiable doubts as to the arbitrator's impartiality or independence and any other relevant facts the arbitrator wishes to bring to the attention of the parties.

- (3) If, at any stage during the arbitration, circumstances arise that may give rise to such doubts, an arbitrator or party shall promptly disclose such information to all parties and to the Administrator. Failure of a party to promptly disclose such information constitutes a waiver of the right to challenge an arbitrator based on those circumstances. Upon receipt of such information from an arbitrator or a party, the Administrator shall communicate it to all parties and to the tribunal.
- (4) Disclosure by an arbitrator does not necessarily indicate belief by the arbitrator that the disclosed information gives rise to justifiable doubts as to the arbitrator's impartiality or independence.
- (5) No party or anyone acting on its behalf shall have any ex parte communication relating to the case with any arbitrator, or with any candidate for party-appointed arbitrator except to advise the candidate of the general nature of the controversy and of the anticipated proceedings and to discuss the candidate's qualifications, availability or impartiality and independence in relation to the parties, or to discuss the suitability of candidates for selection as a presiding arbitrator where the parties or party-appointed arbitrators are to participate in that selection. No party or anyone acting on its behalf shall have any ex-parte communication relating to the case with any candidate for presiding arbitrator.

Challenge of an Arbitrator

Article 14

- (1) A party may challenge an arbitrator whenever circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence. A party shall send a written notice of the challenge to the Administrator within 15 days after being notified of the appointment of the arbitrator or within 15 days after the circumstances giving rise to the challenge become known to that party. The challenge shall state in writing the reasons for the challenge. The party shall not send this notice to any member of the arbitral tribunal.
- (2) Upon receipt of such a challenge, the Administrator shall notify the other parties of the challenge, and give such parties an opportunity to respond. The Administrator shall not send the notice of challenge

to any member of the tribunal but shall notify the tribunal that a challenge has been received, without identifying the party challenging. The Administrator may advise the challenged arbitrator of the challenge and request information from the challenged arbitrator relating to the challenge. When an arbitrator has been challenged by one party, the other party or parties may agree to the acceptance of the challenge and, if there is agreement, the arbitrator shall withdraw. The challenged arbitrator, after consultation with the Administrator, also may withdraw in the absence of such agreement. In neither case does withdrawal imply acceptance of the validity of the grounds for the challenge.

- (3) If the other party or parties do not agree to the challenge or the challenged arbitrator does not withdraw, the Administrator in its sole discretion shall make the decision on the challenge.
- (4) The Administrator, on its own initiative, may remove an arbitrator for failing to perform his or her duties.

Replacement of an Arbitrator

Article 15

- (1) If an arbitrator resigns or is removed for any reason and the office becomes vacant a substitute arbitrator shall be appointed pursuant to the provisions of Article 12, unless the parties otherwise agree.
- (2) If a substitute arbitrator is appointed under this Article, unless the parties otherwise agree, the arbitral tribunal shall determine at its sole discretion whether all or part of the case shall be repeated.
- (3) If an arbitrator on a three-person arbitral tribunal fails to participate in the arbitration for reasons other than those identified in Article 15(1), the two other arbitrators shall have the power in their sole discretion to continue the arbitration and to make any decision, ruling, order or award, notwithstanding the failure of the third arbitrator to participate. In determining whether to continue the arbitration or to render any decision, ruling, order or award without the participation of an arbitrator, the two other arbitrators shall take into account the stage of the arbitration, the reason, if any, expressed by the third arbitrator for such non-participation and such other matters as they consider appropriate in the circumstances of the case. In the event that the two other arbitrators

determine not to continue the arbitration without the participation of the third arbitrator, the Administrator on proof satisfactory to it shall declare the office vacant, and a substitute arbitrator shall be appointed pursuant to the provisions of Article 12, unless the parties otherwise agree.

General Conditions

Party Representation

Article 16

Any party may be represented in the arbitration. The names, addresses, telephone numbers, facsimile numbers, and e-mail addresses of representatives shall be communicated in writing to the other parties and to the Administrator. Unless instructed otherwise by the Administrator, once the arbitral tribunal has been established, the parties or their representatives may communicate in writing directly with the tribunal with simultaneous copies to the other parties and, unless otherwise instructed by the Administrator, to the Administrator. The conduct of party representatives shall be in accordance with such guidelines as the ICDR may issue on the subject.

Place of Arbitration

Article 17

- (1) If the parties do not agree on the place of arbitration by a date established by the Administrator, the Administrator may initially determine the place of arbitration, subject to the power of the arbitral tribunal to determine finally the place of arbitration within 45 days after its constitution.
- (2) The tribunal may meet at any place it deems appropriate for any purpose, including to conduct hearings, hold conferences, hear witnesses, inspect property or documents or deliberate, and, if done elsewhere than the place of arbitration, the arbitration shall be deemed conducted at the place of arbitration and any award shall be deemed made at the place of arbitration.

Language of Arbitration

Article 18

If the parties have not agreed otherwise, the language(s) of the arbitration shall be the language(s) of the documents containing the arbitration agreement, subject to the power of the arbitral tribunal to determine otherwise. The tribunal may order that any documents delivered in another language shall be accompanied by a translation into the language(s) of the arbitration.

Arbitral Jurisdiction

Article 19

- (1) The arbitral tribunal shall have the power to rule on its own jurisdiction, including any objections with respect to the existence, scope or validity of the arbitration agreement(s), or with respect to whether all of the claims and counterclaims made in the arbitration may be determined in a single arbitration.
- (2) The tribunal shall have the power to determine the existence or validity of a contract of which an arbitration clause forms a part. Such an arbitration clause shall be treated as an agreement independent of the other terms of the contract. A decision by the tribunal that the contract is null and void shall not for that reason alone render invalid the arbitration clause.
- (3) A party must object to the jurisdiction of the tribunal or to arbitral jurisdiction respecting the admissibility of a claim, counterclaim or setoff no later than the filing of the Answer, as provided in Article 3, to the claim, counterclaim or setoff that gives rise to the objection. The tribunal may extend such time limit, and may rule on any objection under this Article as a preliminary matter or as part of the final award.
- (4) Issues regarding arbitral jurisdiction raised prior to the constitution of the tribunal shall not preclude the Administrator from proceeding with administration and shall be referred to the tribunal for determination once constituted.

Conduct of Proceedings

Article 20

- (1) Subject to these Rules, the arbitral tribunal may conduct the arbitration in whatever manner it considers appropriate, provided that the parties are treated with equality and that each party has the right to be heard and is given a fair opportunity to present its case.
- (2) The tribunal shall conduct the proceedings with a view to expediting the resolution of the dispute. The tribunal may, promptly after being constituted, conduct a preparatory conference with the parties for the purpose of organizing, scheduling and agreeing to procedures, including the setting of deadlines for any submissions by the parties. In establishing procedures for the case, the tribunal and the parties may consider how technology, including electronic communications, could be used to increase the efficiency and economy of the proceedings.
- (3) The tribunal may decide preliminary issues, bifurcate proceedings, direct the order of proof, exclude cumulative or irrelevant testimony or other evidence, and direct the parties to focus their presentations on issues whose resolution could dispose of all or part of the case.
- (4) At any time during the proceedings, the tribunal may order the parties to produce documents, exhibits or other evidence it deems necessary or appropriate. Unless the parties agree otherwise in writing, the tribunal shall apply Article 21.
- (5) Documents or information submitted to the tribunal by one party shall at the same time be transmitted by that party to all parties and, unless instructed otherwise by the Administrator, to the Administrator.
- (6) The tribunal shall determine the admissibility, relevance, materiality and weight of the evidence.
- (7) The parties shall make every effort to avoid unnecessary delay and expense in the arbitration. The arbitral tribunal may allocate costs, draw adverse inferences and take such additional steps as are necessary to protect the efficiency and integrity of the arbitration.

Exchange of Information

Article 21

- (1) The arbitral tribunal shall manage the exchange of information among the parties with a view to maintaining efficiency and economy. The tribunal and the parties should endeavor to avoid unnecessary delay and expense while at the same time avoiding surprise, assuring equality of treatment, and safeguarding each party's opportunity to present its claims and defenses fairly.
- (2) The parties may provide the tribunal with their views on the appropriate level of information exchange for each case, but the tribunal retains final authority. To the extent that the parties wish to depart from this Article, they may do so only by written agreement and in consultation with the tribunal.
- (3) The parties shall exchange all documents upon which each intends to rely on a schedule set by the tribunal.
- (4) The tribunal may, upon application, require one party to make available to another party documents in that party's possession, not otherwise available to the party seeking the documents, that are reasonably believed to exist and to be relevant and material to the outcome of the case. Requests for documents shall contain a description of specific documents or classes of documents, along with an explanation of their relevance and materiality to the outcome of the case.
- (5) The tribunal may condition any exchange of information subject to claims of commercial or technical confidentiality on appropriate measures to protect such confidentiality.
- (6) When documents to be exchanged are maintained in electronic form, the party in possession of such documents may make them available in the form (which may be paper copies) most convenient and economical for it, unless the tribunal determines, on application, that there is a compelling need for access to the documents in a different form. Requests for documents maintained in electronic form should be narrowly focused and structured to make searching for them as economical as possible. The tribunal may direct testing or other means of focusing and limiting any search.
- (7) The tribunal may, on application, require a party to permit inspection on reasonable notice of relevant premises or objects.

- (8) In resolving any dispute about pre-hearing exchanges of information, the tribunal shall require a requesting party to justify the time and expense that its request may involve, and may condition granting such a request on the payment of part or all of the cost by the party seeking the information. The tribunal may also allocate the costs of providing information among the parties, either in an interim order or in an award.
- (9) In the event any party fails to comply with an order for information exchange, the tribunal may draw adverse inferences and may take such failure into account in allocating costs.
- (10) Depositions, interrogatories, and requests to admit, as developed for use in U.S. court procedures, are generally not appropriate procedures for obtaining information in an arbitration under these Rules.

Privilege

Article 22

The arbitral tribunal shall take into account applicable principles of privilege, such as those involving the confidentiality of communications between a lawyer and client. When the parties, their counsel or their documents would be subject under applicable law to different rules, the tribunal should, to the extent possible, apply the same rule to all parties, giving preference to the rule that provides the highest level of protection.

Hearing

Article 23

- (1) The arbitral tribunal shall give the parties reasonable notice of the date, time and place of any oral hearing.
- (2) At least 15 days before the hearings, each party shall give the tribunal and the other parties the names and addresses of any witnesses it intends to present, the subject of their testimony and the languages in which such witnesses will give their testimony.
- (3) The tribunal shall determine the manner in which witnesses are examined and who shall be present during witness examination.
- (4) Unless otherwise agreed by the parties or directed by the tribunal, evidence of witnesses may be presented in the form of written statements signed by them. In accordance with a schedule set by the

tribunal, each party shall notify the tribunal and the other parties of the names of any witnesses who have presented a witness statement whom it requests to examine. The tribunal may require any witness to appear at a hearing. If a witness whose appearance has been requested fails to appear without valid excuse, as determined by the tribunal, the tribunal may disregard any written statement by that witness.

- (5) The tribunal may direct that witnesses be examined through means that do not require their physical presence.
- (6) Hearings are private unless the parties agree otherwise or the law provides to the contrary.

Interim Measures

Article 24

- (1) At the request of any party, the arbitral tribunal may order or award any interim or conservatory measures it deems necessary, including injunctive relief and measures for the protection or conservation of property.
- (2) Such interim measures may take the form of an interim order or award, and the tribunal may require security for the costs of such measures.
- (3) A request for interim measures addressed by a party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate.
- (4) The arbitral tribunal may in its discretion apportion costs associated with applications for interim relief in any interim order or award or in the final award.
- (5) An application for emergency relief prior to the constitution of the arbitral tribunal may be made as provided for in Article 6.

Tribunal-Appointed Expert

Article 25

- (1) The arbitral tribunal, after consultation with the parties, may appoint one or more independent experts to report to it, in writing, on issues designated by the tribunal and communicated to the parties.
- (2) The parties shall provide such an expert with any relevant information or produce for inspection any relevant documents or goods that the expert may

require. Any dispute between a party and the expert as to the relevance of the requested information or goods shall be referred to the tribunal for decision.

- (3) Upon receipt of an expert's report, the tribunal shall send a copy of the report to all parties and shall give the parties an opportunity to express, in writing, their opinion on the report. A party may examine any document on which the expert has relied in such a report.
- (4) At the request of any party, the tribunal shall give the parties an opportunity to question the expert at a hearing. At this hearing, parties may present expert witnesses to testify on the points at issue.

Default

Article 26

- (1) If a party fails to submit an Answer in accordance with Article 3, the arbitral tribunal may proceed with the arbitration.
- (2) If a party, duly notified under these Rules, fails to appear at a hearing without showing sufficient cause for such failure, the tribunal may proceed with the hearing.
- (3) If a party, duly invited to produce evidence or take any other steps in the proceedings, fails to do so within the time established by the tribunal without showing sufficient cause for such failure, the tribunal may make the award on the evidence before it.

Closure of Hearing

Article 27

- (1) The arbitral tribunal may ask the parties if they have any further submissions and upon receiving negative replies or if satisfied that the record is complete, the tribunal may declare the arbitral hearing closed.
- (2) The tribunal in its discretion, on its own motion or upon application of a party, may reopen the arbitral hearing at any time before the award is made.

Waiver

Article 28

A party who knows of any non-compliance with any provision or requirement of the Rules or the arbitration agreement, and proceeds with the arbitration without promptly

stating an objection in writing, waives the right to object.

Awards, Orders, Decisions and Rulings

Article 29

- (1) In addition to making a final award, the arbitral tribunal may make interim, interlocutory or partial awards, orders, decisions and rulings.
- (2) When there is more than one arbitrator, any award, order, decision or ruling of the tribunal shall be made by a majority of the arbitrators. If any arbitrator fails to sign an award, that arbitrator should provide a statement of the reason for the absence of such signature.
- (3) When the parties or the tribunal so authorize, the presiding arbitrator may make orders, decisions or rulings on questions of procedure, including exchanges of information, subject to revision by the tribunal.

Time, Form and Effect of Award

Article 30

- (1) Awards shall be made in writing, by the arbitral tribunal, and shall be final and binding on the parties. The tribunal shall make every effort to deliberate and prepare the award as quickly as possible after the hearing. Unless otherwise agreed by the parties, specified by law or determined by the Administrator, the final award shall be made no later than 60 days from the date of the closing of the hearing. The parties shall carry out any such award without delay and, absent agreement otherwise, waive irrevocably their right to any form of appeal, review or recourse to any court or other judicial authority, insofar as such waiver can validly be made. The tribunal shall state the reasons upon which an award is based, unless the parties have agreed that no reasons need be given.
- (2) An award shall be signed by the arbitrator(s) and it shall state the date on which the award was made and state the place of arbitration pursuant to Article 17. Where there is more than one arbitrator and any of them fails to sign an award, the award shall include or be accompanied by a statement of the reason for the absence of such signature.
- (3) An award may be made public only with the consent of all parties or as required by law, except that the Administrator may publish or otherwise make publicly

available selected awards, orders, decisions and rulings that have become public in the course of enforcement or otherwise and, unless otherwise agreed by the parties, may publish selected awards, orders, decisions and rulings that have been edited to conceal the names of the parties and other identifying details.

- (4) The award shall be transmitted in draft form by the tribunal to the Administrator. The award shall be communicated to the parties by the Administrator.
- (5) If applicable law requires an award to be filed or registered, the tribunal shall cause such requirement to be satisfied. It is the responsibility of the parties to bring such requirements or any other procedural requirements of the place of arbitration to the attention of the tribunal.

Applicable Laws and Remedies

Article 31

- (1) The arbitral tribunal shall apply the substantive law(s) or rules of law designated by the parties as applicable to the dispute. Failing such a designation by the parties, the tribunal shall apply such law(s) or rules of law as it determines to be appropriate.
- (2) In arbitrations involving the application of contracts, the tribunal shall decide in accordance with the terms of the contract and shall take into account usages of the trade applicable to the contract.
- (3) The tribunal shall not decide as amiable compositeur or ex aequo et bono unless the parties have expressly authorized it to do so.
- (4) A monetary award shall be in the currency or currencies of the contract unless the tribunal considers another currency more appropriate, and the tribunal may award such pre-award and post-award interest, simple or compound, as it considers appropriate, taking into consideration the contract and applicable law(s).
- (5) Unless the parties agree otherwise, the parties expressly waive and forego any right to punitive, exemplary or similar damages unless any applicable law(s) requires that compensatory damages be increased in a specified manner. This provision shall not apply to an award of arbitration costs to a party to compensate for misconduct in the arbitration.

Settlement or Other Reasons for Termination

Article 32

- (1) If the parties settle the dispute before a final award is made, the arbitral tribunal shall terminate the arbitration and, if requested by all parties, may record the settlement in the form of a consent award on agreed terms. The tribunal is not obliged to give reasons for such an award.
- (2) If continuation of the proceedings becomes unnecessary or impossible due to the non-payment of deposits required by the Administrator, the proceedings may be suspended or terminated as provided in Article 36(3).
- (3) If continuation of the proceedings becomes unnecessary or impossible for any other reason, the tribunal shall inform the parties of its intention to terminate the proceedings. The tribunal shall thereafter issue an order terminating the arbitration, unless a party raises justifiable grounds for objection.

Interpretation and Correction of Award

Article 33

- (1) Within 30 days after the receipt of an award, any party, with notice to the other parties, may request the arbitral tribunal to interpret the award or correct any clerical, typographical or computation errors or make an additional award as to claims presented but omitted from the award.
- (2) If the tribunal considers such a request justified, after considering the contentions of the parties, it shall comply with such a request within 30 days after receipt of the parties' last submissions respecting the requested interpretation, correction or additional award. Any interpretation, correction or additional award made by the tribunal shall contain reasoning and shall form part of the award.
- (3) The tribunal, on its own initiative may, within 30 days of the date of the award, correct any clerical, typographical or computation errors or make an additional award as to claims presented but omitted from the award.
- (4) The parties will be responsible for all costs associated with any request for interpretation, correction or an additional award, and the tribunal may allocate such costs.

Costs of Arbitration

Article 34

The arbitral tribunal shall fix the costs of arbitration in its award(s). The tribunal may apportion such costs among the parties if it determines that such apportionment is reasonable, taking into account the circumstances of the case.

Such costs may include:

- (a) the fees and expenses of the arbitrators;
- (b) the costs of assistance required by the tribunal, including its experts;
- (c) the fees and expenses of the Administrator;
- (d) the reasonable legal and other costs incurred by the parties;
- (e) any costs incurred in connection with a notice for interim or emergency relief pursuant to Articles 6 or 24;
- (f) any costs incurred in connection with a request for consolidation pursuant to Article 8; and
- (g) any costs associated with information exchange pursuant to Article 21.

Fees and Expenses of Arbitral Tribunal

Article 35

- (1) The fees and expenses of the arbitrators shall be reasonable in amount, taking into account the time spent by the arbitrators, the size and complexity of the case, and any other relevant circumstances.
- (2) As soon as practicable after the commencement of the arbitration, the Administrator shall designate an appropriate daily or hourly rate of compensation in consultation with the parties and all arbitrators, taking into account the arbitrators' stated rate of compensation and the size and complexity of the case.
- (3) Any dispute regarding the fees and expenses of the arbitrators shall be determined by the Administrator.

Deposits

Article 36

- (1) The Administrator may request that the parties deposit appropriate amounts as an advance for the costs referred to in Article 34 (a), (b) and (c).
- (2) During the course of the arbitral proceedings, the Administrator may request supplementary deposits from the parties.
- (3) If the deposits requested are not paid promptly and in full, the Administrator 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 proceedings. If the tribunal has not yet been appointed, the Administrator may suspend or terminate the proceedings.
- (4) Failure of a party asserting a claim or counterclaim to pay the required deposits shall be deemed a withdrawal of the claim or counterclaim.
- (5) After the final award has been made, the Administrator shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

Confidentiality

Article 37

- (1) Confidential information disclosed during the proceedings by the parties or by witnesses shall not be divulged by an arbitrator or by the Administrator. Except as provided in Article 30, unless otherwise agreed by the parties or required by applicable law, the members of the arbitral tribunal and the Administrator shall keep confidential all matters relating to the arbitration or the award.
- (2) Unless the parties agree otherwise, the tribunal may make orders concerning the confidentiality of the arbitration proceedings or any other matters in connection with the arbitration and may take measures for protecting trade secrets and confidential information.

Exclusion of Liability

Article 38

The members of the arbitral tribunal, any emergency arbitrator appointed under Article 6, any consolidation arbitrator appointed under Article 8 and the Administrator shall not be liable to any party for any act or omission in connection with any arbitration conducted under these Rules, except that they may be liable for the consequences of conscious and deliberate wrongdoing. The parties agree that neither the arbitrators nor the Administrator shall be under any obligation to make any statement about the arbitration, nor shall a party seek to make any of these persons a party or witness in any judicial or other proceedings relating to the arbitration.

Interpretation of Rules

Article 39

The arbitral tribunal, any emergency arbitrator appointed under Article 6 and any consolidation arbitrator appointed under Article 8, shall interpret and apply these Rules insofar as they relate to their powers and duties. The Administrator shall interpret and apply all other Rules.

International Expedited Procedures

Scope of Expedited Procedures

Article E-1

These procedures supplement the International Arbitration Rules as provided in Article 1(4).

Detailed Submissions

Article E-2

Parties are to present detailed submissions on the facts, claims, counterclaims and defenses, together with all of the evidence then available on which such party intends to rely, in the Notice of Arbitration and the Answer. The arbitrator, in consultation with the parties, shall establish a procedural order, including a timetable, for completion of any written submissions.

Administrative Conference

Article E-3

The Administrator shall schedule an administrative conference with the parties and their representatives to discuss the application of these procedures, arbitrator selection, mediating the dispute and any other administrative matters.

Objection to the Applicability of the Procedures

Article E-4

If an objection is submitted before the arbitrator is appointed, the Administrator may initially determine the applicability of these procedures, subject to the power of the arbitrator to make a final determination. The arbitrator shall take into account the amount in dispute and any other relevant circumstances.

Changes of Claim or Counterclaim

Article E-5

If, after filing of the initial claims and counterclaims, a party amends its claim or counterclaim to exceed USD \$250,000.00 exclusive of interest and the costs of arbitration, the case will continue to be administered pursuant to these Expedited Procedures unless the parties agree otherwise, or the Administrator or the arbitrator determines otherwise. After the arbitrator is appointed, no new or different claim or counterclaim and no change in amount may be submitted except with the arbitrator's consent.

Appointment and Qualifications of the Arbitrator

Article E-6

A sole arbitrator shall be appointed as follows. The Administrator shall simultaneously submit to each party an identical list of five proposed arbitrators. The parties may agree to an arbitrator from this list and shall so advise the Administrator. If the parties are unable to agree upon an arbitrator, each party may strike two names from the list and return it to the Administrator within ten days from the transmittal date of the list to the parties. The parties are not required to exchange selection lists. If the parties fail to

agree on any of the arbitrators or if acceptable arbitrators are unable or unavailable to act, or if for any other reason the appointment cannot be made from the submitted lists, the Administrator may make the appointment without the circulation of additional lists. The parties will be given notice by the Administrator of the appointment of the arbitrator, together with any disclosures.

Procedural Conference and Order

Article E-7

After the confirmation of the arbitrator's appointment, the arbitrator may schedule a procedural conference call with the parties, their representatives and the Administrator to discuss the procedure and schedule for the case. Within 14 days of appointment, the arbitrator shall issue a procedural order.

Proceedings by Written Submissions

Article E-8

In proceedings based on written submissions, all submissions are due within 60 days of the date of the procedural order, unless the arbitrator determines otherwise. The arbitrator may require an oral hearing if deemed necessary.

Proceedings with an Oral Hearing

Article E-9

In cases in which an oral hearing is to be held, the arbitrator shall set the date, time and location of the hearing. The oral hearing shall take place within 60 days of the date of the procedural order unless the arbitrator deems it necessary to extend that period. Hearings may take place in person or via video conference or other suitable means, at the discretion of the arbitrator. Generally, there will be no transcript or stenographic record. Any party desiring a stenographic record may arrange for one. The oral hearing shall not exceed one day unless the arbitrator determines otherwise. The Administrator will notify the parties in advance of the hearing date.

The Award

Article E-10

Awards shall be made in writing and shall be final and binding on the parties. Unless otherwise agreed by the parties, specified by law or determined by the Administrator, the award shall be made not later than 30 days from the date of the closing of the hearing or from the time established for final written submissions.

Administrative Fees

Administrative Fee Schedules (Standard and Flexible Fee)

The ICDR has two administrative fee options for parties filing claims or counterclaims, the Standard Fee Schedule and Flexible Fee Schedule. The Standard Fee Schedule has a two payment schedule, and the Flexible Fee Schedule has a three payment schedule which offers lower initial filing fees, but potentially higher total administrative fees of approximately 12% to 19% for cases that proceed to a hearing. The administrative fees of the ICDR are based on the amount of the claim or counterclaim. Arbitrator compensation is not included in this schedule. Unless the parties agree otherwise, arbitrator compensation and administrative fees are subject to allocation by the arbitrator in the award.

Fees for incomplete or deficient filings: Where the applicable arbitration agreement does not reference the ICDR or the AAA, the ICDR will attempt to obtain the agreement of the other parties to the dispute to have the arbitration administered by the ICDR. However, where the ICDR is unable to obtain the agreement of the parties to have the ICDR administer the arbitration, the ICDR will administratively close the case and will not proceed with the administration of the arbitration. In these cases, the ICDR will return the filing fees to the filing party, less the amount specified in the fee schedule below for deficient filings.

Parties that file demands for arbitration that are incomplete or otherwise do not meet the filing requirements contained in these Rules shall also be charged the amount specified below for deficient filings if they fail or are unable to respond to the ICDR's request to correct the deficiency.

Fees for additional services: The ICDR reserves the right to assess additional administrative fees for services performed by the ICDR beyond those provided for in these Rules which may be required by the parties' agreement or stipulation.

Suspension for Nonpayment: If arbitrator compensation or administrative charges have not been paid in full, the administrator may so inform the parties in order that one of them may advance the required payment. If such payments are not made, the tribunal may order the suspension or termination of the proceedings. If no arbitrator has yet been appointed, the ICDR may suspend the proceedings.

Standard Fee Schedule

An Initial Filing Fee is payable in full by a filing party when a claim, counterclaim, or additional claim is filed. A Final Fee will be incurred for all cases that proceed to their first hearing. This fee will be payable in advance at the time that the first hearing is scheduled. This fee will be refunded at the conclusion of the case if no hearings have occurred. However, if the administrator is not notified at least 24 hours before the time of the scheduled hearing, the Final Fee will remain due and will not be refunded.

These fees will be billed in accordance with the following schedule:

Amount of Claim	Initial Filing Fee	Final Fee
Above \$0 to \$10,000	\$775	\$200
Above \$10,000 to \$75,000	\$975	\$300
Above \$75,000 to \$150,000	\$1,850	\$750
Above \$150,000 to \$300,000	\$2,800	\$1,250
Above \$300,000 to \$500,000	\$4,350	\$1,750
Above \$500,000 to \$1,000,000	\$6,200	\$2,500

Amount of Claim	Initial Filing Fee	Final Fee
Above \$1,000,000 to \$5,000,000	\$8,200	\$3,250
Above \$5,000,000 to \$10,000,000	\$10,200	\$4,000
Above \$10,000,000	Base fee of \$12,800 plus .01% of the amount of claim above \$10,000,000 Fee Capped at \$65,000	\$6,000
Nonmonetary Claims ¹	\$3,350	\$1,250
Deficient Claim Filing ²	\$350	
Additional Services ³		

¹ This fee is applicable when a claim or counterclaim is not for a monetary amount. Where a monetary claim amount is not known, parties will be required to state a range of claims or be subject to a filing fee of \$10,200.

² The Deficient Claim Filing Fee shall not be charged in cases filed by a consumer in an arbitration governed by the Supplementary Procedures for the Resolution of Consumer-Related Disputes, or in cases filed by an Employee who is submitting their dispute to arbitration pursuant to an employer promulgated plan.

³ The ICDR may assess additional fees where procedures or services outside the Rules sections are required under the parties' agreement or by stipulation.

Fees are subject to increase if the amount of a claim or counterclaim is modified after the initial filing date. Fees are subject to decrease if the amount of a claim or counterclaim is modified before the first hearing.

The minimum fees for any case having three or more arbitrators are \$2,800 for the filing fee, plus a \$1,250 Case Service Fee.

Parties on cases filed under either the Flexible Fee Schedule or the Standard Fee Schedule that are held in abeyance for one year will be assessed an annual abeyance fee of \$300. If a party refuses to pay the assessed fee, the other

party or parties may pay the entire fee on behalf of all parties, otherwise the matter will be administratively closed.

For more information, please contact the ICDR at +1.212.484.4181.

Refund Schedule for Standard Fee Schedule

The ICDR offers a refund schedule on filing fees connected with the Standard Fee Schedule. For cases with claims up to \$75,000, a minimum filing fee of \$350 will not be refunded. For all other cases, a minimum fee of \$600 will not be refunded. Subject to the minimum fee requirements, refunds will be calculated as follows:

- 100% of the filing fee, above the minimum fee, will be refunded if the case is settled or withdrawn within five calendar days of filing.
- 50% of the filing fee will be refunded if the case is settled or withdrawn between six and 30 calendar days of filing.
- 25% of the filing fee will be refunded if the case is settled or withdrawn between 31 and 60 calendar days of filing.

No refund will be made once an arbitrator has been appointed (this includes one arbitrator on a three-arbitrator panel).

No refunds will be granted on awarded cases.

Note: The date of receipt of the demand for arbitration with the ICDR will be used to calculate refunds of filing fees for both claims and counterclaims.

Flexible Fee Schedule

A non-refundable Initial Filing Fee is payable in full by a filing party when a claim, counterclaim, or additional claim is filed. Upon receipt of the Demand for Arbitration, the ICDR will promptly initiate the case and notify all parties as well as establish the due date for filing of an Answer, which may include a Counterclaim. In order to proceed with the further administration of the arbitration and appointment of the arbitrator(s), the appropriate, non-refundable Proceed Fee outlined below must be paid.

If a Proceed Fee is not submitted within ninety (90) days of the filing of the Claimant’s Demand for Arbitration, the ICDR will administratively close the file and notify all parties.

No refunds or refund schedule will apply to the Filing or Proceed Fees once received.

The Flexible Fee Schedule below also may be utilized for the filing of counterclaims. However, as with the Claimant’s claim, the counterclaim will not be presented to the arbitrator until the Proceed Fee is paid.

A Final Fee will be incurred for all claims and/or counterclaims that proceed to their first hearing. This fee will be payable in advance when the first hearing is scheduled, but will be refunded at the conclusion of the case if no hearings have occurred. However, if the administrator is not notified of a cancellation at least 24 hours before the time of the scheduled hearing, the Final Fee will remain due and will not be refunded.

All fees will be billed in accordance with the following schedule:

Amount of Claim	Initial Filing Fee	Proceed Fee	Final Fee
Above \$0 to \$10,000	\$400	\$475	\$200
Above \$10,000 to \$75,000	\$625	\$500	\$300
Above \$75,000 to \$150,000	\$850	\$1,250	\$750
Above \$150,000 to \$300,000	\$1,000	\$2,125	\$1,250
Above \$300,000 to \$500,000	\$1,500	\$3,400	\$1,750
Above \$500,000 to \$1,000,000	\$2,500	\$4,500	\$2,500
Above \$1,000,000 to \$5,000,000	\$2,500	\$6,700	\$3,250

Amount of Claim	Initial Filing Fee	Proceed Fee	Final Fee
Above \$5,000,000 to \$10,000,000	\$3,500	\$8,200	\$4,000
Above \$10,000,000	\$4,500	\$10,300 plus .01% of claim amount over \$10,000,000 up to \$65,000	\$6,000
Nonmonetary Claims ¹	\$2,000	\$2,000	\$1,250
Deficient Claim Filing Fee	\$350		
Additional Services ²			

1 This fee is applicable when a claim or counterclaim is not for a monetary amount. Where a monetary claim amount is not known, parties will be required to state a range of claims or be subject to a filing fee of \$3,500 and a proceed fee of \$8,200.

2 The ICDR reserves the right to assess additional administrative fees for services performed by the ICDR beyond those provided for in these Rules and which may be required by the parties' agreement or stipulation.

All fees are subject to increase if the amount of a claim or counterclaim is modified after the initial filing date. Fees are subject to decrease if the amount of a claim or counterclaim is modified before the first hearing.

The minimum fees for any case having three or more arbitrators are \$1,000 for the Initial Filing Fee; \$2,125 for the Proceed Fee; and \$1,250 for the Final Fee.

Under the Flexible Fee Schedule, a party's obligation to pay the Proceed Fee shall remain in effect regardless of any agreement of the parties to stay, postpone or otherwise modify the arbitration proceedings. Parties that, through mutual agreement, have held their case in abeyance for one year will be assessed an annual abeyance fee of \$300. If a party refuses to pay the assessed fee, the other party or parties may pay the entire fee on behalf of all parties, otherwise the matter will be closed.

Note: The date of receipt by the ICDR of the demand/notice for arbitration will be used to calculate the ninety (90)-day time limit for payment of the Proceed Fee.

For more information, please contact the ICDR at +1.212.484.4181.

There is no Refund Schedule in the Flexible Fee Schedule.

Expedited Procedures – Fees & Compensation

There are no additional, administrative fees beyond the Fees outlined above to initiate a case under the Expedited Procedures. The compensation of the arbitrator will be determined by the Administrator, in consultation with the arbitrator, and in consideration of the specific nature of the case and the amount in dispute. There is no refund schedule for cases managed under the Expedited Procedures.

Hearing Room Rental

The fees described above do not cover the cost of hearing rooms, which are available on a rental basis. Check with the ICDR for availability and rates.

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