

Tanzania

Arbitration Act, 2020

Arbitration (Rules of Procedure) Regulations, 2021

Government Notice 146 of 2021

Legislation as at 29 January 2021

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Arbitration (Rules of Procedure) Regulations, 2021 (Government Notice 146 of 2021)
 Contents

- Part I – Preliminary provisions 1
 - 1. Citation 1
 - 2. Interpretation 1
- Part II – General conditions, notices and submissions 2
 - 3. General conditions 2
 - 4. Submissions, notices, written notices and deadlines 2
- Part III – Commencement of arbitration 3
 - 5. Commencement of arbitration process 3
 - 6. Registration of request for arbitration 4
 - 7. Reply to request 4
 - 8. Extension of time 5
 - 9. Counterclaim 5
 - 10. Joinder of additional parties 6
 - 11. Multiple contracts 6
 - 12. Consolidation of arbitrations 6
- Part IV – Composition and establishment of arbitral tribunal 6
 - 13. Persons empowered to be arbitrators 6
 - 14. Qualifications of arbitrators 7
 - 15. Statement of Independence 7
 - 16. Governing laws 7
 - 17. Composition of arbitral tribunal 8
 - 18. Communication as to appointment of arbitrator 8
 - 19. Availability, acceptance and notification 9
 - 20. Failure to appoint arbitrator 9
 - 21. Multiple parties 9
 - 22. Power of Chairman to appoint arbitrator 9
 - 23. Acceptance of appointment as arbitrator(s) 10
 - 24. Challenge and disqualification of an arbitrator 10
 - 25. Replacement of arbitrator 10
 - 26. Death or disability 11
 - 27. Discharge from appointment 11
 - 28. Pleas as to jurisdiction of arbitral tribunal 11
- Part V – Conduct of the arbitration 12
 - 29. Constitution and general powers of arbitral tribunal 12

| | |
|--|----|
| 30. Place of arbitration | 12 |
| 31. Language of arbitration | 12 |
| 32. Preparatory or first conference | 12 |
| 33. Statement of claim | 13 |
| 34. Statement of defense | 13 |
| 35. Counter-claim | 14 |
| 36. Jurisdiction | 14 |
| 37. Interim award | 14 |
| 38. Emergency relief proceedings | 15 |
| 39. Evidence and hearings | 15 |
| 40. Revocation of arbitration | 16 |
| Part VI – Awards and other decisions | 16 |
| 41. Laws applicable to substance | 16 |
| 42. Currency and interest | 17 |
| 43. Final award | 17 |
| 44. Other awards | 17 |
| 45. Majority | 17 |
| 46. Procedural rulings | 17 |
| 47. Form of awards | 17 |
| 48. Signing of award | 18 |
| 49. Transmission of award | 18 |
| 50. Implementation of award | 18 |
| 51. Notification and registration of award | 18 |
| 52. Correction of errors | 19 |
| 53. Payment of expenses | 19 |
| 54. Allocation of arbitration costs | 19 |
| 55. Costs of arbitration | 19 |
| 56. Legal service fees | 19 |
| 57. Exclusion from liability | 19 |
| 58. Exemption to act as witness | 20 |
| 59. Waiver of defamation | 20 |
| 60. Decisions of the Board | 20 |
| 61. Binding opinion | 20 |
| 62. Arbitration clause | 20 |
| 63. Mode of applications to Court | 20 |

| | |
|---|----|
| 64. Implied provisions in an arbitration | 21 |
| 65. Leave to appeal against decisions of the Court on enforcement proceedings | 22 |
| 66. Enforcement of foreign award | 22 |
| First Schedule (Made under regulation 5(8), 9(1), and 55(1)) | 23 |
| Second Schedule (Made under regulation 29(2)) | 24 |
| Third Schedule (Made under regulation 6(3)(a)) | 24 |
| Fourth Schedule | 25 |

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Part I – Preliminary provisions

1. Citation

These Regulations may be cited as the Arbitration (Rules of Procedure) Regulations, 2021.

2. Interpretation

In these Regulations unless the context requires otherwise—

“**Act**” means the Arbitration Act, 2020;

[Cap. 15]

“**Arbitration Institution**” means an Institution accredited to settle arbitration disputes through arbitration;

“**arbitral tribunal**” means a sole arbitrator or a panel of arbitrators;

“**award**” includes an interim, partial or final award rendered by the arbitral tribunal or the sole arbitrator;

“**Board**” means the governing body of the Centre established under section 77(4) of the Act;

“**Centre**” means the Tanzania Arbitration Centre established under section 77 of the Act;

“**Chairman**” means the Chairman of the Board of the Centre appointed in terms of the Tanzania Arbitration Centre (Management Operations) Regulations, 2021;

“**claimant**” means the party initiating an arbitration;

“**document**” includes written, printed or electronically created document or electronically transmitted messages;

“**request for arbitration**” means the request to the Tanzania Arbitration Centre of the Claimant for arbitration;

“**Secretary-General**” means the Secretary-General appointed as such in terms of the Tanzania Arbitration Centre (Management Operations) Regulations, 2021;

“**Secretariat**” means the Secretariat of the Centre under the management of the Secretary-General;

“**sole arbitrator**” means the arbitrator appointed in accordance with these Regulations;

“**parties**” mean the claimant and the respondent to an arbitration proceeding and includes any duly appointed representative of the parties.

Part II – General conditions, notices and submissions

3. General conditions

- (1) Where an arbitration agreement provides for arbitration under these Regulations, these Regulations shall be deemed to form part of the arbitration agreement and a dispute arising thereof shall be settled in accordance with these Regulations, as in effect on the date of the commencement of the arbitration, unless the parties have otherwise agreed.
- (2) These Regulations shall govern all arbitration proceedings initiated under the Act:

Provided that, where any of these Regulations are in conflict with a provision of the Act from which the parties cannot derogate, the provision of the Act shall prevail.
- (3) Subject to sections 18, 19 and 20 of the Act, parties to arbitration proceedings shall, before referring the matter for arbitration, confirm appointment of their arbitrator in Form No. 6 as prescribed in the Fourth Schedule to these Regulations.

4. Submissions, notices, written notices and deadlines

- (1) All submissions in respect to the arbitration initiated by a party to the dispute shall be in Form No. 2 as prescribed in the Fourth Schedule to these Regulations, and shall be submitted to the Centre or Arbitration Institution, as the case may be, together with supporting documents.
- (2) The submissions under subregulation (1) shall upon being admitted with appropriate number, be served to other party and the arbitrator and other copy retained with the Secretariat.
- (3) Any notice including, notification, communication or proposal shall be in writing and shall be supplied in a number of copies sufficient to provide one copy for each party, each arbitrator and the Centre.
- (4) The parties or their representative shall, in the event of change of address, telephone number, facsimile, email or any other relevant particulars, immediately notify the Centre of such change.
- (5) Communication sent directly by a arbitral tribunal to the parties shall be copied to the Secretariat, and each communication sent by the parties to the arbitral tribunal shall be copied to the other party and to the Secretariat.
- (6) Where arbitral tribunal has been constituted, no communication shall be made by any party with any one or more of the arbitrators in any way relating to the arbitral reference except:
 - (a) in the case of oral communication, in the presence of, or with participation of the other party; or
 - (b) in the case of written communication, with a copy sent simultaneously to the other party or parties, and to the Secretariat.
- (7) A notice given under these Regulations shall, unless the arbitral tribunal instructs otherwise, be given directly, through courier, facsimile or e-mail, and such notice shall be considered effective on the date of receipt or, where the date of receipt cannot be determined, on the day after the delivery of the notice.
- (8) Subject to subregulation (7), any period of time specified in or fixed under these Regulations or under any applicable agreement to arbitrate shall commence on the day following the date the notice or communication is deemed to be effective.
- (9) Where the expiration date of any notice or time limit falls on a weekend or national holiday, such time limit shall expire on the next business day following such weekend or holiday.

- (10) Unless specifically agreed upon by the parties, arbitration proceedings shall be completed within a period of not later than one hundred eighty days from the date of composition of the arbitral tribunal:
- Provided that, in special circumstances where the dispute is of a highly complex nature, the arbitral tribunal may extend the deadline upon notice to the parties.
- (11) Subject to section 38 of the Act, where parties choose to be represented, the parties, in the first submission or reply, shall submit to the arbitral tribunal and a copy thereof, to the Centre or Arbitration Institution, of the following information of their representatives—
- (a) full name;
 - (b) full address; and
 - (c) the position of each individual representing the party in the arbitration which designation shall be supported by, if not an advocate, a special power of attorney duly stamped with sufficient copies as stipulated under subregulation (1).
- (12) Where a party is represented by a foreign expert or advocate in an arbitration case relating to dispute that abides to any written law, the foreign expert or advocate shall be accompanied by a local expert or advocate practicing in Tanzania.
- (13) Each party shall ensure that its representatives have sufficient time available to enable the arbitration to proceed expeditiously.

Part III – Commencement of arbitration

5. Commencement of arbitration process

- (1) A person who wishes to commence or institute an arbitration proceeding shall submit a request in writing to that effect to the Centre.
- (2) A request for arbitration shall be in Form No.3 as prescribed in the Fourth Schedule to these Regulations and shall contain—
- (a) the names, addresses, telephone, e-mail or other communication references of the parties and of the representative of the party filing the request for arbitration;
 - (b) the arbitration clause or the arbitration agreement between the parties;
 - (c) information regarding facts of the dispute and the legal basis of arbitration;
 - (d) the descriptive details of the dispute;
 - (e) all relevant particulars and any observations or proposals as to the place of the arbitration, the applicable law and the language of arbitration;
 - (f) where applicable, the claimant's proposals for appointment of a sole arbitrator;
 - (g) the claimant's designation of an arbitrator for purpose of constituting a three-member of arbitral tribunal;
 - (h) the statement of claim or the requested amount of claim; and
 - (i) such other documents or information as may be necessary to contribute to the efficient resolution of the dispute.
- (3) The request for arbitration designates precisely each party to the dispute and shall be accompanied by proof of payment of the required registration fee as prescribed in the First Schedule to these Regulations.

- (4) Where the claimant fails to comply with any of the requirements under subregulation (2) and (3), the Centre shall notify the claimant of any extended time limit within which the claimant shall comply and failure of which will result to closure of the file without prejudice to the claimant's right to submit the same claim afresh at a later date.
- (5) The date of receipt of a complete request for arbitration shall be deemed to be the date on which the arbitration has commenced.
- (6) The request for arbitration is deemed to be complete when all the requirements under this regulation are fulfilled and Centre has notified the parties of the commencement of arbitration.
- (7) The Centre shall, within seven days of the receipt of the request for arbitration, transmit a copy of the request and the documents annexed thereto to the respondent for its a reply to the request once the Centre has sufficient copies of the request and the required filing fee.
- (8) A third party beyond the arbitration agreement who intends to participate and join in the arbitration proceedings shall be obliged to pay the administrative and other fees as prescribed in the First Schedule to these Regulations.

6. Registration of request for arbitration

- (1) The Secretariat shall, upon receiving the request for arbitration and without undue delay, send an acknowledgement to the requesting party and submit the request to the Secretary General for scrutiny after ensuring that all required fees are dully paid.
- (2) The Secretary-General shall as soon as possible, scrutinize the request to determine whether or not the arbitration agreement or arbitration clause in the contract is adequate to provide a basis for registration by the Centre for further examination process.
- (3) Where the Secretary-General determines that the Centre has a mandate to register the request he shall—
 - (a) register a request in the register as specified in the Third Schedule to these Regulations;
 - (b) transmit a copy of the request and of the accompanying documentations to the other party; and
 - (c) if composed, submit the request to a tribunal duly composed for determination of the dispute.
- (4) In case the tribunal is not composed, the Secretary General shall invite the parties to communicate to the Secretariat and agree on the number and the method of appointment of the arbitrators.
- (5) As soon as the Secretary-General has satisfied himself that the request conforms in form and substance to the provisions of subregulation (3) of this regulation, he shall register the request in the Arbitration Register and on the same day dispatch to the parties a notice of registration and shall also transmit a copy of the request and of the accompanying documentation if any to the other party to the dispute.
- (6) The requesting party may, by written notice to the Secretary-General, withdraw the request before it has been registered and such withdrawal, shall be notified to the other party.

7. Reply to request

- (1) The respondent or responding party shall, within thirty days of receipt of the request, submit to the Centre a reply to the request in Form No.4 as prescribed in the Fourth Schedule to these Regulations which shall contain—
 - (a) the name, address, telephone number(s), facsimile number(s) and email address of the respondent and of the representative (if different from the description contained in the request);

- (b) a confirmation or denial of all or part of the claims;
 - (c) a brief statement of the nature and circumstances of any defence envisaged counter claims;
 - (d) comments in response to any statements contained in the petition;
 - (e) comments in response to proposals for the appointments of a sole arbitrator and or the designation of an arbitrator;
 - (f) where the request for arbitration contained the statement of claim, the statement of defence; and
 - (g) such other documents or information as the respondent considers appropriate for efficient resolution of the dispute;
- (3) In making reply, the respondent may designate an arbitrator or hand over the designation to the Chairman.

[Please note: numbering as in original.]

- (4) Where the respondent does not designate an arbitrator, then it shall be considered that the designation has absolutely been handed over to the Chairman.

8. Extension of time

- (1) The Secretary-General may, at the request of the respondent, extend the period for submission of reply and or the designation of an arbitrator by the respondent with legitimate grounds, on the condition that the extension of period may not exceed fourteen days.
- (2) The Chairman shall, at the request of the respondent, authorize to extend the time limit of the reply by the respondent the latest at the first arbitration hearing.

9. Counterclaim

- (1) Any counterclaim made by the respondent shall be submitted with the reply together with payment of the requisite filing fees as prescribed in the First Schedule to these Regulations, and shall provide:
 - (a) a description of the nature and circumstances of dispute giving rise to the counter claim and of the basis upon which the counterclaim is made;
 - (b) a statement of the relief sought together with the amount of any quantified counter claim, to the extent possible an estimate of the monetary value of any other counter claims;
 - (c) any relevant agreement and in particular the arbitration agreement; and
 - (d) where counterclaims are made under more than one arbitration agreement, an indication of the arbitration agreement under which each counterclaim is made.
- (2) Failure to send a reply shall not preclude the respondent from denying any claim or from advancing a counterclaim in the arbitration proceedings.
- (3) Notwithstanding the provisions of subregulation (2), where the arbitration agreement calls for party nomination of arbitrators, failure to send a reply or to nominate an arbitrator within the time or at all shall constitute an irrevocable waiver of the party's opportunity to nominate an arbitrator.
- (4) The Centre shall provide a copy of the reply to the request and any document annexed there to all other parties within seven days.

10. Joinder of additional parties

- (1) A party wishing to join an additional party to the arbitration shall submit its request for arbitration against the additional party (the “Request for Joinder”) to the Secretariat, and the date on which the request for joinder is received by the Secretariat shall, for all purposes, be deemed to be the date of the commencement of arbitration against the additional party.
- (2) No additional party may be joined after the confirmation or appointment of any arbitrator, unless all parties including the additional party otherwise agree and the Centre may fix a time limit for the submission of a request for joinder.
- (3) The request for joinder shall contain the following information:
 - (a) the case reference of the existing arbitration; and
 - (b) the name in full, description, address and other contact details of each of the parties, including the additional party.
- (4) The party filing the request for joinder may submit therewith such other documents or information as it considers appropriate or as may contribute to the efficient resolution of the dispute.
- (5) The additional party shall submit a reply in accordance with the provisions of regulation 7.

11. Multiple contracts

Subject to the provisions of regulation 10, claims arising out of or in connection with more than one contract may be made in a single arbitration, irrespective of whether such claims are made under one or more than one arbitration agreement under these Regulations.

12. Consolidation of arbitrations

The Chairman may, at the request of a party, consolidate two or more arbitrations under these Regulations into a single arbitration, where—

- (a) the parties have agreed to consolidate and the arbitration dispute arises from the same legal relationships; or
- (b) the request of arbitrations is made under a number of agreements whose parties are the same and the choice of arbitration institution is the Centre; or
- (c) the request of arbitrations is made under a number of agreements where one of parties is the same and the choice of arbitration institution is the Tanzania Arbitration Centre.

Part IV – Composition and establishment of arbitral tribunal

13. Persons empowered to be arbitrators

- (1) Except in special circumstances as referred to in subregulation (5), only those arbitrators who are accredited or provisionally registered in terms of the Reconciliation, Negotiation, Mediation and Arbitration (Practitioners Accreditation) Regulations of 2021, shall act as arbitrators that may be chosen by the parties.
- (2) The Centre shall keep a list of arbitrators which shall comprise of arbitrators meeting the requirements set out in these Regulations who shall be residing in Tanzania or in any jurisdictions, with the following qualifications, namely—
 - (a) advocates or non-legal practitioners; who qualified to undertake arbitration or and
 - (b) experts such as engineers, architects, or

- (c) other individuals meeting the requirements.
- (3) The list of arbitrators from time to time may be reviewed, added or amended by the Centre.
 - (4) The arbitrators chosen by the parties shall be subject to the consideration and approval of the Centre.
 - (5) In the event that the nature of the dispute requires an arbitrator possessing special expertise to properly examine the dispute referred to the Centre, a request may be filed with the Chairman of the Centre to designate an arbitrator who is not listed in the list of arbitrators on the condition that the arbitrator is accredited or registered in terms of the Reconciliation, Negotiation, Mediation and Arbitration (Practitioners Accreditation) Regulations.
 - (6) Each request under subregulation (5) shall clearly state the reason for the need for such an external arbitrator together with a *curriculum vitae* of the arbitrator being proposed.
 - (7) Where the Chairman considers that there is no arbitrator in the Centre's list of arbitrators with the required professional qualification, whilst the arbitrator requested does possess such qualification, is neutral and independent, then the Chairman of Centre may, on his own consideration, approve the designation of the arbitrator.
 - (8) Where the Chairman does not approve the designation of the external arbitrator, he shall recommend, or designate, with his own choice, an alternative arbitrator chosen from the Centre's list of arbitrators or an expert meeting the requirements in the required field but is not registered in the Centre's list of arbitrators.
 - (9) The Board may consider the designation of a foreign arbitrator who is recognized on the condition that the foreign arbitrator meets the qualification requirements and is prepared to comply with these Regulations, including the stipulation regarding arbitrator fee, whereby the designating party shall bear the travel, accommodation and other extraordinary expenses related to the designation of the foreign arbitrator.

14. Qualifications of arbitrators

An arbitrator to be appointed for the purposes of the Act, shall possess the following requirements—

- (a) be an arbitrator who is accredited or registered in terms of the Reconciliation, Negotiation, Mediation and Arbitration (Practitioners Accreditation) Regulations;
- (b) not have family relationship based on descent and marriage down to the third generation, with any of the parties in dispute;
- (c) not possess financial interest or anything whatsoever on the result of arbitration resolution;
- (d) named in the arbitration agreement by the parties.
- (d) be persons of high moral character and recognized competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgment.

15. Statement of Independence

An Arbitrator who appointed to determine the dispute under these Regulations shall sign a Statement of Independence in Form No.1 in the prescribed Fourth Schedule to these Regulations.

16. Governing laws

Where the dispute is governed by laws of Tanzania, at least one arbitrator, preferably but not necessarily the Chairman, and according to the arbitration agreement, be a lawyer who resides in and is acquainted with the laws of Tanzania.

17. Composition of arbitral tribunal

- (1) Where the parties have not designated the arbitrator, the Secretary-General shall, in communicating with the parties, send a list of accredited arbitrators for the parties to nominate the arbitrator.
- (2) Subject to section 17(3) of the Act, upon notification of the request for arbitration the parties shall with all possible dispatch proceed to constitute arbitral tribunal with due regard to nature of the dispute shall be decided by a sole arbitrator who shall be nominated by the parties, subject to confirmation of the appointment by the Centre in accordance with these Regulations.
- (3) The appointment shall be effective upon the Centre's notification to the parties.
- (4) Where the parties have not agreed upon the number of arbitrators, the Centre shall appoint a sole arbitrator, save where it appears to the Centre that the dispute resolution warrant the appointment of three arbitrators.
- (5) Subject to subregulation (3), the claimant shall nominate an arbitrator within a period of fifteen days from the receipt of the notification of the decision of the Centre, and the Respondent shall nominate a proposed arbitrator within a period of fifteen days from the receipt of the notification of the nomination by the claimant.
- (6) If the nomination of the arbitrator is not made within fifteen days after the commencement of the arbitration, the appointment shall take place in accordance with the following procedure:
 - (a) the Centre shall send to each party an identical list of candidates which shall ordinarily comprise of the names of at least three candidates in alphabetical order;
 - (b) the list shall include or be accompanied by a statement of each candidate's qualifications;
 - (c) if the parties have agreed on any particular qualifications, the list shall contain the names of candidates that satisfy those qualifications;
 - (d) each party shall have the right to delete the name of any candidate or candidates to whose appointment it objects and shall number any remaining candidates in order of preference;
 - (e) each party shall return the marked list to the Centre within seven days after the date on which the list is received by it;
 - (f) any party failing to return a marked list within that period of time shall be deemed to have assented to all candidates appearing on the list;
 - (g) the Centre shall, as soon as practicable after receipt by it of the lists from the parties, or in the alternative, after the expiration of the period of time specified in subparagraph (f), taking into account the preferences and objections expressed by the parties, appoint a person from the list as arbitrator; and
 - (h) if the lists which have been returned do not show a person who is acceptable as arbitrator to both parties, the Centre shall appoint the arbitrator.
- (7) Notwithstanding the procedure provided in subregulation (5), the Centre shall appoint the arbitrator otherwise if it determines in its discretion that the procedure described is not appropriate for the case.

18. Communication as to appointment of arbitrator

No party or person acting on the person's behalf shall have any *ex parte* communication with any candidate for appointment as arbitrator except to discuss the candidate's qualifications, availability or independence in relation to the parties.

19. Availability, acceptance and notification

- (1) An arbitrator shall, by accepting appointment, be deemed to have undertaken to make available sufficient time to enable the arbitration to be conducted and completed expeditiously.
- (2) The prospective arbitrator shall accept appointment in writing and shall communicate such acceptance to the Centre.
- (3) The Centre shall notify the parties of the establishment of the tribunal.

20. Failure to appoint arbitrator

- (1) In any case where either party fails to appoint an arbitrator within the allotted time frame not being more than fourteen days from notice or request to do so, in consideration of the provisions of regulations 6(4), the Centre shall make such appointment on behalf of that party.
- (2) Where the arbitral tribunal is to consist of three arbitrators, in case both parties have appointed their respective arbitrators, and in case within fifteen days, the two arbitrators appointed by the parties do not reach to an agreement of appointing a third arbitrator to be a chairman, the Centre shall appoint the Chairman or Umpire to preside the arbitral tribunal.
- (3) The appointment of the arbitrator who will preside the arbitral tribunal shall take place after taking into consideration the proposals from the respective arbitrators of both parties which choice can be made from the list of the Centre.
- (4) Where the parties have not agreed earlier regarding the number of arbitrators, the Chairman shall be empowered to regulation, based on the nature, complexity, and scale of the dispute in question, whether the case in question requires one or three arbitrators.

21. Multiple parties

- (1) Where there are more than two parties in the dispute, all of the parties acting as claimants shall be considered as a single party claimant with regard to designation of arbitrator and all parties being claimed against shall be considered as a single party respondent for purposes of designation of an arbitrator.
- (2) In the event that such multiple parties cannot agree upon the designation of an arbitrator within the allotted time frame, the selection of an arbitrator shall be deemed to have been left to the Chairman, who shall make the selection on their collective behalf.
- (3) In special circumstances and when requested by a majority of the parties in dispute, the Chairman may approve the formation of arbitral tribunal comprising more than three arbitrators.

22. Power of Chairman to appoint arbitrator

- (1) The Chairman shall have final decision or make approval regarding the designation of all arbitrators.
- (2) In making an approval as to the designation of arbitrators, the Chairman may request additional information in connection with the independence, neutrality or criteria of the arbitrators being nominated.
- (3) The Chairman may also consider the citizenship of the arbitrator nominated in connection with the citizenship of the parties in dispute by observing the standard requirements prevailing at Centre or arbitral tribunal.

23. Acceptance of appointment as arbitrator(s)

- (1) The Secretary-General shall, as soon as he has been informed by a party or the Chairman of the appointment of an arbitrator, seek an acceptance from the appointee.
- (2) An arbitrator candidate shall submit to the Centre *curriculum vitae* and a written statement of willingness to act as arbitrator within a period of seven days from the date of his designation, in which statement he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence.
- (3) Where an arbitrator fails to accept his appointment within fifteen days, the Secretary-General shall promptly notify the parties, and if appropriate the Chairman, and invite them to proceed to the appointment of another arbitrator in accordance with the method followed in the previous appointment.

24. Challenge and disqualification of an arbitrator

- (1) Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence, and a party wishing to make such challenge shall notify the Centre fourteen days from the time it is advised of the identity of such arbitrator, attaching documentation establishing the basis for such challenge.
- (2) Where the information which forms the basis of the challenge becomes known to the challenging party thereafter, such challenge must be submitted within fourteen days after such information becomes known to the challenging party.
- (3) A party may propose to arbitral tribunal the disqualification of any of its members on account of any fact indicating a manifest lack of the qualities required by regulation 14 of these Regulation, or on the ground that he was ineligible for appointment to the arbitral tribunal under the Act or these Regulations.
- (4) A party proposing the disqualification of an arbitrator shall promptly, and in any event before the proceedings are declared closed, file its proposal with the Secretary-General, stating its reasons therefor.
- (5) The Secretary-General shall forthwith:
 - (a) transmit the proposal to the members of the arbitral tribunal and, if it relates to a sole arbitrator or to a majority of the members of the arbitral tribunal, to the Chairman; and
 - (b) notify the other party of the proposal.
- (6) The arbitrator to whom the proposal relates may, without delay, furnish explanations to the arbitral tribunal or, as the case may be, the Chairman.
- (7) The decision on any proposal to disqualify an arbitrator shall be taken by the other members of the arbitral tribunal except that where those members are equally divided, or in the case of a proposal to disqualify a sole arbitrator, or a majority of the arbitrators, the Chairman shall take that decision.
- (8) Whenever the Chairman has to decide on a proposal to disqualify an arbitrator, he shall use his best efforts to make that decision within 30 days after he has received the proposal.
- (9) The proceedings shall be suspended until a decision has been made on the proposal.

25. Replacement of arbitrator

- (1) After arbitral tribunal has been constituted and proceedings have begun, its composition shall remain unchanged; provided, however, that if an arbitrator should die, become incapacitated, resign or be disqualified, the resulting vacancy shall be filled as provided in these Regulations.

- (2) If an arbitrator becomes incapacitated or unable to perform the duties of his office, the procedure in respect of the disqualification of arbitrators set forth in section 26 of the Act shall apply.
- (3) An arbitrator may resign by submitting his resignation to the other members of the arbitral tribunal and the Secretary-General.
- (4) If the arbitrator was appointed by one of the parties, the Tribunal shall promptly consider the reasons for his resignation and decide whether it consents thereto and the arbitral tribunal shall promptly notify the Secretary-General of its decision.
- (5) Whenever necessary, a substitute arbitrator shall be appointed pursuant to the procedure provided for under regulation 13 that was applicable to the appointment of the arbitrator being replaced.
- (6) Arbitral proceedings shall, unless otherwise agreed by the parties, be suspended pending the replacement of an arbitrator.
- (7) Whenever a substitute arbitrator is appointed, the arbitral tribunal shall, having regard to any observations of the parties, determine in its sole discretion whether all or part of any prior hearings are to be repeated.

26. Death or disability

In the event of the occurrence of death or disability of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed pursuant to the procedure set out in these Regulations.

27. Discharge from appointment

- (1) At the arbitrator's own request, the arbitrator may be discharged from appointment as arbitrator either with the consent of the parties or by the Centre.
- (2) The parties may, irrespective of any request by the arbitrator, jointly discharge the arbitrator from appointment as arbitrator and promptly notify the Center of such discharge.
- (3) The Centre may, at the request of a party or on its own motion, discharge the arbitrator from appointment as arbitrator if the arbitrator has become *de jure* or *de facto* unable to fulfill, or fails to fulfill, the duties of an arbitrator, in which case, the parties shall be offered the opportunity to express their views thereon.

28. Pleas as to jurisdiction of arbitral tribunal

- (1) The arbitral tribunal shall have the power to hear and determine objections to its own jurisdiction, including any objections with respect to form, existence, validity or scope of the arbitration agreement.
- (2) The arbitral tribunal shall have the power to determine the existence or validity of any contract of which the Arbitration Agreement forms part or to which it relates.
- (3) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than in the statement of defense or, with respect to a counter-claim or a set-off, the statement of defense thereto, failing which any such plea shall be barred in the subsequent arbitral proceedings or before any court and a party shall not be precluded from raising such a plea by the fact it has appointed or participated in the appointment of an arbitrator.
- (4) The arbitral tribunal may or in its sole discretion, determine on a plea referred to in subregulation (3) as a preliminary question or may rule on the matter in award as to jurisdiction.
- (5) A plea that the arbitral tribunal lacks jurisdiction shall not preclude the Center from administering the arbitration.

Part V – Conduct of the arbitration

29. Constitution and general powers of arbitral tribunal

- (1) The arbitral tribunal shall be deemed to be constituted and the proceedings to have begun on the date the Secretary-General notifies the parties that all the arbitrators have accepted their appointment.
- (2) Before or at the first session of the arbitral tribunal, each arbitrator shall sign a declaration as prescribed in the Second Schedule to these Regulations.
- (3) Any arbitrator failing to sign such a declaration by the end of the first session of the arbitral tribunal shall be deemed to have resigned.
- (4) The arbitral tribunal may conduct the arbitration in such manner as it considers appropriate.
- (5) In all cases, the arbitral tribunal shall ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case.
- (6) The arbitral tribunal shall ensure that the arbitral procedure takes place with due expedition and it may, at the request of a party or on its own motion, extend in exceptional cases a period of time fixed by these Regulations, by itself or agreed to by the parties.

30. Place of arbitration

- (1) Subject to section 77(7) of the Act, unless otherwise agreed by the parties, the Center shall decide the place of arbitration, taking into consideration any observations of the parties and the circumstances of the arbitration.
- (2) The arbitral tribunal may, after consultation with the parties, conduct hearings at any place that it considers appropriate and may deliberate wherever it deems appropriate.
- (3) The award shall be deemed to have been made at the place of arbitration.

31. Language of arbitration

- (1) Unless otherwise agreed by the parties, the language of the arbitration shall be the language of the arbitration agreement, subject to the power of the arbitral tribunal to determine otherwise after having regard to any observations of the parties and the circumstances of the arbitration.
- (2) The arbitral tribunal may order that any documents submitted in languages other than the language of arbitration be accompanied by a translation in whole or in part into the language of arbitration.
- (3) Where the arbitral tribunal or any party requires the assistance of an interpreter during the proceeding, such interpreter shall be provided by the Centre at the request of the arbitral tribunal, and the fee of the interpreter shall be borne by the parties as deemed appropriate by the arbitration tribunal.
- (4) The award shall be prepared in the language of the Arbitration Agreement and in case the original award document is prepared in the language other than that of the arbitration agreement, an official translation shall be provided by Centre for registration purposes, and the cost for this shall be borne by the parties as instructed by the arbitral tribunal.

32. Preparatory or first conference

- (1) The arbitral tribunal shall, within fifteen days after its establishment, conduct a preparatory conference with the parties in any suitable format for the purpose of organizing and scheduling the subsequent proceedings in a time and cost-efficient manner.

- (2) The dates of that session shall be fixed by the arbitral tribunal after consultation with its members and the Secretariat, and with the parties as far as possible and if, upon its constitution, the arbitral tribunal has no Chairman, such dates shall be fixed by the Secretary-General after consultation with the members of the arbitral tribunal, and with the parties as far as possible.
- (3) Subsequent sessions shall be convened by the tribunal within time limits determined by the arbitral tribunal and the dates of such sessions shall be fixed by the arbitral tribunal after consultation with its members and the Secretariat, and with the parties as far as possible.
- (4) The Secretary-General shall notify the members of the arbitral tribunal and the parties of the dates and place of the sessions of the arbitral tribunal on time.
- (5) The deliberations of the arbitral tribunal shall take place in private and remain confidential.
- (6) Only members of the arbitral tribunal shall take part in deliberations and no other person shall be admitted unless decided otherwise by the arbitral tribunal.

33. Statement of claim

- (1) Unless the claimant has made his statement of claim in the request for arbitration, the request for arbitration which includes statement of claim submitted to the Centre shall be distributed to each member of the arbitral tribunal and to the other party or parties within fourteen days from the day of the establishment of the composition of the arbitral tribunal or any other time determined by the arbitral tribunal.
- (2) Where the request for arbitration submitted to the Centre does not include a statement of claim, 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 after consultation with the parties.
- (3) Upon application to the arbitral tribunal, the statement of claim shall contain at least:
 - (a) names and contact details of the parties;
 - (b) a statement of the facts supporting the claim;
 - (c) the points at issue;
 - (d) legal basis or arguments supporting the claim; and
 - (e) the relief or remedy sought.
- (4) Either party may amend or supplement his claim or counterclaim:

Provided that, the arbitral tribunal may consider it not to be appropriate to allow such amendment having regard to the delay in making it or it being prejudicial to the other party or any other circumstances.
- (5) The claimant shall attach to the statement of claim a copy of the underlying agreement or agreements between or among the parties in connection with which the dispute has arisen and a copy of the agreement to arbitrate, and may also attach all other documents deemed by the claimant to be relevant.
- (6) Where additional documents or other evidence are intended to be submitted at a subsequent time, the claimant shall make reference to those documents in the statement of claim.

34. Statement of defense

- (1) The Respondent shall communicate its statement of defence in writing to the Respondent and to each of the arbitrators within a period of time to be determined by the arbitral tribunal after consultation with the parties.

- (2) The Respondent shall, in its statement of defense, address the matters in accordance with regulation 33(3).
- (3) The Respondent may also attach to his statement the documents on which he relies for its defense or shall make reference to any additional documents or other evidence intended to be submitted at a subsequent time.

35. Counter-claim

- (1) In the event that a counter-claim or set-off arising in connection with the dispute or in relation to the claimant's claim, the Respondent may submit such counterclaim or set-off together with its statement of defense or at the latest stage of arbitration.
- (2) The arbitral tribunal may, on application by the Respondent, allow such counter-claim or set-off to be submitted at a later date if Respondent can establish that such delay is justified in accordance with these Regulation.
- (3) Separate costs and fees shall be assessed with respect to such counter-claim or set-off in the same manner as for the primary claim, as provided in these Regulation,

Provided such additional fees and costs have been paid by the parties, the counter-claim or set-off will be heard, considered, and decided simultaneously and jointly with the main claim.
- (4) Failure of the parties, or either of them, to pay the fees and costs assessed with respect to any counter-claim or set-off will not prevent nor delay continuation of the arbitration proceedings with respect to the main claim, which, provided the fees and costs have been paid with respect to such main claim, shall proceed as though no counter-claim or set-off had been asserted.
- (5) In the event that the Respondent has submitted a counter-claim or set-off, the claimant shall be afforded a period of thirty days, or such other time limit as the arbitral tribunal may deem appropriate, to submit its response to the counter-claim or claim for set-off, following the provisions of regulation 33(2).

36. Jurisdiction

- (1) The arbitral tribunal shall regulate any objection that it does not have jurisdiction, including any objection with respect to the existence or validity of the agreement to arbitrate.
- (2) The arbitral tribunal shall determine the existence of validity of an agreement in which the arbitration clause constitutes a part.
- (3) An arbitration clause which forms part of a contract and which provides for arbitration under these Regulations shall be treated as an agreement independent of the other terms of the contract.
- (4) A determination by the arbitral tribunal that a contract is annulled by law shall not automatically annul the validity of the arbitration clause.
- (5) A contention that the arbitral tribunal does not have jurisdiction shall be raised not later than in the reply to the request, statement of defense or, with respect to a counterclaim or set off arising in connection with the dispute in the response to the counter-claim or set off.
- (6) An aggrieved party of the arbitral tribunal's ruling on jurisdiction may by an application under section 34 of the Act seek for the determination of the jurisdiction issue to the Court of competent jurisdiction.

37. Interim award

- (1) The arbitral tribunal shall make resolution on a plea concerning its jurisdiction as a preliminary question.

- (2) Notwithstanding subregulation (1) the arbitral tribunal may, if it deems appropriate, proceed with the arbitration and resolution on such a contention in their final award.

38. Emergency relief proceedings

- (1) A party seeking urgent interim relief prior to the establishment of the arbitral tribunal may submit a request for such emergency relief to the Center.
- (2) The request for emergency relief shall include the particulars set out in regulation 42 and a statement of the interim measures sought and the reasons for such relief on an emergency basis.
- (3) The Center shall inform the other party of the receipt of the request for emergency relief.
- (4) The date of commencement of the emergency relief proceedings shall be the date on which the request referred to in subregulation (1) and (2) is received by the Center.
- (5) The request for emergency relief shall be subject to proof of payment of the administration fee and of the initial deposit of the emergency arbitrator's fees in accordance with the Schedule of Fees applicable on the date of commencement of the emergency relief proceedings.
- (6) The Center shall upon receipt of the request for emergency relief, promptly, at least within two days, appoint a sole emergency arbitrator.
- (7) The emergency arbitrator may conduct the proceedings in such manner as it considers appropriate, taking due account of the urgency of the request and shall ensure that each party is given a fair opportunity to present its case and may provide for proceedings by telephone conference or on written submissions as alternatives to a hearing.
- (8) Where the parties have agreed upon the place of arbitration, that place shall be the place of the emergency relief proceedings and in the absence of such agreement, the place of the emergency relief proceedings shall be decided by the Center, taking into consideration any observations made by the parties and the circumstances of the emergency relief proceedings.
- (9) The emergency arbitrator may order any interim measure it deems necessary.
- (10) The emergency arbitrator shall terminate emergency relief proceedings if arbitration is not commenced within thirty days from the date of commencement of the emergency relief proceedings.
- (11) The costs of the emergency relief proceedings shall be initially fixed and apportioned by the emergency arbitrator in consultation with the Center, in accordance with the Schedule of Fees applicable on the date of commencement of the emergency relief proceedings, subject to the arbitral tribunal's power to make a final determination of the apportionment of such costs under these Regulations.
- (12) Unless otherwise agreed by the parties, the emergency arbitrator may not act as an arbitrator in any arbitration relating to the dispute.
- (13) The emergency arbitrator shall have no further powers to act once the arbitral tribunal is established and upon request by a party, the arbitral tribunal may modify or terminate any measure ordered by the emergency arbitrator.

39. Evidence and hearings

- (1) Each of the parties shall have the burden to—
 - (a) explain its respective position;
 - (b) submit evidence substantiating such position; and
 - (c) prove the facts relied upon it in support of its claim or defense.

- (2) The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of evidence.
- (3) The arbitral tribunal may, if it considers it appropriate, require the parties either to address any enquiry or present any documentation to the arbitral tribunal deems necessary, and or to present a summary of all documents and other evidence which that party has presented and/or intends to present in support of the facts in issue set out in its statement of claim or statement of defense, within such time limits as the arbitral tribunal shall deem appropriate.
- (4) Where the arbitral tribunal considers it necessary, or at the request of either party, the expert or witnesses as to facts may be summoned before any hearing, the arbitral tribunal may require any party to give notice of the identity of witnesses, including the expert, whom it intends to produce, the subject matter of their testimony and its relevance to the issues in writing.
- (5) The arbitral Tribunal shall determine, on its own or upon request of either party, whether oral testimony of any such witness shall be required.
- (6) The party requesting the summons of a witness or the expert shall pay in advance all of the cost related to the presence of the witness or the expert. For this purpose, the arbitral tribunal may request such payment to be deposited to the Centre.
- (7) Before giving their testimonies, the witnesses or expert witnesses may be requested to take an oath.
- (8) Where the submission of exhibits, testimonies and proceedings are considered adequate by the arbitral tribunal the proceeding on the dispute shall be closed by the Chairman of the arbitral tribunal who subsequently may designate a session for the final award announcement.
- (9) The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the proceedings at any time before the award is made.

40. Revocation of arbitration

- (1) Where the arbitral tribunal has not issued an award, the claimant shall have the right to revoke its claim upon written notice to the arbitral tribunal, the other party and the Centre.
- (2) Notwithstanding subregulation (1), where the Respondent has already submitted its statement of defense or counterclaim, a claim can only be revoked with the consent of the Respondent.
- (3) Where both parties agree to revoke the arbitration after the proceeding has commenced, then such revocation shall be carried out through the issuance of an award by the arbitral tribunal.
- (4) The Board is entitled to delete the request for arbitration if the administrative fee, the arbitration cost and the arbitrator's fee have not been paid, such deletion shall be notified to the parties.
- (5) The refund of payment of administrative fee, the arbitration cost and the arbitrators' fee are subject to the provisions of regulation 14 of these Regulations.

Part VI – Awards and other decisions

41. Laws applicable to substance

- (1) The law governing the substance of the dispute shall be the law that has been designated so to govern in the underlying commercial agreement between or among the parties in connection with which the dispute has arisen.
- (2) In the absence of any prior agreement by the parties as to the governing law, the parties shall be free to choose the governing law on their mutual agreement.
- (3) In the absence of any agreement under subregulation (2), the arbitral tribunal shall have the authority to apply such law as it deems appropriate, considering the circumstances of the matter.

- (4) In applying the law governing agreement, the arbitral tribunal shall take into account the provisions of the underlying agreement as well as relevant trade practices and usage.
- (5) The arbitral tribunal may assume the powers of an *amiable compositeur* or decide *ex aequo et bono* where, and to the extent that, the parties have so agreed.

42. Currency and interest

- (1) Monetary amounts in the award may be expressed in any currency.
- (2) The arbitral tribunal may award simple or compound interest to be paid by a party on any sum awarded against that party and shall be free to determine the interest at such rates as it considers to be appropriate, without being bound by legal rates of interest and the period for which the interest shall be paid.

43. Final award

- (1) Unless otherwise agreed by the parties, the arbitral tribunal, shall issue its final award within thirty days of the conclusion of the hearings, except in such case in which the arbitral tribunal or the sole arbitrator, considers that the period may be extended adequately.
- (2) Where the arbitral tribunal intends to extend the time of issuing an award, it shall notify the parties using Form No. 5 as prescribed in the Fourth Schedule to these Regulations.

44. Other awards

Notwithstanding regulation 53, the arbitral tribunal shall, other than making a final award, be entitled to make interim, interlocutory, or partial awards.

45. Majority

- (1) Where the arbitral tribunal consists of three or more arbitrators, any award of the arbitral tribunal shall be made based upon a decision of the majority of the arbitrators.
- (2) Any difference of opinion of the arbitrators regarding certain parts of the award may be stated in the award.
- (3) In the event that there is no majority accord upon the award, or any part thereof, the decision on such point or points shall be made by the Chairman of the arbitral tribunal.

46. Procedural rulings

For matters of procedure, where there is no majority or where the arbitral tribunal so authorizes, the Chairman of the arbitral tribunal may decide on his own, subject to revision, if any, by the arbitral tribunal.

47. Form of awards

- (1) The award shall be made in writing and shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
- (2) Award of the arbitral tribunal shall be passed based on the legal stipulations or based on justice and propriety.
- (3) The form of award shall be as provided for in Form No. 7 of the Fourth Schedule to these Regulations.

48. Signing of award

- (1) The award shall be signed by the arbitrators and shall contain the date and place in which it was rendered.
- (2) Where there are three arbitrators and one of them fails to sign, the Award shall state the reason for the absence of the signature.

49. Transmission of award

The award that has been signed by the arbitrators shall, within a period of fourteen days from the date of signing, be given to each party, together with two copies to the Centre, and one of the copies shall be registered by Centre with the Court concerned.

50. Implementation of award

- (1) The award shall be final and binding on the parties.
- (2) The parties shall undertake to carry out the award without delay.
- (3) In the award, the arbitral tribunal, may fix a time limit for the losing party to comply with the award and impose penalty and/or interest at commercial rates for failure so to do.

51. Notification and registration of award

- (1) When the arbitrators have made their award in the manner provided for under the Act and these Regulations, shall give notice to the parties of the making and signing thereof and of the amount of the fees and charges payable to the arbitrators and the Center in respect of the arbitration and award.
- (2) The parties are free to agree on the requirements as to notification of the award to the parties.
- (3) If there is no such agreement, the award shall be notified to the parties by service on them of copies of the award, which shall be done without delay after the award is made.
- (4) The arbitral tribunal shall, within time limit provided for under the Law of Limitation Act, at the request of any party to the award or any person claiming under him and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award, cause the award or a signed copy of it, to be filed in the court; and notice of the filing shall be given to the parties by the arbitrators.

[Cap. 89]

- (5) Notwithstanding the provisions of subregulation (4), the arbitral tribunal may in the letter transmitting the award to the parties, allow any party to the proceeding to file a certified copy of the award together with the proceedings thereof with the court for the purposes of registration of the same.
- (6) Once the award is filed in court under this regulation, the courts shall issue a notice to the parties and the Center on the existence of the award and require the parties to the notice to show cause as to why the award should not be registered and enforced pursuant to the provisions of section 68 of the Act.
- (7) A leave to enforce an award under section 68(1) shall be made orally or by way of an application.
- (8) Nothing in this regulation affects section 58 of the Act on the power of the arbitral tribunal to withhold award in case of non-payment.
- (9) Where the arbitrators request the court to provide opinion the court shall deliver its opinion thereon and the opinion shall be added to, and shall form part of, the award.

- (10) The confidentiality of the arbitral process shall not be interpreted to prevent registration of the award with the appropriate court nor submission to any other court in any jurisdiction in which the successful party may wish to seek enforcement and or execution thereof.

52. Correction of errors

- (1) Subject to section 59(1) of the Act, within fourteen days upon receipt of the award, the party to the arbitration proceedings, may submit a request to the Centre for the arbitral tribunal, to correct any administrative errors or to make additions or deletions to the award if a matter claimed has not been dealt with in such award.
- (2) The arbitral tribunal may, on its own initiative and within fourteen days of the date of the award is read, correct any administrative errors in the award.
- (3) For the purpose of this regulation, “administrative errors” means any clerical or typographical error or any error of a similar nature, and includes arithmetic errors.

53. Payment of expenses

- (1) The Centre shall invoice each of the parties for one half of the approximated costs, giving a time limit for payment thereof.
- (2) Where one party fails to pay its portion of the costs, the same may be paid in the first instance by the other party, and shall be subsequently taken into account in the award with the obligation of the party failing to pay.
- (3) The Centre may, at the request of the arbitral tribunal, increase the required costs, from time to time during the course of the arbitral reference where the arbitral tribunal, deems that the subject matter being considered or quantum claimed has increased above that which was first anticipated.

54. Allocation of arbitration costs

The arbitral tribunal shall have authority to determine which party or parties shall be responsible for payment or reimbursement to the other party, for the whole or any part of the costs, which allocation shall be made a part of the award.

55. Costs of arbitration

- (1) The costs of arbitration shall be fixed at the rate and in such a manner as prescribed in the First Schedule to these Regulations.
- (2) The Centre may propose for the revision or amendment of the rates.
- (3) In general, where one party is fully successful, the other party shall bear the costs; and where each party is partially successful the costs will be allocated in accordance with the proportion of success of the claim of each party.

56. Legal service fees

Except in extraordinary circumstances, the costs of legal representation of each party shall be borne by the party contracting such legal representation and will not be assessed against the other party.

57. Exclusion from liability

- (1) The Centre, the Board, the Secretariat, including the Board of the Centre’s Representatives and the Centre’s arbitrators, shall not be liable to any person for any negligence, act or omission in connection with any arbitration governed by these Regulations.

- (2) The Centre, the Board, the Secretariat, including the Board of Centre's Representatives and the Centre's arbitrators, shall not be under any obligation to make any statement in connection with any arbitration governed by these Regulations.

58. Exemption to act as witness

- (1) No party shall seek to make the Chairman, Vice-chairman, the Secretary-General, officers, employees or any arbitrator act as a witness or expert in any legal proceedings in connection with any arbitration governed by these Regulations.
- (2) No party or the arbitral tribunal shall seek to make any of Centre's arbitrator as a witness or expert in any legal proceedings in connection with any Centre's arbitration governed by these Regulations.

59. Waiver of defamation

The parties and, by acceptance of appointment, the arbitrator agrees that any statements or comments, whether written or oral, made or used by them or their representatives in preparation for or in the course of the arbitration shall not be relied upon to found or maintain any action for defamation, libel, slander or any related complaint, and this regulation may be pleaded as a bar to any such action.

60. Decisions of the Board

The decisions of the Board with respect to all matters relating to an arbitration shall be binding upon the parties.

61. Binding opinion

- (1) In the absence of any dispute, both parties in a contract can ask the Centre for a binding opinion regarding questions arising from that contract.
- (2) They can ask the Centre for instance to give a binding opinion with regard to: the interpretation of ambiguous provisions on the contract, the formulation of new provisions or the revisions of the old provisions to meet changing circumstances.
- (3) Once the Centre has given its opinion, the parties shall be bound to it and whoever acts in contravention to it, shall be considered as having committed a breach of contract.

62. Arbitration clause

All parties wishing to make reference to the Centre shall use the following standard clause in their contracts:

"All disputes arising from this contract shall be finally settled by arbitration under the administrative and procedural regulation of the Tanzania Arbitration Centre by arbitrators appointed in accordance with said Regulation, which decision shall bind the parties and serve as a decision in the first and final instance."

63. Mode of applications to Court

- (1) Save as is otherwise provided, all applications to Court made under the provisions of the Act or these Regulation shall:
 - (a) be made by way of petition and be titled "In the matter of the arbitration and in the matter of the Act" and reference shall be made in the application to the relevant section of the Act;

- (b) contain a brief statement, in summary form, of the material facts, shall be divided into paragraphs numbered consecutively and shall state the nature of the relief sought or the questions of law for the determination of the Court as the case may be;
 - (c) annexed to it the submission, the minutes or proceedings of the arbitral tribunal award or the ruling to which the petition relates, or a copy of it certified by the petitioner or his advocate to be a true copy;
 - (d) annexed to it the submission, the minutes or proceedings of the arbitral tribunal award or the ruling to which the petition relates, or a copy of it certified by the petitioner or his advocate to be a true copy;
 - (e) specify the persons affected by it and upon whom notice is required to be given as provided in these Regulations and shall state the address, in detail, of each of them;
- (2) Not less than seven days before the date for the hearing of a petition or such lesser time as a magistrate or as the case may be a judge may allow, written notice thereof shall be given by the court to all persons specified in the petition and to such other persons as appear to likely be affected by the proceedings, requiring them to show cause, within the time specified in the notice, why the relief sought should not be granted and, if no sufficient cause be shown, a judge may make such order as the circumstances of the case may appear to him to require.

64. Implied provisions in an arbitration

Unless a different intention is expressed therein a reference to the arbitration shall be irrevocable, except by leave of the court, and shall be deemed to include the provisions set forth hereto, in so far as they are applicable to the reference:

- (a) the arbitrators shall make their award in writing within three months after entering on the reference, or after having called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, in writing signed by them may, from time to time, extend the time for making the award;
- (b) if the arbitrators have allowed their time or extended time to expire without making an award or have delivered to any party to the proceedings or to the umpire a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference *in lieu* of the arbitrators;
- (c) the umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, in writing signed by him may, from time to time, extend the time for making his award;
- (d) subject to any legal objection, the parties to the reference and all persons claiming through them respectively shall, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power which may be required or called for and do all other things which, during the proceedings on the reference, the arbitrators or umpire may require;
- (e) the witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath;
- (f) the award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively;
- (g) the cost of the arbitral proceedings and award shall be in the discretion of the arbitrators or umpire who may direct to and by whom and in what manner those costs or any part thereof shall be paid and may tax or settle the amount of costs to be so paid or any part thereof and may award costs to be paid as between advocate and client.

65. Leave to appeal against decisions of the Court on enforcement proceedings

- (1) A leave to appeal in terms of section 69(4) of the Act shall be by way of Chamber summons supported with an affidavit and shall be filed within fifteen days upon delivery of any orders stated under section 69(3).
- (2) The Respondent shall be entitled to reply on the application for leave by filing counter affidavit within fifteen days upon being served with the application by the Applicant.
- (3) Any appeal to the Court of Appeal shall be governed by the existing laws regulating appeals to the Court of Appeal.

66. Enforcement of foreign award

- (1) A foreign award shall, subject to the provisions of the Act, be enforceable in the High Court either by action or under the provisions of sections 68, 78 and 89 of the Act.
- (2) Any foreign award which would be enforceable under the Act and this regulation shall be treated as binding for all purposes on the persons as between whom it was made and may accordingly be relied on by any of those persons by way of defence, set-off or otherwise in any legal proceedings; and any reference in this Part to enforcing a foreign award shall be construed as including references to relying on an award.
- (3) In order for a foreign award to be enforceable under the Act and these Regulations, it shall—
 - (a) have been made in pursuance of an agreement for arbitration which was valid under the law by which it was governed;
 - (b) have been made by the arbitral tribunal provided for in the agreement or constituted in manner agreed upon by the parties;
 - (c) have been made in conformity with the law governing the arbitration procedure;
 - (d) have become final in the country in which it was made;
 - (e) have been in respect of a matter which may lawfully be referred to arbitration under the laws of Tanzania, and its enforcement shall not be contrary to the public policy or the laws of Tanzania; and
 - (f) not contradicts conditions for enforcement of the foreign award as stipulated under section 78(2) and (4) of the Act.
- (4) The party seeking to enforce a foreign award must produce—
 - (a) the original award or its copy duly authenticated in the manner required by the law of the country in which it was made;
 - (b) evidence proving that the award has become final; and
 - (c) such evidence as may be necessary to prove that the award is a foreign award and that the conditions mentioned in subregulations (4) herein are satisfied.
- (5) In any case where any document required to be produced under subregulation (4) of this regulation is in a foreign language, it shall be the duty of the party seeking to enforce the award to produce a translation certified as correct by a diplomatic or consular agent of the country to which that party belongs, or certified as correct in such other manner as may be sufficient according to the laws of Tanzania.

First Schedule (Made under regulation 5(8), 9(1), and 55(1))**Costs of arbitration****1. Registration fee**

A Non-Refundable fee of Tanzania Shillings 2,000,000 shall be paid at the time of registration of the application for arbitration

2. Administration and other fees

Administration fee, Examination and the Arbitrators for Claims and Counterclaims shall be as follows:

| Claim | | Amount in Tshs. | Costs in % |
|-------|-----------|-----------------------------------|------------|
| | Less than | 50,000,000 | 10 |
| | | 50,000,000 - 100,000,000 | 9 |
| | | 100,000,000 - 1,000,000,000 | 8-4 |
| | | 1,000,000,000 - 20,000,000,000 | 3-2 |
| | | 20,000,000,000 - 100,000,000,000 | 2-1 |
| | | 100,000,000,000 - 500,000,000,000 | 1-0.6 |
| | Over | 500,000,000,000 | 0.5 |

3. For Claims worth more than Tshs 500,000,000 or between the value listed above, the tariff shall be interpolated from the corresponding value.

4. The fee mentioned shall be exclusive of—

- (a) the cost of summoning, transportation and fee for a witness/expert which shall be borne from the party which requiring the presence of the foresaid witness/expert, or the burden of all parties if the presence of the foresaid witness/expert is required by the arbitral Tribunal which shall be paid in advance to the Centre before the foresaid witness/expert is admitted to witness before the arbitral tribunal;
- (b) the cost of transportation, accommodation and additional fee for an arbitrator residing beyond the reasonable distance to where the arbitral tribunal holds its meeting and shall be paid by the party that chooses the aforesaid arbitrator, while the amount is to be decided by the Centre and will be paid to the corresponding arbitrator through the Centre;
- (c) the expenses in relation to the venue for the arbitral tribunal session other than the venue provided by the Centre which shall include (but not limited to the cost of the venue, transportation and

accommodation corresponding to the venue, and shall be paid by the party who requested the different venue, or by all parties where the change of venue is required by the arbitral tribunal;

(d) the expenses of submission/registration of the award to the corresponding Court.

5. Cost of binding opinion

The Chairman of The Tanzania Arbitration Centre shall fix the cost of binding opinion on a case-by-case basis considering complexity of the matter for which the opinion is sought for.

6. (1) Where the case is revoked before the trial started, the paid fees for administration, inspection and expenses of arbitrators shall be refunded on the following conditions—
- (a) one hundred percent shall be refunded when the revocation is made within five days after payment is received by the Centre;
 - (b) ninety percent shall be refunded when the revocation is made in six days up to one hundred eighty days after payment is received by the Centre;
 - (c) eighty percent shall be refunded when the revocation is made in one hundred and eighty-one days up to the issuance of the Decree of the formation of arbitral tribunal;
 - (d) seventy percent shall be refunded when the revocation is made after the issuance of formation of the arbitral tribunal but the first session date has not been set.
- (2) Where the revocation of the case was made when the trial has been conducted, the administrative fees, inspection fees and expenses of arbitrators that have been paid are not refundable.
- (3) In case of the abolition of the case by the Board or the Centre for any reason, and the trial has not yet begun the refund of administration fee, examination fee and the cost of the arbitrator paid shall be calculated separately on a case by case basis.
- (4) When in the arbitration proceedings the arbitral tribunal decides that the arbitral tribunal has no jurisdiction to hear the dispute, the administration fee, the examination fee, and the cost of the arbitrator(s) paid by the parties or paid wholly by a party, shall not be refundable.

Second Schedule (Made under regulation 29(2))

Arbitration declaration form

[Editorial note: The form has not been reproduced.]

Third Schedule (Made under regulation 6(3)(a))

Register

| No. | Date of entry | Name and address of claimant | Name and address of respondent | Arbitration case No. | Name of arbitrator | Remarks |
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| No. | Date of entry | Name and address of claimant | Name and address of respondent | Arbitration case No. | Name of arbitrator | Remarks |
|-----|---------------|------------------------------|--------------------------------|----------------------|--------------------|---------|
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Fourth Schedule

Arbitration forms

[Editorial note: The forms have not been reproduced.]