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ARBITRATION RULES OF THE MUMBAI CENTRE FOR INTERNATIONAL ARBITRATION

(MCIA RULES 2ND EDITION, 15 JANUARY 2017)

INTRODUCTION

1. Definitions, Application and Interpretation

- 1.1 Where parties have agreed to refer their disputes to the MCIA for arbitration (whether before or after a dispute has arisen), the parties shall be deemed to have agreed that the arbitration shall be conducted and administered in accordance with these Rules or (unless the parties have agreed otherwise) such amended rules as the MCIA may have adopted hereafter and may be in effect on the date of commencement of the arbitration, and that such Rules have been incorporated by reference into their agreement. If any of these Rules are in conflict with a mandatory provision of law applicable to the arbitration or the arbitration agreement from which the parties cannot derogate, that mandatory provision shall prevail.
- 1.2 These Rules shall come into force on 15 January 2017 and, unless the parties have agreed otherwise, shall apply to any arbitration which is commenced on or after that date.
- 1.3 In these Rules :
- “Award” includes a partial or final award and an award of an Emergency Arbitrator;

“Committee of the Council” means a committee consisting of not less than two members of the Council appointed by the Chairman (which may include the Chairman);

“Council” means the Council of Arbitration of the MCIA and includes a Committee of the Council;

“Chairman” means the Chairman or Co-Chairmen of the Council and includes a Vice Chairman;

“Registrar” means the Registrar of the Council and includes any Deputy Registrar;

“Tribunal” includes a sole arbitrator or all the arbitrators where there is more than one, and includes any arbitral tribunal constituted under these Rules;

any pronoun shall be understood to be gender-neutral; and

any singular noun shall be understood to refer to the plural in the appropriate circumstances.

2. Written Communications and the Calculation of Periods of Time

- 2.1 For the purposes of these Rules, any notice, communication or proposal shall be in writing (“Written Communication”). Any such Written Communication may be delivered personally or by registered post or courier service, or transmitted by any form of electronic communication (including electronic mail and facsimile), or delivered by any other means that provides a record of its transmission or in any other manner as may be ordered by the Tribunal. It shall be deemed to have been received if it is delivered: (i) to the addressee personally, (ii) to his habitual residence, place of business or designated address, (iii) to any address agreed by the parties, (iv) according to the practice of the parties in prior dealings, or (v) if none of these can be found after making reasonable inquiry, then at the addressee’s last-known residence or place of business.

- 2.2 Any Written Communication shall be deemed to have been received on the day when it is delivered or, in the case of electronic means, transmitted, and such time shall be determined with reference to the recipient's time zone.
- 2.3 For the purposes of calculating any period of time under these Rules, such period shall begin to run on the day following the day when a Written Communication or proposal is deemed to have been received pursuant to Rule 2.2. When the day next following such date is a non-business day in the place of receipt pursuant to Rule 2.1, the time period commences on the first following business day. If the last day of such period is a non-business day at the place of receipt, the period is extended until the first business day which follows. Non-business days occurring during the running of the period of time are included in calculating the period.
- 2.4 After the constitution of the Tribunal, where any party delivers any Written Communication to the Tribunal, it shall simultaneously deliver a copy to each arbitrator, all other parties and the Registrar and it shall confirm in writing to the Tribunal that it has done so or is doing so.
- 2.5 Except as provided in these Rules, the Registrar may at any time extend or shorten any time limits prescribed under these Rules.

COMMENCEMENT OF ARBITRATION

3. Request for Arbitration

3.1 Any party wishing to commence an arbitration (the "Claimant") shall file with the Registrar a written Request for Arbitration which shall contain (or be accompanied by):

- (a) a demand that the dispute be referred to arbitration;
- (b) the full terms of the arbitration clause or the separate arbitration agreement that is invoked;
- (c) a reference to (and, where possible, a copy of) the contract(s) (or other instrument(s)) out of or in relation to which the dispute arises;
- (d) the full names and contact details (including postal address(es), telephone number(s), facsimile number(s) and electronic mail address(es), to the extent known) of the parties to the arbitration and their legal representatives, if any;
- (e) a statement briefly describing the nature and circumstances of the dispute and the claims advanced by the Claimant against any other party to the arbitration (each such other party being here separately described as the "Respondent"), specifying the relief claimed, including the amounts of any quantified claims and, to the extent possible, an estimate of the monetary value of any other claims;
- (f) a statement of any matters which the parties have previously agreed as to the conduct of the arbitration or with respect to which the Claimant wishes to make a proposal (such as the number of arbitrator(s), the applicable rules of law, the language(s) of the arbitration, and the seat of arbitration);

- (g) unless the parties have agreed otherwise, the nomination of an arbitrator, if the arbitration agreement provides for three arbitrators, or a proposal for a sole arbitrator if the arbitration agreement provides for a sole arbitrator;
- (h) confirmation that copies of the Request for Arbitration and any exhibits have been or are being served simultaneously on all other parties, specifying the mode of service employed and the date of service, to be supported then or as soon as possible thereafter by documentary proof satisfactory to the Registrar of actual delivery (including the date of delivery); and
- (i) confirmation that the requisite filing fee has been paid (without which the Request for Arbitration shall be treated as not having been received by the Registrar and the arbitration as not having been commenced).

3.2 The Request for Arbitration may also include the Statement of Claim referred to in Rule 16.1.

3.3 The date of receipt of the complete Request for Arbitration by the Registrar shall be deemed the date of commencement of the arbitration (subject to the MCI's actual receipt of the requisite filing fee). For the avoidance of doubt, the Request for Arbitration is deemed to be complete when all the requirements of Rule 3.1 are fulfilled or when the Registrar determines that there has been substantial compliance with such requirements. The Registrar shall notify the parties of the date of commencement of the arbitration.

3.4 For the avoidance of doubt, the contents of the Request for Arbitration do not prevent the Claimant from subsequently adding, supplementing or amending in its pleadings the matters referred to arbitration or the reliefs claimed (subject to Rule 18), provided these matters and reliefs fall within the scope of the arbitration agreement.

4. Response to the Request for Arbitration

- 4.1 The Respondent shall send to the Claimant a Response within 14 days of receipt of the Request for Arbitration. The Response shall contain (or be accompanied by):
- (a) a confirmation or denial of all or part of the claims, including the Claimant's invocation of the arbitration agreement in support thereof;
 - (b) the full names and contact details (including postal address(es), telephone number(s), facsimile number(s) and electronic mail address(es)) of the Respondent and its legal representatives, if any;
 - (c) a statement briefly describing the nature and circumstances of the dispute and the defence to the claim, including any counterclaims advanced against any other party to the arbitration, specifying the relief claimed, including the amounts of any quantified counterclaims and, to the extent possible, an estimate of the monetary value of any other counterclaims;
 - (d) any comment in response to any statements contained in the Request for Arbitration, or with respect to which the Respondent wishes to make a proposal, on matters relating to the conduct of the arbitration (such as the number of arbitrator(s), the applicable rules of law, the language(s) of the arbitration, and the seat of arbitration);
 - (e) unless the parties have agreed otherwise, the nomination of an arbitrator if the arbitration agreement provides for three arbitrators or, if the arbitration agreement provides for a sole arbitrator, agreement with the Claimant's proposal for a sole arbitrator or a counter-proposal;
 - (f) confirmation that copies of the Response and any exhibits have been or are being served simultaneously on all other parties, specifying the mode of service

employed and the date of service, to be supported then or as soon as possible thereafter by documentary proof satisfactory to the Registrar of actual delivery (including the date of delivery); and

(g) confirmation that the requisite filing fee for any counterclaim has been paid.

4.2 The Response may also include the Statement of Defence and a Statement of Counterclaim, as referred to in Rule 17.1.

4.3 For the avoidance of doubt, the contents of the Response do not restrict the Respondent from subsequently adding, supplementing or amending in its pleadings the matters referred to arbitration or the reliefs claimed (subject to Rule 18), provided these matters and reliefs fall within the scope of the arbitration agreement.

CONSOLIDATION

5. Consolidation Mechanism

- 5.1 At the request of a party (the “Request for Consolidation”), and after consulting with the parties and any confirmed arbitrators, the Council shall have the power (but shall not be bound) to consolidate two or more arbitrations pending under these Rules where:
- (a) the parties agree to the consolidation; or
 - (b) all of the claims in the arbitrations are made under the same arbitration agreement.
- 5.2 The party making the request shall provide copies of the Request for Consolidation to all other parties and to any confirmed arbitrators.
- 5.3 In deciding whether to consolidate, the Council shall take into account all the circumstances of the case. Relevant factors may include, but are not limited to, whether one or more arbitrators have been designated or confirmed in more than one of the arbitrations and, if so, whether the same or different arbitrators have been confirmed. The Council shall endeavour to determine any application for consolidation no later than 14 days following the receipt of the Request for Consolidation.
- 5.4 Where the Council decides to consolidate two or more arbitrations, the arbitrations shall be consolidated into the arbitration that commenced first, unless all parties agree or the Council decides otherwise, taking into account the circumstances of the case. The Chairman shall provide copies of the decision of the Council to all parties and to any confirmed arbitrators in all arbitrations.

- 5.5 The consolidation of two or more arbitrations is without prejudice to the validity of any act done or order made by any state court, other judicial authority or arbitral tribunal, in relation to the relevant arbitration before the consolidation.
- 5.6 Where the Council decides to consolidate two or more arbitrations, the parties to all such arbitrations shall be deemed to have waived their right to designate an arbitrator whether under an express right under an arbitration agreement or otherwise, and the Council may revoke the appointment of any arbitrators already designated or confirmed. In these circumstances, the Council shall appoint the Tribunal in respect of the consolidated proceedings.
- 5.7 The revocation of the appointment of an arbitrator under Rule 5.6 shall not affect:
- (a) the validity of any act done or order made by that arbitrator before his appointment was revoked;
 - (b) his entitlement to be paid his fees and expenses subject to the Schedule of Fees; or
 - (c) the date when any claim or defence was made (or raised) for the purpose of applying any bar of limitation.
- 5.8 The Council's decision as to consolidation will be final and binding on the parties.
- 5.9 The MCIA may suitably adjust its Administrative Fees and the Tribunal's fees (where appropriate) after a decision to consolidate has been made.

THE ARBITRAL TRIBUNAL

6. Independence, Impartiality and Availability

- 6.1 Every arbitrator conducting an arbitration under these Rules shall be and remain at all times independent and impartial, and shall not act as advocate for any party whether or not nominated by the parties. No arbitrator at any time, whether before or after appointment, shall advise any party or comment on the merits, or outcome, of the dispute.
- 6.2 Before appointment or confirmation, a prospective arbitrator shall sign a statement of acceptance, availability, impartiality and independence in the form prescribed by the MCI. In this statement, the prospective arbitrator must disclose any facts or circumstances which may give rise to justifiable doubts as to his impartiality or independence.
- 6.3 An arbitrator shall immediately disclose to the parties, and to the other arbitrators (as well as to the Registrar), any circumstances which may arise at any time during the arbitration which may give rise to justifiable doubts as to his impartiality or independence.
- 6.4 No party or anyone acting on its behalf shall, at any time, have any *ex parte* communication relating to the case with any candidate for appointment as 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 independence in relation to the parties, or to discuss the suitability of candidates for selection as a third arbitrator where the parties or party-designated arbitrators are to participate in that selection.
- 6.5 No party or anyone acting on its behalf shall, at any time, have any *ex parte* communication relating to the case with any arbitrator once appointed.

7. Appointment and Confirmation of Arbitrators

- 7.1 Unless the parties have agreed otherwise, or unless it appears to the Registrar, giving due regard to any proposals by the parties, the complexity, the quantum involved or other relevant circumstances of the dispute, that the dispute warrants the appointment of three arbitrators, a sole arbitrator shall be appointed.
- 7.2 If the parties have agreed that any arbitrator is to be appointed by one or more of the parties, or by any third person including the arbitrators already appointed, that agreement shall be treated as an agreement to nominate an arbitrator under these Rules.
- 7.3 The Council alone shall be empowered to appoint arbitrators. In all cases, the arbitrators nominated by the parties, or by any third person, shall be subject to appointment by the Council in its discretion.
- 7.4 In appointing an arbitrator under these Rules, the Council shall have due regard to the nature of the transaction, the nature and circumstances of the dispute, the nationality, location and languages of the parties and (if more than two) the number of parties. Due consideration will further be given to any qualifications required of the arbitrator by the agreement of the parties, and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator appropriate for the arbitration. The Council shall also consider whether the arbitrator has sufficient time, availability and ability to conduct the case in a prompt and efficient manner appropriate for the arbitration.
- 7.5 If the parties have agreed on any qualifications required of an arbitrator, the arbitrator shall be deemed to satisfy the stipulated qualifications, unless a party contends that the arbitrator is not so qualified within 14 days after receipt by that party of the notification of the nomination of the arbitrator. In that event, the procedure for challenge and replacement of an arbitrator in Rules 10 to 11 shall apply.

- 7.6 The Council may appoint any nominee whose appointment has already been suggested or proposed by any party. The Council shall appoint an arbitrator as soon as practicable. Any decision by the Council to appoint an arbitrator under these Rules shall be final and binding on the parties.
- 7.7 The terms of appointment of each arbitrator shall be fixed by the Registrar in accordance with these Rules and Practice Notes for the time being in force, or in accordance with the agreement of the parties.
- 7.8 Nothing in these Rules shall prevent parties to a dispute or arbitration agreement from naming the MCIA as the appointing authority in an *ad hoc* arbitration (conducted under the UNCITRAL Arbitration Rules or otherwise outside the terms of Rule 1.1 above), without subjecting the arbitration to the provisions contained in these Rules. In such circumstances, the Council may, in its discretion, act as appointing authority in accordance with the parties' agreement. The party requesting the appointment shall pay the appointment fee in accordance with the Schedule of Fees in force at the time of the request.

8. Sole Arbitrator

- 8.1 If a sole arbitrator is to be appointed, either party may propose to the other the names of one or more persons, one of whom would serve as the sole arbitrator. Where the parties have reached an agreement on the nomination of a sole arbitrator, Rule 7.3 shall apply.
- 8.2 Subject to Rule 8.3, if within 21 days after receipt by the Registrar of the Request for Arbitration, or in the manner otherwise agreed by the parties, the parties have not reached an agreement on the nomination of a sole arbitrator, or if at any time either party so requests, the Council shall make the appointment as soon as practicable.

8.3 Where there are more than two parties in the arbitration, and one arbitrator is to be appointed, all parties are to agree on an arbitrator. In the absence of such a joint nomination having been made within 28 days of receipt by the Registrar of the Request for Arbitration or within such other period as agreed by the parties or set by the Registrar, the Council shall appoint the arbitrator.

9. Three Arbitrators

9.1 If three arbitrators are to be appointed, each party shall nominate one arbitrator.

9.2 Unless otherwise agreed by the parties, subject to Rule 9.3, if a party fails to make a nomination within 14 days after receipt of the other party's nomination of an arbitrator, the Council shall proceed to appoint the arbitrator on its behalf.

9.3 Where there are more than two parties in the arbitration, and three arbitrators are to be appointed, the Claimant(s) shall jointly nominate one arbitrator and the Respondent(s) shall jointly nominate one arbitrator. In the absence of such joint nominations by the Claimant(s) and Respondent(s) having been made within 28 days of receipt by the Registrar of the Request for Arbitration or within such other period as agreed by the parties or set by the Registrar, the Council shall appoint all three arbitrators and shall designate one of them to act as the presiding arbitrator.

9.4 Where three arbitrators are to be appointed, the presiding arbitrator (who shall be neither party-nominated, nor nominated by the parties' nominees nor by any third party) shall in all cases be selected by the Council.

9.5 Where the arbitration agreement provides that the presiding arbitrator is to be nominated by the parties or their nominees, or by any third party including the arbitrators already appointed, it shall be treated for all purposes as a written agreement by the parties for the selection of the presiding arbitrator by the Council.

10. Challenge of Arbitrators

- 10.1 Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality and/or independence, and/or if the arbitrator does not possess any requisite qualification which the parties have previously agreed, and/or if the arbitrator becomes *de jure* or *de facto* unable to fulfil his functions and/or is not fulfilling those functions in accordance with the Rules or within the prescribed time limits.
- 10.2 A party may challenge the arbitrator nominated by him only for reasons of which he becomes aware after the appointment has been made.
- 10.3 Subject to Rule 7.5, a party who intends to challenge an arbitrator shall send a notice of challenge within 14 days after the receipt of the notice of appointment of the arbitrator who is being challenged or within 14 days after the circumstances mentioned in Rule 10.1 become known to that party.
- 10.4 The notice of challenge shall be filed with the Registrar and shall be sent simultaneously to the other party, the arbitrator who is being challenged and the other members of the Tribunal. The notice of challenge shall be in writing and shall state the reasons for the challenge. The Registrar may order a suspension of the arbitration until the challenge is resolved, but will not be obliged to do so.
- 10.5 When an arbitrator is challenged by one party, the other party may agree to the challenge. The challenged arbitrator may also withdraw voluntarily from his office. In neither case does this imply acceptance of the validity of any of the grounds for the challenge.
- 10.6 In instances referred to in Rule 10.5, a substitute arbitrator shall be appointed in accordance with the procedure referred to in Rule 11, even if during the process of appointing the challenged arbitrator a party had failed to exercise his right to nominate an arbitrator. The time-limits provided in Rule 11 shall commence from the date of receipt of the agreement of the other party to the challenge or the challenged arbitrator's withdrawal.

- 10.7 If, within seven days of receipt of the notice of challenge, the other party does not agree to the challenge and the arbitrator who is being challenged does not withdraw voluntarily, the Council shall decide the challenge. The Registrar and/or the Council may request comments and/or submissions on the challenge to be made by the parties and the arbitrator(s) and set a schedule for such comments and/or submissions to be made.
- 10.8 If the Council sustains the challenge, a substitute arbitrator shall be appointed in accordance with the procedure referred to in Rule 11, even if during the process of appointing the challenged arbitrator a party had failed to exercise its right to nominate an arbitrator. The time limits provided in Rule 11 shall commence from the date of the Registrar's notification to the parties of the decision by the Council.
- 10.9 If the Council rejects the challenge, the arbitrator shall continue with the arbitration. Unless the Registrar has ordered the suspension of the arbitration pursuant to Rule 10.4, pending the determination of the challenge by the Council, the challenged arbitrator shall be entitled to proceed in the arbitration.
- 10.10 The Council may fix the costs of the challenge (which form part of the MCIA's administrative fees and expenses under Rule 32.6(b)) and may direct by whom and how such costs should be borne. The Registrar may call for deposits towards the costs of the challenge pursuant to Rule 33.3 and may set a time limit for the payment of such deposits upon the expiry of which the challenge shall be considered as withdrawn.
- 10.11 The Council's decision made under this Rule shall be final and binding on the parties.

11. Replacement of Arbitrators

- 11.1 An arbitrator shall be replaced upon death, the arbitrator's resignation, acceptance by the Council of a valid challenge, or receipt by the Council of a written request by all the parties for the arbitrator's removal.
- 11.2 An arbitrator shall also be replaced on the Council's own initiative, when it decides that the arbitrator is prevented *de jure* or *de facto* from fulfilling the arbitrator's functions, or that the particular arbitrator (in the opinion of the Council) is not fulfilling those functions in accordance with the Rules or within the prescribed time limits.
- 11.3 When, on the basis of information that has come to its attention, the Council considers applying Rule 11.2, it shall decide on the matter after the arbitrator concerned, the parties and any other members of the Tribunal have had an opportunity to comment in writing within a reasonable period of time. Such comments shall be communicated to the parties and to the Tribunal.
- 11.4 When an arbitrator is to be replaced for any reason, a substitute arbitrator shall be appointed pursuant to the rules that were applicable to the appointment of the arbitrator being replaced.
- 11.5 The Council may determine that any opportunity given to a party to make any re-nomination (under these Rules or otherwise) shall be waived if not exercised within 14 days (or such lesser or greater time as the Council may determine in its discretion), after which the Council shall appoint the replacement arbitrator without such re-nomination. Once reconstituted, and after having invited the parties to comment, the Tribunal shall determine if and to what extent proceedings that have already taken place shall be repeated before the reconstituted Tribunal.

- 11.6 Notwithstanding Rule 11.4, if under Rules 11.1 or 11.2 the sole or presiding arbitrator is replaced, any hearings held previously shall be held again unless otherwise agreed by the parties. If any other arbitrator is replaced in a three-member tribunal, such prior hearings may be held again at the discretion of the Tribunal after consulting with the parties. If the Tribunal has issued an interim or partial award, any hearings related solely to such award shall not be held again, and such interim or partial award shall remain in effect.

MECHANISMS FOR EXPEDITING PROCEEDINGS

12. Expedited Procedure

- 12.1 Prior to the full constitution of the Tribunal, a party may apply to the Registrar in writing for the arbitral proceedings to be conducted in accordance with the Expedited Procedure under this Rule where either of the following criteria is satisfied:
- (a) the anticipated amount in dispute at the time of the application does not exceed the amount of, or the amount equivalent to, Rs 10 crore (Rs 100,000,000), representing the aggregate of the claim, counterclaim and any set-off defence; or
 - (b) the parties so agree in writing.
- 12.2 When a party has applied to the Registrar under Rule 12.1, and when the Chairman determines, after considering the views of the parties, that the arbitral proceedings shall be conducted in accordance with the Expedited Procedure, the Registrar shall promptly inform the parties that the Expedited Procedure shall apply to the arbitral proceedings. The Chairman's decision as to the application of the Expedited Procedure shall be final and binding on the parties.
- 12.3 An arbitration under the Expedited Procedure shall follow the procedure set out as follows:
- (a) the Registrar may shorten any time limits under these Rules;
 - (b) the case shall be referred to a sole arbitrator, notwithstanding any agreement to the contrary in the arbitration agreement, unless the Chairman determines

otherwise;

- (c) unless the parties agree or the Tribunal determines that the dispute shall be decided on the basis of documentary evidence only, the Tribunal shall hold a hearing for the examination of all witnesses and expert witnesses as well as for any argument;
- (d) the award shall be made within 6 months from the date when the Tribunal is constituted unless, in exceptional circumstances, the Registrar extends the time in accordance with Rule 2.5; and
- (e) the Tribunal shall state the reasons upon which the award is based in summary form, unless the parties have agreed in writing that no reasons need to be given.

13. **Expedited Formation of the Tribunal**

- 13.1 In the case of exceptional urgency, any party may apply to the Council for the expedited formation of the Tribunal.
- 13.2 Such an application shall be made to the Registrar in writing (preferably by electronic means), together with a copy of the Request for Arbitration (if made by a Claimant) or a copy of the Response (if made by a Respondent), and delivered to all other parties to the arbitration. The application shall set out the specific grounds for exceptional urgency requiring the expedited formation of the Tribunal.
- 13.3 The Council shall determine the application as expeditiously as possible in the circumstances. If the application is granted, for the purpose of forming the Tribunal, the Council may abridge any period of time under the arbitration agreement or other agreement of the parties.

INTERIM AND EMERGENCY RELIEF

14. Emergency Arbitrator

- 14.1 In cases of exceptional urgency, any party may apply to the Registrar in writing for emergency interim relief prior to the constitution of the Tribunal. The application shall contain (or be accompanied by), together with all relevant documentation:
- (a) a statement briefly describing the nature and circumstances of the relief sought and the specific reasons why such relief is required on an emergency basis;
 - (b) the reasons why the party is entitled to such relief;
 - (c) a statement certifying that all other parties have been notified or an explanation of the steps taken in good faith to notify other parties; and
 - (d) confirmation that any fees set by the Registrar for proceedings brought pursuant to this Rule 14.1 have been paid (without which the application shall be treated as not having been received by the Registrar).
- 14.2 The Chairman shall determine the application as soon as possible in the circumstances, and, if granted, shall seek to appoint an Emergency Arbitrator within one business day of receipt by the Registrar of such application and payment of any required fee. The Emergency Arbitrator shall comply with the requirements of Rule 6.

- 14.3 Prior to accepting his appointment, a prospective Emergency Arbitrator must disclose to the Registrar any facts or circumstances which may give rise to justifiable doubts as to his impartiality or independence. Any challenge to the appointment of the Emergency Arbitrator must be made within one business day of the communication by the Registrar to the parties of the appointment of the Emergency Arbitrator and the circumstances disclosed.
- 14.4 An Emergency Arbitrator may not act as an arbitrator in any future arbitration relating to the dispute, unless agreed by all the parties.
- 14.5 The Emergency Arbitrator may conduct proceedings in any manner he determines to be appropriate in the circumstances, taking into account the nature of such proceedings and the need to provide a reasonable opportunity to all parties to be heard. The Emergency Arbitrator may conduct proceedings by telephone or video conference or require written pleadings as alternatives to a formal hearing. The Emergency Arbitrator shall have the powers vested in the Tribunal pursuant to these Rules, including the authority to rule on his own jurisdiction, and shall have the power to resolve any disputes over the application of this Rule 14 (or any part thereof).
- 14.6 The Emergency Arbitrator shall decide the claim for emergency relief as soon as possible, but no later than 14 days following the Emergency Arbitrator's appointment. This deadline may only be extended by the Council in exceptional circumstances or by the written agreement of all parties to the emergency proceedings.
- 14.7 The Emergency Arbitrator shall have the power to order or award any interim relief that he deems necessary. An order or award of the Emergency Arbitrator shall be made in writing, with a brief statement of reasons. An order or award of an Emergency Arbitrator shall comply with Rule 30.7 and, when made, shall take effect as an Award under Rule 30.12. The Emergency Arbitrator shall have the power to modify or vacate the order or award for good cause shown.

- 14.8 Any interim relief ordered or awarded by an Emergency Arbitrator shall be deemed to be an interim measure ordered or awarded by a Tribunal. The parties undertake to comply with any such interim measure immediately and without delay and they also waive their rights to any form of appeal, review or recourse to any state court in respect of any such interim measure insofar as such waiver may validly be made.
- 14.9 The Emergency Arbitrator shall have no further power to act after the Tribunal is constituted. Any order or award of the Emergency Arbitrator may be confirmed, varied, discharged or revoked, in whole or in part, by an order or award made by the Tribunal upon application by any party or upon its own initiative. The Tribunal is not bound by the reasons given by the Emergency Arbitrator.
- 14.10 Any order or award of emergency relief may be conditioned on the provision of appropriate security by the party seeking such relief.
- 14.11 The costs associated with any application pursuant to this Rule 14 shall initially be apportioned by the Emergency Arbitrator, subject to the power of the Tribunal to determine finally the apportionment of such costs.
- 14.12 These Rules shall apply as appropriate to any proceeding pursuant to this Rule 14, taking into account the inherent urgency of such a proceeding. The Emergency Arbitrator may decide in what manner these Rules shall apply as appropriate, and his decision as to such matters is final and binding on the parties, subject to Rule 14.9.

15. Interim Relief

- 15.1 The Tribunal may, at the request of a party, issue an order granting an injunction or any other interim relief it deems appropriate. The Tribunal may order the party requesting interim relief to provide appropriate security in connection with the relief sought.
- 15.2 Where permitted under applicable law, a party may apply to any court or other judicial authority for interim or conservatory relief. Any such application is permissible solely to the extent that the Tribunal has no power or is unable for the time being to act effectively. Any application and any order for such measures after the formation of the Tribunal shall be promptly communicated by the applicant to the Tribunal and to all other parties.

PLEADINGS

16. Statement of Claim

16.1 Unless already submitted pursuant to Rule 3.2, the Claimant shall, within a period of time to be determined by the Tribunal at the first procedural meeting held pursuant to Rule 21.2, send to the Respondent and the Tribunal a Statement of Claim setting out in full detail:

- (a) a statement of facts supporting the claim;
- (b) the legal grounds or arguments supporting the claim; and
- (c) the relief claimed, together with the amount of all quantifiable claims.

If the Tribunal so determines at the first procedural meeting, the Claimant shall also attach the witness statements supporting its claim to its Statement of Claim.

16.2 If the Claimant fails within the time specified to submit its Statement of Claim, the Tribunal may issue an order for the termination of the arbitral proceedings or give such other directions as may be appropriate, unless a Respondent has brought a counterclaim and wishes the arbitration to continue.

17. Statements of Defence and Counterclaim

- 17.1 Unless already submitted pursuant to Rule 4.2, the Respondent shall, within a period of time to be determined by the Tribunal at the first procedural meeting held pursuant to Rule 21.2, send to the Claimant and the Tribunal a Statement of Defence setting out its full defence to the Statement of Claim, including a statement of facts and contentions of law on which it relies. The Statement of Defence shall also state any counterclaim, which shall comply with the requirements of Rule 16.1.
- 17.2 If the Tribunal so determines at the first procedural meeting, the Respondent shall also attach the witness statements supporting its defence and counterclaim (if any) to its Statement of Defence.
- 17.3 If a counterclaim is made, the Claimant shall, within a period of time to be determined by the Tribunal at the first procedural meeting held pursuant to Rule 21.2, send to the Respondent a Statement of Defence to the Counterclaim setting out its full defence to the counterclaim, including, without limitation, a statement of facts and contentions of law on which it relies.
- 17.4 If the Respondent fails to submit a Statement of Defence, or, if at any stage any party fails to avail itself of the opportunity to present its case in the manner directed by the Tribunal, the Tribunal may nevertheless proceed with the arbitration.

18. Amendments to the Statements of Claim or Defence

- 18.1 With the leave of the Tribunal, a party may amend, supplement or modify its claim, counterclaim or other pleadings, unless the Tribunal considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim or counterclaim may not be amended in such a manner that the amended claim or counterclaim falls outside the scope of the arbitration agreement.
- 18.2 The Registrar may adjust the Tribunal's fees and the MCIA's fees (where appropriate) if a party is permitted to amend its claim or defence.

19. Further Pleadings

- 19.1 All statements, documents or other information supplied to the Tribunal and the Registrar by one party shall simultaneously be supplied to the other party.
- 19.2 The Tribunal shall decide whether further pleadings shall be required from the parties or may be presented by them. The Tribunal shall fix the periods of time for communicating such pleadings, if any. The Tribunal may further limit the length and scope of written pleadings and written and oral witness evidence (both fact witnesses and experts) so as to avoid repetition and maintain a focus on key issues.
- 19.3 The Tribunal may at any time during the proceedings, if it considers it appropriate, require the parties, in consultation with the Tribunal, to prepare an agreed list of issues to be determined by the Tribunal.

ARBITRAL PROCEEDINGS

20. Jurisdiction

- 20.1 If a party objects to the existence or validity of the arbitration agreement, or to the competence of the MCIA to administer an arbitration, before the Tribunal is appointed, the Registrar shall determine if reference of such an objection is to be made to the Council. If the Registrar so determines, the Council shall decide if it is *prima facie* satisfied that a valid arbitration agreement under the Rules may exist. The proceedings shall be terminated if the Council is not so satisfied. Any decision by the Registrar or the Council is without prejudice to the power of the Tribunal to rule on its own jurisdiction.
- 20.2 The Tribunal shall have the power to rule on its own jurisdiction, including any objections with respect to the existence, termination or validity of the arbitration agreement. For that purpose, an arbitration agreement which forms part of a contract 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 result *ipso jure* in the invalidity of the arbitration agreement.
- 20.3 A plea that the Tribunal does not have jurisdiction shall be raised no later than in the Statement of Defence or in a Statement of Defence to the Counterclaim. A failure by a party to raise a jurisdictional objection by then shall be treated as an express waiver of that objection. A plea that the Tribunal is exceeding the scope of its jurisdiction shall be raised as soon as the matter alleged to be beyond the scope of its jurisdiction is raised during the arbitration. In either case the Tribunal may nevertheless admit a late plea under this Rule if it considers the delay to be justified. A party is not precluded from raising such a plea by the fact that he has nominated, or participated in the nomination of, an arbitrator.

- 20.4 The Tribunal may rule on a plea referred to in Rule 20.3 either as a preliminary question or in an Award on the merits.
- 20.5 A party may rely on a claim or defence for the purpose of a set-off to the extent permitted by the applicable law.

21. Conduct of Proceedings

- 21.1 The Tribunal may conduct the arbitration in such manner as it considers appropriate to ensure the avoidance of unnecessary delay and expense, having regard to the complexity of the issues involved and the amount in dispute, and provided that such procedures ensure fair and equal treatment of the parties and afford them a reasonable opportunity to present their case.
- 21.2 As soon as practicable after the appointment of all arbitrators, the Tribunal shall conduct a preliminary meeting with the parties (in person or by any other means), to discuss the procedures that will be most appropriate and efficient in the case. During or following such meeting, the Tribunal shall establish the procedural timetable that it intends to follow for the conduct of the arbitration. The procedural timetable and any modifications thereto shall be communicated to the Registrar and the parties.
- 21.3 To ensure continued effective case management, the Tribunal, after consulting the parties, may adopt further procedural measures or modify the procedural timetable from time to time. All such modified procedural timetables and orders must be communicated to the Registrar and the parties.
- 21.4 Except as provided in Rules 12.3(d), 30.2 and 31.5, the Tribunal may extend or shorten any time limits provided by these Rules or by its directions.

- 21.5 A presiding arbitrator may make procedural rulings alone, subject to revision by the Tribunal.
- 21.6 The Tribunal may proceed with the arbitration notwithstanding the failure or refusal of any party to comply with these Rules or with the Tribunal's orders or directions, or any partial or interim Award or to attend any meetings or hearings, and may impose such sanctions as the Tribunal deems appropriate in such circumstances.
- 21.7 If required by any applicable law, the Tribunal shall endeavour to render its final Award within 12 months from the date it receives written notice of its constitution. If it becomes apparent to the Tribunal that the final Award cannot reasonably be rendered within a period of 12 months from the date it receives written notice of its constitution, the Tribunal shall promptly notify the parties in writing, with brief reasons, of the estimated length of time required for the Tribunal to render its final Award. By agreeing to arbitrate under these Rules, the parties hereby expressly consent to extend the time prescribed by any applicable law for the rendering of the Award by not more than 6 months, in the event the Tribunal considers such extension necessary.
- 21.8 In all matters not expressly provided for in these Rules, the Council and the Tribunal shall act in accordance with the spirit and intent of these Rules and shall make every effort to make sure that the Award is made in accordance with the law of the seat and enforceable at law.

22. Language

- 22.1 Unless the parties have agreed otherwise, the initial language of the arbitration shall be the language of the arbitration agreement, providing always that no party shall have cause for complaint if communications to or from the Registrar and/or Chairman and the arbitration proceedings are conducted in English.

- 22.2 Upon the formation of the Tribunal and unless the parties have agreed otherwise, the Tribunal shall determine the language(s) to be used in the proceedings.
- 22.3 If a document is written in a language other than the language(s) of the arbitration, the Tribunal, or if the Tribunal has not been established, the Registrar, may order that party to submit a translation in a form to be determined by the Tribunal or the Registrar.

23. Seat and Venue

- 23.1 The parties may agree on the seat of arbitration. Failing such an agreement, the seat of arbitration shall be Mumbai, India, unless the Tribunal determines, having regard to all the circumstances of the case, that another seat is more appropriate.
- 23.2 The Tribunal may hold hearings, meetings and deliberations by any means it considers expedient or appropriate and at any location it considers convenient or appropriate.

24. Applicable Law

- 24.1 The Tribunal shall apply the law and/or rules of law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the Tribunal shall apply the law and/or rules of law which it determines to be appropriate.
- 24.2 The Tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the parties have expressly authorised the Tribunal to do so.
- 24.3 In all cases, the Tribunal shall decide in accordance with the terms of the contract, if any, and shall take into account any usage of trade applicable to the transaction to the extent that the Tribunal considers it relevant to the arbitration.

25. Evidence

- 25.1 The Tribunal shall determine the admissibility, relevance, materiality and weight of any evidence, including whether to apply strict rules of evidence or not. The Tribunal shall not be bound to apply any rules of evidence.
- 25.2 In addition to the powers specified in these Rules, and not in derogation of the mandatory rules of law applicable to the arbitration, the Tribunal shall have the power to:
- (a) conduct such enquiries as may appear to the Tribunal to be necessary or expedient;
 - (b) order the parties to make any property or item available for inspection;
 - (c) order any party to produce to the Tribunal and to the other parties for inspection, and to supply copies of, any document in their possession, custody or control which the Tribunal considers relevant to the case and material to its outcome; and
 - (d) determine any claim of legal or other privilege.

26. Hearings

- 26.1 Unless the parties have agreed on a documents-only arbitration or as provided in these Rules, the Tribunal shall, if either party so requests or the Tribunal so decides, hold a hearing for the presentation of evidence and/or for oral pleadings on the merits of the dispute, including, without limitation, any issue as to jurisdiction.
- 26.2 The Tribunal may, in advance of any hearing, submit to the parties a list of questions which it wishes them to answer with special attention.

- 26.3 The Tribunal shall fix the date, time and place of any meeting or hearing and shall give the parties reasonable notice.
- 26.4 If any party to the proceedings fails to appear at a hearing without showing sufficient cause for such failure, the Tribunal may proceed with the arbitration and may make the Award based on the pleadings and evidence before it.
- 26.5 Unless the parties agree otherwise, all meetings and hearings shall be in private, and any recordings, transcripts, documents or other materials used shall remain confidential.

27. Witnesses

- 27.1 Before any hearing, the Tribunal may require any party to give notice of the identity of witnesses, including expert witnesses, whom it intends to produce, the subject matter of their testimony and its relevance to the issues.
- 27.2 The Tribunal has discretion to allow, refuse or limit the appearance of witnesses to give oral evidence at any hearing.
- 27.3 The Tribunal is free to determine the manner in which witnesses are to be examined, and may direct that the testimony of any witness be presented in written form.
- 27.4 Any witness who gives evidence may be questioned by each of the parties, their representatives and the Tribunal in such manner as the Tribunal shall determine.
- 27.5 It shall be permissible for any party or its representatives to interview any witness or potential witness (that may be presented by that party) prior to his appearance to give oral evidence at any hearing.

28. Tribunal-Appointed Experts

- 28.1 Unless the parties have agreed otherwise, the Tribunal may:
- (a) following consultation with the parties, appoint an expert to report on specific issues which shall be set out in writing; and
 - (b) require a party to give such expert any relevant information, or to produce or provide access to any relevant documents, goods or property for inspection.
- 28.2 Any expert so appointed shall submit a report in writing to the Tribunal. Upon receipt of such a written report, the Tribunal shall supply a copy of the report to the parties and invite the parties to submit written comments on the report.
- 28.3 Unless the parties have agreed otherwise, if the Tribunal considers it necessary, any such expert shall, after delivery of his written report, participate in a hearing. At the hearing, the parties shall have the opportunity to question him.

ORDERS AND AWARDS

29. Orders of the Tribunal

In addition to the powers specified in these Rules, and not in derogation of the mandatory rules of law applicable to the arbitration, the Tribunal shall have the power to:

- (a) order the correction of any contract, but only to the extent required to rectify any mistake which it determines to have been made by all the parties to that contract. This is subject to the condition that the proper law of the contract allows rectification of such contract;
- (b) order the preservation, storage, sale or disposal of any property or item which is or forms part of the subject matter of the dispute;
- (c) issue an award for unpaid deposits towards the costs of the arbitration where a party to the arbitration has paid the non-paying party's share of the deposits on behalf of the non-paying party;
- (d) direct any party to ensure that any Award which may be made in the arbitral proceedings is not rendered ineffectual by the dissipation of assets by a party;
- (e) order any party to provide security for legal or other costs in any manner the Tribunal thinks fit;
- (f) order any party to provide security for all or part of any amount in dispute in the arbitration; and

- (g) decide, where appropriate, any issue not expressly or impliedly raised in the pleadings filed under Rules 16 to 18, provided such issue has been clearly brought to the notice of the other party and that other party has been given adequate opportunity to respond.

30. Making of the Award

- 30.1 The Tribunal shall, after consulting with the parties, declare the proceedings closed if it is satisfied that the parties have no further relevant and material evidence to produce or pleadings to make. The Tribunal may, on its own motion or upon application of a party but before any Award is made, reopen the proceedings.
- 30.2 The Tribunal shall submit all draft awards to the Registrar within 90 days from the date on which the Tribunal declares the proceedings closed unless, in exceptional circumstances, and further to an application by the Tribunal or on the Registrar's own motion, the Registrar extends the time for submission of the draft award. The Registrar may, as soon as practicable, suggest modifications as to the form of the draft award and, without affecting the Tribunal's liberty of decision, may also draw its attention to points of substance. The Tribunal is at liberty to make such changes as it deems fit to the draft award (if any).
- 30.3 The final Award shall be rendered within 30 days from the date on which the Tribunal submits the draft award to the Registrar unless, in exceptional circumstances and further to an application by the Tribunal and/or the Registrar or on its own initiative, the Council extends the time for rendering the Award.
- 30.4 The Tribunal may make separate Awards on different issues at different times.
- 30.5 If any arbitrator fails to cooperate in the making of the Award, having been given a reasonable opportunity to do so, the remaining arbitrators shall be entitled to proceed to make the Award in his absence.

- 30.6 Where there is more than one arbitrator, the Tribunal shall decide by a majority.
- 30.7 An Award shall be made in writing and signed by the Tribunal. Unless agreed otherwise by the parties in writing, an Award shall state the reasons upon which it is based, along with the date on which it was made and the seat of arbitration as determined under Rule 23.1.
- 30.8 An Award may be executed in any number of counterparts, each of which is an original and all of which together evidence the same Award. Where there are three arbitrators and any of them fails to sign the Award, the Award shall state the reason for the absence of the signature(s). If the majority in number of the Tribunal sign the Award, the Award shall be final and binding for the purposes of the Rules, provided that all arbitrators were provided with a reasonable opportunity to sign the Award.
- 30.9 The Award shall be delivered to the Registrar, who shall transmit certified copies to the parties upon the full settlement of the costs of arbitration.
- 30.10 The Tribunal may award simple or compound interest on any sum which is the subject of the arbitration at such rates as the parties may have agreed or, in the absence of such agreement, as the Tribunal determines to be appropriate, in respect of any period which the Tribunal determines to be appropriate.
- 30.11 In the event of a settlement, if the parties so request, the Tribunal may render a consent award recording the settlement, provided always that such Award contains an express statement that it is an Award made by the parties' consent. A consent award need not contain reasons. If the parties do not require a consent award, the parties shall confirm to the Registrar that a settlement has been reached. The Tribunal shall be discharged and the arbitration concluded upon payment of any outstanding costs of the arbitration.

- 30.12 Subject to Rules 14 and 31, by agreeing to arbitration under these Rules, the parties undertake to carry out the Award immediately and without delay, and they also irrevocably waive their rights to any form of appeal, review or recourse to any state court or other judicial authority insofar as such waiver may be validly made and the parties further agree that an Award shall be final and binding on the parties from the date it is made.
- 30.13 The MCIA may publish any Award with the names of the parties and other identifying information redacted.

31. Correction of Awards and Additional Awards

- 31.1 Within 30 days of receipt of an Award, a party may, by written notice to the Registrar and to any other party, request the Tribunal to correct in the Award any error in computation, any clerical or typographical error or any error of a similar nature. Any other party may comment on such request within 15 days of its receipt. If the Tribunal considers the request to be justified, it shall make the correction within 30 days of receipt of the request. Any correction, made in the original Award or in a separate memorandum, shall constitute part of the Award.
- 31.2 The Tribunal may correct any error of the type referred to in Rule 31.1 on its own initiative within 30 days of the date of the Award.
- 31.3 Within 30 days of receipt of an Award, a party may, by written notice to the Registrar and to any other party, request the Tribunal to make an additional Award as to claims presented in the arbitral proceedings but not dealt with in the Award. Notwithstanding Rule 30.1, the Tribunal may in such circumstances reopen the proceedings for the limited purpose of determining a request made pursuant to this Rule. Any other party may comment on such request within 15 days of its receipt. If the Tribunal considers the request to be justified, it shall make the additional award within 60 days of receipt of such request.

- 31.4 Within 30 days of the receipt of an Award, a party may, by written notice to the Registrar and to any other party, request that the Tribunal give an interpretation of the Award. Any other party may comment on such request within 15 days of its receipt. If the Tribunal considers the request to be justified, it shall give the interpretation in writing within 30 days after the receipt of the request. The interpretation shall form part of the Award.
- 31.5 The Registrar may extend the time limits in this Rule.
- 31.6 The provisions of Rule 30 shall apply in the same manner with the necessary or appropriate changes in relation to a correction of an Award, interpretation of an Award and to any additional Award made.

FEES AND COSTS

32. **Costs of the Arbitration**

- 32.1 The Tribunal's fees and the MCIA's fees shall be fixed by the Registrar in accordance with the Schedule of Fees in force at the time of commencement of the arbitration and the stage of the proceedings at which the arbitration ended.
- 32.2 The Tribunal's reasonable out-of-pocket expenses necessarily incurred and other allowances shall be reimbursed in accordance with the applicable Practice Note.
- 32.3 Alternative methods of determining the Tribunal's fees may be agreed by the parties with the consent of the Registrar. The Registrar shall not consent to any fee proposal which, in its absolute discretion, it deems to be unsuitable or inappropriate. In no circumstances shall the Tribunal be entitled to charge any form of sitting fee or fixed fee for attendance at hearings.
- 32.4 Notwithstanding Rule 32.1, the Registrar may fix the Tribunal's fees at a figure higher or lower than that which would result from the application of the Schedule of Fees should this be deemed necessary due to the exceptional circumstances of the case.
- 32.5 The Tribunal shall specify in the award the total amount of the costs of the arbitration. Unless the parties have agreed otherwise, the Tribunal shall determine in the award the apportionment of the costs of the arbitration among the parties.
- 32.6 The term "costs of the arbitration" includes:
- (a) the Tribunal's fees and expenses and the Emergency Arbitrator's fees and expenses, where applicable;

- (b) the MCIA's administrative fees and expenses; and
- (c) the costs of expert advice and of other assistance reasonably required by the Tribunal.

32.7 The Tribunal shall have the authority to order in its Award that all or a part of the legal or other costs of a party be paid by another party.

32.8 In making decisions as to costs, the Tribunal may take into account such circumstances as it considers relevant, including the extent to which each party has conducted the arbitration in an expeditious and cost-effective manner.

33. Advance on Costs

33.1 The Registrar shall fix the amount of deposits for costs of the arbitration. Unless the Registrar directs otherwise, 50% of such deposits shall be payable by the Claimant and the remaining 50% of such deposits shall be payable by the Respondent. The Registrar may fix separate advances on costs for claims and counterclaims, respectively.

33.2 Where the amount of the claim or the counterclaim is not quantifiable at the time payment is due, a provisional estimate of the costs of the arbitration shall be made by the Registrar. Such estimate may be based on the nature of the controversy and the circumstances of the case. This may be adjusted in light of such information as may subsequently become available.

33.3 The Registrar may from time to time direct parties to make further advances towards costs of the arbitration incurred or to be incurred on behalf of, or for the benefit of, the parties.

- 33.4 If a party fails to make the deposits directed, the Registrar may, after consulting with the Tribunal and the parties, direct the Tribunal to suspend work and set a time limit on the expiry of which the relevant claims or counterclaims shall be considered as withdrawn without prejudice to the party reintroducing the same claims or counterclaims in another proceeding.
- 33.5 Parties are jointly and severally liable for the costs of the arbitration. Any party is free to pay the whole of the deposits for costs of the arbitration in respect of the claim or the counterclaim should the other party fail to pay its share. The Tribunal or the Registrar may suspend its work, in whole or in part, should the advances or deposits directed under this Rule remain either wholly or in part unpaid. On the application of a party, the Tribunal may issue an Award for unpaid deposits towards the costs of the arbitration pursuant to Rule 29(c).
- 33.6 If the arbitration is settled or disposed of without a hearing, the costs of arbitration shall be finally determined by the Registrar. The Registrar shall have regard to all the circumstances of the case, including the stage of proceedings at which the arbitration is settled or disposed. In the event that the costs of arbitration determined are less than the deposits made, there shall be a refund in such proportions as the parties may agree, or failing an agreement, in the same proportions as the deposits were made.
- 33.7 All deposits shall be made to and held by the MCIA. Any interest which may accrue on such deposits shall be retained by the MCIA.

MISCELLANEOUS PROVISIONS

34. Exclusion and Waiver of Liability

- 34.1 The MCIA, including the Chairman, members of its Council, directors, officers, employees or any arbitrator, shall not be liable to any person for any negligence, act or omission in connection with any arbitration governed by these Rules, save where the act or omission is shown by that party to constitute conscious and deliberate wrongdoing committed by the body or person alleged to be liable to that party.
- 34.2 The MCIA, including the Chairman, members of its Council, directors, officers, employees or any arbitrator, shall not be under any obligation to make any statement in connection with any arbitration governed by these Rules. No party shall seek to make the Chairman, any member of the Council, director, officer, employee or arbitrator act as a witness in any legal proceedings in connection with any arbitration governed by these Rules.
- 34.3 A party who knows or ought reasonably to know of a failure to comply with any provision of, or requirement arising under, these Rules, or of any other rules applicable to the proceedings, any direction given by the Tribunal, or any requirement under the arbitration agreement relating to the constitution of the Tribunal or the conduct of the proceedings and yet proceeds with the arbitration without promptly stating its objection shall be deemed to have waived its right to object.
- 34.4 Any party acting in contravention of Rules 34.1 to 34.3 shall indemnify the MCIA, including the Chairman, members of its Council, directors, officers, employees or any arbitrator against all liabilities arising out of or in connection with any such action.

35. Confidentiality

- 35.1 The parties and the Tribunal shall at all times treat all matters relating to the proceedings and the Award as confidential. The deliberations of the Tribunal shall be confidential.
- 35.2 A party or any arbitrator shall not, without the prior written consent of all the parties, disclose to a third party any such matter except:
- (a) for the purpose of making an application to any competent court of any state to enforce or challenge the Award;
 - (b) pursuant to the order of or a subpoena issued by a court of competent jurisdiction;
 - (c) for the purpose of pursuing or enforcing a legal right or claim;
 - (d) in compliance with the provisions of the laws of any state which are binding on the party making the disclosure;
 - (e) in compliance with the request or requirement of any regulatory body or other authority; or
 - (f) pursuant to an order by the Tribunal on application by a party with proper notice to the other parties.
- 35.3 In this Rule, “matters relating to the proceedings” means the existence of the proceedings, and the pleadings, evidence and other materials in the arbitration proceedings and all other documents produced by another party in the proceedings or the Award arising from the proceedings, but excludes any matter that is otherwise in the public domain.
- 35.4 The Tribunal has the power to take appropriate measures, including issuing an order or award for sanctions or costs, if a party breaches the provisions of this Rule.

36. Decisions of the Chairman, the Council and the Registrar

- 36.1 Subject to Rule 20.1, the decisions of the Chairman, the Council and the Registrar with respect to all matters relating to an arbitration shall be conclusive and binding upon the parties and the Tribunal. The Chairman, the Council and the Registrar shall not be required to provide reasons for such decisions.
- 36.2 Subject to Rule 20.1, the parties shall be taken to have waived any right of appeal or review in respect of any decisions of the Chairman, the Council and the Registrar to any state court or other judicial authority.
- 36.3 In all matters not expressly provided for in these Rules, the Chairman, the Council, the Registrar and the Tribunal shall act in the spirit of these Rules and shall make every reasonable effort to ensure the fair, expeditious and economical conclusion of the arbitration and the enforceability of any Award.
- 36.4 The Registrar may from time to time issue Practice Notes to supplement, regulate and implement these Rules for the purpose of facilitating the administration of arbitrations governed by these Rules.

SCHEDULE OF FEES

This Schedule of Fees is effective as of 15 January 2017 and is applicable to all arbitrations commenced on or after 15 January 2017. This Schedule of Fees may be amended from time to time and any revised Schedule of Fees shall take effect as of the date determined by the Council.

CASE FILING FEE (Non-Refundable)

Rs. 40,000*

ADMINISTRATION FEES

The administration fees calculated in accordance with the Schedule below apply to all arbitrations administered by the MCIA and is the maximum amount payable to the MCIA.

Sum in Dispute (INR)	Administration Fees (INR)*
Up to 1,000,000	110,000
1,000,001 to 5,000,000	110,000 + 1.500% excess over 1,000,000
5,000,001 to 10,000,000	170,000 + 1.400% excess over 5,000,000
10,000,001 to 50,000,000	240,000 + 0.850% excess over 10,000,000
50,000,001 to 100,000,000	580,000 + 0.500% excess over 50,000,000
100,000,001 to 500,000,000	830,000 + 0.220% excess over 100,000,000
500,000,001 to 1,000,000,000	1,710,000 + 0.090% excess over 500,000,000
1,000,000,001 to 5,000,000,000	2,160,000 + 0.050% excess over 1,000,000,000
Above 5,000,000,000	4,160,000

The administration fees do not include the following:

- Fees and expenses of the Tribunal
- Usage cost of facilities and support services for and in connection with any hearing (e.g. hearing rooms and equipment, transcription and interpretation services etc.)
- Out-of-pocket expenses
- * Taxes as applicable

ARBITRATOR'S FEES

The fee calculated in accordance with the Schedule below is the maximum amount payable to one arbitrator.

Sum in Dispute (INR)	Arbitrator's Fees (INR)*
Up to 1,000,000	185,000
1,000,001 to 5,000,000	185,000 + 6.750% excess over 1,000,000
5,000,001 to 10,000,000	455,000 + 6.500% excess over 5,000,000
10,000,001 to 50,000,000	780,000 + 4.300% excess over 10,000,000
50,000,001 to 100,000,000	2,500,000 + 2.130% excess over 50,000,000
100,000,001 to 500,000,000	3,565,000 + 0.88875% excess over 100,000,000
500,000,001 to 1,000,000,000	7,120,000 + 0.271% excess over 500,000,000
1,000,000,001 to 5,000,000,000	8,475,000 + 0.165625% excess over 1,000,000,000
5,000,000,001 to 10,000,000,000	15,100,000 + 0.060% excess over 5,000,000,000
10,000,000,001 to 50,000,000,000	18,100,000 + 0.0585% excess over 10,000,000,000
Above 50,000,000,000	41,500,000 + 0.040% excess over 50,000,000,000 up to a maximum of 85,000,000

EMERGENCY INTERIM RELIEF FEES

The following fees shall be payable in an Emergency Interim Relief application under Rule 14 of the Arbitration Rules of the MCIA:

1. **Administration Fee for Emergency Arbitrator Applications:**

Rs. 80,000*

2. **Emergency Arbitrator's Fees:**

The Emergency Arbitrator's fees shall be capped at 20% of a sole arbitrator's maximum fee calculated in accordance with the Schedule of Fees in force at the time of commencement of the arbitration, but shall be not less than Rs. 300,000.

APPOINTMENT FEES

The appointment fee is payable where a request for appointment of arbitrator(s) is made in an *ad hoc* case. The fee is payable by the party requesting the appointment. A request for appointment must be accompanied by payment of the appointment fee prescribed below.

1 arbitrator	2 arbitrators	3 arbitrators
Rs. 50,000*	Rs. 65,000*	Rs. 80,000*

*Taxes as applicable

MCIA MODEL CLAUSE

Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in accordance with the Arbitration Rules of the Mumbai Centre for International Arbitration (“MCIA Rules”), which rules are deemed to be incorporated by reference in this clause.

The seat of the arbitration shall be _____.

The Tribunal shall consist of [one/three] arbitrator(s).

The language of the arbitration shall be _____.

The law governing this arbitration agreement shall be _____.

The law governing the contract shall be _____.

EXPEDITED PROCEDURE MODEL CLAUSE

Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Mumbai in accordance with the Arbitration Rules of the Mumbai Centre for International Arbitration ("MCIA Rules"), which rules are deemed to be incorporated by reference in this clause.

The parties agree that any arbitration commenced pursuant to this clause shall be conducted in accordance with the Expedited Procedure set out in Rule 12.3 of the MCIA Rules.

The Tribunal shall consist of one arbitrator.

The language of the arbitration shall be _____.

MCIA AS APPOINTING AUTHORITY

For parties who wish the MCIA to act as appointing authority in an *ad hoc* arbitration, we recommend that they adopt the following provision in their arbitration agreement:

The appointing authority shall be the MCIA Council of Arbitration.



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