



Arbitration Rules of the
HYDERABAD **ARBITRATION** CENTRE

HAC Arbitration Rules

[Proprietary of Hyderabad's International Arbitration Association (HIAA),
Hyderabad]

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CONTENTS

I. INTRODUCTION

1. Scope, Definition and Interpretation
2. Notices and Time Limits

II. COMMENCEMENT OF AN ARBITRATION

3. Reference to Arbitration under these Rules:
4. Request for Arbitration
5. Response to the Request for Arbitration

III. THE ARBITRAL TRIBUNAL

6. Appointment of Arbitrator(s)
7. General Provisions
8. Challenge to the Appointment of Arbitrator(s)
9. Replacement of Arbitrator(s)

IV. EXPEDITED PROCEDURE & INTERIM RELIEF

10. Expedited procedure
11. Emergency Interim Relief
12. Interim Measures
13. Arb-Med-Arb Procedure

V. CONSOLIDATION AND JOINDER

14. Joinder / Impleading of Additional Parties
15. Consolidation of Arbitrations

VI. PLEADINGS

16. Statement of Claim
17. Statement of Defence
18. Counterclaim
19. Pleadings in General

VII. ARBITRAL PROCEEDINGS

20. Conduct of Proceedings
21. Jurisdiction
22. Applicable Law
23. Hearings
24. Witnesses
25. Expert Witnesses Appointed by the Tribunal
26. Evidence
27. Language
28. Seat of Arbitration

VIII. ORDERS AND AWARDS

29. Making of an Award
30. Form and Effect of the Award
31. Scrutiny of the Award
32. Settlement & Termination of Proceedings
33. Correction & Additional Award

IX. COSTS & FEES

34. Costs
35. Deposit of Costs

X. GENERAL PROVISIONS

36. Confidentiality
37. Exclusion and Waiver of Liability
38. Interpretation of Rules
39. Amendment of Rules
40. Miscellaneous Provisions

APPENDICES:

SCHEDULE OF FEES

APPENDIX 1 - DOMESTIC ARBITRATION

APPENDIX 2 - INTERNATIONAL ARBITRATION

APPENDIX 3 - HAC Model Arbitration Clauses

**APPENDIX 4 - ARB-MED-ARB Protocol
(AMA Protocol)**

HYDERABAD ARBITRATION CENTRE

ARBITRATION RULES

[1st Edition, w.e.f. 01/01/2019]

I. INTRODUCTION

1. Scope, Definition & Interpretation

11. Where the parties have agreed to refer their dispute to "HYDERABAD ARBITRATION CENTRE" (Hereinafter referred to as "HAC") for arbitration or to arbitration in accordance with HAC Rules, the parties shall be deemed to have agreed that the arbitration shall be conducted and administered by HAC in accordance with these Rules. The parties may refer their disputes to HAC, either by incorporating the reference into their agreement or by reference after the dispute has arisen.

12. Unless the parties have agreed otherwise, it is deemed to have been agreed between the parties, that the arbitration shall be conducted and administered in accordance with the Rules of HAC that are in force at the time of commencement of the arbitration.

For the purpose of this provision, the arbitration is deemed to have 'commenced' on the date HAC receives a complete 'request for arbitration' / 'notice for arbitration' from a party.

13. These rules shall come into force on 1st January 2019, and unless otherwise agreed by the parties, these rules shall apply to any arbitration which has commenced on or after that date.

14. In these Rules:

"Award" includes a Partial-Award, Interim-Award or a Final-Award and an Award passed by an Emergency Arbitrator;

"Committee of the (Governing) Council" means a committee consisting of not less than three members of the Council appointed by the Chairman (which may include the Chairman) for better administration and discharge of functions of the Council, as mandated under these rules;

"Council" means the Governing Council of HAC and for the purpose of these rules and better administration and discharge of the functions of the Council, as mandated under these rules, wherever the term 'Council' appears in these Rules, the same shall automatically refer and include "Chairman" or "Committee of the Council", so appointed by the Chairman (as defined herein-below);

"Chairman" means the Chairman or Co-Chairman(s) of the Council and includes a Vice-Chairman;

"Domestic Arbitration" means an arbitration where the seat is within India, and parties to the dispute are:

- (a) of Indian Nationality, or habitually reside in India; or
- (b) a body corporate registered and carrying on its business in India; or
- (c) an association or a body of individuals whose central management and control is exercised within

India.

"Emergency Arbitrator" means an arbitrator appointed in accordance with Rule 11 herein;

"International Arbitration" means an arbitration where:

1. at least one of the parties to the dispute is:

- (a) an individual who is a national of, or habitually resides in any country other than India; or
- (b) a body corporate registered/incorporated outside India; or
- (c) an association or a body of individuals whose central management and control is exercised in any country other than India; or
- (d) Government of a country other than India; or

2. The seat of Arbitration is outside India

"Registrar / Secretary General" means the Registrar / Secretary General of the Secretariat and includes any Deputy Registrar / Secretary General;

"Rules" mean these Arbitration Rules of the Hyderabad Arbitration Centre;

"Secretariat" means the Secretariat of the HAC, which will assist the Council in its work and will work under the direction of the Registrar / Secretary General.

"Tribunal" includes the Sole / Single arbitrator or all the arbitrators, collectively, where more than one arbitrator is appointed;

Any pronoun in these Rules shall be understood to be gender neutral. Any singular noun shall be understood to refer to the plural in the appropriate circumstances.

2. Notices and Time Limits

- 2.1. For the purposes of these Rules, any Notice or Communication (including any requests / proposals) shall be in writing and be served in the manner provided under the Agreement between the parties, and if there is no such provision in the agreement between the parties, all such written communications may be deemed to have been received, if it is delivered to the addressee in-person or by hand or through registered post or courier at his place of business or habitual residence or such other mailing address as agreed between the parties or transmitted through electronic communication viz., e-mail, facsimile, etc. or any other means that provides a record of its delivery thereof, or in any other manner as may be ordered by the Tribunal, whence constituted.
- 2.2. Despite a reasonable inquiry, if none of the aforementioned modes of service are possible, a written notice or communication is deemed to have been received if it is sent to the addressee's last known place of business or habitual residence or mailing address by registered letter or by any other means.

23. Any written Notice or Communication shall be deemed to have been received on the day it is delivered and in the case of a notice or communication transmitted through electronic means is deemed to have been received on the day it is sent/transmitted and such time shall be determined with reference to the recipient's time zone.
24. The periods of time specified under the present Rules shall start to run from the day on which the notice or communication is received as mentioned in Rule 2.3 supra.
25. The periods of time under the present Rules shall include the non-working business days and official holidays. If the last day of the time period is a non-working business day in the place of receipt, the period of time shall expire at the end of the first following business day.
26. Except as provided in these Rules, the Registrar / Secretary General may, at any time, extend or shorten any time limits prescribed under these Rules.
27. All the pleadings and other written communications submitted by any party, as well as all documents annexed thereto, shall be supplied in such number of copies as would be sufficient to provide one copy for each party, plus one for each arbitrator, and one for the secretariat; a copy of any notification or communication from the arbitral tribunal to the parties, or vice versa, shall be sent to the Secretariat.

II. COMMENCEMENT OF AN ARBITRATION

3. Reference to Arbitration under these Rules:

31. Where parties have agreed that any dispute or difference which may arise or have arisen out of or in relation to a contract, shall be referred to Arbitration in accordance with these Rules, the same shall be referred accordingly.
32. A dispute may also be referred to Arbitration in accordance with these Rules where the parties sign a joint memorandum / understanding / agreement / statement, agreeing that their dispute shall be referred to Arbitration in accordance with these Rules or when the same is so referred through any proceedings in any Court, including but not limited to:
 - a. Proceedings under Section 89 of the Code of Civil Procedure, 1908;
 - b. These Rules shall also apply where the Chief Justice or his designate or any court appoints an Arbitral Tribunal and directs that the arbitration shall be conducted under the aegis of HAC or in accordance with its rules;
 - c. Where parties have entered into an Arbitration agreement in any of the modes specified in Section 7 of the Arbitration & Conciliation Act, 1996 agreeing to refer their disputes to arbitration in accordance with the Rules of HAC;
 - d. Where parties to any International contract, have agreed to submit their disputes or differences to Arbitration in accordance with these rules;

4. Request for Arbitration

- 4.1. A party desirous of commencing an arbitration under these Rules (the "claimant") shall submit a 'request for arbitration' (Form A2) with the Secretariat, which shall contain:
- a. A demand that the dispute be referred to arbitration;
 - b. The names, addresses, telephone numbers, facsimile numbers and electronic mail addresses, if known, of the parties to the arbitration and their representatives, if any;
 - c. The name in full, address and other contact details of any legal representative(s) of the claimant;
 - d. An extract or a copy of the arbitration agreement (clause) or the copy of the separate arbitration agreement that is invoked;
 - e. A reference to (and where possible, a copy of) any contract(s) or other legal instrument out of or in relation to which the dispute arises;
 - f. The 'Notice' invoking Arbitration, if already issued.
 - g. A brief description of the nature of the dispute and the circumstances out of which the dispute has arisen.
 - h. A brief description of 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 or remedy sought, including the amounts of any quantified claims and, to the extent possible, and where possible an initial quantification of the claim amount;
 - i. 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;
 - j. A proposal as to the number of arbitrators, language and seat of arbitration, if the parties have not previously agreed thereon;
 - k. Unless otherwise agreed by the parties, the nomination of an arbitrator, in either case, where the arbitration agreement provides for three arbitrators or a sole arbitrator.
 - l. All relevant particulars and any observations as to the seat of arbitration, the applicable rules of law and the language of the arbitration;
- 4.2. Together with the Request, the claimant shall:
- a. Submit the number of copies thereof required by Rule 2.7 supra; and
 - b. Make payment of the filing fee required by 'Schedule of Fees' in force on the date the Request is submitted.

- c. In case the claimant fails to comply with either of these requirements, the Secretariat may fix a time limit within which the claimant must comply with the same, failing which the file shall be closed without prejudice to the claimant's right to submit the same claims at a later date in another Request.
- 4.3. The Claimant shall, at the same time as it files the 'Request for Arbitration' with the Registrar, send a copy thereof to the Respondent(s), and shall notify the Registrar that it has done so, specifying the mode of service employed and the date of service.
- 4.4. The date of receipt of the complete 'Request for Arbitration' by the Secretariat shall be deemed to be the date of commencement of the arbitration under these rules. For the avoidance of doubt, the Request for Arbitration is deemed to be completed when all the requirements of Rule 4.1, 4.2 & 4.3 are fulfilled or when the Secretariat determines that there has been substantial compliance with such requirements. Thereafter, HAC shall notify the parties of the commencement of the arbitration.
- 5. Response to the Request for Arbitration**
- 5.1. The Respondent shall file a Response with the Secretariat within 14 days of receipt of the Request for Arbitration. The Response shall include:
- a. The name in full, description, address and other contact details of each respondent;
 - b. The name in full, address and other contact details of any person(s) representing the respondent in the arbitration;
 - c. A confirmation or denial of all or part of the claims, including, the Claimant's invocation of the arbitration agreement in support thereof;
 - d. 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;
 - e. Any comment in response to any statements contained in the Request for Arbitration under Rule 4 or any comment with respect to the matters covered in such Rule;
 - f. Unless otherwise agreed by the parties, the nomination of an arbitrator if the arbitration agreement provides for three arbitrators or, if the arbitration agreement provides for a sole arbitrator, comments on the Claimant's proposal for a sole arbitrator or a counter-proposal; and
 - g. Payment of the requisite filing fee under these Rules for any counterclaim.
- 5.2. If the respondent fails to file a response within the timelines, as prescribed in Rule 5.1 or if it fails to nominate an arbitrator within the required time, the Council shall proceed with the appointment of arbitrator, in accordance with Rule 6 of these Rules.

- 5.3. The Respondent shall, at the same time as it files the Response with the Secretariat, send a copy of the Response to the Claimant, and shall notify the Secretariat that it has done so, specifying the mode of service employed and the date of service.

III. THE ARBITRAL TRIBUNAL

6. Appointment of Arbitrators

- 6.1. Unless otherwise agreed by the parties and having regard to the proposals of the parties either in their request for arbitration or the response to the request for arbitration, and unless it appears to the Council that the complexity or quantum involved in the dispute warrants the appointment of three arbitrators, a Sole Arbitrator shall be appointed.
- 6.2. For all arbitrations, to be governed by these Rules, the Council alone shall be empowered to appoint the arbitrator(s). Nothing in this Rule shall preclude the Parties from making nominations or suggesting the name of an arbitrator, and the Council may duly concur and accord such appointment.
- 6.3. Where the parties have expressly agreed for the appointment of arbitrator(s) by one or more parties or by a third-party, such agreement shall be deemed to be an agreement to nominate such arbitrator under these Rules. The arbitrator(s) so nominated by the parties or by a third party, shall be subject to appointment by the Council in its discretion.
- 6.4. The council shall have due regard to any qualifications or technical credentials that may be agreed between the parties and any challenge to the appointment by the council shall be made by any party within 14 days from the date of receipt of the notice of such appointment.
- 6.5. While appointing any arbitrator(s), the Council shall have reasonable due regard to the complexity of the dispute and the nature of the technicalities or subject matter involved, the jurisdictions and nationalities of the parties involved in the dispute and any such other aspect which might have a bearing on the conduct of the arbitration.
- 6.6. The Council shall reasonably consider such other circumstances which ensure the appointment of an independent, impartial and a neutral arbitrator, by taking assistance from the Registrar and also by collecting such additional information from the parties to conduct a conflict-check.
- 6.7. The Council shall endeavour to appoint the arbitrator without any undue delay and by duly taking into account all the circumstances surrounding the dispute and the communications from all the parties.
- 6.8. **Sole Arbitrator:**
- a. Where a sole arbitrator has to be appointed, either party may propose the name of one or more persons, to be appointed as sole arbitrator and if both parties jointly nominate a person, the appointment shall be made under Rule 6.2.

- b. Subject to Rule 6.8(c), if the parties fail to agree on the nomination of Sole Arbitrator within 21 days, from the date of commencement of Arbitration, or within the period otherwise agreed by the parties or set by the Registrar in its discretion, or if at any time either party so requests, the Council shall appoint the Sole Arbitrator.
- c. If there are more than two parties in the arbitration, the joint nomination of Sole Arbitrator has to be agreed by all the parties within a period of 28 days from the date of commencement of Arbitration, or within the period otherwise agreed by the parties or set by the Registrar in its discretion. If the parties fail to nominate within such period, or if at any time either party so requests, the Council shall appoint the Sole Arbitrator

6.9.

Three Arbitrators:

- a. If three arbitrators are to be appointed, unless parties have agreed otherwise, each party shall nominate one arbitrator.
- b. Subject to Rule 6.9(e), if a party fails to make a nomination for an arbitrator within 14 days, after receipt of a party's nomination of an arbitrator, or within the period otherwise agreed by the parties or set by the Registrar in its discretion, the Council shall proceed to appoint the arbitrator, on its behalf.
- c. If the parties have agreed on the procedure for appointment of third arbitrator, such party or parties or third-party including their nominated arbitrators, shall nominate the third arbitrator, within such period as is agreed upon by the parties or set by the Registrar. The Council shall appoint such nominated person as the third arbitrator, in its discretion and so appointed third arbitrator shall be the presiding arbitrator.
- d. If the nomination for third arbitrator is not made within the period as agreed upon by the parties or set by the Registrar, or where no procedure is agreed upon by the parties, the Council shall proceed with the appointment of the third arbitrator, who shall be the presiding arbitrator.
- e. If there are more than two parties in the arbitration, the claimants shall jointly nominate one arbitrator and the Respondents shall jointly nominate one arbitrator and the third arbitrator shall be appointed under Rule 6.9 (c) & (d). In absence of both such joint nominations having been made within a period of 28 days from the date of commencement of Arbitration, or within the period otherwise agreed upon by the parties or set by the Registrar in its discretion, the Council shall appoint all the three arbitrators and shall designate one of them to be the presiding arbitrator.

6.10.

In case parties agree to appoint a Tribunal consisting of two or more than three arbitrators and unless parties have agreed otherwise, the procedure to appoint such Tribunal shall be decided by the Registrar in its discretion and the appointment shall be made following such procedure.

6.11.

The Council may appoint arbitrator(s) under these Rules under the following circumstances:

- a. All such Arbitrations which are expressly agreed upon by the parties to a contract to be governed by these Rules of HAC;

- b. All such Arbitrations, (*ad-hoc* or otherwise) for which the parties have voluntarily approached HAC for the appointment of the arbitrator;
- c. All such Arbitrations where the parties approach HAC for appointment of a Presiding Arbitrator;
- d. HAC is designated or appointed by the Supreme Court or High Court of any state, as the case may be, as the 'appointing authority' for all such applications under sub-section (4), (5) & (6) of section 11 of the Indian Arbitration & Conciliation Act, 1996, as amended from time to time or where Supreme Court or any High Court or such other authority request HAC to appoint or suggest names of such persons to be appointed as arbitrator(s) or a presiding arbitrator.

7. General Provisions

- 7.1. Every arbitrator, at all times, shall remain independent, impartial and neutral. For the purpose of these Rules, at the time of appointment of an arbitrator, HAC draws its guidance from "The Fifth & Seventh Schedules" of the Indian "Arbitration & Conciliation Act, 1996" and the prevalent guidelines or principles on Conflicts of Interest in international arbitration.
- 7.2. When a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. An arbitrator, from the time of his or her appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties and the other arbitrators unless they have already been informed by him or her of these circumstances.
- 7.3. Before appointment or confirmation, a prospective arbitrator shall sign a statement of acceptance, availability, impartiality and independence in the form prescribed by HAC. In this statement, the prospective arbitrator must disclose any facts or circumstances which may give rise to justifiable doubts as to his impartiality or neutrality or independence.
- 7.4. During the arbitration, an arbitrator shall immediately disclose to the Secretariat and to the parties, any circumstances which may arise at any time during the arbitration which may give rise to justifiable doubts as to his impartiality or neutrality or independence.
- 7.5. No party or anyone acting on its behalf shall, at any time, have any independent or autonomous ex-parte communication relating to the case with any candidate for appointment as arbitrator, except for the purpose of obtaining information about his credentials or qualifications as to the suitability of such candidate to be appointed as an arbitrator or a presiding arbitrator.
- 7.6. No party or anyone acting on its behalf shall, at any time, have any independent or autonomous ex-parte communication relating to the case with any arbitrator once appointed. A copy of all communications shall be sent to all the parties concerned, all the arbitrators and the Secretariat.
- 7.7. By accepting to serve as arbitrators, the arbitrators undertake to carry out their responsibilities in accordance with the Rules and conduct themselves at all times in an impartial and neutral manner.

8. Challenge to the Appointment of Arbitrators

- 8.1. A Party to the arbitration can challenge the appointment of arbitrator(s) in writing to the Secretariat, on the grounds that such circumstances exist which raise doubts on the independence, impartiality and neutrality of the arbitrator(s) so appointed.
- 8.2. Such a challenge shall be made in writing to the Secretariat, through a Notice containing the specific facts and circumstances basing on which the challenge is made. Thereafter, the Secretariat shall issue notices to all the parties of the arbitration and the arbitrator(s) about the said challenge.
- 8.3. The party making the challenge shall pay the requisite challenge fee in accordance with the Schedule of fees, within the time limit decided by the Registrar. If the challenging party fails to pay the requisite fee within the said time limit, the challenge shall be deemed to have been withdrawn by the challenging party.
- 8.4. Once a notice under clause 8.2 has been received by the Secretariat, and the requisite fee is paid under Clause 8.3 by the challenging party, the Registrar may keep the arbitration proceedings in abeyance, until the challenge is resolved and shall communicate the same to the parties.
- 8.5. For a challenge to be admissible, it must be submitted by a party either within 14 days from receipt by that party of the notification of the appointment or confirmation of the arbitrator, or within 14 days from the date when the party making the challenge, came to know or should have reasonably known about the facts and circumstances on which the challenge is based.
- 8.6. The Council shall decide on the admissibility and at the same time, if necessary, on the merits of a challenge after affording an opportunity to the arbitrator concerned, the other party/parties and any other members of the arbitral tribunal to submit their comments in writing within a suitable period of time. Such comments shall be communicated to the parties and to the arbitrators.
- 8.7. The Council's decision made under this Rule shall be final and binding on the parties.
- 8.8. Where the challenge is made by one party and such a challenge is agreed to by the other party /parties the Council shall then remove such challenged arbitrator. The challenged arbitrator may also withdraw voluntarily from his office. However, neither case implies acceptance of the validity of any of the grounds for the challenge. In event of such removal or withdrawal, the Council shall replace such arbitrator in accordance with the provisions of Rule 9.

9. Replacement of Arbitrators

- 9.1. An arbitrator shall be replaced upon –
- a. Death; or
 - b. The receipt of a unanimous written request from all the parties to the arbitration for the removal of an arbitrator; or
 - c. The challenge of an arbitrator's appointment is accepted by the Council; or
 - d. Removal of arbitrator in accordance with the Rules, or
 - e. An arbitrator resigns from his appointment.

- 9.2. A substitute arbitrator shall be appointed by the Council in accordance with Rule 6 & Rule 7.
- 9.3. If in the event, it is discovered by the Secretariat or an application is made by any of the party /parties, that the arbitrator is not conducting himself impartially or independently or it is determined by the Secretariat that the arbitrator is not discharging his functions in accordance with the present Rules or within the prescribed time limits or such circumstances have arisen due to which the arbitrator may be disqualified to participate in the arbitration proceedings, a Notice in writing along with such relevant material giving rise to such a doubt, will be issued to the arbitrator concerned and the parties and any other members of the arbitral tribunal, to submit their comments on the issue in writing. A reference of the said issue shall be made to the Council for its determination in accordance with Rule 9.4 & 9.5.
- 9.4. After affording an opportunity to the arbitrator concerned and the parties and any other member of the arbitral tribunal, the Council may remove such arbitrator and the decision of the Council shall be final and binding.
- 9.5. Thereafter, a Notice will be issued by the Secretariat to all the parties and any other members of the arbitral tribunal giving an opportunity to the parties to nominate or suggest a name for the substitute arbitrator and if such a right is not exercised by the party /parties within 14 days from the date of receipt of such notice, the Council shall appoint the substitute arbitrator at its sole-discretion.
- 9.6. If a 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.

IV. EXPEDITED PROCEDURE & INTERIM RELIEF

10. Expedited Procedure

- 10.1. Prior to the constitution of the Tribunal, any party may apply in writing to the Secretariat by filing Form A4, for conducting the arbitral proceedings in an expedited manner as per the procedure contemplated under Rule 10.5.
- 10.2. The said application (preferably through electronic mode of communication) shall clearly set out the detailed grounds for invoking urgency requiring the expedited formation of a tribunal and conducting the proceedings in an expedited manner. A copy of such request/application shall be sent to the other party /parties to the arbitration and the requesting party shall specify to the secretariat about the mode of service employed and the date of service.
- 10.3. The Secretariat shall forward the said request to the Council, which shall expeditiously consider if any of the following criteria is satisfied:

- a. The parties to the arbitration have agreed in writing for an expedited procedure in conducting the arbitral proceedings;
 - b. The aggregate of the claim, counter-claim and any set-off amount in the dispute (as per the Request for Arbitration and the Response to the Request for Arbitration) does not exceed the value of ₹.10,00,00,000/- (Rupees Ten Crores only), in case of Domestic Arbitration and US \$ 5,000,000 in case of International Commercial Arbitration;
 - c. There exists an exceptional urgency.
- 10.4. The Council, after giving parties an opportunity to be heard and after considering the circumstances of the case, may determine if the expedited procedure shall be applicable to the arbitral proceedings. Such a decision of the Council shall be binding on the parties and the same shall be promptly notified by the Secretariat to the parties.
- 10.5. An arbitration under the expedited procedure shall be conducted in the following manner:
- a. Notwithstanding any agreement between the parties to the contrary, and unless otherwise determined by the Council, an Arbitral Tribunal consisting of a Sole Arbitrator shall be constituted;
 - b. The time limits applicable to the arbitration under these Rules may be shortened by the Registrar, which shall be duly notified to the parties and the Tribunal;
 - c. The Parties may agree in writing or the Tribunal may, in consultation with parties, determine that the dispute shall be decided on the basis of written pleadings, documents and submissions filed by the parties without any oral hearing. If parties agree or Tribunal determined to have no oral hearing, the tribunal shall have the power to call for any further information or clarification from the parties in addition to the pleadings and documents filed by them.
 - d. The Tribunal may determine to have an oral hearing, if, all the parties make a request or if the Tribunal considers it necessary to have oral hearing for clarifying certain issue and may adopt such procedure as deemed appropriate for expeditious disposal of the case.
 - e. The Parties may also agree in writing that the Tribunal need not state reasons in the Award or that the Tribunal shall pass an award by stating reasons in a summary form.
 - f. The Tribunal shall render the award within 6 months from the date of its constitution; in such exceptional circumstances, and on a request made by the parties, the Registrar may extend the timelines.
- 10.6. Notwithstanding any terms of the agreement between the parties to the contrary, by agreeing to arbitration under HAC Rules, the parties also agree to the procedure prescribed in Rule 10.5, if arbitral proceedings are conducted in accordance with the Expedited Procedure under Rule 10.
- 10.7. Tribunal may, on application by either party and after giving the parties an opportunity to be heard, order that the arbitral proceedings shall no longer be conducted in accordance with the Expedited Procedure.

The Tribunal while considering such application shall have due regard to subsequent change in circumstances or any information, as may subsequently become available. Unless otherwise unanimously requested by the parties, the arbitration shall continue to be conducted by the same Tribunal, that was already constituted to conduct the arbitration proceedings in an expedited manner.

11. Emergency Interim Relief

- 11.1. A party in need of emergency interim relief may, at the time of or prior to the filing of a 'Request for Arbitration', but prior to the constitution of the Tribunal, make an application for emergency interim relief with the Secretariat, as follows:
- a. The party shall submit an Application to the Secretariat, in Form A3, describing the nature of the interim relief sought and the reasons why such relief is required on an emergency basis.
 - b. The Application shall also set forth the reasons as to why the party applying is entitled for such an interim relief.
 - c. Such an Application shall be accompanied by a statement, certifying that all other parties to the arbitration have been notified or an explanation of the steps taken in good faith to notify other parties.
 - d. The Application shall also be accompanied by payment of fees as prescribed under these Rules.
- 11.2. The Secretariat shall forward the said request to the Council, which shall expeditiously decide the said Application. The Council's decision on such application shall be final and binding on parties. Once the said application is accepted, the Emergency Arbitrator shall be appointed by the Council within one business day from the date of such decision.
- 11.3. The Emergency Arbitrator shall be appointed as per the Rule 6 & Rule 7.
- 11.4. Prior to accepting the appointment, a prospective Emergency Arbitrator shall disclose in writing to the Registrar, any circumstances that may give rise to justifiable doubts as to his impartiality or independence.
- 11.5. Any challenge to the appointment of the Emergency Arbitrator, must be made, within one business day from the communication by the Registrar to the parties of the appointment of the Emergency Arbitrator.
- 11.6. The Emergency Arbitrator shall within two business days from his/her appointment, establish a schedule for consideration of the application for emergency relief. Such schedule shall provide a reasonable opportunity to all parties to be heard but may provide for proceedings by telephonic conference or on written submissions 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 resolve any disputes over the application.
- 11.7. The Emergency Arbitrator shall have the power to award any interim relief that he deems appropriate and necessary including preliminary orders that may be made pending any hearing, telephone or video conference or written submissions by the parties. The Emergency Arbitrator shall give summary reasons

for his decision in writing. The Emergency Arbitrator may modify or vacate the preliminary order, Interim order or Interim Award for good cause.

- 11.8. The interim award shall be passed by the Emergency Arbitrator within 14 days from the date of his/her appointment. The said timeline may be extended by the Registrar, on such extraordinary circumstances.
- 11.9. An interim award passed by the Emergency Arbitrator shall be binding on the parties when rendered. By agreeing to arbitration under these Rules, the parties undertake to comply with such an order or award without delay and they hereby voluntarily undertake to waive their rights to prefer any form of appeal before any court, except in such jurisdictions where such a waiver is not valid.
- 11.10. The Emergency Arbitrator shall have no further power to act after the Tribunal is constituted. The Tribunal may reconsider, modify or vacate the interim award or order of emergency relief issued by the Emergency Arbitrator. The Tribunal is not bound by the reasons given by the Emergency Arbitrator. Any order or award issued by the Emergency Arbitrator shall, in any event, cease to be binding if the Tribunal is not constituted within 90 days of such order or award or when the Tribunal makes a final award or if the claim is withdrawn.
- 11.11. The costs associated with any application under this Rule shall initially be apportioned between the parties by the Emergency Arbitrator, subject to the power of the Tribunal to determine finally the apportionment of such costs.
- 11.12. Unless otherwise agreed to by the parties, the Emergency Arbitrator shall not be appointed as the arbitrator in the regular arbitration proceedings.

12. Interim Measures & Additional Powers to the Tribunal

- 12.1. On an application made by a party, the arbitral tribunal may, order any interim relief or a conservatory (protective) measure, on such conditions or furnishing of any security by the party so applying, as it may deem appropriate and proper in the circumstances of the case.
- 12.2. Where permitted under such applicable law, a party may apply to any court or other judicial authority, as the case may be, for interim relief or a conservatory (protective) measure. Any such application is permissible solely to the extent that the Tribunal is not constituted or such power is not expressly vested with the tribunal or the tribunal is unable, for the time being, to act effectively. After the formation of the Tribunal, the party making such application before a court or judicial authority shall promptly communicate the making of such application and any interim relief so granted for such measures, to the Tribunal and to all other parties.
- 12.3. In addition to the powers specified in these Rules, including but not limited to the powers specified under Rule 12.1 and subject to applicable law, the Tribunal shall have the power to –
 - a. order preservation, storage, sale or disposal of any property or items, which is or forms part of the subject-matter of the dispute.
 - b. order any party to provide security for all or part of any amount in dispute of arbitration;

- c. decide, where appropriate, any issue not expressly or impliedly raised in the submissions of a party, provided such issue has been clearly brought to the notice of other party and the other party has been given adequate opportunity to respond.
- d. direct any party to take or refrain from taking actions to ensure that any Award which may be made in arbitration is not rendered ineffectual by the dissipation of asset by a party or otherwise.
- e. issue an order or Award for the reimbursement of unpaid deposits towards the cost of arbitration.
- f. order any party to provide security for legal and other costs, in any manner Tribunal thinks fit.
- g. determine any claim of legal or other privilege

13. Arb-Med-Arb Procedure

- 13.1. A party wishing to commence an arbitration under Arb-Med-Arb Protocol shall submit the request to the Secretariat, in form and manner as prescribed in these Rules under "Appendix 4".

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## **V. CONSOLIDATION AND JOINDER**

### **14. Joinder / Impleading of Additional Parties**

- 14.1. Prior to the constitution of the Tribunal, any party or a non-party may file an application before the Secretariat to join one or more additional party /parties to the arbitration proceedings pending under these rules, provided –
- a. All the parties to the arbitration proceedings and such additional party have agreed to the joinder, or
  - b. Such additional party is *prima facie* bound by the arbitration agreement.
- 14.2. The requesting party shall submit a 'Request for Joinder' in writing to the Secretariat, and a copy of such request shall be duly served by the requesting party on all the parties to the arbitration and also on such additional party.
- 14.3. Such a 'Request for Joinder' shall contain the following information:
- a. The case reference of the existing arbitration;
  - b. The name in full, description, address and other contact details of each of the parties, including the additional party; and
  - c. Whether the additional party is to be joined as a claimant or respondent.
  - d. The information specified in Rule 4.1; where applicable.
  - e. A brief statement regarding the legal necessity for the joinder; as to why the additional party needs to be made a party to the arbitration proceeding; and a brief description of the nature of claims advanced against or in favour of such additional party.
- 14.4. 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.

- 14.5. The other parties, including the additional party shall submit its answer / response in accordance, *mutatis mutandis*, with the provisions of Rule 5. The additional party may make claims against any party to the arbitration proceedings or vice-versa, in accordance with the provisions of Rule 18.
- 14.6. The Council shall, after considering the views of all the parties, including the additional party proposed to be joined, and having regard to the circumstances of the case, decide whether to allow or reject the said request for joinder, either wholly or in part.
- 14.7. The Council's decision to allow the request for joinder, is without prejudice to the power of the Tribunal, constituted subsequently, to decide any question as to its jurisdiction arising from circumstances prevailing upon the joinder of such additional party /parties. In the event, the Council decides to reject the request for joinder, the same shall be without prejudice to any party's or non-party's rights to subsequently apply for joinder before the Tribunal so constituted.
- 14.8. Consequent upon the allowing of a request for joinder, the Council may revoke the appointment of an arbitrator, who was appointed prior to the decision on joinder. In the event of such revocation of the tribunal or members of the tribunal, the timelines contemplated under these rules shall commence from the date on which the decision of the Council on joinder, is received by the parties.
- 14.9. After the constitution of the Tribunal, any party or non-party to the arbitration may file an application before the Tribunal (or before the Registrar where appropriate) to join one or more additional party /parties to the arbitration proceedings pending under these rules, provided –
- a. All the parties to the arbitration proceedings and such additional party have agreed to the joinder, or
  - b. Such additional party is *prima facie* bound by the arbitration agreement.
- 14.10. Subject to the specific directions of the Tribunal, the provisions of Rule 14.3 shall apply *mutatis mutandis* to an application for joinder before the Tribunal under Rule 14.9.
- 14.11. The Tribunal shall, after giving an opportunity to all the parties (including the additional party) to be heard and having regard to the circumstances of the case, decide whether to allow or reject the said application for joinder, either wholly or in part. The Tribunal's decision to allow an application for joinder is without prejudice to the power of the Tribunal, to decide any question as to its jurisdiction arising from its decision on the joinder of such additional party /parties. The Tribunal shall immediately submit a copy of its decision on the application for joinder, to the Secretariat.
- 14.12. In the event, an application for joinder is allowed by the Council or the Tribunal, as the case may be, the date of receipt of a complete application for joinder shall be the date upon which the arbitration is deemed to have commenced under these rules in respect of the additional party.
- 14.13. Where joinder of additional party is allowed by the Council under Rule 14.6, such additional party, who has not participated in nomination and appointment of the tribunal, may participate in the nomination of the Arbitral Tribunal in accordance with Rule 6; and in such scenario, the respective timelines shall run from the date on which the decision by the Council on joinder is received by the parties.

- 14.14. Where the joinder of additional party is allowed by the Arbitral Tribunal under Rule 14.11, any party who has not participated in the nomination and appointment of the Arbitral Tribunal, shall be deemed to have waived its right to nominate or participate in the appointment of the Tribunal, without prejudice to its right to challenge the appointment of an arbitrator in accordance with Rule 8.
- 14.15. In the event of allowing an application for joinder, the requisite filing fee shall be payable for any additional claims or counterclaims, under these Rules.

## **15. Consolidation of Arbitrations**

- 15.1. Prior to the constitution of any Arbitral Tribunal, a Party to an Arbitration under these rules, may make a request to the Secretariat, to consolidate two or more arbitrations pending under these Rules into a single arbitration, provided that:
- a. All the parties agree to the consolidation; or
  - b. All the claims in the arbitrations are made under the same arbitration agreement; or
  - c. The arbitration agreements are compatible, and
    - i. the disputes arise out of the same transaction or a series of transactions; or
    - ii. the disputes arise either between the same parties or out of the same legal relationship; or
    - iii. the disputes arise out of a principal contract and its supplementary / ancillary contract(s);
- 15.2. The 'Request for Consolidation' shall contain the following information:
- a. The case reference of the existing arbitrations;
  - b. The name in full, description, address and other contact details of each of the parties in all the existing arbitrations; and
  - c. The information specified in Rule 4.1; where applicable.
  - d. A brief statement regarding the purpose and need to consolidate two or more arbitrations.
- 15.3. The party making the request for consolidation shall file the same before the Secretariat with a confirmation that the copies of 'request for consolidation' have been duly served on all the parties in all the arbitrations.
- 15.4. The Council shall, after giving an opportunity to all the parties to be heard and having due regard to the circumstances of the case and relevant factors, take a decision on such request to consolidate.
- 15.5. The decision of the Council to allow a request for consolidation, either wholly or in part, shall be without prejudice to the power of the arbitral tribunal to decide on the question of jurisdiction. Any such arbitration(s), which is/are not consolidated, shall be continued as separate arbitration under these Rules.

- 15.6. Unless otherwise agreed by the parties or unless otherwise decided by the Council, having regard to the circumstances of the case, in the event a request for consolidation of two or more arbitrations is allowed by the Council, the arbitrations shall be consolidated into the arbitration that is deemed by the Registrar to have commenced first; for this purpose, the date of "Request for arbitration" shall be taken into consideration.
- 15.7. Consequent upon the allowing of a request for consolidation, the Council may revoke the appointment of an arbitrator, who was appointed prior to the decision on consolidation. In the event of such revocation of the tribunal or members of the tribunal, the fresh appointment shall be done in accordance with Rule 6 & Rule 7, unless otherwise agreed upon by the parties, and the timelines contemplated under these rules shall commence from the date on which the decision on consolidation, was received by the parties.
- 15.8. After the constitution of Tribunal(s), a Party to an Arbitration under these rules, may file an application before the Tribunal, to consolidate two or more arbitrations pending under these Rules into a single arbitration, provided that –
- a. All the parties in such arbitrations, agree to the consolidation; or
  - b. All of the claims in the arbitrations are made under the same arbitration agreement and the same Tribunal has been constituted in each of those arbitrations or no Tribunal has been constituted in other arbitration(s); or
  - c. The arbitration agreements are compatible, and the same Tribunal has been constituted in each of those arbitrations or no Tribunal has been constituted in other arbitration(s) and –
    - i. the disputes arise out of the same transaction or a series of transactions; or
    - ii. the disputes arise either between the same parties or out of the same legal relationship; or
    - iii. the disputes arise out of a principal contract and its supplementary / ancillary contract(s);
- 15.9. Subject to any specific directions of the Tribunal, the provisions of Rule 15.2 shall *mutatis-mutandis* apply to an application for consolidation under Rule 15.8.
- 15.10. The Tribunal shall, after giving an opportunity to all the parties to being heard and having due regard to the circumstances of the case and the relevant factors, decide upon the application for consolidation. The Tribunal shall immediately submit a copy of its decision on the application for consolidation, with Secretariat.
- 15.11. The Tribunal's decision to allow an application for consolidation shall be without prejudice to its power to subsequently decide any question as to its jurisdiction arising from the circumstances of consolidation. Any arbitrations that are not consolidated shall continue as separate arbitrations under these Rules.
- 15.12. Consequent upon the allowing of a request for consolidation, the Council may revoke the appointment of an arbitrator, who was appointed prior to the decision on consolidation. In the event of such revocation of the tribunal or members of the tribunal, the fresh appointment shall be done in accordance with Rule

6 & Rule 7, unless otherwise agreed upon by the parties; and the timelines contemplated under these rules shall commence from the date, on which the decision on consolidation, was received by the parties.

- 15.13. The revocation of the appointment of an arbitrator under Rule 15.12 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 his fees and expenses to be paid subject to the Schedule of Fees; or
  - c. the date when any claim or counterclaim was made (or raised) for the purpose of applying any bar of limitation.
- 15.14. 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.
- 15.15. In the event the Tribunal allows an application for consolidation, any party who has not nominated an arbitrator or otherwise participated in the constitution of the Tribunal shall be deemed to have waived its right to nominate or participate in the constitution of the Tribunal, without prejudice to its right to challenge the appointment of an arbitrator under Rule 8.
- 15.16. The Council's or Tribunal's decision on application for consolidation shall be final and binding on the parties.
- 15.17. Registrar may suitably adjust the Administrative Fees and the Tribunal's fees (where appropriate) after a decision to consolidate has been made. Such decision of the Registrar regarding such adjustment shall be final and binding on the parties.

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## **VI. PLEADINGS**

### **16. Statement of Claim**

- 16.1. Unless already submitted along with the Request for Arbitration, pursuant to Rule 4.1, the Claimant shall, within a period as determined by the Tribunal at the preliminary procedural meeting, serve upon the Tribunal, Secretariat and the Respondent(s), a Statement of Claim with the relief being claimed, together with the amounts of all quantifiable claims.
- 16.2. The Claim Statement shall set out in detail, the facts and legal grounds supporting the claim.
- 16.3. The Claim Statement shall also be annexed with all such documents that the Claimant intends to rely upon in support of its claim. If, so determined by the Tribunal at the procedural meeting, the Claimant shall also file a statement of witnesses, that the Claimant intends to produce before the Tribunal.

### **17. Statement of Defence**

- 17.1. Unless already submitted along with the Response, pursuant to Rule 5.1, upon receipt of the Claim Statement and the annexures, the Respondent shall, within a period as determined by the Tribunal at the

preliminary procedural meeting, serve upon the Tribunal, Secretariat, Claimant and all other Respondents (if any), a Statement of Defence, setting out in detail the facts, contentions and legal grounds on which the Respondent relies.

17.2. The Statement of Defence shall also be annexed with all the supporting documents and statement of witnesses, if so determined by the Tribunal at the procedural meeting.

17.3. Any request for extension of time for submitting the Statement of Defence, may be made by the Respondent in writing and the Tribunal may extend the time by another 15 days. Any further extension shall not be granted by the Tribunal, unless such a request is due to exceptional circumstances. Such extension will be at the sole discretion of the Tribunal which may be granted on conditions including the payment of costs.

17.4. If the Respondent fails to submit its Statement of Defence within the time granted by the Tribunal (including the extension, if any), the Tribunal may proceed with the arbitration.

## **18. Counterclaim**

18.1. Along with the Statement of Defence, the Respondent may submit any counterclaim to the Tribunal, by duly serving the same upon the Secretariat, Claimant and all other Respondents (if any).

18.2. The Counterclaim shall be submitted along with the Statement of Defence and duly annexed with all the supporting documents and statement of witnesses, if so determined by the Tribunal at the procedural meeting.

18.3. Upon the filing of any Counterclaim, the Claimant shall, within a period as determined by the Tribunal at the procedural meeting, serve upon the Tribunal, Secretariat and the Respondent(s), a Statement of Defence to the Counterclaim filed by the Respondent, setting out in detail the facts, contentions and legal grounds on which the Claimant relies.

18.4. If the Claimant fails to submit its Statement of Defence to the Counterclaim within the time granted by the Tribunal, the Tribunal may proceed with the arbitration.

## **19. Pleadings in General**

19.1. All the pleadings submitted by any party, and the documents annexed thereto, shall be supplied in such number of copies sufficient to provide one copy for each party, plus one for each arbitrator in the Tribunal and one for the Secretariat for its record.

19.2. After the Statement of Claim and Statement of Defence(s) are filed by the respective parties, the Tribunal shall decide suo-moto or on a request by any party, whether further pleadings are required from the parties. The Tribunal shall fix time limits for filing of such additional/further pleadings, if any. The Tribunal may further limit the length and scope of the written pleadings and also may limit the number of oral-witnesses (both factual witnesses and experts).

19.3. Upon an application, a party may be permitted to amend or modify its claim or counterclaim or other pleadings in general; by the Tribunal, as it may deem appropriate, having due regard to the laches and the

belated stage at which the application was made and if any prejudice to the other party shall be caused or any other circumstances.

- 19.4. If the claim or counterclaim is amended, the Registrar may revise the Tribunal's fee and the fee of HAC, if applicable.

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## **VII. ARBITRAL PROCEEDINGS**

### **20. Conduct of Proceedings**

- 20.1. The Arbitral Tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are given equal opportunity to present their case at all stages. Without prejudice to the generality of its powers, the Arbitral Tribunal shall follow the procedures which ensure the avoidance of unnecessary delay and expense and further ensure fair and equal treatment of the parties. As such, except where the arbitral tribunal decides to proceed ex-parte, the parties shall be afforded with an equal and reasonable opportunity to present their case and the time frames as set out in these rules and as determined by the Tribunal shall be respected.
- 20.2. Once the Tribunal has been constituted, for the effective case management, the Tribunal will hold a preliminary meeting / hearing with all the parties, to discuss and determine the time frames for submitting the pleadings, fixing the date for oral hearings etc. and the procedures which shall be most appropriate and efficient for the case. As such, the Tribunal may extend or shorten any time limits provided under Chapters VI & VII of these Rules.
- 20.3. During the said preliminary procedural meeting, the Tribunal shall establish a schedule / timetable for the arbitration that shall be followed by the parties. The said schedule of arbitration shall prescribe the time limits for each step of the arbitration till the closure i.e. passing of the final award. The schedule / timetable so agreed upon and fixed between the parties shall be duly communicated in writing to the parties and the Registrar.
- 20.4. The Tribunal, in consultation with the parties, may adopt further procedural measures or modify the schedule / timetable to ensure effective case management. Any modification of the schedule / timetable shall be duly communicated in writing to the parties and the Registrar.
- 20.5. 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 order or Interim Award or to attend any meetings or hearings and may impose such sanctions, as the Tribunal deems appropriate in such circumstances.
- 20.6. The Tribunal shall endeavour to render its final award as expeditiously as possible and where the applicable law requires, within such time as stipulated in applicable law.
- 20.7. 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 enforceable in accordance with the law of the seat of Arbitration.

## 21. Jurisdiction

- 21.1. Even before the Tribunal is constituted, if a party objects to the existence of a valid arbitration agreement, or to the competence of HAC to administer the said arbitration, without prejudice to the power of the Tribunal to rule on its own jurisdiction, the Registrar, may by itself or in consultation with the Council decide, if it is prima facie satisfied that a valid arbitration agreement under the Rules exists. If the Registrar is not satisfied, the proceedings shall be terminated.
- 21.2. The Tribunal shall have the power to rule on its jurisdiction & authority, including any objections with respect to the existence, termination or validity of the arbitration agreement or scope of its authority.
- 21.3. A challenge to the jurisdiction of the Tribunal shall be raised no later than in the Statement of Defence or in a Statement of Defence to the Counterclaim and any failure by a party to raise such a jurisdictional objection by then, shall be treated as an express waiver of that objection/challenge. 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.
- 21.4. A challenge referred to in Rule 21.3 may be considered and decided by the Tribunal as a preliminary question / issue or in the Final Award.

## 22. Applicable Law

- 22.1. The Arbitral Tribunal shall apply the law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the Arbitral Tribunal shall apply the law determined by the conflict of laws and rules, which it considers applicable.
- 22.2. The Tribunal, if the parties expressly agree in writing, shall decide the dispute as "*amiable compositeur*" or "*ex aequo et bono*"; whereby the Tribunal is vested with an authority to decide the dispute according to the principles of equity and good conscience or to take a decision as per the trade practices and usage or to give effect to the intentions of the parties as gathered from the circumstances so surrounding the dispute, giving preference to the literal meaning to the words incorporated in the contract.

## 23. Hearings

- 23.1. If the parties so request or the Tribunal so decides, the Tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses or for oral arguments / pleadings on the merits of the dispute, including, but not limited to any issue as to the jurisdiction. In the absence of such a request, the Arbitral Tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.
- 23.2. Notwithstanding Rule 23.1, the parties may mutually agree to have a documents-only arbitration; where the Tribunal shall pass the final award by referring to the documentary evidence relied upon by the parties to the arbitration.
- 23.3. The Tribunal may at any time during the proceedings, if it considers appropriate, require the parties, in consultation with the Tribunal, to prepare an agreed list of issues to be determined by the Tribunal.

- 23.4. The Tribunal may direct the parties to answer or argue any specific issue, in advance to the hearing of the remaining issues.
- 23.5. The Tribunal shall fix a date, time and place for any hearing and duly communicate the same to the parties in advance. If any party fails to appear on such date for the hearing without showing sufficient cause for such failure, the Tribunal may proceed with the Arbitration and make the award based on the pleadings and evidence before it.
- 23.6. Unless otherwise agreed by the parties, all the meetings and hearings under these Rules shall be held in private and the recordings, transcripts, documents or other materials used shall be confidential.

## **24. Witnesses**

- 24.1. The Parties, if they wish to produce any witnesses for recording of oral testimony in the subject matter, shall provide a list of the said witnesses, including expert witnesses, in advance, duly served upon the Parties and the Tribunal. The said list shall contain, in detail, the identity and credentials (in case of expert witnesses) of the said witnesses and a brief statement regarding the relevance of their testimony to the issues involved.
- 24.2. The Tribunal shall have the discretion to allow, refuse or limit the appearance of the witnesses.
- 24.3. The procedure for the examination of the witnesses, including the submission of their written affidavit / statements, shall be determined by the Tribunal, unless otherwise agreed upon during the preliminary procedural meeting.
- 24.4. As a general practice, the Tribunal may permit the parties or their representatives to interview any witness, that may be presented by that party, prior to his/her appearance to give their oral testimony.

## **25. Expert Witnesses Appointed by the Tribunal**

- 25.1. Unless otherwise agreed by the parties, the Tribunal may appoint an expert to render his/her opinion on such issues in writing. Such an appointment of an expert witness shall be made by the Tribunal in consultation with the parties.
- 25.2. Upon the appointment of an expert by the Tribunal, it may direct the parties to provide relevant information and to provide access to any relevant material, goods or property for inspection.
- 25.3. The expert so appointed shall submit his views in writing and submit a report to the Tribunal; a copy of which shall be duly supplied to each party to the arbitration for their written comments.
- 25.4. After the receipt of the report of such expert, the parties shall have an opportunity to examine him during any hearing.
- 25.5. The costs towards the appointment of the said expert, shall be apportioned by the parties, unless otherwise agreed upon.

## **26. Evidence**

- 26.1. Unless otherwise specifically agreed between the parties, the Tribunal shall not be bound to apply any rules of evidence and the Tribunal is at liberty to adopt any procedure to determine the admissibility, relevance and weight of any evidence.
- 26.2. In addition to the powers specified in these Rules, and subject to the rules of law applicable to the arbitration, the Tribunal shall have the power including but not limited 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; and
  - 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.

## **27. Language**

- 27.1. Unless otherwise agreed by the parties, the language of the arbitration will be the language of the arbitration agreement.
- 27.2. In all other circumstances (including a bi-lingual Contract), the Tribunal, upon its constitution, having regard to the proposals of the parties either in their request for arbitration or the response to the request for arbitration, shall determine the language in which the arbitration proceedings shall be conducted.
- 27.3. If the parties so request, the Tribunal may decide to use more than one language in the arbitration proceedings. As such, the parties may then be required to make arrangements for engaging the services of a translator; the costs therewith shall be borne by the party engaging the translator.
- 27.4. If a document submitted to the Tribunal is in any other language other than the language of the arbitration, the party so submitting the said document, shall be required to submit a translation to the Tribunal.
- 27.5. Prior to the constitution of the Tribunal, if a document is submitted by a party to HAC, is in a language other than English, the Registrar may require the party to submit a translation in English of such document.

## **28. Seat of Arbitration**

- 28.1. Unless otherwise agreed upon by the parties in the arbitration agreement, or unless otherwise determined by the Tribunal, the seat of arbitrations governed under these rules shall be Hyderabad, India.
- 28.2. Notwithstanding what has been stated in Rule 28.1, the parties are free to choose a seat of arbitration and failing an agreement between the parties, the Tribunal may determine the seat of arbitration, having regard to the circumstances of the case.

- 28.3. The Tribunal may hold hearings or meetings by any means, including electronic mode of communication, at any location it considers convenient or appropriate.

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## **VIII. ORDERS AND AWARDS**

### **29. Making of an Award**

- 29.1. The Tribunal may inquire with the parties, if they have any further proof to offer or witnesses to be heard or submissions to be made; and if there are none, it may declare the hearings closed.
- 29.2. The arbitral tribunal may, owing to exceptional circumstances, if it considers necessary, decide on its own initiative or upon application of a party, to reopen the hearings at any time before the award is made.
- 29.3. A failure by any party to promptly object to any non-compliance with these Rules or with any requirement of the arbitration agreement shall be deemed to be a waiver of the right of such party to make such an objection, unless such party can show that under the circumstances its failure to object was justified.
- 29.4. In the case of questions of procedure, the presiding arbitrator may decide alone, subject to revision, if any, by the Tribunal.
- 29.5. Where there is more than one arbitrator, any decision of the Tribunal shall be made either unanimously or by a majority.
- 29.6. The arbitral tribunal may make separate awards on different issues at different times.
- 29.7. In the event the parties reach a settlement after the commencement of the arbitration, the Tribunal shall, if so requested by the parties, record the settlement in the form of an award made by consent of the parties. If the parties do not require a consent award, the parties shall inform the Tribunal and HAC that a settlement has been reached. The arbitration shall only be deemed concluded and the Tribunal discharged upon full settlement of the costs of arbitration.
- 29.8. Unless the parties have agreed otherwise, in addition to other powers specified in these Rules and to the extent the same is not prohibited under the applicable Law, the Tribunal shall have the power to:
- a. Award interest on any sum of money ordered to be paid by the award on the whole or any part of the period between the date on which the cause of action arose and to the date of realisation of the award; and;
  - b. Determine the rate of interest.

### **30. Form and Effect of the Award**

- 30.1. The Tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.

- 30.2. All awards shall be made in writing and shall be final and binding on the parties. The parties shall carry out all awards without delay.
- 30.3. In arbitration proceedings with more than one arbitrator, the signature of the majority of all the members of the Tribunal shall be sufficient so long as the reason for any omitted signature is stated.
- 30.4. The Award shall state the date on which it is passed and the Award shall be deemed to have been made at the seat of the Arbitration.
- 30.5. An Award may be executed in any number of counterparts, each of which is an original and all of which evidence the same Award.
- 30.6. After the Award has been made it shall be delivered to the Secretariat, which shall furnish certified copies to the parties through registered post with acknowledgment or can be handed over in-person with acknowledgment; provided that the costs have been fully paid by the party to HAC.
- 30.7. With the express permission of the parties in writing, HAC may print, publish or otherwise circulate any award passed in an arbitration governed under these Rules or administered by HAC through publication in journal, magazine, flyers, etc. for the purpose of creating arbitration jurisprudence or precedents. If required the parties' names, identities and such other details as requested by the parties will be redacted and kept private and confidential in such publication(s).

### **31. Scrutiny of the Award**

#### **31.1. Scrutiny of an International Arbitral Award**

- a. The Tribunal shall submit its draft award to the Registrar within a period of 60 days from the date on which the Tribunal declares the proceedings closed. Such time period may be extended by the Registrar on an application by the Tribunal or on the Registrar's own motion in exceptional circumstances.
- b. Within 15 days from the date of submission of the draft award by the Tribunal, the Registrar shall review the award and suggest any modifications to the form of the award and without affecting the liberty of the Tribunal in arriving at the decision, it may also draw its attention to the points of substance. The Tribunal shall have due regard to the form of the draft award as suggested by the Registrar, but it may or may not agree to the modifications suggested by the Registrar on the substance.
- c. The Tribunal shall render the Final Award within 30 days from the date the Registrar submits the reviewed draft award. Such time period may be extended by the Registrar on an application by the Tribunal or on the Registrar's own motion in exceptional circumstances.

#### **31.2. Scrutiny of a Domestic Arbitral Award**

- a. The Tribunal shall submit its draft award to the Registrar within a period of 15 days from the date on which the Tribunal declares the proceedings closed. Such time period may be extended by the Registrar on an application by the Tribunal or on the Registrar's own motion in exceptional circumstances.
- b. Within 7 days from the date of submission of the draft award by the Tribunal, the Registrar shall review the award and suggest any modifications to the form of the award and without affecting the liberty of the Tribunal in arriving at the decision, it may also draw its attention to the points of substance. The Tribunal shall have due regard to the form of the draft award as suggested by the Registrar, but it may or may not agree to the modifications suggested by the Registrar on the substance.
- c. The Tribunal shall render the Final Award within 7 days from the date the Registrar submits the reviewed draft award. Such time period may be extended by the Registrar on an application by the Tribunal or on the Registrar's own motion in exceptional circumstances.

### **32. Settlement & Termination of Proceedings**

- 32.1. If before the award is made, the parties agree on a settlement of the dispute, the Tribunal shall either issue an order for the termination of the arbitral proceedings or if requested by the parties and accepted by the Tribunal, record the settlement in the form of an arbitral award on agreed terms. The Tribunal is not obliged to give reasons for such an award.
- 32.2. If before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason other than what is stated in Rule 32.1, the Tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The Tribunal shall have the power to issue such an order unless there are remaining matters that may need to be decided and the Tribunal considers it appropriate to do so.
- 32.3. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators shall be communicated to the parties subject to the provisions of Rule 30, as applicable.

### **33. Correction & Additional Award**

- 33.1. Within 30 days after the receipt of the award, a party with notice to the other parties may request the Tribunal to correct any error in computation, any clerical or typographical error, or any error or omission of a similar nature in the award. If the Tribunal considers that the request is justified, it shall make the correction within 30 days of receipt of the request. Such request for correction and the consequential corrected award shall be duly communicated to the Registrar.
- 33.2. The Tribunal may within 30 days after the communication of the award make such corrections on its own initiative.
- 33.3. Such corrections shall be in writing and shall form part of the award. The provisions of Rule 29 & Rule 30 shall apply, as applicable.

- 33.4. Within 30 days after the receipt of the termination order or the award, a party with notice to the other parties may request the Tribunal to make an award or an additional award as to claims presented in the arbitral proceedings but not decided by the Tribunal. Such request to the Tribunal shall also be duly notified by the party making such application to the Registrar.
- 33.5. If the Tribunal considers the request for an award or additional award to be justified, it shall render or complete its award within 60 days after the receipt of the request and the provisions of Rule 29 & Rule 30 shall apply, as applicable. The Registrar may shorten or extend, if necessary, the period of time within which the Tribunal shall make the award.
- 33.6. Such corrected award or additional award, shall be submitted to the Registrar for scrutiny and Rule 31.1 (b) and (c) or 31.2 (b) and (c) shall apply accordingly. The Register may, if necessary, shorten the time-limits provided thereunder.

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## **IX. COSTS & FEES**

### **34. Costs**

- 34.1. The term "costs" includes only:
- a. The fees of the Arbitral Tribunal to be stated separately as to each arbitrator (including the Emergency Arbitrator's Fees);
  - b. The reasonable travel expenses, per diem and other expenses for the arbitrators;
  - c. The reasonable costs of expert advice and of other assistance required by the arbitral tribunal;
  - d. The reasonable travel and other expenses of witnesses to the extent such expenses are approved by the Tribunal;
  - e. The legal and other costs incurred by the parties in relation to the arbitration to the extent that the Tribunal determines that the amount of such costs is reasonable;
  - f. Charges towards the booking of venue to conduct the hearing;
  - g. The Administrative Fees and expenses of HAC;
- 34.2. The Tribunal's fees and HAC's administration fees shall be fixed by the Registrar in accordance with the Schedule of Fees in force at the time of commencement of the arbitration.
- 34.3. At the request or agreement between the parties, the Registrar may consent for determining the Tribunal's fee through any other alternative method, provided that the said alternative method is not unsuitable or inappropriate.
- 34.4. The Tribunal shall not be entitled to charge any other form of fee (sitting fee or attendance fee) except for the fees fixed by the Registrar under these Rules or as per Rule 34.2.
- 34.5. In addition to the Fee fixed by Registrar, the Tribunal is also entitled to be reimbursed by the parties of any reasonable out-of-pocket expenses necessarily incurred in the course of the arbitration.

- 34.6. The Tribunal shall specify the costs of arbitration in the final award and if it deems appropriate by way of a separate order. Unless otherwise agreed by the parties, the Tribunal shall also specify the apportionment of the costs amongst the parties in the final award in any manner it deems appropriate.
- 34.7. The Tribunal shall in the final award or if it deems appropriate in any other award, determine any amount that a party may have to pay to other party as a result of the decision on allocation of costs.

### **35. Deposit of Costs**

- 35.1. The Registrar shall fix the amount of deposits for costs of the arbitration, which shall be paid in advance by the parties within the time prescribed by the Registrar. Unless the Registrar directs otherwise, 50% of such deposits shall be payable by the Claimant(s) and the remaining 50% of such deposits shall be payable by the Respondent(s). The Registrar may fix separate advances on costs for claims and counterclaims respectively.
- 35.2. 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.
- 35.3. During the course of the arbitral proceedings the Registrar may direct the parties to make further supplementary deposits towards costs of the arbitration.
- 35.4. If there are more than one Claimant and/or more than one Respondent to the dispute, then all such Claimants and Respondents shall be jointly or severally liable to pay the deposits payable by the Claimant(s) or Respondent(s) respectively, as directed by the Registrar under clause 35.1.
- 35.5. If the Tribunal decides to proceed ex-parte against one or more of the Respondents, the other respondent(s) shall be jointly & severally liable to pay in full, the deposit payable by the Respondents as fixed under clause 35.1. However, if the Tribunal decides to proceed ex-parte, against all or the sole Respondent, the entire deposit shall be paid by the Claimant(s). In such an event where the Claimant(s) remit the entire deposit of costs, the Arbitrator may award the "costs" in favour of the Claimant to be recovered from the Respondent(s).
- 35.6. If the required deposits are not paid in full within 30 days after the receipt of the request, the Registrar shall so inform all the parties so that one or more of them may make the required payment. If such payment is not made the Registrar may direct the Tribunal to order the suspension or termination of the arbitral proceedings.
- 35.7. 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 of. 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.

- 35.8. On the application by a party, the Tribunal may issue an Award for unpaid deposits by the other party towards the costs of the arbitration.
- 35.9. All deposits shall be made to and held by HAC. Any interest which may accrue on such deposits shall be retained by HAC.

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## X. GENERAL PROVISIONS

### 36. Confidentiality

- 36.1. The Arbitral Tribunal, the parties, all experts, all witnesses, Registrar and the personnel of HAC shall keep confidential, all matters relating to the arbitral proceedings including any award, except where disclosure is necessary for the purposes of implementation and enforcement of the award or to the extent that disclosure may be required of a party under law, to protect or pursue a legal right or to challenge an award in *bona fide* legal proceedings before a court or other judicial authority.
- 36.2. Under Rule 36.1, "matters relating to the arbitral proceedings" means, the fact about the existence of the proceedings, and the pleadings, evidence and other materials in the arbitration proceedings and all other documents produced by any party in the proceedings or the award arising from the proceedings, but excludes any matter that is otherwise in the public domain.
- 36.3. 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.

### 37. Exclusion and Waiver of Liability

- 37.1. Neither HAC (including Secretariat, Governing Council, counsel, employees) nor the Arbitral Tribunal shall be liable for any action or omission in whatever capacity, taken in good faith while acting in connection or in relation to an arbitration under these rules.
- 37.2. The parties and the Tribunal agree that statements or comments, whether written or oral, made in the course of the arbitral proceedings shall not be relied upon to institute or commence or maintain any action for defamation, libel, slander or any other complaint.
- 37.3. Any party who proceeds with the arbitration with the knowledge that any provision or requirement of these rules has not been complied with and who fails to state his objection thereto in writing, without undue delay or if a time limit is provided for stating the objection, within that period of time to the Registrar or the Arbitral Tribunal as the case may be, shall be deemed to have waived his right to object.

### 38. Interpretation of Rules

- 38.1. In case of any doubt regarding the meaning or interpretation of these Rules, the same may be referred to the Governing Council by the parties or by the arbitrators appointed by HAC. The decision of the Governing Council on any question relating to interpretation of these rules shall be final and binding on the parties and the arbitrators.

### 39. Amendment of Rules

39.1. The Governing Council in consultation with the Registrar may revise, amend or alter these rules or the schedule of fees and other amounts. Such amendment shall however not affect the existing proceedings unless specifically made applicable.

**40. Miscellaneous Provisions**

40.1. Any matter not specifically addressed by these Rules or any conflict or ambiguity in these Rules, will be decided by the Governing Council in consultation with the Registrar and the Tribunal if needed, to ensure the enforceability of any Award.

40.2. The Registrar has the sole discretion and authority to prepare forms, resolve procedural disputes, impose time limits on the parties, and otherwise require a party to take action or refrain from taking action. The Registrar, may also seek advice from the Governing Council when necessary and expedient.

40.3. In the event a court of competent jurisdiction shall find any portion of these Rules to be in violation of the law or otherwise unenforceable, that portion shall not be effective in such jurisdiction and the remainder of the Rules shall remain effective.

40.4. HAC may destroy all documents served on it pursuant to the Rules after the expiry of a period of three years after the date of the last correspondence received by HAC relating to the arbitration.

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APPENDICES

APPENDIX 1:

SCHEDULE OF FEES FOR DOMESTIC ARBITRATION

APPENDIX 2:

SCHEDULE OF FEES FOR INTERNATIONAL ARBITRATION

APPENDIX 3:

MODEL ARBITRATION CLAUSES

APPENDIX 4:

ARB-MED-ARB PROTOCOL

This Schedule of Fees is effective as on 01/01/2020; the same may be amended from time to time which shall take effect from the effective date mentioned accordingly as determined by the Council.

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**APPENDIX 1**

**SCHEDULE OF FEES FOR DOMESTIC ARBITRATION**

**1. ONE-TIME CASE FILING FEE (Non-Refundable):**

- **₹30,000** (This fee is non-refundable and excluding the taxes as applicable)

**2. ARBITRATOR APPOINTMENT FEES:**

The Appointment Fees is payable in *ad-hoc* arbitrations where parties approach HAC for appointment of Arbitrator(s).

- Sole Arbitrator – **₹25,000**
- Two or more Arbitrators – **₹40,000**

[This fee is non-refundable and excluding the taxes as applicable]

**3. ADMINISTRATION FEES:**

The Administration Fees is payable in all the Arbitrations administered by HAC and is the maximum amount payable to HAC.

**Administration Fees**

**Table 1**

| <b>Quantum / Sum in Dispute (INR)</b> | <b>Administration Fees (INR)*</b>                      |
|---------------------------------------|--------------------------------------------------------|
| Up to 10 lakhs                        | 50,000                                                 |
| 10 to 50 Lakhs                        | 50,000 + 2.25% of the sum in excess over 10 Lakhs      |
| 50 to 1 Crore                         | 1,40,000 + 1.75% of the sum in excess over 50 Lakhs    |
| 1 to 5 Crores                         | 2,27,500 + 0.80% of the sum in excess over 1 Crore     |
| 5 to 10 Crores                        | 5,47,500 + 0.45% of the sum in excess over 5 Crores    |
| 10 to 50 Crores                       | 7,72,500 + 0.20% of the sum in excess over 10 Crores   |
| 50 to 100 Crores                      | 15,72,500 + 0.05% of the sum in excess over 50 Crores  |
| 100 to 500 Crores                     | 19,72,500 + 0.05% of the sum in excess over 100 Crores |
| Above 500 Crores                      | 39,72,500                                              |

\*Excluding applicable taxes

The Administration Fees does not include:

- a. Fees and expenses of the Arbitral Tribunal.

- b. Costs payable towards the availing of add-on facilities/services provided by HAC viz., hearing rooms, photocopying, stenography, transcription, translator, etc.
- c. The Parties may reach out to the Registrar for any additional information regarding the services that may be included in the Administration charges.

**4. ARBITRATOR'S FEES:**

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

**Arbitrator's Fees**  
**Table 2**

| <b>Quantum / Sum in Dispute (INR)</b> | <b>Arbitrator's Fees (INR)*</b>                                                   |
|---------------------------------------|-----------------------------------------------------------------------------------|
| Up to 10 lakhs                        | 75,000                                                                            |
| 10 to 50 Lakhs                        | 75,000 + 5% of the sum in excess over 10 Lakhs                                    |
| 50 to 1 Crore                         | 2,75,000 + 3.5% of the sum in excess over 50 Lakhs                                |
| 1 to 5 Crores                         | 4,50,000 + 1.75% of the sum in excess over 1 Crore                                |
| 5 to 10 Crores                        | 11,50,000 + 1.15% of the sum in excess over 5 Crores                              |
| 10 to 50 Crores                       | 17,25,000 + 0.5% of the sum in excess over 10 Crores                              |
| 50 to 100 Crores                      | 37,25,000 + 0.15% of the sum in excess over 50 Crores                             |
| 100 to 500 Crores                     | 44,75,000 + 0.05% of the sum in excess over 100 Crores                            |
| Above 500 Crores                      | 64,75,000 + 0.0% of the sum in excess over 500 Crores with a ceiling of 85,00,000 |

\* Excluding applicable taxes

- 5. **Challenge Fee (Non-Refundable):** A party filing a challenge to appointment of an arbitrator shall make payment of ₹75,000 as challenge fee pursuant to Rule 8.3.

- 6. **EMERGENCY ARBITRATION FEES:** The following fees are applicable for all the applications made for an Emergency Interim Relief under Rule 11:

- a. **Administration Fees for Emergency Interim Relief Arbitrations:** ₹50,000.
- b. **Emergency Arbitrator's Fees:** A minimum of ₹.75,000 and a maximum of 20 % of the maximum fee payable to an Arbitrator as per the 'Arbitrator's Fee' mentioned at Table 2.

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## APPENDIX 2

### INTERNATIONAL ARBITRATION

1. **ONE-TIME CASE FILING FEE (Non-Refundable):**

- **USD 500**

(This fee is non-refundable and excludes the taxes as applicable)

2. **ARBITRATOR APPOINTMENT FEES:**

The Appointment Fees is payable in *ad-hoc* arbitrations where parties approach HAC for appointment of Arbitrator(s).

- Sole Arbitrator – **USD 300**

- Two or more Arbitrators – **USD 500**

[This fee is non-refundable and excludes the taxes as applicable]

3. **ADMINISTRATION FEES (International Arbitration):**

The Administration Fees is payable in all the International Arbitrations administered by HAC and is the maximum amount payable to HAC.

#### Administration Fees

Table 3

| <b>Sum in Dispute (US \$)</b> | <b>Administration Fees (USD )*</b>                 |
|-------------------------------|----------------------------------------------------|
| Up to 50,000                  | 1,500                                              |
| 50,000 to 100,000             | 1,500 + 2.05% of the sum in excess over 50,000     |
| 100,000 to 500,000            | 2,525 + 1.1% of the sum in excess over 100,000     |
| 500,000 to 1,000,000          | 6,925 + 0.50% of the sum in excess over 500,000    |
| 1,000,000 to 5,000,000        | 9,425 + 0.25% of the sum in excess over 1,000,000  |
| 5,000,000 to 10,000,000       | 19,425 + 0.10% of the sum in excess over 5,000,000 |
| 10,000,000 to 50,000,000      | 24,425 + 0.0% of the sum in excess over 10,000,000 |
| 50,000,000 to 100,000,000     | 40,425 + 0.0% of the sum in excess over 50,000,000 |
| Above 100,000,000             | 50,425                                             |

\*Excluding applicable taxes

The Administration Fees does not include:

a. Fees and expenses of the Arbitral Tribunal.

b. Costs payable towards the availing of add-on facilities/services provided by HAC viz., hearing rooms, photocopying, stenography, transcription, translator, etc.

4. **ARBITRATOR'S FEES (International Arbitration):**

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

**Arbitrator's Fees**  
**Table 4**

| <b>Quantum / Sum in Dispute (Rupees)</b> | <b>Arbitrator's Fees (USD )*</b>                    |
|------------------------------------------|-----------------------------------------------------|
| Up to 50,000                             | 3,000                                               |
| 50,001 to 100,000                        | 3,000 + 8.5% of the sum in excess over 50,000       |
| 100,001 to 500,000                       | 7,250 + 4.2% of the sum in excess over 100,000      |
| 500,001 to 1,000,000                     | 24,250 + 2.2% of the sum in excess over 500,000     |
| 1,000,001 to 5,000,000                   | 35,500 + 0.7% of the sum in excess over 1,000,000   |
| 5,000,001 to 10,000,000                  | 65,500 + 0.1% of the sum in excess over 5,000,000   |
| 10,000,001 to 50,000,000                 | 70,500 + 0.04% of the sum in excess over 10,000,000 |
| 50,000,001 to 100,000,000                | 86,500 + 0.02% of the sum in excess over 50,000,000 |
| Above 100,000,000                        | 96,500                                              |

\*All the aforementioned Arbitrator's Fees is excluding the applicable taxes.

5. **Challenge Fee (Non-Refundable):** A party filing a challenge to appointment of an arbitrator shall make payment of USD 2,500 as challenge fee pursuant to Rule 8.3.

6. **EMERGENCY ARBITRATION FEES:** The following fees are applicable for all the applications made for an Emergency Interim Relief under Rule 11:

a. **Administration Fees for Emergency Interim Relief Arbitrations: USD 1,500.**

b. **Emergency Arbitrator's Fees:** A minimum of **US \$ 2,500** and a maximum of 20% of the maximum fee payable to an Arbitrator as per the 'Arbitrator's Fee' mentioned at Table 4.

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### **APPENDIX – 3**

#### **MODEL ARBITRATION CLAUSES**

##### **Domestic Arbitration Clause:**

Any dispute arising out of or incidental or in connection with this Contract / Agreement, including any question regarding its existence, operation, termination, validity or breach thereof, shall be referred to and finally resolved by Arbitration administered by 'Hyderabad Arbitration Centre' (HAC), in accordance with its Arbitration Rules ("HAC Arbitration Rules") for the time being in force.

The Arbitral Tribunal shall consist of sole / three Arbitrator(s).

The seat of Arbitration shall be \_\_\_\_\_.

The Language of the Arbitration shall be \_\_\_\_\_.

##### **International Arbitration Clause:**

Any dispute arising out of or incidental or in connection with this Contract / Agreement, including any question regarding its existence, operation, termination, validity or breach thereof, shall be referred to and finally resolved by Arbitration administered by 'Hyderabad Arbitration Centre' (HAC), in accordance with its Arbitration Rules ("HAC Arbitration Rules") for the time being in force.

The Arbitral Tribunal shall consist of sole / three Arbitrator(s).

The seat of Arbitration shall be \_\_\_\_\_.

The Language of the Arbitration shall be \_\_\_\_\_.

The Governing Law for this Arbitration shall be \_\_\_\_\_.

The Governing Law of the Contract shall be \_\_\_\_\_.

**Arb-Med-Arb Clause:**

Any dispute arising directly or indirectly out of or in connection with this Contract / Agreement, shall be referred to and finally resolved by Arbitration and shall be conducted by the 'Hyderabad Arbitration Centre' (HAC), in accordance with their Arbitration Rules ("HAC Arbitration Rules") for the time being in force.

It is further agreed that, following the commencement of arbitration, the parties will attempt in good faith, to resolve such dispute through Mediation, as per the Arb-Med-Arb Procedure of 'Hyderabad Arbitration Centre' (HAC), for the time being in force. Any settlement reached in the course of such Mediation shall be referred to the Arbitral Tribunal so constituted / appointed by HAC and the same shall be drawn up as a "Consent Award" on agreed terms.

...Contd.

The Arbitral Tribunal shall consist of sole / three Arbitrator(s). Likewise, the dispute shall be mediated through \_\_\_\_\_ number of Mediators.

The seat of Arbitration shall be \_\_\_\_\_.

The Language of the Arbitration shall be \_\_\_\_\_.

The Governing Law for this Arbitration shall be \_\_\_\_\_.

The Governing Law of the Contract shall be \_\_\_\_\_.

**Existing Disputes:**

For disputes, where parties intend that HAC shall act as the 'Appointing Authority' in an *ad-hoc* arbitration, the following clause may be incorporated in their arbitration agreement:

"The Arbitral Tribunal shall be appointed by 'Hyderabad Arbitration Centre' (HAC)."

Where parties who wish to arbitrate an existing dispute, but there is no arbitration agreement between the parties, they can enter into an 'Agreement to Arbitrate' as may be prescribed by HAC under these Rules.

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APPENDIX – 4

“ARB – MED – ARB” Protocol

1. This “Arb-Med-Arb” (AMA) protocol shall be applicable to all such disputes submitted to HAC for resolution under the “Arb-Med-Arb Clause” or such other similar clause (“AMA Clause”) and/or any dispute which the parties have agreed to submit for resolution under this AMA Protocol.
2. Under the AMA Protocol, parties agree that any dispute settled in the course of the mediation at HAC shall fall within the scope of their arbitration agreement.
3. A party invoking the AMA Clause shall file Form A5 (AMA Protocol) along with Form A2 (Request for Arbitration) with HAC to submit the case to Mediation under the AMA Procedure and governed by the “HAC Mediation Rules” (for the time being in force as on the date of request).
4. Within 7 days from the commencement of Arbitral Proceedings, the Arbitrator(s), shall stay the Arbitral Proceedings and notify the Registrar that the case be submitted to Mediation. All subsequent steps in the arbitration shall be stayed pending the outcome of Mediation.
5. Whereby, HAC will initiate Mediation pursuant to the “HAC Mediation Rules” (for the time being in force as on the date of request for Arbitration) or as per any other Mediation Rules adopted by the parties.
6. The date on which the Registrar notifies the parties of the initiation of Mediation shall be the ‘Mediation Commencement Date’ and the Mediation shall be completed within 8 weeks from the Mediation Commencement Date, unless, the Registrar in consultation with the Parties and the Mediator, so appointed, extends the time. For the purposes of calculating any time period in the arbitration proceeding, the time period will stop running from the day, the arbitration proceedings are stayed to submit/refer the dispute to mediation and will resume upon notification of the Registrar to the Tribunal of the termination of the Mediation Proceeding.
7. At the expiry of the 8-week period (unless the deadline is extended by the Registrar) the Mediator so appointed shall promptly inform the Registrar of the outcome of the Mediation.
8. In the event, the parties are unable to resolve their dispute through Mediation, either partially or entirely, the Registrar will notify the Arbitral Tribunal about the termination of the Mediation Proceedings and upon receipt of the said notice, the Arbitration Proceeding in respect of the dispute or remaining part of the dispute (as the case may be) shall resume and the applicable time-limits shall commence again.
9. In the event of a settlement of the dispute by Mediation, the Mediator, with the consent of all the parties, shall inform the Registrar that a settlement has been arrived at between the parties. Such a notification shall be duly acknowledged by the parties to the dispute. There-upon, HAC will make a formal note that a settlement has been arrived at between the parties and the dispute is resolved.
10. Accordingly, if the parties so request the Arbitral Tribunal to record their settlement in the form of a consent award, the parties themselves (or through their representatives) or the Registrar (at the request

of the parties) shall refer the Terms of Settlement (Settlement Agreement) to the Arbitral Tribunal and the Arbitral Tribunal may render a Consent Award in terms of the said Settlement Agreement or terms agreed between the parties.

11. The Fees of the Arbitrator and the Administration Fees involved in the AMA Protocol shall be fixed by HAC in accordance with the Schedule of Fees prescribed under these Rules (for the time being in force).
12. The Fees of the Mediator and the Administration Fees for such mediation shall be fixed by HAC in accordance with the Schedule of Fees prescribed under the "HAC Mediation Rules" (for the time being in force). Nevertheless, HAC may, at its sole discretion, adjust or waive the Administration Fees, either in the Arbitration Proceedings or the Mediation Proceedings.

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## **APPENDIX -5**

### **Forms**

- Form A1: Agreement to Arbitrate
- Form A2: Request to Arbitrate
- Form A3: Request for Emergency Arbitration
- Form A4: Request for Expedited Arbitration
- Form A5: Request for AMA Procedure

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HYDERABAD
ARBITRATION
CENTRE

[DISPUTE RESOLUTION SERVICES]
[ARBITRATION]
[MEDIATION]

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