

## ARBITRATION RULES OF THE TCC ADR CENTRE

1<sup>st</sup> Edition (01 January 2024)

### **Preamble:**

### **Suggested Clause:**

The following model clause may be adopted by the parties to a contract who wish to refer any future disputes to arbitration in accordance with these Rules:

“Any dispute, controversy, difference or claim arising out of or relating to this contract, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the TCC ADR Centre (TCC) under the TCC Rules in force when the Notice of Arbitration is submitted. \* The law applicable to the merits of the dispute shall be.....The seat of arbitration shall be ..... [Lahore]. \*\* The number of arbitrators shall be ... (one or three). The arbitration proceedings shall be conducted in ... (insert language). ”

### **1. Scope of Application and Interpretation**

- 1.1 Where the parties have agreed to refer their disputes to TCC for arbitration or to arbitration in accordance with the TCC Rules, the parties shall be deemed to have agreed that the arbitration shall be conducted pursuant to and administered by TCC in accordance with these Rules.
- 1.2 These Rules shall come into force on 1 January 2024 and, unless otherwise agreed by the parties, shall apply to any arbitration which is commenced on or after that date.
- 1.3 In these Rules:

“Award” includes a partial, interim or final award;

“Committee of the TCC” means a committee consisting of not less than three members of TCC appointed by the Chair (which may include the Chair);

“Practice Notes” mean the guidelines published by the Registrar of TCC from time to time to supplement, regulate and implement these Rules;

“Chair” means the Chair of TCC and includes any Vice Chair;

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

“Rules” means the Arbitration Rules of the TCC ADR Centre;

“TCC” means the TCC ADR Centre; and

“Tribunal” includes a sole arbitrator or all the arbitrators 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. Notice and Calculation of Periods of Time**

- 2.1 For the purposes of these Rules, any notice, communication or proposal shall be in writing. Any such notice, communication or proposal may be delivered by hand, registered post or courier service, or transmitted by any form of electronic communication (including electronic mail and facsimile), or delivered by any other appropriate means that provides a record of its delivery. Any notice, communication or proposal shall be deemed to have been received if it is delivered: (i) to the addressee personally or to its authorised representative; (ii) to the addressee's habitual residence, place of business or designated address; (iii) to any address agreed by the parties; (iv) according to the practice of the parties in prior dealings; or (v) if, after reasonable efforts, none of these can be found, then at the addressee's last-known residence or place of business.
- 2.2 Any notice, communication or proposal shall be deemed to have been received on the day it is delivered in accordance with Rule 2.1.
- 2.3 For the purpose of calculating any period of time under these Rules, such period shall begin to run on the day following the day when a notice, communication or proposal is deemed to have been received. Unless the Registrar or the Tribunal determines otherwise, any period of time under these Rules is to be calculated in accordance with Pakistan Standard Time (GMT +5).
- 2.4 Any non-business days at the place of receipt shall be included in calculating any period of time under these Rules. If the last day of any period of time under these Rules is not a business day at the place of receipt in accordance with Rule 2.1, the period is extended until the first business day which follows.
- 2.5 The parties shall file with the Registrar a copy of any notice, communication or proposal concerning the arbitral proceedings.
- 2.6 Except as provided in these Rules, the Registrar may at any time extend or abbreviate any time limits prescribed under these Rules.

## **3. Notice of Arbitration**

- 3.1 A party wishing to commence an arbitration under these Rules (the "Claimant") shall file with the Registrar a Notice of Arbitration which shall include:
  - 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. a reference to the arbitration agreement invoked and a copy of the arbitration agreement;
  - d. a reference to the contract or other instrument (e.g. investment treaty) out of or in relation to which the dispute arises and, where possible, a copy of the contract or other instrument;
  - e. a brief statement describing the nature and circumstances of the dispute, specifying the relief claimed and, where possible, an initial quantification of the claim amount;
  - f. a statement of any matters which the parties have previously agreed as to the conduct of the arbitration or with respect to which the Claimant wishes to make a proposal;
  - g. a proposal for the number of arbitrators if not specified in the arbitration agreement;
  - h. unless otherwise agreed by the parties, the nomination of an arbitrator if the arbitration agreement provides for three arbitrators, or a proposal for a sole arbitrator if the arbitration agreement provides for a sole arbitrator;
  - i. any comment as to the applicable rules of law;
  - j. any comment as to the language of the arbitration; and
  - k. payment of the requisite filing fee under these Rules.
- 3.2 The Notice of Arbitration may also include the Statement of Claim referred to in Rule 20.2.
- 3.3 The date of receipt of the complete Notice of Arbitration by the Registrar shall be deemed to be the date of commencement of the arbitration. For the avoidance of doubt, the Notice of Arbitration is deemed to be complete when all the requirements of Rule 3.1 and Rule 6.1(b) (if applicable) are fulfilled or when the Registrar determines that there has been substantial compliance with such requirements. TCC shall notify the parties of the commencement of the arbitration.
- 3.4 The Claimant shall, at the same time as it files the Notice of Arbitration with the Registrar, send a copy of the Notice of Arbitration to the Respondent, and shall notify the Registrar that it has done so, specifying the mode of service employed and the date of service.

#### **4. Response to the Notice of Arbitration**

- 4.1 The Respondent shall file a Response with the Registrar within 14 days of receipt of the Notice of Arbitration. The Response shall include:
- a. a confirmation or denial of all or part of the claims, including, where possible, any plea that the Tribunal lacks jurisdiction;
  - b. a brief statement describing the nature and circumstances of any counterclaim, specifying the relief claimed and, where possible, an initial quantification of the counterclaim amount;
  - c. any comment in response to any statements contained in the Notice of Arbitration under Rule 3.1 or any comment with respect to the matters covered in such Rule;
  - d. 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
  - e. payment of the requisite filing fee under these Rules for any counterclaim.
- 4.2 The Response may also include the Statement of Defence and a Statement of Counterclaim, as referred to in Rule 20.3 and Rule 20.4.
- 4.3 The Respondent shall, at the same time as it files the Response with the Registrar, send a copy of the Response to the Claimant, and shall notify the Registrar that it has done so, specifying the mode of service employed and the date of service.

#### **5. Expedited Procedure**

- 5.1 Prior to the constitution of the Tribunal, a party may file an application with the Registrar for the arbitral proceedings to be conducted in accordance with the Expedited Procedure under this Rule, provided that any of the following criteria is satisfied:
- a. the amount in dispute does not exceed the equivalent amount of ----- representing the aggregate of the claim, counterclaim and any defence of set-off;
  - b. the parties so agree; or
  - c. in cases of exceptional urgency.

The party applying for the arbitral proceedings to be conducted in accordance with the Expedited Procedure under this Rule 5.1 shall, at the same time as it files an application for the proceedings to be conducted in accordance with the Expedited Procedure with the Registrar, send a copy of the application to the other party and

shall notify the Registrar that it has done so, specifying the mode of service employed and the date of service.

5.2 Where a party has filed an application with the Registrar under Rule 5.1, and where the Chair determines, after considering the views of the parties, and having regard to the circumstances of the case, that the arbitral proceedings shall be conducted in accordance with the Expedited Procedure, the following procedure shall apply:

- a. the Registrar may abbreviate any time limits under these Rules;
- b. the case shall be referred to a sole arbitrator, unless the Chair determines otherwise;
- c. the Tribunal may, in consultation with the parties, decide if the dispute is to be decided on the basis of documentary evidence only, or if a hearing is required for the examination of any witness and expert witness as well as for any oral argument;
- d. the final Award shall be made within six months from the date when the Tribunal is constituted unless, in exceptional circumstances, the Registrar extends the time for making such final Award; and
- e. the Tribunal may state the reasons upon which the final Award is based in summary form, unless the parties have agreed that no reasons are to be given.

5.3 By agreeing to arbitration under these Rules, the parties agree that, where arbitral proceedings are conducted in accordance with the Expedited Procedure under this Rule 5, the rules and procedures set forth in Rule 5.2 shall apply even in cases where the arbitration agreement contains contrary terms.

5.4 Upon application by a party, and after giving the parties the opportunity to be heard, the Tribunal may, having regard to any further information as may subsequently become available, and in consultation with the Registrar, order that the arbitral proceedings shall no longer be conducted in accordance with the Expedited Procedure. Where the Tribunal decides to grant an application under this Rule 5.4, the arbitration shall continue to be conducted by the same Tribunal that was constituted to conduct the arbitration in accordance with the Expedited Procedure.

## **6. Multiple Contracts**

6.1 Where there are disputes arising out of or in connection with more than one contract, the Claimant may:

- a. file a Notice of Arbitration in respect of each arbitration agreement invoked and concurrently submit an application to consolidate the arbitrations pursuant to Rule 8.1; or

- b. file a single Notice of Arbitration in respect of all the arbitration agreements invoked which shall include a statement identifying each contract and arbitration agreement invoked and a description of how the applicable criteria under Rule 8.1 are satisfied. The Claimant shall be deemed to have commenced multiple arbitrations, one in respect of each arbitration agreement invoked, and the Notice of Arbitration under this Rule 6.1(b) shall be deemed to be an application to consolidate all such arbitrations pursuant to Rule 8.1.
- 6.2 Where the Claimant has filed two or more Notices of Arbitration pursuant to Rule 6.1(a), the Registrar shall accept payment of a single filing fee under these Rules for all the arbitrations sought to be consolidated. Where the Committee rejects the application for consolidation, in whole or in part, the Claimant shall be required to make payment of the requisite filing fee under these Rules in respect of each arbitration that has not been consolidated.
- 6.3 Where the Claimant has filed a single Notice of Arbitration pursuant to Rule 6.1(b) and the Committee rejects the application for consolidation, in whole or in part, it shall file a Notice of Arbitration in respect of each arbitration that has not been consolidated, and the Claimant shall be required to make payment of the requisite filing fee under these Rules in respect of each arbitration that has not been consolidated.

## **7. Joinder of Additional Parties**

- 7.1 Prior to the constitution of the Tribunal, a party or non-party to the arbitration may file an application with the Registrar for one or more additional parties to be joined in an arbitration pending under these Rules as a Claimant or a Respondent, provided that any of the following criteria is satisfied:
- a. the additional party to be joined is *prima facie* bound by the arbitration agreement; or
  - b. all parties, including the additional party to be joined, have consented to the joinder of the additional party.
- 7.2 An application for joinder under Rule 7.1 shall include:
- a. the case reference number of the pending arbitration;
  - b. the names, addresses, telephone numbers, facsimile numbers and electronic mail addresses, if known, of all parties, including the additional party to be joined, and their representatives, if any, and any arbitrators who have been nominated or appointed in the pending arbitration;
  - c. whether the additional party is to be joined as a Claimant or a Respondent;
  - d. the information specified in Rule 3.1(c) and Rule 3.1(d);

- e. if the application is being made under Rule 7.1(b), identification of the relevant agreement and, where possible, a copy of such agreement; and
- f. a brief statement of the facts and legal basis supporting the application.

The application for joinder is deemed to be complete when all the requirements of this Rule 7.2 are fulfilled or when the Registrar determines that there has been substantial compliance with such requirements. The Registrar shall notify all parties, including the additional party to be joined, when the application for joinder is complete.

- 7.3 The party or non-party applying for joinder under Rule 7.1 shall, at the same time as it files an application for joinder with the Registrar, send a copy of the application to all parties, including the additional party to be joined, and shall notify the Registrar that it has done so, specifying the mode of service employed and the date of service.
- 7.4 The Committee shall, after considering the views of all parties, including the additional party to be joined, and having regard to the circumstances of the case, decide whether to grant, in whole or in part, any application for joinder under Rule 7.1. The Committee's decision to grant an application for joinder under this Rule 7.4 is without prejudice to the Tribunal's power to subsequently decide any question as to its jurisdiction arising from such decision. The Committee's decision to reject an application for joinder under this Rule 7.4, in whole or in part, is without prejudice to any party's or non-party's right to apply to the Tribunal for joinder pursuant to Rule 7.8.
- 7.5 Where an application for joinder is granted under Rule 7.4, the date of receipt of the complete application for joinder shall be deemed to be the date of commencement of the arbitration in respect of the additional party.
- 7.6 Where an application for joinder is granted under Rule 7.4, the Committee may revoke the appointment of any arbitrators appointed prior to the decision on joinder. Unless otherwise agreed by all parties, including the additional party joined, Rule 9 to Rule 12 shall apply as appropriate, and the respective timelines thereunder shall run from the date of receipt of the Committee's decision under Rule 7.4.
- 7.7 The Committee's decision to revoke the appointment of any arbitrator under Rule 7.6 is without prejudice to the validity of any act done or order or Award made by the arbitrator before his appointment was revoked.
- 7.8 After the constitution of the Tribunal, a party or non-party to the arbitration may apply to the Tribunal for one or more additional parties to be joined in an arbitration pending under these Rules as a Claimant or a Respondent, provided that any of the following criteria is satisfied:
  - a. the additional party to be joined is *prima facie* bound by the arbitration agreement; or
  - b. all parties, including the additional party to be joined, have consented to the joinder of the additional party.

Where appropriate, an application to the Tribunal under this Rule 7.8 may be filed with the Registrar.

- 7.9 Subject to any specific directions of the Tribunal, the provisions of Rule 7.2 shall apply, *mutatis mutandis*, to an application for joinder under Rule 7.8.
- 7.10 The Tribunal shall, after giving all parties, including the additional party to be joined, the opportunity to be heard, and having regard to the circumstances of the case, decide whether to grant, in whole or in part, any application for joinder under Rule 7.8. The Tribunal's decision to grant an application for joinder under this Rule 7.10 is without prejudice to its power to subsequently decide any question as to its jurisdiction arising from such decision.
- 7.11 Where an application for joinder is granted under Rule 7.10, the date of receipt by the Tribunal or the Registrar, as the case may be, of the complete application for joinder shall be deemed to be the date of commencement of the arbitration in respect of the additional party.
- 7.12 Where an application for joinder is granted under Rule 7.4 or Rule 7.10, 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 an arbitrator or otherwise participate in the constitution of the Tribunal, without prejudice to the right of such party to challenge an arbitrator pursuant to Rule 14.
- 7.13 Where an application for joinder is granted under Rule 7.4 or Rule 7.10, the requisite filing fee under these Rules shall be payable for any additional claims or counterclaims.

## **8. Consolidation**

- 8.1 Prior to the constitution of any Tribunal in the arbitrations sought to be consolidated, a party may file an application with the Registrar to consolidate two or more arbitrations pending under these Rules into a single arbitration, provided that any of the following criteria is satisfied in respect of the arbitrations to be consolidated:
  - a. all parties have agreed to the consolidation;
  - 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 legal relationship(s); (ii) the disputes arise out of contracts consisting of a principal contract and its ancillary contract(s); or (iii) the disputes arise out of the same transaction or series of transactions.
- 8.2 An application for consolidation under Rule 8.1 shall include:
  - a. the case reference numbers of the arbitrations sought to be consolidated;

- b. the names, addresses, telephone numbers, facsimile numbers and electronic mail addresses, if known, of all parties and their representatives, if any, and any arbitrators who have been nominated or appointed in the arbitrations sought to be consolidated;
  - c. the information specified in Rule 3.1(c) and Rule 3.1(d);
  - d. if the application is being made under Rule 8.1(a), identification of the relevant agreement and, where possible, a copy of such agreement; and
  - e. a brief statement of the facts and legal basis supporting the application.
- 8.3 The party applying for consolidation under Rule 8.1 shall, at the same time as it files an application for consolidation with the Registrar, send a copy of the application to all parties and shall notify the Registrar that it has done so, specifying the mode of service employed and the date of service.
- 8.4 The Committee shall, after considering the views of all parties, and having regard to the circumstances of the case, decide whether to grant, in whole or in part, any application for consolidation under Rule 8.1. The Committee's decision to grant an application for consolidation under this Rule 8.4 is without prejudice to the Tribunal's power to subsequently decide any question as to its jurisdiction arising from such decision. The Committee's decision to reject an application for consolidation under this Rule 8.4, in whole or in part, is without prejudice to any party's right to apply to the Tribunal for consolidation pursuant to Rule 8.7. Any arbitrations that are not consolidated shall continue as separate arbitrations under these Rules.
- 8.5 Where the Committee decides to consolidate two or more arbitrations under Rule 8.4, the arbitrations shall be consolidated into the arbitration that is deemed by the Registrar to have commenced first, unless otherwise agreed by all parties or the Committee decides otherwise having regard to the circumstances of the case.
- 8.6 Where an application for consolidation is granted under Rule 8.4, the Committee may revoke the appointment of any arbitrators appointed prior to the decision on consolidation. Unless otherwise agreed by all parties, Rule 9 to Rule 12 shall apply as appropriate, and the respective timelines thereunder shall run from the date of receipt of the Committee's decision under Rule 8.4.
- 8.7 After the constitution of any Tribunal in the arbitrations sought to be consolidated, a party may apply to the Tribunal to consolidate two or more arbitrations pending under these Rules into a single arbitration, provided that any of the following criteria is satisfied in respect of the arbitrations to be consolidated:
- a. all parties have agreed to the consolidation;
  - b. all the claims in the arbitrations are made under the same arbitration agreement, and the same Tribunal has been constituted in each of the arbitrations or no Tribunal has been constituted in the other arbitration(s); or

- c. the arbitration agreements are compatible, the same Tribunal has been constituted in each of the arbitrations or no Tribunal has been constituted in the other arbitration(s), and: (i) the disputes arise out of the same legal relationship(s); (ii) the disputes arise out of contracts consisting of a principal contract and its ancillary contract(s); or (iii) the disputes arise out of the same transaction or series of transactions.
- 8.8 Subject to any specific directions of the Tribunal, the provisions of Rule 8.2 shall apply, *mutatis mutandis*, to an application for consolidation under Rule 8.7.
- 8.9 The Tribunal shall, after giving all parties the opportunity to be heard, and having regard to the circumstances of the case, decide whether to grant, in whole or in part, any application for consolidation under Rule 8.7. The Tribunal's decision to grant an application for consolidation under this Rule 8.9 is without prejudice to its power to subsequently decide any question as to its jurisdiction arising from such decision. Any arbitrations that are not consolidated shall continue as separate arbitrations under these Rules.
- 8.10 Where an application for consolidation is granted under Rule 8.9, the Committee may revoke the appointment of any arbitrators appointed prior to the decision on consolidation.
- 8.11 The Committee's decision to revoke the appointment of any arbitrator under Rule 8.6 or Rule 8.10 is without prejudice to the validity of any act done or order or Award made by the arbitrator before his appointment was revoked.
- 8.12 Where an application for consolidation is granted under Rule 8.4 or Rule 8.9, 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 an arbitrator or otherwise participate in the constitution of the Tribunal, without prejudice to the right of such party to challenge an arbitrator pursuant to Rule 14.

## **9. Number and Appointment of Arbitrators**

- 9.1 A sole arbitrator shall be appointed in any arbitration under these Rules unless the parties have otherwise agreed; or it appears to the Registrar, giving due regard to any proposals by the parties, that the complexity, the quantum involved or other relevant circumstances of the dispute, warrants the appointment of three arbitrators.
- 9.2 If the parties have agreed that any arbitrator is to be appointed by one or more of the parties, or by any third person including by the arbitrators already appointed, that agreement shall be deemed an agreement to nominate an arbitrator under these Rules.

- 9.3 In all cases, the arbitrators nominated by the parties, or by any third person including by the arbitrators already appointed, shall be subject to appointment by the Chair in his discretion.
- 9.4 The Chair shall appoint an arbitrator as soon as practicable. Any decision by the Chair to appoint an arbitrator under these Rules shall be final.
- 9.5 The Chair may appoint any nominee whose appointment has already been suggested or proposed by any party.
- 9.6 The terms of appointment of each arbitrator shall be fixed by the Registrar in accordance with these Rules and any Practice Notes for the time being in force, or in accordance with the agreement of the parties.

## **10. Sole Arbitrator**

- 10.1 If a sole arbitrator is to be appointed, either party may propose to the other party the names of one or more persons to serve as the sole arbitrator. Where the parties have reached an agreement on the nomination of a sole arbitrator, Rule 9.3 shall apply.
- 10.2 If within 21 days after the date of commencement of the arbitration, or within the period otherwise agreed by the parties or set by the Registrar, the parties have not reached an agreement on the nomination of a sole arbitrator, or if at any time either party so requests, the Chair shall appoint the sole arbitrator.

## **11. Three Arbitrators**

- 11.1 If three arbitrators are to be appointed, each party shall nominate one arbitrator.
- 11.2 If a party fails to make a nomination of 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, the Chair shall proceed to appoint an arbitrator on its behalf.
- 11.3 Unless the parties have agreed upon another procedure for appointing the third arbitrator, or if such agreed procedure does not result in a nomination within the period agreed by the parties or set by the Registrar, the Chair shall appoint the third arbitrator, who shall be the presiding arbitrator.

## **12. Multi-Party Appointment of Arbitrator(s)**

- 12.1 Where there are more than two parties to the arbitration, and a sole arbitrator is to be appointed, the parties may agree to jointly nominate the sole arbitrator. In the absence of such joint nomination having been made within 28 days of the date of commencement of the arbitration or within the period otherwise agreed by the parties or set by the Registrar, the Chair shall appoint the sole arbitrator.

12.2 Where there are more than two parties to the arbitration, and three arbitrators are to be appointed, the Claimant(s) shall jointly nominate one arbitrator and the Respondent(s) shall jointly nominate one arbitrator. The third arbitrator, who shall be the presiding arbitrator, shall be appointed in accordance with Rule 11.3. In the absence of both such joint nominations having been made within 28 days of the date of commencement of the arbitration or within the period otherwise agreed by the parties or set by the Registrar, the Chair shall appoint all three arbitrators and shall designate one of them to be the presiding arbitrator.

### **13. Qualifications of Arbitrators**

13.1 Any arbitrator appointed in an arbitration under these Rules, whether or not nominated by the parties, shall be and remain at all times independent and impartial.

13.2 In appointing an arbitrator under these Rules, the Chair shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations that are relevant to the impartiality or independence of the arbitrator.

13.3 The Chair shall also consider whether the arbitrator has sufficient availability to determine the case in a prompt and efficient manner that is appropriate given the nature of the arbitration.

13.4 A nominated arbitrator shall disclose to the parties and to the Registrar any circumstances that may give rise to justifiable doubts as to his impartiality or independence as soon as reasonably practicable and in any event before his appointment.

13.5 An arbitrator shall immediately disclose to the parties, to the other arbitrators and to the Registrar any circumstances that may give rise to justifiable doubts as to his impartiality or independence that may be discovered or arise during the arbitration.

13.6 No party or person acting on behalf of a party shall have any *ex parte* communication relating to the case with any arbitrator or with any candidate for appointment as party-nominated arbitrator, except to advise the candidate of the general nature of the controversy and of the anticipated proceedings; to discuss the candidate's qualifications, availability or independence in relation to the parties; or to discuss the suitability of candidates for selection as the presiding arbitrator where the parties or party-nominated arbitrators are to participate in that selection. No party or person acting on behalf of a party shall have any *ex parte* communication relating to the case with any candidate for presiding arbitrator.

## **14. Challenge of Arbitrators**

- 14.1 Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence or if the arbitrator does not possess any requisite qualification on which the parties have agreed.
- 14.2 A party may challenge the arbitrator nominated by it only for reasons of which it becomes aware after the appointment has been made.

## **15. Notice of Challenge**

- 15.1 A party that intends to challenge an arbitrator shall file a notice of challenge with the Registrar in accordance with the requirements of Rule 15.2 within 14 days after receipt of the notice of appointment of the arbitrator who is being challenged or within 14 days after the circumstances specified in Rule 14.1 or Rule 14.2 became known or should have reasonably been known to that party.
- 15.2 The notice of challenge shall state the reasons for the challenge. The date of receipt of the notice of challenge by the Registrar shall be deemed to be the date the notice of challenge is filed. The party challenging an arbitrator shall, at the same time as it files a notice of challenge with the Registrar, send the notice of challenge to the other party, the arbitrator who is being challenged and the other members of the Tribunal (or if the Tribunal has not yet been constituted, any appointed arbitrator), and shall notify the Registrar that it has done so, specifying the mode of service employed and the date of service.
- 15.3 The party making the challenge shall pay the requisite challenge fee under these Rules in accordance with the applicable Schedule of Fees. If the party making the challenge fails to pay the challenge fee within the time limit set by the Registrar, the challenge shall be considered as withdrawn.
- 15.4 After receipt of a notice of challenge under Rule 15.2, the Registrar may order a suspension of the arbitral proceedings until the challenge is resolved. Unless the Registrar orders the suspension of the arbitral proceedings pursuant to this Rule 15.4, the challenged arbitrator shall be entitled to continue to participate in the arbitration pending the determination of the challenge by the Committee in accordance with Rule 16.
- 15.5 Where an arbitrator is challenged by a party, the other party may agree to the challenge, and the Committee shall remove the arbitrator if all parties agree to the challenge. The challenged arbitrator may also voluntarily withdraw from office. In neither case does this imply acceptance of the validity of the grounds for the challenge.
- 15.6 If an arbitrator is removed or withdraws from office in accordance with Rule 15.5, a substitute arbitrator shall be appointed in accordance with the procedure applicable to the nomination and appointment of the arbitrator being replaced. This procedure shall

apply even if, during the process of appointing the challenged arbitrator, a party failed to exercise its right to nominate an arbitrator. The time limits applicable to the nomination and appointment of the substitute arbitrator shall commence from the date of receipt of the agreement of the other party to the challenge or the challenged arbitrator's withdrawal from office.

## **16. Decision on Challenge**

- 16.1 If, within seven days of receipt of the notice of challenge under Rule 15, the other party does not agree to the challenge and the arbitrator who is being challenged does not withdraw voluntarily from office, the Committee shall decide the challenge. The Committee may request comments on the challenge from the parties, the challenged arbitrator and the other members of the Tribunal (or if the Tribunal has not yet been constituted, any appointed arbitrator), and set a schedule for such comments to be made.
- 16.2 If the Committee accepts the challenge to an arbitrator, the Committee shall remove the arbitrator, and a substitute arbitrator shall be appointed in accordance with the procedure applicable to the nomination and appointment of the arbitrator being replaced. The time limits applicable to the nomination and appointment of the substitute arbitrator shall commence from the date of the Registrar's notification to the parties of the decision by the Committee.
- 16.3 If the Committee rejects the challenge to an arbitrator, the challenged arbitrator shall continue with the arbitration.
- 16.4 The Committee's decision on any challenge to an arbitrator under this Rule 16 shall be reasoned, unless otherwise agreed by the parties, and shall be issued to the parties by the Registrar. Any such decision on any challenge by the Committee shall be final.

## **17. Replacement of an Arbitrator**

- 17.1 Except as otherwise provided in these Rules, in the event of the death, resignation, withdrawal or removal of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed in accordance with the procedure applicable to the nomination and appointment of the arbitrator being replaced.
- 17.2 In the event that an arbitrator refuses or fails to act or perform his functions in accordance with the Rules or within prescribed time limits, or in the event of any *de jure* or *de facto* impossibility by an arbitrator to act or perform his functions, the procedure for challenge and replacement of an arbitrator provided in Rule 14 to Rule 16 and Rule 17.1 shall apply.

17.3 The Chair may, at his own initiative and in his discretion, remove an arbitrator who refuses or fails to act or to perform his functions in accordance with the Rules or within prescribed time limits, or in the event of a *de jure* or *de facto* impossibility of an arbitrator to act or perform his functions, or if the arbitrator does not conduct or participate in the arbitration with due diligence and/or in a manner that ensures the fair, expeditious, economical and final resolution of the dispute. The Chair shall consult the parties and the members of the Tribunal, including the arbitrator to be removed (or if the Tribunal has not yet been constituted, any appointed arbitrator) prior to the removal of an arbitrator under this Rule.

**18. Repetition of Hearings in the Event of Replacement of an Arbitrator**

If the sole or presiding arbitrator is replaced in accordance with the procedure in Rule 15 to Rule 17, any hearings held previously shall be repeated unless otherwise agreed by the parties. If any other arbitrator is replaced, any hearings held previously may be repeated at the discretion of the Tribunal after consulting with the parties. If the Tribunal has issued an interim or partial Award, any hearings relating solely to that Award shall not be repeated, and the Award shall remain in effect.

**19. Conduct of the Proceedings**

- 19.1 The Tribunal shall conduct the arbitration in such manner as it considers appropriate, after consulting with the parties, to ensure the fair, expeditious, economical and final resolution of the dispute.
- 19.2 The Tribunal shall determine the relevance, materiality and admissibility of all evidence. The Tribunal may apply any rules of evidence in making such determination.
- 19.3 As soon as practicable after the constitution of the Tribunal, the Tribunal shall conduct a preliminary meeting with the parties, in person or by any other means, to discuss the procedures that will be most appropriate and efficient for the case.
- 19.4 The Tribunal may, in its discretion, direct the order of proceedings, bifurcate proceedings, exclude cumulative or irrelevant testimony or other evidence and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the case.
- 19.5 Unless otherwise agreed by the parties, the presiding arbitrator may make procedural rulings alone, subject to revision by the Tribunal.
- 19.6 All statements, documents or other information supplied to the Tribunal and/or the Registrar by a party shall simultaneously be communicated to the other party.

19.7 The Chair may, at any stage of the proceedings, request the parties and the Tribunal to convene a meeting to discuss the procedures that will be most appropriate and efficient for the case. Such meeting may be conducted in person or by any other means.

**20. Submissions by the Parties**

20.1 Unless the Tribunal determines otherwise, the submission of written statements shall proceed as set out in this Rule.

20.2 Unless already submitted pursuant to Rule 3.2, the Claimant shall, within a period of time to be determined by the Tribunal, send to the Respondent and the Tribunal a Statement of Claim setting out in full detail:

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

20.3 Unless already submitted pursuant to Rule 4.2, the Respondent shall, within a period of time to be determined by the Tribunal, send to the Claimant and the Tribunal a Statement of Defence setting out in full detail:

- a. a statement of facts supporting its defence to the Statement of Claim;
- b. the legal grounds or arguments supporting such defence; and
- c. the relief claimed.

20.4 If a Statement of Counterclaim is made, the Claimant shall, within a period of time to be determined by the Tribunal, send to the Respondent and the Tribunal a Statement of Defence to Counterclaim setting out in full detail:

- a. a statement of facts supporting its defence to the Statement of Counterclaim;
- b. the legal grounds or arguments supporting such defence; and
- c. the relief claimed.

20.5 A party may amend its claim, counterclaim or other submissions unless the Tribunal considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim or counterclaim may not be amended in such a manner that the amended claim or counterclaim falls outside the scope of the arbitration agreement.

20.6 The Tribunal shall decide which further submissions shall be required from the parties or may be presented by them. The Tribunal shall fix the periods of time for communicating such submissions.

- 20.7 All submissions referred to in this Rule shall be accompanied by copies of all supporting documents which have not previously been submitted by any party.
- 20.8 If the Claimant fails within the time specified to submit its Statement of Claim, the Tribunal may issue an order for the termination of the arbitral proceedings or give such other directions as may be appropriate.
- 20.9 If the Respondent fails to submit its Statement of Defence, or if at any point any party fails to avail itself of the opportunity to present its case in the manner directed by the Tribunal, the Tribunal may proceed with the arbitration.

**21. Seat of the Arbitration**

- 21.1 The parties may agree on the seat of the arbitration. Failing such an agreement, the seat of the arbitration shall be Lahore unless the Tribunal determines otherwise, having regard to all the circumstances of the case.
- 21.2 The Tribunal may hold hearings and meetings by any means it considers expedient or appropriate and at any location it considers convenient or appropriate.

**22. Language of the Arbitration**

- 22.1 Unless otherwise agreed by the parties, the Tribunal shall determine the language to be used in the arbitration.
- 22.2 If a party submits a document written in a language other than the language(s) of the arbitration, the Tribunal, or if the Tribunal has not been constituted, the Registrar, may order that party to submit a translation in a form to be determined by the Tribunal or the Registrar.

**23. Party Representatives**

- 23.1 Any party may be represented by legal practitioners or any other authorised representatives. The Registrar and/or the Tribunal may require proof of authority of any party representatives.
- 23.2 After the constitution of the Tribunal, any change or addition by a party to its representatives shall be promptly communicated in writing to the parties, the Tribunal and the Registrar.

**24. Hearings**

- 24.1 Unless the parties have agreed on a documents-only arbitration or as otherwise provided in these Rules, the Tribunal shall, if either party so requests or the Tribunal

so decides, hold a hearing for the presentation of evidence and/or for oral submissions on the merits of the dispute, including any issue as to jurisdiction.

- 24.2 The Tribunal shall, after consultation with the parties, set the date, time and place of any meeting or hearing and shall give the parties reasonable notice.
- 24.3 If any party fails to appear at a meeting or hearing without showing sufficient cause for such failure, the Tribunal may proceed with the arbitration and may make the Award based on the submissions and evidence before it.
- 24.4 Unless otherwise agreed by the parties, all meetings and hearings shall be in private, and any recordings, transcripts, or documents used in relation to the arbitral proceedings shall remain confidential.

## **25. Witnesses**

- 25.1 Before any hearing, the Tribunal may require the parties to give notice of the identity of witnesses, including expert witnesses, whom the parties intend to produce, the subject matter of their testimony and its relevance to the issues.
- 25.2 The Tribunal may allow, refuse or limit the appearance of witnesses to give oral evidence at any hearing.
- 25.3 Any witness who gives oral evidence may be questioned by each of the parties, their representatives and the Tribunal in such manner as the Tribunal may determine.
- 25.4 The Tribunal may direct the testimony of witnesses to be presented in written form, either as signed statements or sworn affidavits or any other form of recording. Subject to Rule 25.2, any party may request that such a witness should attend for oral examination. If the witness fails to attend for oral examination, the Tribunal may place such weight on the written testimony as it thinks fit, disregard such written testimony, or exclude such written testimony altogether.
- 25.5 It shall be permissible for any party or its representatives to interview any witness or potential witness (that may be presented by that party) prior to his appearance to give oral evidence at any hearing.

## **26. Tribunal-Appointed Experts**

- 26.1 Unless otherwise agreed by the parties, the Tribunal may:
  - a. following consultation with the parties, appoint an expert to report on specific issues; and
  - b. require a party to give any expert appointed under Rule 26.1(a) any relevant information, or to produce or provide access to any relevant documents, goods or property for inspection.

- 26.2 Any expert appointed under Rule 26.1(a) shall submit a report in writing to the Tribunal. Upon receipt of such written report, the Tribunal shall deliver a copy of the report to the parties and invite the parties to submit written comments on the report.
- 26.3 Unless otherwise agreed by the parties, if the Tribunal considers it necessary or at the request of any party, an expert appointed under Rule 26.1(a) shall, after delivery of his written report, participate in a hearing. At the hearing, the parties shall have the opportunity to examine such expert.

## **27. Additional Powers of the Tribunal**

- 27.1 In addition to the powers specified in these Rules, and assuming there is no conflict with the applicable mandatory law, the Tribunal shall have the power to:
- a. order the correction of any contract, but only to the extent required to rectify any mistake which it determines to have been made by all the parties to that contract. This is subject to the condition that the proper law of the contract allows such correction;
  - b. upon a party's application, allow one or more third parties to be joined in the arbitration, provided that such person is a party to the arbitration agreement, with the written consent of such third party, and subsequently make one final award or separate awards in respect of all parties;
  - c. except as provided in Rules 32.3 and 33.5, extend or shorten any time limits provided by these Rules;
  - d. conduct any enquiries that the Tribunal deems necessary;
  - e. order the parties to allow access to any property or item for inspection;
  - f. order the preservation, storage, sale or disposal of any property or item which is fully or partly the subject-matter of the dispute;
  - g. order any party to submit copies of any relevant/material documents in their possession or control for inspection by the Tribunal and the other parties;
  - h. render an award for unpaid arbitration costs;
  - i. direct any party to give evidence by affidavit or in any other form;
  - j. direct any party to ensure that arbitral award including any interim or partial award is not rendered ineffective by the dissipation of party's assets;
  - k. order any party to provide security for legal or other costs in any manner the Tribunal deems fit;
  - l. order any party to provide security for all or part of any amount in connection with the dispute in the arbitration;
  - m. 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 award and to impose such sanctions deemed appropriate by the Tribunal;

- n. decide any issue not expressly or impliedly raised in the submissions filed under Rule 17 provided all parties are given adequate opportunity to make their submissions, oral or written;
- o. determine the law applicable to the arbitral proceedings; and
- p. determine any claim of legal or other privilege.

## **28. Jurisdiction of the Tribunal**

- 28.1 If any party objects to the existence or validity of the arbitration agreement or to the competence of TCC to administer an arbitration, before the Tribunal is constituted, the Registrar shall determine if such objection shall be referred to the Committee. If the Registrar so determines, the Committee shall decide if it is *prima facie* satisfied that the arbitration shall proceed. The arbitration shall be terminated if the Committee is not so satisfied. Any decision by the Registrar or the Committee that the arbitration shall proceed is without prejudice to the power of the Tribunal to rule on its own jurisdiction.
- 28.2 The Tribunal shall have the power to rule on its own jurisdiction, including any objections with respect to the existence, validity or scope of the arbitration agreement. An arbitration agreement which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the Tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration agreement, and the Tribunal shall not cease to have jurisdiction by reason of any allegation that the contract is non-existent or null and void.
- 28.3 Any objection that the Tribunal:
- a. does not have jurisdiction shall be raised no later than in a Statement of Defence or in a Statement of Defence to a Counterclaim; or
  - b. is exceeding the scope of its jurisdiction shall be raised within 14 days after the matter alleged to be beyond the scope of the Tribunal's jurisdiction arises during the arbitral proceedings.

The Tribunal may admit an objection raised by a party outside the time limits under this Rule 28.3 if it considers the delay justified. A party is not precluded from raising an objection under this Rule 28.3 by the fact that it has nominated, or participated in the nomination of, an arbitrator.

- 28.4 The Tribunal may rule on an objection referred to in Rule 28.3 either as a preliminary question or in an Award on the merits.
- 28.5 A party may rely on a claim or defence for the purpose of a set-off to the extent permitted by these Rules and the applicable law.

## **29. Early Dismissal of Claims and Defences**

- 29.1 A party may apply to the Tribunal for the early dismissal of a claim or defence on the basis that:
- a. a claim or defence is manifestly without legal merit; or
  - b. a claim or defence is manifestly outside the jurisdiction of the Tribunal.
- 29.2 An application for the early dismissal of a claim or defence under Rule 29.1 shall state in detail the facts and legal basis supporting the application. The party applying for early dismissal shall, at the same time as it files the application with the Tribunal, send a copy of the application to the other party, and shall notify the Tribunal that it has done so, specifying the mode of service employed and the date of service.
- 29.3 The Tribunal may, in its discretion, allow the application for the early dismissal of a claim or defence under Rule 29.1 to proceed. If the application is allowed to proceed, the Tribunal shall, after giving the parties the opportunity to be heard, decide whether to grant, in whole or in part, the application for early dismissal under Rule 29.1.
- 29.4 If the application is allowed to proceed, the Tribunal shall make an order or Award on the application, with reasons, which may be in summary form. The order or Award shall be made within 60 days of the date of filing of the application, unless, in exceptional circumstances, the Registrar extends the time.

## **30. Interim Relief**

- 30.1 The Tribunal may, at the request of a party, issue an order or an Award granting an injunction or any other interim relief it deems appropriate.
- 30.2 The Tribunal may order the party requesting interim relief to provide appropriate security in connection with the relief sought.
- 30.3 A request for interim relief made by a party to a judicial authority prior to the constitution of the Tribunal, or in exceptional circumstances thereafter, is not incompatible with these Rules.

## **31. Applicable Law, *Amiable Compositeur* and *Ex Aequo et Bono***

- 31.1 The Tribunal shall apply the law or rules of law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the Tribunal shall apply the law or rules of law which it determines to be appropriate.
- 31.2 The Tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the parties have expressly authorised it to do so.

31.3 In all cases, the Tribunal shall decide in accordance with the terms of the contract, if any, and shall take into account any applicable usage of trade.

**32. Award**

32.1 The Tribunal shall, as promptly as possible, after consulting with the parties and upon being satisfied that the parties have no further relevant and material evidence to produce or submission to make with respect to the matters to be decided in the Award, declare the proceedings closed. The Tribunal's declaration that the proceedings are closed shall be communicated to the parties and to the Registrar.

32.2 The Tribunal may, on its own motion or upon application of a party but before any Award is made, re-open the proceedings. The Tribunal's decision that the proceedings are to be re-opened shall be communicated to the parties and to the Registrar. The Tribunal shall close any re-opened proceedings in accordance with Rule 32.1.

32.3 Before making any Award, the Tribunal shall submit such Award in draft form to the Registrar. Unless the Registrar extends the period of time or unless otherwise agreed by the parties, the Tribunal shall submit the draft Award to the Registrar not later than 45 days from the date on which the Tribunal declares the proceedings closed. The Registrar may, as soon as practicable, suggest modifications as to the form of the Award and, without affecting the Tribunal's liberty to decide the dispute, draw the Tribunal's attention to points of substance. No Award shall be made by the Tribunal until it has been approved by the Registrar as to its form.

32.4 The Award shall be in writing and shall state the reasons upon which it is based. The Tribunal may dispense with the reasons subject to the applicable law and the parties agreement that no reasons are to be given.

32.5 Unless otherwise agreed by the parties, the Tribunal may make separate Awards on different issues at different times.

32.6 If any arbitrator fails to cooperate in the making of the Award, having been given a reasonable opportunity to do so, the remaining arbitrators may proceed. The remaining arbitrators shall provide written notice of such refusal or failure to the Registrar, the parties and the absent arbitrator. In deciding whether to proceed with the arbitration in the absence of an arbitrator, the remaining arbitrators may take into account, among other things, the stage of the arbitration, any explanation provided by the absent arbitrator for his refusal to participate and the effect, if any, upon the enforceability of the Award should the remaining arbitrators proceed without the absent arbitrator. The remaining arbitrators shall explain in any Award made the reasons for proceeding without the absent arbitrator.

- 32.7 Where there is more than one arbitrator, the Tribunal shall decide by a majority. Failing a majority decision, the presiding arbitrator alone shall make the Award for the Tribunal.
- 32.8 The Award shall be delivered to the Registrar, who shall transmit certified copies to the parties upon full settlement of the costs of the arbitration.
- 32.9 The Tribunal may award simple or compound interest on any sum which is the subject of the arbitration at such rates as the parties may have agreed or, in the absence of such agreement, as the Tribunal determines to be appropriate, in respect of any period which the Tribunal determines to be appropriate.
- 32.10 In the event of a settlement, and if the parties so request, the Tribunal may make a consent Award recording the settlement. If the parties do not require a consent Award, the parties shall confirm to the Registrar that a settlement has been reached, following which the Tribunal shall be discharged and the arbitration concluded upon full settlement of the costs of the arbitration.
- 32.11 Subject to Rule 33, by agreeing to arbitration under these Rules, the parties agree that any Award shall be final and binding on the parties from the date it is made, and undertake to carry out the Award immediately and without delay.
- 32.12 TCC may, with the consent of the parties and the Tribunal, publish any Award with the names of the parties and other identifying information redacted.

### **33. Correction of Awards, Interpretation of Awards and Additional Awards**

- 33.1 Within 30 days of receipt of an Award, a party may, by written notice to the Registrar and the other party, request the Tribunal to correct in the Award any error in computation, any clerical or typographical error or any error of a similar nature. If the Tribunal considers the request to be justified, it shall make the correction within 30 days of receipt of the request. Any correction, made in the original Award or in a separate memorandum, shall constitute part of the Award.
- 33.2 The Tribunal may correct any error of the type referred to in Rule 33.1 on its own initiative within 30 days of the date of the Award.
- 33.3 Within 30 days of receipt of an Award, a party may, by written notice to the Registrar and the other party, request the Tribunal to make an additional Award as to claims presented in the arbitration but not dealt with in the Award. If the Tribunal considers the request to be justified, it shall make the additional Award within 45 days of receipt of the request.
- 33.4 Within 30 days of receipt of an Award, a party may, by written notice to the Registrar and the other party, request that the Tribunal give an interpretation of the Award. If the Tribunal considers the request to be justified, it shall provide the interpretation in writing within 45 days after receipt of the request. The interpretation shall form part of the Award.

- 33.5 The Registrar may, if necessary, extend the period of time within which the Tribunal shall make a correction of an Award, interpretation of an Award or an additional Award under this Rule.
- 33.6 The provisions of Rule 32 shall apply in the same manner with the necessary or appropriate changes in relation to a correction of an Award, interpretation of an Award and to any additional Award made.

#### **34. Fees and Deposits**

- 34.1 The Tribunal's fees and TCC's fees shall be ascertained in accordance with the Schedule of Fees in force at the time of commencement of the arbitration. The parties may agree to alternative methods of determining the Tribunal's fees prior to the constitution of the Tribunal.
- 34.2 The Registrar shall fix the amount of deposits payable towards the costs of the arbitration. Unless the Registrar directs otherwise, 50% of such deposits shall be payable by the Claimant and the remaining 50% of such deposits shall be payable by the Respondent. The Registrar may fix separate deposits on costs for claims and counterclaims, respectively.
- 34.3 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 estimate may be adjusted in light of such information as may subsequently become available.
- 34.4 The Registrar may from time to time direct parties to make further deposits towards the costs of the arbitration.
- 34.5 Parties are jointly and severally liable for the costs of the arbitration. Any party is free to pay the whole of the deposits towards the costs of the arbitration should the other party fail to pay its share.
- 34.6 If a party fails to pay the deposits directed by the Registrar either wholly or in part:
- a. the Tribunal may suspend its work and the Registrar may suspend TCC's administration of the arbitration, in whole or in part; and
  - b. the Registrar may, after consultation with the Tribunal (if constituted) and after informing the parties, set a time limit on the expiry of which the relevant claims or counterclaims shall be considered as withdrawn without prejudice to the party reintroducing the same claims or counterclaims in another proceeding.
- 34.7 In all cases, the costs of the arbitration shall be finally determined by the Registrar at the conclusion of the proceedings. If the claim and/or counterclaim is not quantified, the Registrar shall finally determine the costs of the arbitration, as set out in Rule 35,

in his discretion. The Registrar shall have regard to all the circumstances of the case, including the stage of proceedings at which the arbitration concluded. In the event that the costs of the 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.

34.8 All deposits towards the costs of the arbitration shall be made to and held by TCC. Any interest which may accrue on such deposits shall be retained by TCC.

34.9 In exceptional circumstances, the Registrar may direct the parties to pay an additional fee, in addition to that prescribed in the applicable Schedule of Fees, as part of TCC's administration fees.

### **35. Costs of the Arbitration**

35.1 Unless otherwise agreed by the parties, the Tribunal shall specify in the Award the total amount of the costs of the arbitration. Unless otherwise agreed by the parties, the Tribunal shall determine in the Award the apportionment of the costs of the arbitration among the parties.

35.2 The term "costs of the arbitration" includes:

- a. the Tribunal's fees and expenses;
- b. TCC's administration fees and expenses; and
- c. the costs of any expert appointed by the Tribunal and of any other assistance reasonably required by the Tribunal.

### **36. Tribunal's Fees and Expenses**

36.1 The fees of the Tribunal shall be fixed by the Registrar in accordance with the applicable Schedule of Fees or, if applicable, with the method agreed by the parties pursuant to Rule 34.1, and the stage of the proceedings at which the arbitration concluded. In exceptional circumstances, the Registrar may determine that an additional fee over that prescribed in the applicable Schedule of Fees shall be paid.

36.2 The Tribunal's reasonable out-of-pocket expenses necessarily incurred and other allowances shall be reimbursed in accordance with the applicable Practice Note.

### **37. Party's Legal and Other Costs**

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

### **38. Exclusion of Liability**

- 38.1 Any arbitrator, any person appointed by the Tribunal, including any administrative secretary and any expert, the Chair, members of the Committee, and any directors, officers and employees of TCCC, shall not be liable to any person for any negligence, act or omission in connection with any arbitration administered by TCC in accordance with these Rules.
- 38.2 TCC, including the Chair, members of the Committee, directors, officers, employees or any arbitrator, and any person appointed by the Tribunal, including any administrative secretary and any expert, shall not be under any obligation to make any statement in connection with any arbitration administered by TCC in accordance with these Rules. No party shall seek to make the Chair, any member of the Committee, director, officer, employee of TCC, or any arbitrator, and any person appointed by the Tribunal, including any administrative secretary and any expert, act as a witness in any legal proceedings in connection with any arbitration administered by TCC in accordance with these Rules.

### **39. Confidentiality**

- 39.1 Unless otherwise agreed by the parties, a party and any arbitrator, and any person appointed by the Tribunal, including any administrative secretary and any expert, shall at all times treat all matters relating to the proceedings and the Award as confidential. The discussions and deliberations of the Tribunal shall be confidential.
- 39.2 Unless otherwise agreed by the parties, a party or any arbitrator, and any person appointed by the Tribunal, including any administrative secretary and any expert, shall not, without the prior written consent of the parties, disclose to a third party any such matter except:
- a. for the purpose of making an application to any competent court to enforce or challenge the Award;
  - b. pursuant to the order of or a subpoena issued by a court of competent jurisdiction;
  - c. for the purpose of pursuing or enforcing a legal right or claim;
  - d. in compliance with the provisions of the laws of any State which are binding on the party making the disclosure or the request or requirement of any regulatory body or other authority;
  - e. pursuant to an order by the Tribunal on application by a party with proper notice to the other parties; or
  - f. for the purpose of any application under Rule 7 or Rule 8 of these Rules.

- 39.3 In Rule 39.1, “matters relating to the proceedings” includes the existence of the proceedings, and the pleadings, evidence and other materials in the arbitral proceedings and all other documents produced by another party in the proceedings or the Award arising from the proceedings, but excludes any matter that is otherwise in the public domain.
- 39.4 The Tribunal has the power to take appropriate measures, including issuing an order or Award for sanctions or costs, if a party breaches the provisions of this Rule.

#### **40. Decisions of the Chair, the Committee and the Registrar**

- 40.1 Except as provided in these Rules, the decisions of the Chair, the Committee and the Registrar with respect to all matters relating to an arbitration shall be conclusive and binding upon the parties and the Tribunal. The Chair, the Committee and the Registrar shall not be required to provide reasons for such decisions, unless the applicable law requires or the Committee determines otherwise or as may be provided in these Rules. The parties agree that the discussions and deliberations of the Committee are confidential.
- 40.2 Save in respect of Rule 16.1 and Rule 28.1 or subject to the applicable law, the parties waive any right of appeal or review in respect of any order of the Chair, the Committee and the Registrar to any court of competent jurisdiction.

#### **41. General Provisions**

- 41.1 Any party that proceeds with the arbitration without promptly raising any objection to a failure to comply with any provision of these Rules, or of any other rules applicable to the proceedings, any direction given by the Tribunal, or any requirement under the arbitration agreement relating to the constitution of the Tribunal or the conduct of the proceedings, shall be deemed to have waived its right to object.
- 41.2 In all matters not expressly provided for in these Rules, the Chair, the Court, the Registrar and the Tribunal shall act in the spirit of these Rules and shall make every reasonable effort to ensure the fair, expeditious and economical conclusion of the arbitration and the enforceability of any Award.
- 41.3 In the event of any discrepancy or inconsistency between the English version of these Rules and any other languages in which these Rules are published, the English version shall prevail.

**Schedule of Fees**

*(All sums stated are in Singapore dollars)*

This Schedule of Fees is effective as of 1 January 2024 and is applicable to all arbitrations commenced on or after 1 January 2024.

**Administration Fees**

The administration fee calculated in accordance with the Schedule below applies to all arbitrations administered by SIAC and is the maximum amount payable to SIAC.

<b>Sum in Dispute (S\$)</b>	<b>Administration Fees (S\$)</b>
Up to 50,000	
50,001 to 100,000	
100,001 to 500,000	
500,001 to 1,000,000	
1,000,001 to 2,000,000	
2,000,001 to 5,000,000	
5,000,001 to 10,000,000	
10,000,001 to 50,000,000	
50,000,001 to 80,000,000	
80,000,001 to 100,000,000	
Above 100,000,000	

The administration fee does not include the following:

- Fees and expenses of the Tribunal;
- Usage cost of facilities and support services for and in connection with any hearing (e.g. hearing rooms and equipment, transcription and interpretation services); and
- TCC's administrative expenses.

TCC will charge a minimum administration fee of \$----- payable for all cases, unless the Registrar otherwise determines.

**Arbitrator's Fees**

For arbitrations conducted pursuant to and administered under these Rules, the fee calculated in accordance with the Schedule below is the maximum amount payable to each arbitrator, unless the parties have agreed to an alternative method of determining the Tribunal's fees pursuant to Rule 34.1.

<b>Sum in Dispute (S\$)</b>	<b>Arbitrator's Fees (S\$)</b>
Up to 50,000	-----
50,001 to 100,000	
100,001 to 500,000	
500,001 to 1,000,000	
1,000,001 to 2,000,000	
2,000,001 to 5,000,000	
5,000,001 to 10,000,000	
10,000,001 to 50,000,000	
50,000,001 to 80,000,000	
80,000,001 to 100,000,000	
100,000,001 to 500,000,000	
Above 500,000,000	