

# Rules of the American Arbitration Association†

## *1. Model clause for services under the UNCITRAL Arbitration Rules*

For indicating the AAA as appointing authority, the following model clause is recommended:

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination, or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules in effect on the date of this contract.

The appointing authority shall be the American Arbitration Association.

If the AAA Administrative Services are desired as well, the parties may add the following to the above clause:

The case shall be administered by the American Arbitration Association in accordance with its "Procedures for Cases under the UNCITRAL Arbitration Rules."

In either case, the parties may wish to consider adding:

- (a) The number of arbitrators shall be \_\_\_\_\_ (one or three).
- (b) The place of arbitration shall be \_\_\_\_\_
- (c) The language(s) to be used in the arbitral proceedings shall be \_\_\_\_\_

## *2. Model clause for services under the AAA Commercial Arbitration Rules*

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof.

## *3. Commercial Arbitration Rules (last amended April 1, 1981)*

### *1. Agreement of Parties*

The parties shall be deemed to have made these Rules a part of their arbitration agreement whenever they have provided for arbitration by the American Arbitration Association or under its Rules. These Rules and any amendment thereof shall apply in the form obtaining at the time the arbitration is initiated.

### *2. Name of Tribunal*

Any tribunal constituted by the parties for the settlement of their dispute under these Rules shall be called the Commercial Arbitration Tribunal.

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### 3. *Administrator*

When parties agree to arbitrate under these Rules, or when they provide for arbitration by the American Arbitration Association and an arbitration is initiated thereunder, they thereby constitute AAA the administrator of the arbitration. The authority and obligations of the administrator are prescribed in the agreement of the parties and in these Rules.

### 4. *Delegation of Duties*

The duties of the AAA under these Rules may be carried out through Tribunal Administrators, or such other officers or committees as the AAA may direct.

### 5. *National Panel of Arbitrators*

The AAA shall establish and maintain a National Panel of Arbitrators and shall appoint Arbitrators therefrom as hereinafter provided.

### 6. *Office of Tribunal*

The general office of a Tribunal is the headquarters of the AAA, which may, however, assign the administration of an arbitration to any of its Regional Offices.

### 7. *Initiation under an Arbitration Provision in a Contract*

Arbitration under an arbitration provision in a contract may be initiated in the following manner:

- (a) The initiating party shall give notice to the other party of its intention to arbitrate (Demand), which notice shall contain a statement setting forth the nature of the dispute, the amount involved, if any, the remedy sought, and
- (b) By filing at any Regional Office of the AAA two copies of said notice, together with two copies of the arbitration provisions of the contract, together with the appropriate administrative fee as provided in the Administrative Fee Schedule.

The AAA shall give notice of such filing to the other party. If so desired, the party upon whom the Demand for Arbitration is made may file an answering statement in duplicate with the AAA within seven days after notice from the AAA, in which event said party shall simultaneously send a copy of the answer to the other party. If a monetary claim is made in the answer the appropriate fee provided in the Fee Schedule shall be forwarded to the AAA with the answer. If no answer is filed within the stated time, it will be assumed that the claim is denied. Failure to file an answer shall not operate to delay the arbitration.

### 8. *Change of Claim*

After filing of the claim, if either party desires to make any new or different claim, such claim shall be made in writing and filed with the AAA, and a copy thereof shall be mailed to the other party, who shall have a period of

seven days from the date of such mailing within which to file an answer with the AAA. After the Arbitrator is appointed, however, no new or different claim may be submitted except with the Arbitrator's consent.

#### *9. Initiation under a Submission*

Parties to any existing dispute may commence an arbitration under these Rules by filing at any Regional Office two copies of a written agreement to arbitrate under these Rules (Submission), signed by the parties. It shall contain a statement of the matter in dispute, the amount of money involved, if any, and the remedy sought, together with the appropriate administrative fee as provided in the Fee Schedule.

#### *10. Pre-Hearing Conference*

At the request of the parties or at the discretion of the AAA a pre-hearing conference with the administrator and the parties or their counsel will be scheduled in appropriate cases to arrange for an exchange of information and the stipulation of uncontested facts so as to expedite the arbitration proceedings.

#### *11. Fixing of Locale*

The parties may mutually agree on the locale where the arbitration is to be held. If the locale is not designated within seven days from the date of filing the Demand or Submission, the AAA shall have power to determine the locale. Its decision shall be final and binding. If any party requests that the hearing be held in a specific locale and the other party files no objection thereto within seven days after (notice) of the request, the locale shall be the one requested.

#### *12. Qualifications of Arbitrator*

Any Arbitrator appointed pursuant to Section 13 or Section 15 shall be neutral, subject to disqualification for the reasons specified in Section 19. If the agreement of the parties names an Arbitrator or specifies any other method of appointing an Arbitrator, or if the parties specifically agree in writing, such Arbitrator shall not be subject to disqualification for said reasons.

#### *13. Appointment from Panel*

If the parties have not appointed an Arbitrator and have not provided any other method of appointment, the Arbitrator shall be appointed in the following manner: Immediately after the filing of the Demand or Submission, the AAA shall submit simultaneously to each party to the dispute an identical list of names of persons chosen from the Panel. Each party to the dispute shall have seven days from the mailing date in which to cross off any names objected to, number the remaining names to indicate the order of preference, and return the list to the AAA. If a party does not return the list within the

time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the AAA shall invite the acceptance of an Arbitrator to serve. If the parties fail to agree upon any of the persons named, or if acceptable Arbitrators are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the AAA shall have the power to make the appointment from among other members of the Panel without the submission of any additional list.

#### *14. Direct Appointment by Parties*

If the agreement of the parties names an Arbitrator or specifies a method of appointing an Arbitrator, that designation or method shall be followed. The notice of appointment, with name and address of the appointing party, shall be filed with the AAA by the appointing party. Upon the request of any such appointing party, the AAA shall submit a list of members of the Panel from which the party may, if it so desires, make the appointment.

If the agreement specifies a period of time within which an Arbitrator shall be appointed, and any party fails to make such appointment within that period, the AAA shall make the appointment.

If no period of time is specified in the agreement, the AAA shall notify the parties to make the appointment and if within seven days thereafter such Arbitrator has not been so appointed, the AAA shall make the appointment.

#### *15. Appointment of Neutral Arbitrator by Party-Appointed Arbitrators*

If the parties have appointed their Arbitrators or if either or both of them have been appointed as provided in Section 14, and have authorized such Arbitrators to appoint a neutral Arbitrator within a specified time and no appointment is made within such time or any agreed extension thereof, the AAA shall appoint a neutral Arbitrator who shall act as Chairman.

If no period of time is specified for appointment of the neutral Arbitrator and the parties do not make the appointment within seven days from the date of the appointment of the last party-appointed Arbitrator, the AAA shall appoint such neutral Arbitrator, who shall act as Chairman.

If the parties have agreed that their Arbitrators shall appoint the neutral Arbitrator from the Panel, the AAA shall furnish to the party-appointed Arbitrators, in the manner prescribed in Section 13, a list selected from the Panel, and the appointment of the neutral Arbitrator shall be made as prescribed in such Section.

#### *16. Nationality of Arbitrator in International Arbitration*

If one of the parties is a national or resident of a country other than the United States the sole Arbitrator or the neutral Arbitrator shall, upon the request of either party, be appointed from among the nationals of a country other than that of any of the parties.

*17. Number of Arbitrators*

If the arbitration agreement does not specify the number of Arbitrators, the dispute shall be heard and determined by one Arbitrator, unless the AAA, in its discretion, directs that a greater number of Arbitrators be appointed.

*18. Notice to Arbitrator of Appointment*

Notice of the appointment of the neutral Arbitrator, whether appointed by the parties or by the AAA, together with a copy of these Rules, and the signed acceptance of the Arbitrator shall be filed prior to the opening of the first hearing.

*19. Disclosure and Challenge Procedure*

A person appointed as neutral Arbitrator shall disclose to the AAA any circumstances likely to effect [sic] impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their counsel. Upon receipt of such information from such Arbitrator or other source, the AAA shall communicate such information to the parties, and, if it deems it appropriate to do so, to the Arbitrator and others. Thereafter, the AAA shall determine whether the Arbitrator should be disqualified and shall inform the parties of its decision, which shall be conclusive.

*20. Vacancies*

If any Arbitrator should resign, die, withdraw, refuse, be disqualified or be unable to perform the duties of the office, the AAA may, on proof satisfactory to it, declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of these Rules and the matter shall be reheard unless the parties shall agree otherwise.

*21. Time and Place*

The Arbitrator shall fix the time and place for each hearing. The AAA shall mail to each party notice thereof at least five days in advance, unless the parties by mutual agreement waive such notice or modify the terms thereof.

*22. Representation by Counsel*

Any party may be represented by counsel. A party intending to be so represented shall notify the other party and the AAA of the name and address of counsel at least three days prior to the date set for the hearing at which counsel is first to appear. When an arbitration is initiated by counsel, or where an attorney replies for the other party, such notice is deemed to have been given.

### 23. *Stenographic Record*

The AAA shall make the necessary arrangements for the taking of a stenographic record whenever such record is requested by a party. The requesting party or parties shall pay the cost of such record as provided in Section 50.

### 24. *Interpreter*

The AAA shall make the necessary arrangements for the services of an interpreter upon the request of one or more of the parties, who shall assume the cost of such service.

### 25. *Attendance at Hearings*

The Arbitrator shall maintain the privacy of the hearings unless the law provides to the contrary. Any person having a direct interest in the arbitration is entitled to attend hearings. The Arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the Arbitrator to determine the propriety of the attendance of any other person.

### 26. *Adjournments*

The Arbitrator may take adjournments upon the request of a party or upon the Arbitrator's own initiative and shall take such adjournment when all of the parties agree thereto.

### 27. *Oaths*

Before proceeding with the first hearing or with the examination of the file, each Arbitrator may take an oath of office, and if required by law, shall do so. The Arbitrator has discretion to require witnesses to testify under oath administered by any duly qualified person or, if required by law or demanded by either party, shall do so.

### 28. *Majority Decision*

Whenever there is more than one Arbitrator, all decisions of the Arbitrators must be by at least a majority. The award must also be made by at least a majority unless the concurrence of all is expressly required by the arbitration agreement or by law.

### 29. *Order of Proceedings*

A hearing shall be opened by the filing of the oath of the Arbitrator, where required, and by the recording of the place, time and date of the hearing, the presence of the Arbitrator and parties, and counsel, if any, and by the receipt by the Arbitrator of the statement of the claim and answer, if any.

The Arbitrator may, at the beginning of the hearing, ask for statements clarifying the issues involved.

The complaining party shall then present its claim and proofs and its witnesses, who shall submit to questions or other examination. The defending party shall then present its defense and proofs and its witnesses, who shall submit to questions or other examination. The Arbitrator has discretion to vary this procedure but shall afford full and equal opportunity to all parties for the presentation of any material or relevant proofs.

Exhibits, when offered by either party, may be received in evidence by the Arbitrator.

The names and addresses of all witnesses and exhibits in order received shall be made a part of the record.

### *30. Arbitration in the Absence of a Party*

Unless the law provides to the contrary, the arbitration may proceed in the absence of any party which, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party. The Arbitrator shall require the party who is present to submit such evidence as the Arbitrator may require for the making of an award.

### *31. Evidence*

The parties may offer such evidence as they desire and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the dispute. The Arbitrator, when authorized by law to subpoena witnesses or documents, may do so upon the Arbitrator's own initiative or upon the request of any party. The Arbitrator shall be the judge of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of all the Arbitrators and of all the parties, except where any of the parties is absent in default or has waived the right to be present.

### *32. Evidence by Affidavit and Filing of Documents*

The Arbitrator shall receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as the Arbitrator deems it entitled to after consideration of any objections made to its admission.

All documents not filed with the Arbitrator at the hearing, but arranged for at the hearing or subsequently by agreement of the parties, shall be filed with the AAA for transmission to the Arbitrator. All parties shall be afforded opportunity to examine such documents.

### *33. Inspection or Investigation*

Whenever the Arbitrator deems it necessary to make an inspection or investigation in connection with the arbitration, the Arbitrator shall direct the AAA to advise the parties of such intention. The Arbitrator shall set the time and AAA shall notify the parties thereof. Any party who so desires may be present at such inspection or investigation. In the event that one or both parties

are not present at the inspection or investigation, the Arbitrator shall make a verbal or written report to the parties and afford them an opportunity to comment.

#### *34. Conservation of Property*

The Arbitrator may issue such orders as may be deemed necessary to safeguard the property which is the subject matter of the arbitration without prejudice to the rights of the parties or to the final determination of the dispute.

#### *35. Closing of Hearings*

The Arbitrator shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the Arbitrator shall declare the hearings closed and a minute thereof shall be recorded. If briefs are to be filed, the hearings shall be declared closed as of the final date set by the Arbitrator for the receipt of briefs. If documents are to be filed as provided for in Section 32 and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be the date of closing the hearings. The time within which the Arbitrator is required to make the award shall commence to run, in the absence of other agreements by the parties, upon the closing of the hearings.

#### *36. Reopening of Hearings*

The hearings may be reopened on the Arbitrator's own motion, or upon application of a party at any time before the award is made. If the reopening of the hearings would prevent the making of the award within the specific time agreed upon by the parties in the contract out of which the controversy has arisen, the matter may not be reopened, unless the parties agree upon the extension of such time limit. When no specific date is fixed in the contract, the Arbitrator may reopen the hearings, and the Arbitrator shall have thirty days from the closing of the reopened hearings within which to make an award.

#### *37. Waiver of Oral Hearings*

The parties may provide, by written agreement, for the waiver of oral hearings. If the parties are unable to agree as to the procedure, the AAA shall specify a fair and equitable procedure.

#### *38. Waiver of Rules*

Any party who proceeds with the arbitration after knowledge that any provision or requirement of these Rules has not been complied with and who fails to state objection thereto in writing, shall be deemed to have waived the right to object.



### 39. *Extensions of Time*

The parties may modify any period of time by mutual agreement. The AAA for good cause may extend any period of time established by these Rules, except the time for making the award. The AAA shall notify the parties of any such extension of time and its reason therefor.

### 40. *Communication with Arbitrator and Serving of Notice*

(a) There shall be no communication between the parties and a neutral Arbitrator other than at oral hearings. Any other oral or written communications from the parties to the Arbitrator shall be directed to the AAA for transmittal to the Arbitrator.

(b) Each party to an agreement which provides for arbitration under these Rules shall be deemed to have consented that any papers, notices or process necessary or proper for the initiation or continuation of an arbitration under these Rules and for any court action in connection therewith or for the entry of judgment on any award made there-under may be served upon such party by mail addressed to such party or its attorney at its last known address or by personal service, within or without the state wherein the arbitration is to be held (whether such party be within or without the United States of America), provided that reasonable opportunity to be heard with regard thereto has been granted such party.

### 41. *Time of Award*

The award shall be made promptly by the Arbitrator and, unless otherwise agreed by the parties, or specified by law, no later than thirty days from the date of closing the hearings, or if oral hearings have been waived, from the date of transmitting the final statements and proofs to the Arbitrator.

### 42. *Form of Award*

The award shall be in writing and shall be signed either by the sole Arbitrator or by at least a majority if there be more than one. It shall be executed in the manner required by law.

### 43. *Scope of Award*

The Arbitrator may grant any remedy or relief which the Arbitrator deems just and equitable and within the scope of the agreement of the parties, including, but not limited to, specific performance of a contract. The Arbitrator, in the award, shall assess arbitration fees and expenses in favor of any party and, in the event any administrative fees or expenses are due the AAA, in favor of the AAA.

#### 44. *Award upon Settlement*

If the parties settle their dispute during the course of the arbitration, the Arbitrator, upon their request, may set forth the terms of the agreed settlement in an award.

#### 45. *Delivery of Award to Parties*

Parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail by the AAA, addressed to such party at its last known address or to its attorney, or personal service of the award, or the filing of the award in any manner which may be prescribed by law.

#### 46. *Release of Documents for Judicial Proceedings*

The AAA shall, upon the written request of a party, furnish to such party, at its expense, certified facsimiles of any papers in the AAA's possession that may be required in judicial proceedings relating to the arbitration.

#### 47. *Applications to Court*

- (a) No judicial proceedings by a party relating to the subject matter of the arbitration shall be deemed a waiver of the party's right to arbitrate.
- (b) Neither the AAA nor any Arbitrator in a proceeding under these Rules is a necessary party in judicial proceedings relating to the arbitration.
- (c) Parties to these Rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any Federal or State Court having jurisdiction thereof.

#### 48. *Administrative Fees*

As a not-for-profit organization, the AAA shall prescribe an Administrative Fee Schedule and a Refund Schedule to compensate it for the cost of providing administrative services. The schedule in effect at the time of filing or the time of refund shall be applicable.

The administrative fees shall be advanced by the initiating party or parties, subject to final apportionment by the Arbitrator in the award.

When a matter is withdrawn or settled, the refund shall be made in accordance with the Refund Schedule.

The AAA, in the event of extreme hardship on the part of any party, may defer or reduce the administrative fee.

#### 49. *Fee When Oral Hearings are Waived*

When all oral hearings are waived under Section 37, the Administrative Fee Schedule shall apply.

#### 50. *Expenses*

The expenses of witnesses for either side shall be paid by the party producing such witnesses.

The cost of the stenographic record, if any is made, and all transcripts thereof, shall be prorated equally among all parties ordering copies unless they shall otherwise agree and shall be paid for by the responsible parties directly to the reporting agency.

All other expenses of the arbitration, including required traveling and other expenses of the Arbitrator and of AAA representatives, and the expenses of any witness or the cost of any proofs produced at the direct request of the Arbitrator, shall be borne equally by the parties, unless they agree otherwise, or unless the Arbitrator, in the award, assesses such expenses or any part thereof against any specified party or parties.

#### *51. Arbitrator's Fee*

Members of the National Panel of Arbitrators who serve as neutral Arbitrators do so in most cases without fee. In prolonged or in special cases the parties may agree to pay a fee, or the AAA may determine that payment of a fee by the parties is appropriate and may establish a reasonable amount, taking into account the extent of service by the Arbitrator and other relevant circumstances of the case. When neutral Arbitrators are to be paid, the arrangements for compensation shall be made through the AAA and not directly between the parties and the Arbitrators.

#### *52. Deposits*

The AAA may require the parties to deposit in advance such sums of money as it deems necessary to defray the expense of the arbitration, including the Arbitrator's fee, if any, and shall render an accounting to the parties and return any unexpended balance.

#### *53. Interpretation and Application of Rules*

The Arbitrator shall interpret and apply these Rules insofar as they relate to the Arbitrator's powers and duties. When there is more than one Arbitrator and a difference arises among them concerning the meaning or application of any such Rules, it shall be decided by a majority vote. If that is unobtainable, either an Arbitrator or a party may refer the question to the AAA for final decision. All other Rules shall be interpreted and applied by the AAA.