

**BANGALORE INTERNATIONAL MEDIATION, ARBITRATION AND
CONCILIATION CENTRE**

RULES OF ARBITRATION

RULE 1: SCOPE OF APPLICATION AND INTERPRETATION

1.01 These Rules shall be known and referred to as the “**BIMACC Institutional Arbitration Rules**” and shall be hereinafter referred to as the “Rules”.

1.02 These Rules shall be applicable where parties have agreed in writing to refer their disputes to Bangalore International Mediation, Arbitration and Conciliation Centre (BIMACC) for arbitration, domestic or international. The parties shall be deemed to have agreed that the arbitration shall be conducted and administered in accordance with these Rules.

1.03 If any of these Rules are in conflict with any mandatory provision of the applicable law of arbitration from which the parties cannot derogate, that provision shall prevail.

1.04 In these Rules –

“**Act**” means the Arbitration and Conciliation Act 1996 or any other law that may be enacted specifically for the purpose of Arbitration in India or in any other country/ territory, as may be applicable on a case to case basis.

“**Arbitration**” means and includes domestic as well as international arbitration.

“Arbitrator” means any person qualified as a lawyer, engineer, accounting or financial expert, company secretary, retired judge or retired member of any tribunal, or any other Professional, having considerable experience in the respective profession or area of practice, and duly registered with BIMACC, including the Emergency Arbitrator.

“Award” means any decision of the Tribunal on the substantial issues raised in the dispute and includes a partial or final award and would include any Award, passed by the Tribunal in an International Arbitration, which may include any injunctive or remedial reliefs.

“BIMACC” means Bangalore International Mediation, Arbitration and Conciliation Centre.

“Centre” means Bangalore International Mediation, Arbitration And Conciliation Centre.

“Chairperson” means the Chairperson of the Governing Council of BIMACC.

“Counsel” shall refer to persons with appropriate qualification in law and duly enrolled or admitted to a Bar Council or Association of any country, recognized under the law of such country, with license or permission to practice law. This term shall mean and include advocates, solicitors, barristers and attorneys at law.

“Data’ shall mean any information capable of being stored, retrieved, copied, transmitted in any form, including, but not limited to, typed, printed or

converted to digital format, which may comprise of text, images, sounds, videos or any other content, whether live or not.

“Domestic Arbitration” shall mean arbitration of disputes where parties have agreed to resolve their disputes under the Indian Arbitration and Conciliation Act 1996 and have further agreed to have the arbitration in India.

“Entity” shall mean and include individuals, partnership firms, associations, association of persons, societies, limited liability partnerships, corporate bodies, government, government bodies, state undertakings, trustees and non-governmental organisations, local bodies and corporations.

“Executive Board” means the Executive Board of BIMACC.

“Governing Council” means the council of members of BIMACC who advise on policy and technical issues from time to time.

“INR” shall stand for Indian National Rupee, the official currency of the Republic of India.

“International Arbitration” shall mean resolution of disputes which do not qualify under Domestic Arbitration.

“Online Arbitration” means arbitration proceedings, in part or in full, carried out under these Rules over the internet or over any other medium that supports video conferencing and live transmission of data.

“Online Filing” means filing pleadings (including claim statements, written statements, applications etc.), documents in support of the pleadings and any

other document or record of facts in digital format, uploaded in an appropriate readable manner, by the parties using any remote computer, as provided under these Rules.

“Party” means and includes, as the context may require, any or all the claimant/s and/or respondent/s and/or anyone claiming under them or representing them.

“Pleadings” shall refer to the statement of claim, defence or counter claim or rejoinders of any of the Parties to the proceedings, formally condensed to a written form or any other form permissible under and according to these Rules.

“Practice Notes” shall refer to memos issued by the Registrar containing instructions, clarifications or any other information to supplement, regulate and implement these Rules for the purpose of facilitating the administration of arbitrations governed by these Rules, which shall be listed in the official website of the Centre.

“President” means the President of the Executive Board of the Centre and includes the Vice President or any other officiating individual in the absence of the President.

“Registrar” means the Registrar of the Centre and includes any Deputy Registrar or any other officiating person discharging any of the functions of the Registrar.

“Registry” shall mean the office of the Registrar.

“Sub-Committee” means a sub-committee consisting of not less than three Executive Board members appointed by the President (which may include the President) and not exceeding 18 members.

“Tribunal” includes a sole arbitrator or all the arbitrators where more than one are appointed.

“USD” shall stand for United States Dollar, being the official currency of the United States of America and its overseas territories.

Any pronoun shall be understood to be gender-neutral.

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

1.05 The interpretation that is given by the Centre to any provision in this Arbitration Procedure shall be the correct interpretation of the provision concerned.

RULE 2: NOTICE AND COMMUNICATION

2.01 For the purposes of these Rules, any notice, communication or proposal, shall be in writing. Any such written communication may be delivered in person, sent by registered/ recorded post with acknowledgment due, sent via courier service with proof of delivery or transmitted by any form of electronic communication (including electronic mail and facsimile) or delivered by any other means that provides an independent record of its delivery.

2.02 A communication is deemed to have been duly dispatched if it is sent to the addressee personally (i) to the habitual residence or place of business or designated address, or (ii) to any address agreed by the parties, or (iii) if the service of communication is not possible as per (i) or (ii) above then according to the practice of the parties in prior dealings, or (iv) if none of these can be found after making reasonable inquiry, then at the addressee's last-known residence or place of business. As far as possible the claimants shall furnish e-mail addresses of all the parties concerned at the time of initiating the process, and the Registry may send any information through e-mail to such addressee to whom a communication has been dispatched under any of the modes (i) to (iv) supra.

2.03 The notice, communication, or proposal is deemed to have been received on the day it is delivered. In the absence of proof of delivery, 14 days from the date of dispatch of the communication shall imply completion of delivery. It shall be the sole and exclusive responsibility of the claimant or the concerned party on whose behalf any communication needs to be dispatched by the Centre, to furnish accurate and complete address and e-mail ID for communication of the concerned party to whom such communication needs to be dispatched by the Centre. The Registry shall not assume responsibility for any wrong or erroneous address or email-id furnished by the claimant or any other concerned party.

2.04 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 or

communication or proposal is deemed to have been received. If the last day of such period is not a business day at the place of receipt pursuant to Rule 2.01, the period is extended until the first business day which follows. Non-business days occurring during the running of the period of time are included in calculating the period.

2.05 The parties shall file with the Registrar a copy of any notice, communication or proposal concerning the arbitral proceedings with necessary proof of dispatch and delivery.

RULE 3: NOTICE OF ARBITRATION

3.01 A party wishing to commence arbitration (the "Claimant") shall file with the Registrar the following:

- a. a Claim Statement as per **FORM A** to these rules, in duplicate, either through him or through his duly authorised legal representative along with the instrument conferring such authority on the legal representative by the Claimant, duly signed, stamped and attested as per the applicable law of the Claimant's place of residence/ domicile, as per **FORM B** to these Rules, and also specifying whether the Claimant wishes to opt for Online Arbitration under Rule 36 infra, provided it fulfills the necessary criteria to do so;
- b. a letter addressed to the Registrar of the Centre either by the claimant or through its authorised legal representative, giving the names, addresses, telephone number, facsimile number and e-mail ID, if known, of the parties to the arbitration and their representatives, if any; and the need to appoint an

arbitrator and specifically disclosing the fact that the parties to the dispute have agreed to resolve their disputes through BIMACC with a reference to the arbitration clause or the separate arbitration agreement that is invoked;

- c. a copy of a reference to the contract out of or in relation to which the dispute arises;
- d. a copy of the legal notice or demand letter for appointment of a BIMACC empanelled arbitrator, if any;
- e. and where possible, a copy of a proposal for the number of arbitrator(s) if this is not specified in the arbitration agreement;
- f. any comment as to the applicable rules of law;
- g. any comment as to the language of the arbitration;
- h. proof of payment of the requisite filing fee.
- i. Along with the claim statement, the party shall file the documents in support of the Claim Statement and list of witnesses.

3.02 The Registry may insist on a soft copy of the claim statement and documents in the form of a non editable/erasable digital storage device capable of being read such as Compact Disc (CD) or Digital Video Disc (DVD) or similar devices, which shall be free from any virus and/or other malware. The Registry may insist upon additional copies of the claim statement with all supporting documents and list of witnesses of the claimant.

- 3.03 The date of receipt of the complete Claim Statement by the Registrar shall be deemed to be the date of commencement of the arbitration for the purpose of limitation.
- 3.04 The Registry shall scrutinize the claim statement and documents filed by the claimant in accordance with Rules 3.01 and 3.02 supra and inform the Claimant about any defects that need to be rectified and upon the Claimant rectifying all such defects pointed out by the Registry, the Registry shall communicate the cost of communication to the Claimant, which the Claimant shall deposit with the Registry and on receipt of the same, the Registry shall proceed to notify the parties on the commencement of arbitration.
- 3.05 If the claimant has proposed the name of any BIMACC empanelled arbitrator in its legal notice or demand letter for appointment of arbitrator, the Registry shall subject to Rule 6, enquire with such empanelled arbitrator his willingness to function as an arbitrator for that dispute. If the arbitrator declines to function as an Arbitrator or if such a person has ceased to be on panel of BIMACC, the Registry may ignore such a proposal of the claimant and may choose an appropriate arbitrator from its Panel.
- 3.06 The Registry shall send the notice along with the claim petition and complete set of documents and list of witnesses, if any, to the respective parties by registered post with acknowledgment due or by courier with proof of delivery along with the name of the arbitrator, if any, proposed by the claimant. Copies

of the notice shall be sent by e-mail to the respondents, wherever such information is available.

RULE 4: RESPONSE TO THE NOTICE OF ARBITRATION

4.01 The Respondent shall send to the Claimant its response, containing the statement of objections, if any, within 21 days of receipt of the Notice of Arbitration, if any. The statement of objection shall be as per **FORM C** and shall contain:

- a. an admission or denial of all or part of the claims;
- b. a brief statement describing the nature and circumstances of any counter claim, specifying the relief claimed and, where possible, an initial quantification of the counter claim amount;
- c. any comment in response to any statements contained in the notice of Arbitration under Rule 3 or any comment with respect to the matters covered in such rules; and
- d. unless the parties have agreed otherwise and where the Arbitration Agreement provides for three arbitrators, the statement of objections shall be accompanied by a memo containing the Respondent's nomination for an arbitrator, or, if the arbitration agreement provides for a sole arbitrator, indication of the Respondent's agreement with Claimant's proposal for a sole arbitrator or a counter-proposal.

4.02 The response may also include a statement of counterclaim, as referred to in Rules 17.02 and 17.03.

4.03 The Respondent shall, at the same time, send a copy of the response to the Registrar, together with the payment of the requisite filing fee for any counterclaim, and shall notify the Registrar of the mode of service of the response employed and the date of service.

4.04 When advocates are engaged by the respondent, the respective counsel shall lodge a letter of authorization as per **FORM B** to these rules, of his respective client.

RULE 5: FAST TRACK PROCEDURE

5.01 Prior to the full constitution of the Tribunal, a party may apply to the Centre in writing for the arbitral proceedings to be conducted in accordance with the Fast Track Procedure under this Rule where any of the following criteria is satisfied:

- a. the amount in dispute does not exceed USD 200,000 (U.S. Dollars Two Hundred Thousand only) for all international disputes and INR 10,000,000 (Ten Million only) for Indian domestic disputes.
- b. all the parties so agree;
- c. in cases of exceptional urgency, that may be made out by the Claimants or the Respondents as the case may be, subject to the discretion of the President.

5.02 When a party or parties has/ have applied to the Centre under Rule 5.01, and when the President determines, after considering the views of the parties, that

the arbitral proceedings shall be conducted in accordance with the Fast Track Procedure, the following procedure shall apply:

- a. The Registrar shall ask the concerned party/ parties to pay Fast Track Fee of a sum of USD 2,000 (USD Two Thousand Only) for International Disputes or INR 100,000 (Indian Rupees One Hundred Thousand Only);
- b. The Registrar may shorten any time limits under these Rules;
- c. The case may be referred to a sole arbitrator, unless the President determines otherwise;
- d. Unless the parties agree that the dispute shall be decided on the basis of documentary evidence only, the Tribunal shall hold a hearing for the examination of all witnesses and expert witnesses as well as for any argument;
- e. The award shall be made within six months from the date when the Tribunal is constituted unless, in exceptional circumstances, the Registrar extends the time;
- f. The Tribunal shall state the reasons upon which the award is based in summary form, unless the parties have agreed that no reasons are to be given.

RULE 6: NUMBER AND APPOINTMENT OF ARBITRATORS

- 6.01 A sole arbitrator shall be appointed unless the parties have agreed otherwise.
- 6.02 If the parties have agreed that any arbitrator is to be appointed by one or more of the parties, or by any third person including the arbitrators already

appointed, that agreement shall be treated as an agreement to nominate an arbitrator under these Rules.

6.03 In all cases, the arbitrators nominated by the parties shall be from the panel of arbitrators of the Centre. In the event of any non-panelist Arbitrator is to be appointed by the parties, his appointment shall be subject to him agreeing in writing to follow and adopt these Rules and further subject to the approval of the President. The President may grant such approval solely at his discretion.

6.04 The President shall appoint an arbitrator as soon as practicable. Any decision by the President to appoint an arbitrator under these Rules shall be final.

6.05 The President is entitled in his discretion to appoint any nominee whose appointment has already been suggested or proposed by any party.

6.06 The terms of appointment of each arbitrator shall be fixed by the Registrar in accordance with these Rules and Practice Notes for the time being in force, or in accordance with the agreement of the parties.

RULE 7: SOLE ARBITRATOR

7.01 If a sole arbitrator is to be appointed, either party may propose to the other the names of one or more persons, one of whom would serve as the sole arbitrator. Where the parties have reached an agreement on the name of a sole arbitrator, Rule 6.03 shall apply.

7.02 If within 21 days after receipt by the Registrar of the Notice of Arbitration, the parties have not reached an agreement on the nomination of a sole arbitrator, or

if at any time either party so requests, the President shall make the appointment as soon as may be practicable.

RULE 8: THREE ARBITRATORS

- 8.01 If three arbitrators are to be appointed, each party shall nominate one arbitrator.
- 8.02 If a party fails to make a nomination of an arbitrator within 21 days after receipt of a party's nomination, the President shall proceed to appoint the arbitrator on its behalf.
- 8.03 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 reasonable time limit fixed by the parties or by the Centre, the third arbitrator, who shall act as the presiding arbitrator, shall be appointed by the President.

RULE 9: MULTI-PARTY APPOINTMENT OF ARBITRATOR

- 9.01 Where there are more than two parties in the arbitration, and three arbitrators are to be appointed, the Claimants shall collectively nominate one arbitrator and the Respondents shall collectively nominate one arbitrator. In the absence of such collective nominations being made within 28 days of the filing of the Notice of Arbitration or within the period agreed by the parties, the President shall appoint all three arbitrators and shall designate one of them to act as the presiding Arbitrator. The President is empowered to exercise his discretion in

nominating such arbitrator who has been recommended by any of the parties, severally or collectively.

9.02 Where a sole arbitrator is to be appointed in a dispute involving more than two parties, all parties shall agree on a common arbitrator. In the absence of such a joint nomination within 28 days of the dispatch of the Notice of Arbitration or within the period agreed by the parties under an agreement for arbitration, the President shall appoint the sole arbitrator.

9.03 The appointment of any such Arbitrator appointed by the President shall not be questioned by the parties, except on grounds of challenge as per Rule 11 below.

RULE 10: EMPANELMENT AND QUALIFICATIONS OF ARBITRATORS

10.01 The Centre shall maintain a panel of Arbitrators. Any person who desires to be empanelled as an Arbitrator may apply to the Centre giving complete particulars as per FORM-1. On receipt of such an application, the same shall be placed before the Advisory Council and the Advisory Council may recommend to the Executive Board the name of such an applicant to be empanelled as an Arbitrator. The Advisory Council may also recommend such names as it may deem fit from time to time. The Executive Board, on receipt of such recommendation, may communicate to the concerned applicant to be empanelled as an Arbitrator. The Executive Board may at its discretion fix such fee as it deems fit from time to time as Registration fee, which would be payable by the said applicant. On receipt of the fee, such an applicant shall be

registered as an Arbitrator. The Executive Board may waive collection of any registration fee from any applicant at its discretion.

10.02 Any Arbitrator, whether or not nominated by the parties, shall be and remain at all times independent and impartial, and shall not act as advocate or consultant or advisor, directly or indirectly, for any of the concerned parties to the dispute.

10.03 In making an appointment under these Rules, the President shall have due regard to any specific/special qualifications required of the arbitrator by the agreement of the parties.

10.04 The President shall also consider whether the arbitrator has sufficient availability of time to determine the case in a prompt and efficient manner and appropriate to the nature of the dispute.

10.05 On receipt of notice seeking consent for appointment, an arbitrator shall disclose to the parties and to the Registrar any circumstance that may give rise to justifiable doubts as to his impartiality or independence or any interest, direct or indirect, in the subject matter or the parties concerned, as soon as reasonably practicable.

10.06 An arbitrator shall immediately disclose to the parties, to the other arbitrators and to the Registrar any circumstance similar to those stated in 10.05 above, that may arise during the arbitration.

10.07 If the parties have agreed on any qualifications required of an arbitrator, the arbitrator proposed by the Centre shall be deemed to meet such qualifications

unless a party states in writing to the Registrar, that the arbitrator is not so qualified, within 14 days after receipt by that party of the notification of the nomination of the arbitrator by the Centre. In the event of such a challenge, the procedure for challenge and replacement of an arbitrator in Rules 11 to 14 shall apply.

10.08 No party or anyone acting on its behalf shall have any *ex-parte* communication relating to the case with any candidate or presiding arbitrator.

10.09 The Executive Board, on the recommendation of the Advisory Council, may strike out the name of any empanelled Arbitrator from its panel of Arbitrators on the grounds of incapacity, inability or misconduct. Any Arbitrator may also be removed from the panel if he is found guilty of any criminal offence or has become insolvent. The Advisory Council may, before recommending the removal, issue a notice to the concerned Arbitrator requesting him to give an explanation in writing within 15 days from the receipt of the notice. The Advisory Council shall have the discretion to consider personal hearing; however, this shall not be a matter of right. The Advisory Council may accept or reject explanations, if any, given without assigning any reasons and recommend accordingly to the Executive Board. The Executive Board shall act accordingly on such a recommendation to either remove or retain the name of the concerned Arbitrator.

RULE 11: CHALLENGE TO APPOINTMENT OF ARBITRATORS

11.01 Any arbitrator's appointment may be challenged if circumstances exist such as to 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.

11.02 A party may challenge the appointment of an arbitrator nominated by him only for reasons of which he becomes aware after the appointment has been made.

RULE 12: NOTICE OF CHALLENGE

12.01 A party who intends to challenge the appointment of an arbitrator shall send a notice of challenge within 14 days after the circumstances mentioned in Rules 10.05, 10.06, 11.01 or 11.02 became known to that party.

12.02 The notice of challenge shall be filed with the Registrar and shall be sent simultaneously to the other party, the arbitrator who is being challenged and the other members of the Tribunal. The notice of challenge shall be in writing and shall state the reasons for the challenge. Subject to the challenge being in order, the Registrar shall order suspension of the arbitration proceedings until the challenge is resolved. Only under exceptional cases such as Fast Track Proceedings under Rule 5, an emergency arbitrator shall be appointed by the President under Rule 35.

12.03 When the appointment of an arbitrator is challenged by one party, (a) the other party may concede the challenge or (b) the arbitrator, whose appointment has

been challenged, may withdraw from his office. In neither case, it would imply acceptance of the validity of the grounds for the challenge.

12.04 In instances referred to in Rule 12.03, the procedure provided in Rules 6 to 9, as the case may be, shall be used for the appointment of a replacement arbitrator, even if during the process of appointing the original arbitrator whose appointment has been challenged, a party had earlier failed to exercise his right to nominate. The time limit provided in those Rules shall commence from the date of receipt of communication from the other party conceding to the demand for change or from the date of the challenged arbitrator's withdrawal.

RULE 13: DECISION ON CHALLENGE

13.01 In the non happening of the events specified in Rule 12.03, a Sub-Committee of the Executive Board shall decide on the challenge within 30 days from the date of receipt of the notice of challenge.

13.02 If the Sub-Committee sustains the challenge, a substitute arbitrator shall be appointed in accordance with the procedure provided in Rule 6 and Rules 7, 8 or 9, as the case may be, even if during the process of appointing the arbitrator in question, a party had failed to exercise his right to nominate. The time-limit provided in those Rules shall commence from the date of the Registrar's notification to the parties of the decision by the Sub-Committee.

13.03 If the Sub-Committee dismisses the challenge, the concerned arbitrator shall continue with the arbitration proceedings, and the suspension of the Arbitral Proceedings shall stand revoked.

13.04 The Sub-Committee may fix the costs of the challenge and may direct by whom and how such costs should be borne.

13.05 The Sub-Committee's decision made under this Rule shall be final and not subject to appeal.

RULE 14: REPLACEMENT OF AN ARBITRATOR

14.01 In the event of the death or resignation or withdrawal 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.

14.02 In the event that an arbitrator refuses or fails to act or in the event of a *de jure* or *de facto* impossibility of him performing his functions or if he does not fulfill his functions in accordance with the Rules or within prescribed time limits, the procedure for replacement of an arbitrator provided in Rule 14.01 shall apply.

14.03 After consulting with the parties, the President may in his discretion remove an arbitrator who refuses or fails to act, or in the event of a *de jure* or *de facto* impossibility of him performing his functions, or if he is not fulfilling his functions in accordance with the Rules or within the prescribed time limits.

RULE 15: REPETITION OF HEARINGS IN THE EVENT OF REPLACEMENT OF AN ARBITRATOR

15.01 If under Rules 12 to 14, the sole or presiding arbitrator is replaced, any hearings held previously shall be repeated unless otherwise agreed by the parties. If any other arbitrator is replaced, such prior hearings 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 related solely to that award shall not be repeated, and the award shall remain in effect. However, on creation of vacancy with respect to any arbitrator of a Tribunal during the process of recording evidence or hearing on interlocutory applications, the newly constituted arbitral Tribunal shall continue as if there is no change of the Tribunal.

RULE 16: CONDUCT OF THE PROCEEDINGS

16.01 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 determination of the dispute.

16.02 Subject to Rules 21, the Tribunal shall determine the relevance, materiality and admissibility of all evidence. Evidence shall be by way of affidavit. The Tribunal may permit any of the parties to cross examine any witnesses. While doing so, the Tribunal shall fix a time frame for recording evidence and compel parties to appear before the Tribunal by issue of summons if necessary, and administer oath. The Tribunal shall strictly implement the time frame so fixed.

If parties do not adhere to the time frame, the Tribunal may, at its discretion, decide to close the evidence or expunge the affidavit, as the case may be.

16.03 Subject to Rules 16.02 and 21 the Tribunal may accept evidence in the form of affidavits of the parties and witnesses. Under exceptional circumstances any witness may be cross examined either by the members of the Tribunal or by any other party, on the basis of any application. In this regard, list of witness and the evidentiary affidavits shall be filed and circulated among the parties at least three weeks in advance.

16.04 If the arbitration is in the nature of “Documents Only” or Fast Track, the Tribunal will not permit any witnesses to be cross examined, however counter affidavits may be received.

16.05 As soon as practicable after the appointment of all arbitrators, the Tribunal shall conduct a preliminary meeting with the parties, in person or by any other means, to discuss the procedures that will be most appropriate and efficient for the case.

16.06 The Tribunal may, at 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 on which could dispose of all or part of the case.

16.07 A presiding arbitrator alone may make procedural rulings.

16.08 All statements, documents or other information supplied to the Tribunal and Registrar by one party shall simultaneously be communicated to the other party.

RULE 17: SUBMISSIONS BY THE PARTIES

17.01 Unless the Tribunal determines otherwise, the submission of the pleadings shall proceed as set out in this Rule.

17.02 Unless already submitted pursuant to Rule 4.02, the Respondent shall, within a period of time to be determined by the Tribunal, send to the Claimant a Statement of Objections setting out its full objections to the Statement of Claim, including without limitation, the facts and contentions of law on which it relies. The Statement of Objections shall also state any counterclaim, which shall comply with the requirements of Rule 4.01.

17.03 If a counterclaim is made, the Claimant shall, within a period of time to be determined by the Tribunal, send to the Respondent a Statement of Objections to the Counterclaim stating in full detail which of the facts and contentions of law in the Statement of Counterclaim it admits or denies, on what grounds it denies the claims or contentions, and on what other facts and contentions of law it relies.

17.04 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 that may be caused to the other party in doing so 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. If any additional claims are sought to be made, appropriate additional fee shall be payable to the Centre and the arbitrator. Unless additional fee is paid to the Centre and Arbitrator, any amendments with regard to the claim shall not be given effect by the Tribunal.

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

17.06 All submissions referred to in this Rule shall be accompanied by copies of all supporting documents referred to in the pleadings of the respective parties.

17.07 If the Claimant fails to submit its Statement of Claim within the time specified, the Tribunal may issue an order for the termination of the arbitral proceedings or give such other directions as may be appropriate.

17.08 If the Respondent fails to submit a Statement of Objections, or if at any point of time 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 as such.

17.09 The parties shall sign all the pages of the pleadings and the documents shall be duly attested by the Counsels, if any, representing the parties. All Affidavits have to be sworn before a Notary public appointed under the law of the country of origin or residence or business of the signatory.

RULE 18: SEAT AND VENUE OF ARBITRATION

18.01 The parties may agree on the Seat of arbitration to be anywhere, including any place outside India. Failing such an agreement, the Seat of arbitration shall be at a place that the Registrar may decide, having regard to all the circumstances of the case.

18.02 The Tribunal may hold hearings and meetings in such manner as it considers expedient or appropriate and at any location it considers convenient or appropriate.

18.03 For International Arbitration, without taking away the international character of the Arbitration, the parties may agree to have the seat of Arbitration anywhere outside India, but have the venue in India. For example, the contract or agreement for reference may contain the following Clause *“The Seat of Arbitration shall be (New York/ London/ Singapore); however, the venue of Arbitration can be in any country including India as may be mutually agreed by the parties.”*

RULE 19: LANGUAGE OF ARBITRATION

19.01 Unless the parties have agreed otherwise, the language of Arbitration shall be English.

19.02 If a document is written in a language other than English, the Registrar may order the party relying on such document to submit a translated version of the said document, duly attested as true, by the counsel representing the concerned

party. However the Centre shall not vouch for the authenticity of any such translation and if any party is not satisfied with the same, he may file his version of a duly certified translation and it is up to the tribunal to decide on the authenticity of the respective versions.

19.03 The tribunal may at the request and cost of a party, refer any document for translation into English, by any independent persons or entity. The parties shall not question the authenticity of the translation.

RULE 20: PARTY REPRESENTATIVES

20.01 Any party may be represented by legal practitioners, counsels or any other representatives, subject to such proof of authority as the Registrar or the Tribunal may require.

RULE 21: HEARINGS

21.01 Unless the parties have agreed on documents-only arbitration, 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 without limitation any issue as to jurisdiction.

21.02 The Tribunal shall fix the date, time and place of any meeting or hearing and shall give the parties reasonable notice.

21.03 If any party to the proceedings fails to appear at a hearing without showing sufficient cause for such failure, the Tribunal may proceed with the arbitration and may make the award based on the submissions and evidence before it.

RULE 22: WITNESSES

22.01 Subject to Rule 16.03, before any hearing, the Tribunal may require any party to furnish a list of witnesses, including expert witnesses, whom it intends to produce, the subject matter of their testimony and its relevance to the issues.

22.02 Subject to Rule 16.03, the Tribunal has discretion to allow, refuse or limit the appearance of witnesses.

22.03 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 shall determine.

22.04 The Tribunal may direct the testimony of witnesses to be presented in the form of affidavits. Subject to Rules 16.02, 16.03 and 22.02, any party may request that such a witness should attend for oral cross examination.

RULE 23: TRIBUNAL-APPOINTED EXPERTS

23.01 Unless the parties have agreed otherwise, the Tribunal may:

- a. following consultation with the parties, appoint an expert to report on specific issues; and
- b. require a party to give such expert any relevant information, or to produce or provide access to any relevant documents, goods or property for inspection.

23.02 Any expert so appointed shall submit a report in writing to the Tribunal. Upon receipt of such a 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.

23.03 Unless the parties have agreed otherwise, if the Tribunal considers it necessary, any such expert shall, after delivery of his written report, participate in a hearing. At the hearing, the parties shall have the opportunity to cross-examine him.

RULE 24: ADDITIONAL POWERS OF THE TRIBUNAL

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

- a. Interpret any contract, only to the extent required to rectify any mistake, which it determines to have been made by all the parties to that contract.
- b. upon the application of a party, 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 thereafter make a single final award or separate awards in respect of the concerned parties;
- c. except as provided in Rules 27.02 and 28.04, extend or abbreviate any time limits provided by these Rules or by its directions;
- d. conducts such enquiries as may appear to the Tribunal to be necessary or expedient;

- e. order the parties to make any property or item available, for inspection in the parties' presence, by the Tribunal or any expert;
- f. order the preservation, storage, sale or disposal of any property or item which is or forms part of the subject-matter of the dispute;
- g. order any party to produce to the Tribunal and to the other parties for inspection, and to supply copies of any document in their possession or control which the Tribunal considers relevant to the case and material to its outcome;
- h. issue an award for unpaid costs of arbitration;
- i. direct any party to give evidence by affidavit or in any other form;
- j. direct any party to ensure that any award which may be made in the arbitral proceedings is not rendered ineffectual by the dissipation of assets by a party;
- k. order any party to provide security for legal or other costs in any manner the Tribunal thinks fit;
- l. order any party to provide security for all or part of any amount in 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 or to attend any meeting or hearing, and to impose such sanctions as the Tribunal deems appropriate;

- n. determine the law applicable in consultation with the parties, if not agreed before the commencement of the arbitral proceedings; and
- o. determine any claim of legal or other applicable privilege.

RULE 25: JURISDICTION OF THE TRIBUNAL AND LIMITATION

25.01 The jurisdiction of the Tribunal shall not be restricted to geographical limits and depending upon the facts and circumstances of the case and the parties involved, a Tribunal may be classified as an international arbitral Tribunal. The Tribunal shall have the power to rule on its own jurisdiction and on the question of limitation, including any objections with respect to the existence, termination or validity of the arbitration agreement. For that purpose, an arbitration agreement which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the Tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration agreement.

25.02 A plea that the Tribunal does not have jurisdiction to try a dispute shall be raised before or at the time of filing of the Statement of Objections.

25.03 If any party desires to oppose the jurisdiction of the tribunal to entertain any dispute raised in the counter claim, a plea on maintainability of such a counter claim shall be filed within 15 days from the date of receipt of the counter claim.

25.04 A plea that the Tribunal is exceeding the scope of its jurisdiction shall be raised promptly after the Tribunal has indicated its intention to decide on the matter alleged to be beyond the scope of its jurisdiction.

25.05 The Tribunal may nevertheless admit a late plea under this Rule if it is satisfied about the cause of delay, provided that necessary application is made by the concerned party explaining the cause of delay, supported by an affidavit of such party.

25.06 A party is not precluded from raising any plea under Rule 25.02, 25.03 and 25.04 merely because he has nominated or participated in the nomination of an arbitrator.

25.07 The Tribunal may rule on a plea referred to in Rule 25.02 either as a preliminary question or in an award on the merits.

25.08 A party may rely on a claim or defence for the purpose of a set-off to the extent permitted by the applicable law.

RULE 26: APPLICABLE RULES AND LAW FOR ARBITRATION

26.01 In order to invoke the jurisdiction of the BIMACC Arbitration Tribunal, all the parties to a contract or a dispute shall agree in writing to refer any dispute or issue for Arbitration under the BIMACC Rules.

26.02 The parties may choose to adopt the law of any country as they mutually agree and explicitly state so in the contract or agreement for reference to arbitration.

26.03 In matters relating to International Arbitration, parties may agree in writing to exclude Part I of the Arbitration and Conciliation Act, 1996 (Indian Law). In the absence of any such express exclusion and if at least one of the parties to the concerned arbitration agreement is an Indian entity, Part I of the Arbitration and Conciliation Act, 1996 would apply.

26.04 The Tribunal shall apply the 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 laws of India.

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

RULE 27: THE AWARD

27.01 The Tribunal shall, after consulting with the parties, declare the proceedings closed if it is satisfied that the parties have no further relevant and material evidence to produce or submission to make. The Tribunal may, on its own motion or upon application of a party, but before any award is made, reopen the proceedings.

27.02 Tribunal shall pass an award to the Registrar within 45 days from the date on which the Tribunal declares the proceedings closed. No award shall be issued by the Tribunal until it has been approved by the Registrar as to its form.

27.03 Subject to Rule 27.02, the Tribunal may make separate awards on different issues at different times.

27.04 If any arbitrator fails to cooperate in the making of the award, having been given a reasonable opportunity to do so, the remaining arbitrators shall proceed in his absence.

27.05 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.

27.06 The Tribunal, including each Arbitrator, shall refrain from dispatching copies of the Award directly to the Parties. Each copy of the Award shall contain a Certificate of No Dues in terms of Rule 31.04 issued by the Registrar of the Centre. Any Award without the Certificate of No Dues, shall be unenforceable.

27.07 The Registrar shall transmit certified copies of the Award to each of the parties, only upon the full settlement of the costs of arbitration by the respective parties. The certified copy of the Award shall be dispatched to the concerned parties, by Registered or Recorded Post or Courier, with proof of delivery. The Tribunal may inform the concerned parties via e-mail regarding the dispatch of the certified copy of the Award. For additional copies of the Award, the parties shall deposit such fees as may be determined by the Registry.

27.08 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 ending not later than the date of the Award.

27.09 In the event of a settlement, if any party so requests, the Tribunal may render a consent Award recording the settlement. If the parties do not require a consent Award, the parties shall confirm in writing to the Registrar that a settlement has been reached. The Tribunal shall be discharged and the arbitration concluded upon payment of any outstanding costs of arbitration.

27.10 An Award shall be final and binding on the parties from the date it is made.

RULE 28: CORRECTION OF AWARDS AND ADDITIONAL AWARDS

28.01 Within 30 days of receipt of the Award, a party may, by written notice to the Registrar and to any other party, request the Tribunal to correct in the Award any error in computation, any clerical or typographical error or any error of a similar nature. Any of the other parties to the Arbitration may comment on such request within 15 days of its receipt. If the Tribunal considers the request to be justified after considering the comments of the other parties to the Arbitration in respect of the request for correction, 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.

28.02 The Tribunal may, on its own initiative, correct any error of the type referred to in Rule 28.01 within 30 days from the date of the Award and send the corrected Award to the parties.

28.03 Within 30 days of receipt of the Award, a party may, by written notice to the Registrar and to any other concerned party, request the Tribunal to make an additional Award as to claims presented in the arbitral proceedings, but not dealt within the Award. Any other party to the Arbitration may comment on such request within 15 days of its receipt. The Tribunal shall consider the request along with the comments of the other parties and if in its opinion there is a justification to render an additional Award, it shall make the additional Award within 45 days of receipt of the request.

28.04 Within 30 days of the receipt of the Award or any additional Award, a party may, by written notice to the Registrar and to any other party, request for the Award or any part thereof to be interpreted or clarified by the Tribunal. Any of the other parties to the Arbitration may comment on such request within 15 days of its receipt. The Tribunal may consider the request along with the comments of the other parties to the Arbitration in respect of the request for interpretation or clarification of the Award and give the interpretation or clarification in writing within 45 days after the receipt of the request. The interpretation or clarification shall form part of the award.

28.05 Subject to valid reasons for delay, the Registrar may extend the time limits in this Rule.

28.06 The provisions of Rule 27 shall apply in the same manner with the necessary or appropriate changes in relation to a correction of an Award and to any additional Award made.

RULE 29: FEES AND DEPOSITS

29.01 The Tribunal's fees and the Centre's fees shall be ascertained in accordance with the **Schedule of Fees** in force at the time of commencement of the arbitration. Alternative methods in determining the Tribunal's fees may be agreed by parties prior to the constitution of the Tribunal.

29.02 The Registrar shall fix the advances on costs of the arbitration. Unless the Registrar directs otherwise, 50% of such advances shall be payable by the Claimant and the remaining 50% of such advances shall be payable by the Respondent.

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

29.04 The Registrar may, from time to time, write to the parties to make further advances towards costs of the arbitration incurred or to be incurred.

29.05 If a party fails to make the advances or deposits directed, the Registrar may, after consultation with the Tribunal and the parties, direct the Tribunal to suspend the work and set a time limit for the defaulting party to make the payment or for any of the other parties to make such payment in lieu of the defaulting party, on the expiry of which, if the amount remains unpaid, the relevant claims or counterclaims shall be considered as withdrawn without

prejudice to reintroducing the same claims or counterclaims in another proceeding.

29.06 Parties are jointly and severally liable for the costs of the arbitration. Any party is free to pay the whole of the advances or deposits on costs of the arbitration in respect of the claim or the counterclaim, should the other party fail to pay its share. The Tribunal or the Registrar may suspend its work, in whole or in part, should the advances or deposits directed under this Rule remain either wholly or in part unpaid. On the application of a party, the Tribunal may issue an award for unpaid costs pursuant to Rule 24.1 (h).

29.07 If the arbitration is settled or disposed of without a hearing, the costs of arbitration shall be finally determined by the Registrar. The Registrar shall have regard to all the circumstances of the case, including the stage of proceedings at which the arbitration is settled or disposed of. In the event that the costs of arbitration determined are less than the deposits made, there shall be a refund in such proportions as the parties may agree, or failing an agreement, in the same proportions as the deposits were made.

29.08 All advances shall be made to and held by the Centre. The Centre shall retain any interest, which may accrue on such deposits.

RULE 30: COSTS OF ARBITRATION

30.01 The Tribunal shall specify in the award, the total amount of the costs of the arbitration. Unless the parties have agreed otherwise, the Tribunal shall

determine in the Award the apportionment of the costs of arbitration among the parties.

30.2 The term "costs of the arbitration" includes:

- a. the Tribunal's fees and expenses;
- b. the Centre's administrative fees and expenses; and
- c. the costs of expert advice and of other assistance required by the Tribunal.
- d. documentation and communication expenses.
- e. any taxes, duties, cess and levies imposed by the Government. The term Government in this context would include, The Government of India, Government of Karnataka, and any State entities.

RULE 31: TRIBUNAL'S FEES AND EXPENSES

31.01 The fees of the Tribunal shall be fixed by the Registrar in accordance with the Schedule of Fees and the stage of the proceedings. In exceptional circumstances, the Registrar may allow an additional fee over that prescribed in the Schedule of Fees to be paid.

31.02 The Tribunal's reasonable out-of-pocket expenses necessarily incurred and other allowances shall be reimbursed in accordance with the Practice Notes for the time being in force.

31.03 In the event of any settlement between all or some of the parties, the proportionate fee shall be liable to be paid by all the parties to the centre as well to the Arbitrators.

31.04 No party shall be entitled to rely upon any Award passed by the Tribunal or derive advantage of any such Award, either in part or in full, without a certificate of “No Dues” from the Centre in the name of the concerned party. No court or any authority shall consider any such Award as a valid Award unless the same is accompanied by such a certificate. Every Award shall contain this condition and without such clause the Award shall be incomplete.

RULE 32: PARTY’S LEGAL AND OTHER COSTS

32.01 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 (apart from the costs of the arbitration) be paid by any of the other parties to the proceedings, depending upon the findings recorded in the Award.

RULE 33: EXCLUSION OF LIABILITY

33.01 The Centre, including its directors, officers, employees or any arbitrator, shall not be liable to any person for negligence, act or omission in connection with any arbitration governed by these Rules.

33.02 The Centre, including its directors, officers, employees or any arbitrator, shall not be under any obligation to make any statement in connection with any arbitration governed by these Rules. No party shall seek to make any director,

officer, employee or arbitrator act as a witness in any legal proceedings in connection with any arbitration governed by these Rules.

RULE 34: PRIVACY OF PROCEEDINGS

34.01 The parties and the Tribunal shall at all times treat all matters relating to the proceedings and the Award as private and confidential and not open to public or media. Further:

- a. No transcript, audio or video recording or other formal record shall be made at any stage of the Proceedings without the leave of the Tribunal.
- b. Only the Arbitrator, the parties and/ or their duly authorized representatives and/ or legal advisers, summoned witnesses or summoned experts or any other person duly authorized by the Tribunal shall be permitted to participate during the Arbitration.

34.02 Unless the parties agree otherwise, all meetings and hearings shall be *in private* i.e. meant for the parties at dispute and their respective counsels only and any recordings, transcripts, or documents used shall remain confidential.

34.03 Any person, such as stenographers and support staff, may attend the proceedings, if required, but only with the written consent of the parties and the Tribunal.

34.04 A party or an arbitrator shall not, without the prior written consent of all the parties, disclose to any third party any matter relating to the proceeding, whether pending or disposed, except:

- a. for the purpose of making an application to any competent court of any State to enforce or challenge the Award;
- b. pursuant to the order of, or a subpoena issued by, a court of competent jurisdiction;
- c. for the purpose of pursuing or enforcing a legal right or claim;
- d. in compliance with the provisions of the laws of any State which are binding on the party making the disclosure;
- e. in compliance with the request or requirement of any regulatory body or other authority; or
- f. pursuant to an order by the Tribunal on application by a party with proper notice to the other parties.

34.05 Notes or points jotted down by the Arbitrators and draft copies of the Award shall be treated as confidential and shall not be asked by any parties to be produced, even before any courts of law.

34.06 In this Rule, “matters relating to the proceedings” means the proceedings, the pleadings, evidence and other materials in the arbitration proceedings and all other documents produced by another party in the proceedings or the Award arising from the proceedings, but excludes any matter that is otherwise in the public domain.

34.07 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.

RULE 35: GENERAL PROVISIONS: EMERGENCY ARBITRATOR

35.01 In case of International Arbitration, a party in need of emergency relief may, concurrent with or following the dispatch of a notice of Arbitration, but prior to the constitution of the Tribunal, make an application for emergency interim relief. The party shall notify the Registrar and all other parties in writing of the nature of the relief sought and the reasons why such relief is required on an emergency basis. The application shall also set forth the reasons why the party is entitled to such relief. Such notice may be given by e-mail, facsimile transmission or other reliable means, but must include a statement certifying that all other parties have been notified or an explanation of the steps taken in good faith to notify other parties. The application shall also be accompanied by payment of any fees set by the Registrar for proceedings pursuant to this rule.

35.02 The President shall, if he determines that the Centre should accept the application, seek to appoint an Emergency Arbitrator within a reasonable period, not exceeding seven working days, of receipt by the Registrar of such application and payment of any required fee.

35.03 Prior to accepting appointment, a prospective Emergency Arbitrator shall disclose to the Registrar any circumstance that may give rise to justifiable doubts as to his impartiality or independence. Any challenge to the

appointment of the Emergency Arbitrator must be made within one business day of the communication by the Registrar to the parties of the appointment of the Emergency Arbitrator and the circumstances disclosed.

35.04 An Emergency Arbitrator may not act as an arbitrator in any future arbitration relating to the dispute, unless agreed by the parties.

35.05 The Emergency Arbitrator shall, as soon as possible, but in any event within two business days of appointment, establish a schedule for consideration of the application for emergency relief. Such schedule shall provide a reasonable opportunity to all parties to be heard and may provide for proceedings by telephonic conference or on written submissions as alternatives to a formal hearing. The Emergency Arbitrator shall have the powers vested in the Tribunal pursuant to these Rules, including the authority to rule on his own jurisdiction, and shall resolve any dispute over the applicability of this Schedule.

35.06 The Emergency Arbitrator shall have the power to order or award any interim relief that he deems necessary. The Emergency Arbitrator shall give reasons for his decision in writing. The Emergency Arbitrator may modify or vacate the interim Award or order for good cause shown.

35.07 The Emergency Arbitrator shall have no further power to act after the Tribunal is constituted. The Tribunal may reconsider, modify or vacate the interim Award or order of emergency relief issued by the Emergency Arbitrator. The Tribunal is not bound by the reasons given by the Emergency Arbitrator. Any

order or Award issued by the Emergency Arbitrator shall, in any event, cease to be binding if the Tribunal is not constituted within 90 days of such order or Award or when the Tribunal makes a final Award or if the claim is withdrawn.

35.08 An order or Award pursuant to these Rules, shall be binding on the parties when rendered. By agreeing to arbitration under these Rules, the parties undertake to comply with such an order or Award without delay.

35.09 The costs associated with any application pursuant to these Rules shall initially be apportioned by the Emergency Arbitrator, subject to the power of the Tribunal to determine finally the apportionment of such costs.

35.10 These Rules shall apply as appropriate to any proceeding pursuant to these Rules, taking into account the inherent urgency of such a proceeding. The Emergency Arbitrator may decide in what manner these Rules shall apply as appropriate, and his decision as to such matters is final and not subject to appeal.

36. ONLINE FILING AND ONLINE ARBITRATION

36.01 The Centre may provide for online filing (e-filing) of claims and other pleadings and this facility shall come into force after necessary infrastructure is in place and functional and on a date that may be notified by the Executive Board.

36.02 The parties interested in online Arbitration should primarily get themselves registered online and will be assigned an encrypted password. The Centre is not responsible for data protection/privacy of information submitted online.

36.03 The Claimant qualifying under Rules 2 and 3 supra would request the Registrar for Online Arbitration. Such a request should contain a summary of the dispute along with a scanned copy of notice issued by the said party under Rule 2 and a declaration that the documents that are to be relied upon by him are not in dispute.

36.04 The Registrar, may, at his discretion, permit online dispute resolution, after satisfying himself that the dispute can be resolved by a single arbitrator, without the physical presence of all the parties/ their counsels at one place, using simple and uncomplicated technologies of video conferencing facilities (internet based or otherwise), as may be determined by the Executive Board, from time to time, to enable interaction between the parties and the arbitrator.

36.05 If the Registrar is convinced that the dispute referred can be resolved online, he may write to the opposite party seeking his consent for the same. Such a communication should clearly detail the technical specifications of the facility that is to be installed by the party concerned to enable online dispute resolution.

36.06 Unless all the parties to the dispute agree for online dispute resolution, the Registrar shall not give his consent for the same.

36.07 On obtaining the approval of the Registrar, the notice of online Arbitration is deemed to have commenced.

36.08 Thereafter, the parties shall upload the data by scanning the pleadings and all the documents that are being relied upon. Each such pleading should bear the signature and seal of the party. The documents that are relied upon should be duly notarized as true copy of the original or certified by their counsel that he has inspected the original with an undertaking to produce the original for inspection to any person authorized by the Centre and also whenever the same is demanded by the Tribunal or by the opposing party or parties for inspection.

36.09 The uploaded documents can be accessed and print-outs taken by the other parties using the dedicated encrypted password. Such downloaded documents would have an endorsement, “This document has been relied upon in Arbitration Proceedings before the Tribunal and does not amount to be a certified copy.”

36.10 For the purpose of Online Arbitration, Rules 3, 4, 5, 7.10, 12, 13, 14, 15, 17, 19, 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35 herein would apply.

36.11 The Tribunal shall, as much as possible, follow Rule 16. However, if in the opinion of the Tribunal, online arbitration of the dispute is not feasible on account of practical or technical issues, that have to be resolved and/or that such a resolution may not happen unless the parties are physically present, he may, after issuing notice to the parties and the Registrar, convert an e-arbitration into regular arbitration. Under such circumstances, either the Online Arbitrator so appointed may continue as the Arbitrator, or, depending upon the circumstances, the Registrar may appoint any other arbitrator. In such an event,

the cost and fee structure shall be determined in accordance with the Schedule and subject to Rules 29 to 32.

36.12 For online Arbitration, the parties may agree to have a common seat of Arbitration; however, in the event of a dispute regarding the same, the Registrar may decide on the seat of Arbitration and such a decision is final and binding on the parties.

36.13 The Registrar may, at his discretion, permit online filing of pleadings and documents, including applications and affidavits in regular arbitration proceedings (not being online Arbitration), provided the Arbitrator and all the parties agree to such a proposal of any of the parties.

37. GENERAL PROVISIONS

37.01 A party who knows that any provision or requirement under these Rules has not been complied with and proceeds with the arbitration without promptly stating its objection shall be deemed to have waived its right to object.

37.02 In all matters not expressly provided for in these Rules, the President, 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 the Award.

37.03 The Registrar may, from time to time, issue Practice Notes to supplement, regulate and implement these Rules for the purpose of facilitating the

administration of arbitration governed by these Rules. The Practice Notes will be listed on the official website of the Centre.

37.04 The Executive Board shall have the authority to modify, amend or replace or introduce any rules, as it may deem fit in the general interest of disputants, and is also empowered to constitute a technical committee from time to time to interpret any rules in the event of any ambiguity

38. INDEMNITY

38.01 The Centre, including the members of the Advisory Council, Executive Board and Registry, shall not be liable in any manner for the conduct of any Arbitrator, parties to any proceedings, non- enforcement of Awards anywhere in the world or for the removal of any Arbitrator from its panel. The parties to any arbitration, pending or disposed under the Centre's Rules, and the Arbitrator by agreeing for arbitration under these rules, shall be deemed to have read, understood and agreed to the rules and shall indemnify the Centre, its staff, Executive Board members and Advisory Council from any loss, claim, damages or legal proceedings and keep them indemnified from any third party claims in any manner. For the purpose of this Rule, the term Party shall mean and include, as the context may permit, any members of his family, legal heirs, legal representatives, successors in interest, successors in title, executors, administrators or liquidators and assigns. Similarly, for the purpose of this Rule, the term Arbitrator shall mean his family members, legal heirs, legal representative, executors, administrators and assigns. No claims made by any

parties to a dispute or Arbitrators or witnesses or any of their agents, representatives, successors in interest or title against the Centre or its staff and members of the Executive Board or Advisory Council shall be entertained. However, in the event of any such claim, only the courts of Bangalore, India shall have the jurisdiction to entertain any such claim.

