



BIAC Arbitration Rules 2011

Bangladesh International Arbitration Centre

The Institution for Alternative Dispute Resolution

Bangladesh International Arbitration Centre

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**BANGLADESH INTERNATIONAL ARBITRATION CENTRE
(BIAC)**

ARBITRATION RULES 2011

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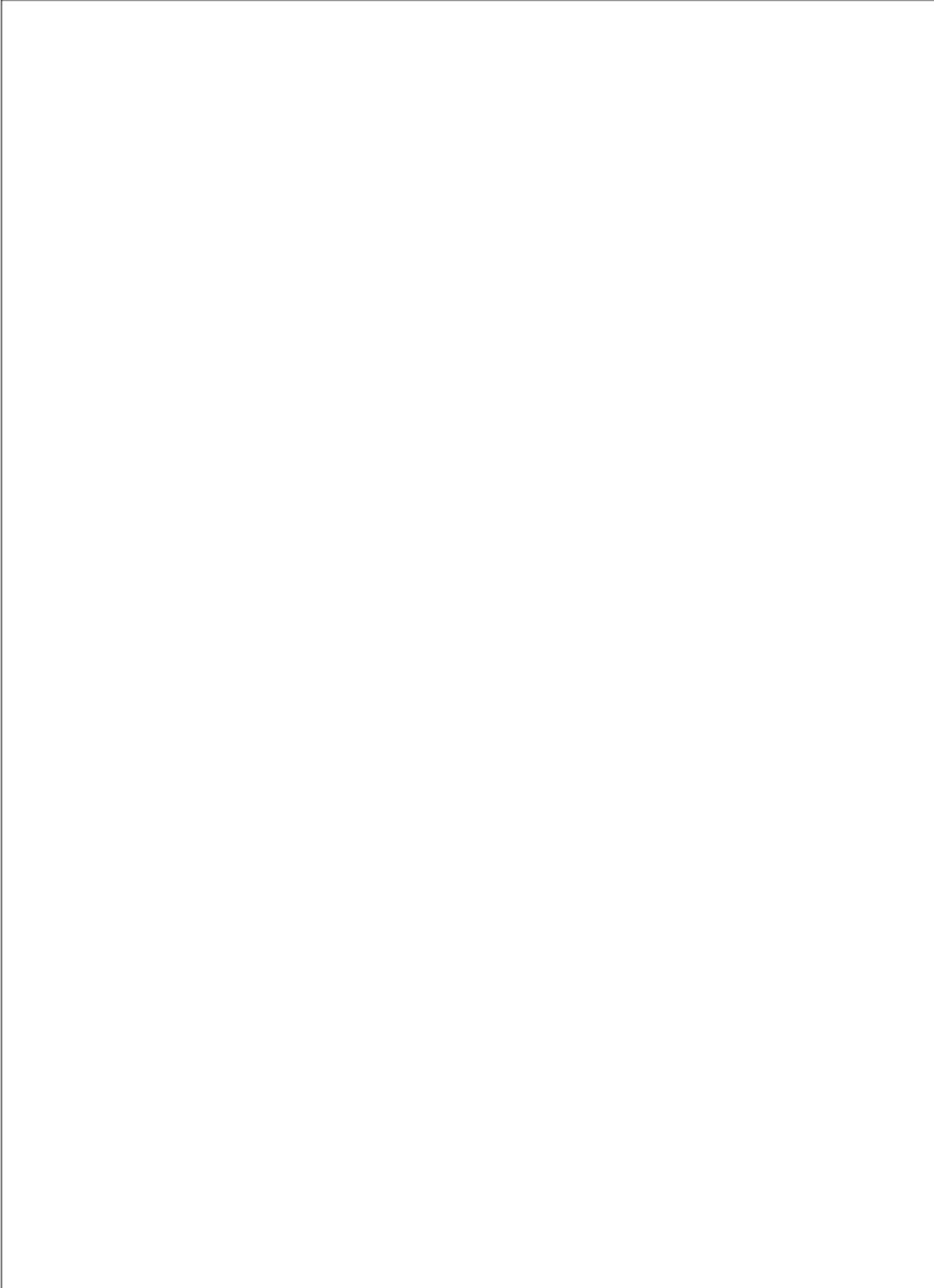
Suggested Med-Arb Clause

“Any dispute or difference arising out of or in connection with this contract shall first be referred to the Bangladesh International Arbitration Center (BIAC) for settlement through mediation in accordance with BIAC Mediation Rules. If a settlement cannot be reached within sixty (60) days following the appointment of Mediators(s), then such dispute or difference shall be referred to BIAC to be finally settled under the rules of arbitration of the Bangladesh International Arbitration Center, by one or more arbitrators appointed in accordance with the said Rules.”

BIAC Arbitration Clause

All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the Bangladesh International Arbitration Centre by one or more arbitrators appointed in accordance with the said Rules. Unless otherwise agreed by the parties, the laws of Bangladesh shall apply and the seat of arbitration shall be Dhaka.

BIAC Arbitration Rules 2011



1. Short title and scope

- (1) These Rules shall be called the BIAC Arbitration Rules 2011. These Rules provide for the settlement, by arbitration, of business disputes.
- (2) These Rules shall apply where the parties have agreed in writing that the arbitration shall be administered by the BIAC in accordance with these Rules. The version of the Rules in effect on the date of the filing of the Request for Arbitration shall apply to the arbitration, unless otherwise agreed by the parties.
- (3) These Rules shall govern the arbitration except that where any of these Rules is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

2. Definitions

In these Rules, unless the context otherwise requires,

- (a) "Award" means a decision of the Arbitration Tribunal on the substance of the dispute and includes an interim, partial and/or final award.
- (b) "Arbitration Tribunal" means all arbitrators who have been appointed in relation to the arbitration and includes one or more arbitrators.
- (c) "Arbitration Committee" means the BIAC Arbitration Committee constituted pursuant to the Constitution of the BIAC Arbitration Committee, as adopted by the BIAC.
- (d) "BIAC" means the Bangladesh International Arbitration Centre and includes any of its regional offices.
- (e) "Claimant" means one or more claimants.
- (f) "Respondent" means one or more respondents.
- (g) "Panel of Arbitrators" means the list of arbitrators, as approved by the Arbitration Committee.

- (h) "Rule(s)" means the BIAC Arbitration Rules 2011.
- (i) "Request for Arbitration" means notice of arbitration under the Rules.
- (j) "Schedule" means a Schedule to these Rules.
- (k) "Court" means any court with jurisdiction in relation to arbitration proceedings.
- (l) "Secretary General" means the Secretary General of the BIAC, appointed pursuant to the Constitution of the Arbitration Committee.

3. Request for Arbitration

- (1) A party initiating the arbitration ("Claimant") shall send a Request for Arbitration to the other party ("Respondent") and shall also file a copy with the BIAC.
- (2) The arbitral proceedings shall be deemed to commence on the date on which the Request for Arbitration is received by the BIAC. The Secretary General shall notify the Respondent of the request for arbitration.
- (3) A Request for Arbitration shall include the following:
 - (a) a request that the dispute be referred to arbitration;
 - (b) the name (s), address(es), telephone number(s), fax number(s) and email address(es) (if known) of the parties to the dispute and their representative(s) (if known);
 - (c) a reference to the contract out of or in relation to which the dispute to be submitted to arbitration has arisen;
 - (d) a reference to the arbitration agreement relied upon;
 - (e) a brief statement in relation to the general nature of the claim, including the relief claimed and where possible, the amount of the claim;

- (f) the preferred number of arbitrators, if not already provided for in the arbitration agreement;
- (g) any comments regarding the place of arbitration;
- (h) any comments regarding the law applicable to the merits of the dispute;
- (i) Any comments regarding the language(s) of the arbitration;
- (j) unless the parties have otherwise agreed, the nomination of an arbitrator in the event that the arbitration agreement provides for more than one arbitrator or a proposal for a sole arbitrator in the event that the arbitration agreement provides for a sole arbitrator.
- (k) a request that the other party nominates its arbitrator;
- (l) payment of the requisite Registration Fee as stated in Schedule-I/Schedule-II.

4. Response to the Request for Arbitration

- (1) The Respondent shall send to the Claimant and to the BIAC a Response to the Request for Arbitration within 30 days of the receipt of the Request for Arbitration from the BIAC, or within such period as may be specified by the BIAC.
- (2) The Response shall contain:
 - (a) a brief response to the claim, the relief claimed and, if applicable, the amount of the claim;
 - (b) a brief statement in relation to any counterclaim, specifying the relief claimed and, where possible, the amount of the counterclaim;
 - (c) unless the parties have agreed otherwise, the nomination of an arbitrator if the arbitration agreement provides for more than one arbitrator or, if the arbitration agreement provides for a

sole arbitrator, agreement with Claimant's proposal for a sole arbitrator or a counter-proposal, or proposal for number of arbitrators if the agreement is silent.

- (d) the payment of the requisite Registration Fee for any counterclaim as stated in Schedule-I/Schedule-II.
- (3) The Secretary General may grant the Respondent an extension of the time for filing the Response, provided the application for such an extension contains the Respondent's comments concerning the number of arbitrators and their choice and, where required by Articles 6, 7 and 8, the nomination of an arbitrator. If the Respondent fails to do so, the Arbitration Committee shall proceed in accordance with these Rules.
- (4) Any counterclaims(s) made by the Respondent shall be filed with its Answer and shall provide:
 - (a) a description of the nature and circumstances of the dispute giving rise to the counterclaim(s); and,
 - (b) a statement of the relief sought, including, to the extent possible, an indication of any amount(s) counterclaimed.
- (5) The Claimant shall file a reply to any counterclaim within 30 days from the date of receipt of the counterclaim(s) communicated by the Secretariat. The Secretary General may grant the Claimant an extension of time for filing the Reply.

5. Notice and periods of time

- (1) All notices and communications from any party or arbitrator to the BIAC under these Rules shall be addressed to the Secretary General.
- (2) Any notice or other communication that may be or is required to be given by a party under these Rules shall be in writing and shall be delivered by registered post or courier service or transmitted by facsimile, e-mail or any other means of telecommunication that provides a record of its transmission.

- (3) A party's last-known residence or place of business during the arbitration shall be considered a valid address for the purpose of any notice or other communication in the absence of any notification of a change to such address by that party to the other party or parties, the Arbitration Tribunal and the Secretary General.
- (4) The notice or other communication shall be treated as having been received on the day it is delivered or, in the case of telecommunications, transmitted in accordance with sub-rule (2) of Rule 5.
- (5) For the purpose of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice or other communication is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period shall be extended until the first business day that follows. Official holidays or non-business days occurring during the running of the period of time shall be included in calculating that period.

6. Number of Arbitrators

Where the arbitration agreement is silent, and the parties have not been able to reach agreement on the number of arbitrators, the arbitration shall proceed before a sole arbitrator appointed by the Arbitration Committee, unless the Committee considers that a tribunal composed of three arbitrators would be more appropriate.

7. Appointment of Arbitrators

- (1) Where the arbitration agreement provides for three arbitrators, each party shall nominate one arbitrator, and the two party-nominated arbitrators shall appoint the third arbitrator, who shall serve as the presiding arbitrator.
- (2) The Arbitration Committee shall appoint:
 - (a) an arbitrator if a party fails to nominate an arbitrator within 30 days from the receipt of a request to do so from the other party; or

- (b) the presiding arbitrator if the nominated arbitrators fail to agree on the presiding arbitrator within 30 days from the date of their appointment,
- (3) Where the arbitration agreement provides for a sole arbitrator, and the parties fail to agree on the arbitrator within 30 days from the receipt of a request by one party to do so, the appointment shall be made, by the Arbitration Committee.
- (4) For appointment of an arbitrator under sub-rule (2) of Rule 7, the following procedure shall be followed:
 - (a) the Arbitration Committee, through the Secretary General, shall communicate the parties a list containing the names, addresses, nationalities and a description of qualifications and experience of at least three individuals from the Panel of Arbitrators;
 - (b) within 10 days following the receipt of the list, a party may delete any name to which he objects and return the list to the Secretary General;
 - (c) on receipt of the list returned by the party, the Arbitration Committee, shall appoint the arbitrator from the list;
 - (d) if for any reason the appointment cannot be made according to the procedure specified in (a) to (c), the Arbitration committee shall appoint the arbitrator from the Panel of Arbitrators excluding the persons whose names are deleted under sub clause (b).
 - (e) In appointing an arbitrator, the Arbitration Committee shall consider the nature of the dispute in order to include in the list, persons having appropriate professional or business experience, language, ability and nationality.
- (5) The Arbitration Committee shall:
 - (a) make the appointment as promptly as possible having regard to:

- (i) any qualifications required of the arbitrator by the agreement of the parties;
 - (ii) such considerations as are likely to secure the appointment of an independent and impartial arbitrator;
 - (iii) availability of the arbitrator for prompt and efficient determination of the dispute; and
 - (iv) in the case of appointment of a sole or presiding arbitrator in an international commercial arbitration, nationality other than the nationalities of the parties.
- (b) inform the parties, through the Secretary General, promptly in writing of the appointment;
- (6) A decision by the Arbitration Committee with respect to the appointment of an arbitrator shall be treated as final and binding on the parties.
- (7) An arbitrator if required to be substituted/replaced will be appointed in the same manner in which his/her predecessor had been appointed.
- (8) Unless otherwise agreed by the parties, a person of any nationality may be appointed as an arbitrator subject to Rule 7(5)(a)(iv).
- (9) Before appointing a person as arbitrator or the presiding arbitrator, the Arbitration Committee shall always obtain a declaration in writing from such person that:
- (a) no circumstances exist that give rise to justifiable doubts as to his/her independence or impartiality,
 - (b) the arbitrator has sufficient availability to determine the case in a prompt and efficient manner; and
 - (c) he possesses the necessary qualifications to decide the dispute for which he is being appointed.

- (10) An arbitrator shall disclose as soon as possible to the parties and the Secretary General any circumstance that may occur during the course of arbitration giving rise to justifiable doubts as to his/her impartiality or independence.

8. Multi-party appointments of Arbitrators:

- (1) Where there are more than two parties to the arbitration, and three arbitrators are to be appointed, the claimant(s) shall jointly nominate one arbitrator and the respondent(s) shall jointly nominate one arbitrator and the two arbitrators so appointed shall nominate the third arbitrator who shall act as the presiding arbitrator. In the event that such joint nominations have not been made within 28 days from the filing of the request of arbitration or within the period agreed by the parties, the Arbitration Committee shall appoint all three arbitrators and designate one of them to act as the presiding arbitrator.
- (2) Where there are more than two parties to the arbitration, and a sole arbitrator is to be appointed, all parties are to agree on the sole arbitrator. In the event that such agreement cannot be reached within 30 days of the filing of the request for arbitration or within the period agreed by the parties, the Arbitration committee shall appoint the sole arbitrator.

9. Challenge of Arbitrators

- (1) A party may challenge the appointment of an arbitrator or the presiding arbitrator only if:
 - (a) circumstances exist that give rise to justifiable doubts as to his/her independence or impartiality, or
 - (b) he does not possess the qualifications agreed to by the parties in the agreement to arbitration.
- (2) A party may only challenge an arbitrator appointed by him for reasons of which he becomes aware after the appointment has been made.

10. Challenge Procedure

- (1) A party who intends to challenge an arbitrator shall, within 14 days of being notified of the arbitrator's appointment or becoming aware of any ground referred to in Rule 9(1), send a written notice stating the reasons for the challenge to the BIAC, Arbitration Tribunal, the arbitrator who is being challenged and the parties to the arbitration.
- (2) The other party may agree to the challenge when an arbitrator is challenged by one party. The challenged arbitrator may withdraw from his office. In neither case, does this imply acceptance of the validity of the grounds for the challenge.
- (3) In case the party agrees or the challenged arbitrator withdraws from office, a substitute arbitrator shall be appointed in accordance with Rule 7.
- (4) If, within 7 days of receipt of the notice of challenge, the other party does not agree to the challenge or the arbitrator does not withdraw voluntarily, the Arbitration Committee shall decide on the challenge. The Arbitration Committee may offer the challenged arbitrator an opportunity to respond in writing to the challenge, if the latter so wishes. If the challenge is not successful, the Arbitral Tribunal shall continue with the arbitral proceedings and make the Award. If the challenge is successful, a substitute arbitrator shall be appointed in accordance with Rule 7.
- (5) The Arbitration Committee's decision with respect to a challenge application shall be treated as final and binding.

11. Failure or Impossibility to act

- (1) The mandate of an arbitrator shall terminate if-
 - (a) he/she withdraws from his/her office or all the parties agree to termination of his/her mandate; or

- (b) he/ she dies; or
- (c) he/she becomes unable to perform his/her functions or for other reasons fail to act without undue delay.
- (2) Where the mandate of an arbitrator terminates, a substitute arbitrator shall be appointed in the same manner in which his/her predecessor had been appointed.
- (3) Where an arbitrator is replaced under sub-rule 1 of Rule 11, any hearing previously held may be repeated only if it is considered essential by the Arbitration Tribunal. In the case of sole arbitrator, the hearings may also be repeated only if it is considered essential by the new arbitrator.
- (4) Any order of the Arbitration Tribunal made prior to the replacement of an arbitrator shall not be invalid solely because there has been a change in the composition of the Arbitration Tribunal.

12. Statement of Claim and Statement of Defence

- (1) Within 30 days of the constitution of the Arbitration Tribunal, the claimant shall send to the BIAC, the Arbitration Tribunal and to the Respondent a statement of claim clearly stating all relevant facts supporting the claim, the points at issue, related legal arguments and the relief and/or remedy sought.
- (2) The Respondent shall, within 30 days following receipt of the statement of claim, send to the BIAC, the Arbitration Tribunal and the Claimant a statement of defense setting out all relevant facts in respect of the defense, any counterclaim, related legal arguments, the points at issue and the relief and/or remedy sought.
- (3) Within 14 days of the receipt of the statement of defense and counterclaim, the claimant shall send to the BIAC, the Arbitration Tribunal and the Respondent a rejoinder to the statement of defense and a statement of defense to the counterclaim, if any.
- (4) Within 14 days of the receipt of the statement of defense to the

counterclaim, the Respondent shall send to the BIAC, the Arbitration Tribunal and the Claimant the rejoinder to the said statement.

- (5) The parties shall submit with their written statements, copies of all supporting documents upon which they intend to rely.
- (6) A party may amend or supplement statements of claim, counterclaim or defense during the course of the arbitral proceedings with the permission from the Arbitration Tribunal.
- (7) If the Claimant fails within the time specified to submit its statement of claim, the Arbitration Tribunal may issue an order for the termination of the proceedings and/or give such other orders as it may consider appropriate.
- (8) If the Respondent fails to submit a statement of defense, or if at any point any party fails to avail itself of the opportunity to present its case in the manner directed by the Arbitration Tribunal, the Arbitration Tribunal may proceed with the arbitration.
- (9) If the Arbitration Tribunal deems it necessary, it may extend the periods or time limits referred to above, keeping in view that the arbitration process should be concluded expeditiously.

13. Hearings and Written Proceedings

- (1) The Arbitration Tribunal shall hold a preliminary conference in person or by teleconference at the earliest possible opportunity, and in any event, no later than 21 days following the constitution of the Arbitration Tribunal. The purpose of the preliminary conference shall be:
 - (a) to discuss with the parties the procedure including, but not limited to, issues in relation to the provisional timetable, exchange of information, length of hearings, hearing venue, timing for submission of witness statements and expert reports and any other issues the Arbitration Tribunal considers appropriate;

- (b) to fix dates for oral hearings; and/or
 - (c) to determine any other matter required or permitted under these Rules to facilitate the efficient progress of the arbitral proceedings.
- (2) The Arbitration Tribunal shall decide whether to hold oral hearings for the presentation of evidence and/or for oral arguments, or whether the proceedings shall be conducted on the basis of documents only. All hearings shall be private and remain confidential. If a party fails to appear at a hearing without showing sufficient cause, the Arbitration Tribunal may proceed with the arbitration and may make the Award based on the submissions and evidence before it.
- (3) The Arbitration Tribunal may, in advance of any hearing, submit to the parties a list of issues which it considers as relevant to the case and material to its outcome and/or which a preliminary determination may be appropriate.
- (4) The Arbitration Tribunal shall commence the oral hearings within 30 days from the submission of the written pleadings by both the parties and conclude the hearing within 180 days from the date of the first hearing, unless The Arbitration Tribunal decides that exceptional circumstances exist requiring extension of the time limits.
- (5) The parties shall be given not less than five working days notice of any hearing and of any meeting of the Arbitration Tribunal for the purposes of inspection of documents, goods or other property.
- (6) If a party intends to give evidence through a witness, it shall, within the time determined by the Arbitration Tribunal, communicate to the Arbitration Tribunal and to the other party-
- (a) the names and addresses of the witnesses he intends to present, and
 - (b) the subject upon which, and the language in which, those witnesses will give their testimony.

- (7) The Arbitration Tribunal shall make arrangements for the translation of oral statements made at a hearing and for a record of the hearing if-
- (a) either is deemed necessary by the Arbitration Tribunal under the circumstances of the case, or
 - (b) the parties have agreed to it and have communicated such agreement to the Arbitration Tribunal at least 14 days before the hearing.

14. Evidence

- (1) Unless otherwise agreed by the parties-
- (a) evidence may be given before the Arbitration Tribunal orally or in writing or by affidavit,
 - (b) the Arbitration Tribunal may administer an oath or affirmation to a witness subject to his consent.
- (2) Each party shall have the burden of proving the facts relied on to support its claim or defense. Parties shall have a full and equal opportunity to present relevant and reliable evidence and oral and written arguments in support of their propositions.
- (3) The Arbitration Tribunal shall determine the admissibility, relevance and weight of evidence and shall not be bound by formal rules of evidence applicable in Court.

15. Witnesses

- (1) The Arbitration Tribunal may at any time require any party to give notice of the identity of witnesses he intends to call and a short summary of the subject matter of their testimony and its relevance to the issues. The Arbitration Tribunal may also require the exchange of witness' statements and of expert reports.
- (2) At least fifteen (15) days before the hearings, each party shall give the arbitral tribunal, BIAC and the other parties the names

and addresses of any witnesses it intends to present, the subject of their testimony and the languages in which such witnesses will give their testimony.

- (3) The Arbitration Tribunal has discretion to allow, limit, or refuse to allow the appearance of witnesses, whether witnesses of fact or expert witnesses.
- (4) Any witness who gives oral evidence may be questioned by each party or its representative, under the control of Arbitration Tribunal, and may be required by the Arbitration Tribunal to testify under oath or affirmation. The Arbitration Tribunal may question the witnesses at any stage of the examination.
- (5) The testimony of witnesses may be presented in written form, either as signed statements or by duly sworn affidavits, and the Arbitration Tribunal may order that such statements or affidavits shall stand as evidence-in-chief.
- (6) If a witness or expert witness fails to appear before the Arbitration Tribunal to give evidence, in spite of such a request by any parties or by the Arbitral Tribunal, the Arbitral Tribunal or any such party with the approval of the Arbitration Tribunal may apply to the Court for assistance in taking evidence.

16. Appointment of experts by the Arbitration Tribunal

- (1) The Arbitration Tribunal may-
 - (a) appoint one or more independent experts to report to it on specific issues to be determined by the Arbitration Tribunal, and communicated to the parties, and
 - (b) require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for inspection.
- (2) If a party so requests or if the Arbitration Tribunal considers it necessary, the expert shall, attend the oral hearing after delivery of the report, participate in an oral hearing where the parties shall

have the opportunity to put questions to the expert.

- (3) The expert shall, on the request of a party, make available to that party for examination all documents, goods or other property in the possession of the expert based on which the report was prepared.
- (4) In relation to any evidence taking, the provision contained in Rule 14 shall be followed, unless otherwise decided by the Arbitration Tribunal.
- (5) The fees and expenses of any expert appointed by the Arbitration Tribunal under this Rule shall be paid out of the deposits payable by the parties under Rule 26 and shall form part of the costs of the arbitration.

17. Place of arbitration

- (1) The parties may agree in writing the seat (or legal place) of their arbitration. Failing such a choice, the seat of arbitration shall be Dhaka.
- (2) The Arbitration Tribunal may hold hearings, meetings and deliberations at any convenient place at its discretion. Despite holding hearings and/or meetings in other places, the arbitration shall be treated as an arbitration conducted at the seat of the arbitration and any award as an award made at the seat of the arbitration.

18. Ex-parte communications with Arbitrators

Parties may not communicate with members of the Arbitration Tribunal outside the presence of all parties.

19. Language

- (1) Where the arbitration agreement does not provide for the language to be used in the arbitral proceedings the official language of the arbitration shall be English.

- (2) The Arbitration Tribunal may order that any documentary evidence shall be accompanied by a translation into the language agreed upon by the parties or determined by the Arbitration Tribunal.

20. Representation and Assistance

- (1) Each party shall advise, in writing, the other party, the BIAC and the Arbitration Tribunal of:
 - (a) the names and addresses of persons who will represent or assist him, and
 - (b) the capacity in which those persons will act;
 - (c) any changes in (a) and (b) above.
- (2) Each party shall provide:
 - (a) Proof of authorization of persons that will represent him;
 - (b) Proof of authority to file the arbitration.

21. Competence of Arbitration Tribunal to rule on its jurisdiction

- (1) The Arbitration Tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement, and for that purpose:
 - (a) an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract; and
 - (b) a decision by the Arbitration Tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration agreement.
- (2) A plea that the Arbitration Tribunal does not have jurisdiction shall be raised no later than the submission of the Statement of Defence. A party shall not be precluded from raising such plea

merely because he has appointed, or participated in the appointment of, an arbitrator.

22. Interim measures ordered by Arbitration Tribunal

- (1) The Arbitration Tribunal may, at the request of a party, order a party to take any interim measure of protection in respect of the subject-matter of the dispute as it may consider necessary.
- (2) The Arbitration Tribunal may require a party to provide appropriate security in connection with a measure ordered under sub-rule (1). The Arbitration Tribunal shall have the discretion to draw the appropriate adverse inferences in the event of a party's non-compliance with the Tribunal's order.
- (3) The powers of the Arbitration Tribunal under this rule shall not prejudice any party's right to apply to any national court or other judicial authority for interim measures. The application of a party to a judicial authority for such measures or for the implementation of any such measures ordered by an arbitral tribunal shall not be deemed an infringement or waiver of the agreement to arbitrate and shall not affect the relevant powers reserved to the Tribunal.

23. Applicable Law

- (1) The Arbitration Tribunal shall apply the rules of law designated by the parties as applicable to the substance of the dispute, failing which, the Arbitration Tribunal shall apply the law which it determines to be appropriate.
- (2) The Arbitration Tribunal shall decide as amiable compositeur or ex aequo et bono only if the parties have expressly authorised the Arbitration Tribunal to do so.
- (3) In all cases, the Arbitration 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.

24. Award

- (1) An Award shall be made in writing and shall be signed by the

members of the Arbitration Tribunal. Unless exceptional circumstances exist, the Arbitration Tribunal shall render the Award within 60 days of concluding the oral hearings.

- (2) The Arbitration Tribunal shall decide by a majority except in the case of Sole Arbitrator failing an agreement decision, the presiding arbitrator alone shall make the Award for the Arbitration Tribunal which shall be binding on the parties.
- (3) If any arbitrator having been given a reasonable opportunity to do so, fails to cooperate in the making the Award, the remaining arbitrators shall proceed in his absence.
- (4) For the purposes of sub-rule (1), in arbitral proceedings with more than one arbitrator, the signatures of the majority of all the members of the Arbitration Tribunal shall be sufficient so long as the reason for any omitted signature is stated.
- (5) The Award shall state the reasons upon which it is based, unless:
 - (a) the parties have agreed that no reason are to be given, or
 - (b) the Award is an award recording the agreed terms of the settlement.
- (6) The Arbitration Tribunal shall state the date and place of arbitration and the Award shall be deemed to have been made at that place.
- (7) The Arbitration Tribunal shall deposit the original award, together with record of the arbitration proceedings, with the BIAC, who shall transmit certified copies to the parties upon the full settlement of the costs of arbitration.
- (8) The Arbitration Tribunal may, at any time during the arbitral proceedings at the request of one or both the parties make an interim Award on any matter with respect to which it may make a final award.
- (9) In the event of a settlement, The parties may request the

Arbitration Tribunal to render and Award recording the settlement. If the parties shall confirm to BIAC that a settlement has been reached and that the parties do not require an award to be rendered the arbitration proceedings shall be deemed concluded upon payment of any outstanding costs of arbitration.

- (10) The parties to the arbitration shall carry out the Award, which is final and binding on the parties, immediately and without delay.
- (11) The Arbitration Tribunal may award simple or compound interest on any sum which is the subject of the arbitration at such rates and for such periods as the Arbitration Tribunal deems fit.

25. Correction and Interpretation of Award and Additional Award

- (1) Within 14 days from the receipt of the Award:
 - (a) a party, with notice to the other party, may request the Arbitration Tribunal to correct any computation errors, any clerical or typographical errors or any other errors of a similar nature occurring in the Award; and/or
 - (b) a party, with notice to the other party, may request the Arbitration Tribunal to give an interpretation of a specific point in the Award.
- (2) If the Arbitration Tribunal considers the request made under sub-rule (1) to be justified it shall make the correction and/or give the interpretation within 14 days from the receipt of the request and the interpretation shall form part of the Award.
- (3) The Arbitration Tribunal may correct any error of the type referred to above, on its own initiative, within 14 days from the date of the Award.
- (4) A party, with notice to the other party, may request, within 14 days from the receipt of the Award, the Arbitration Tribunal to make an additional Award as to claims presented in the arbitral

proceedings but omitted from the Award. If the Arbitration Tribunal considers the request to be justified, it shall make the additional Award within 14 days from the receipt of such request.

- (5) The Arbitration Tribunal may extend, if necessary, the period of time within which it shall make a correction, give an interpretation or make an additional Award.

26. Costs

- (1) The costs of arbitration shall be fixed by the Arbitration Tribunal and stated in the Award.
- (2) The Arbitration Tribunal shall determine which party shall bear the costs taking into account the circumstances of the case and may apportion the costs between the parties as it deems fit.
- (3) Under these Rules, "costs" mean costs relating to-
 - (a) the fees and expenses of the arbitrators and witnesses,
 - (b) legal fees and expenses,
 - (c) the administrative fees and charges of the BIAC, and
 - (d) any other expenses incurred in connection with the arbitral proceedings and the Award.
- (4) The fees and charges to be included in the costs shall be as specified in Schedule-I/Schedule-II.

27. Deposits

- (1) The Arbitration Tribunal shall, upon its constitution, direct each party to deposit with the BIAC an equal amount as an advance for the costs referred to in Rule 26, which it expects to be incurred.

- (2) During the arbitration proceedings, the Arbitration Tribunal may, in consultation with the BIAC, direct supplementary deposits with the BIAC in an equal amount from each party for the costs referred to above.
- (3) If the required deposits are not made in full in respect of the claim or counterclaim within 14 days of notifying the parties, the Arbitration Tribunal shall remind the parties in order that one or the other party may make the required deposit and if the required deposit is still not made within 7 days, the Arbitration proceedings shall continue ex-parte against the party failing to make the required deposit; provided that the other parties to the arbitration proceedings shall make the required deposit of the defaulting party; further provided that the award shall order the defaulting party to reimburse the other party the amount so paid.
- (4) The BIAC shall hold all deposits required under these Rules. The BIAC may, from time to time, pay to the Arbitration Tribunal from any deposit it holds under these Rules, any amount it considers reasonable and appropriate for fees earned or expenses incurred by the Arbitration Tribunal in the arbitral proceedings. The BIAC shall also notify the parties accordingly.
- (5) Upon termination of the arbitral proceedings, the BIAC shall, in accordance with the final award, apply any deposit it holds towards any of the unpaid administrative fees of the BIAC and the costs of the proceedings. The BIAC shall account to the parties for the deposits received and applied, and return any balance to the parties.

28. Fast track Arbitration

- (1) Where the amount in dispute, including the claim, counterclaim and defense, does not exceed Taka 50 million (or equivalent), any party may request BIAC in writing before the preliminary conference that the arbitration be treated as a fast track arbitration.

- (2) Any decision in this respect shall be taken by the Arbitration Committee who shall notify its decision to the Arbitration Tribunal and the parties before the preliminary conference.
- (3) If the arbitration is decided to be treated as a fast track arbitration, the BIAC shall shorten the time limits under these Rules in a manner that the arbitration award shall be made within 3 months from the date when the Arbitration Tribunal is constituted unless, in exceptional circumstances, the Arbitration Tribunal extends the time.
- (4) The fees and expenses for fast track arbitration under these Rules are stated in Schedule-II.

29. Exclusion of liability

- (1) 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.
- (2) The BIAC 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.

30. Confidentiality

- (1) The parties and the Tribunal shall at all times treat all matters relating to the proceedings and the award as confidential.
- (2) A party or any arbitrator shall not, without the prior written consent of all the parties, disclose to third party any such matter except:
 - a) for the purpose of making an application to any competent

- 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.
- (3) In this Rule, "matters relating to the proceedings" means the existence of the proceedings, and the pleadings, evidence and other materials in the arbitration proceedings and all other documents produced by another party in the proceedings or the award arising from the proceedings, but excludes any matter that is otherwise in the public domain.
- (4) The Tribunal has the power to take appropriate measures, including issuing an order or award for sanctions or costs, if a party breaches the provisions of this Rule.

SCHEDULE I FEES OF ARBITRATION

(all amounts are in Bangladesh Taka)

1. Registration Fee

- 1.1 Along with the Notice of Arbitration, the Claimant shall pay a Registration Fee of Taka 20,000.
- 1.2 Without the Registration Fee, BIAC shall not proceed with the arbitration.

1.3 A Registration Fee of Taka 20,000 shall also be paid by the Respondent, if filing a counterclaim. This fee shall be paid at the time of filing the counterclaim, as required in Rule 4.2(d).

1.4 The Registration Fee is not refundable.

2. Administrative Fee

BIAC's Administrative Fee shall be charged in accordance with the following table:

ADMINISTRATIVE FEE CHART

Sum in dispute (in Taka)	Administrative fee
upto 50,00,000	Tk. 30,000
from 50,00,001 to 1,00,00,000	Tk. 30,000 + 0.2% above Tk. 50,00,000
from 1,00,00,001 to 5,00,00,000	Tk. 40,000 + 0.1% above Tk. 1,00,00,000
from 5,00,00,001 to 10,00,00,000	Tk. 80,000 + 0.05% above Tk. 5,00,00,000
from 10,00,00,001 to 50,00,00,000	Tk. 1,05,000 + 0.025% above Tk. 10,00,00,000
from 50,00,00,000 to 100,00,00,000	Tk. 2,05,000 + 0.01% above Tk. 50,00,00,000
above 100,00,00,000	Tk. 2,55,000

3. The Arbitrator's Fees

Where both parties agree to the application of this Schedule to the determination of the Arbitrators' Fees, such fees shall be charged in accordance with the following table:

ARBITRATOR'S FEE CHART

Sum in dispute (in Taka)	Arbitrator's Fee (minimum)	Arbitrator's Fee (maximum)
up to 50,00,000	Tk. 1,00,000	5,00,000
from 50,00,001 to 1,00,00,000	1,00,000 + 2.5% above Tk. 50,00,000	5,00,000 + 5.0% above 50,00,000
from 1,00,00,001 to 5,00,00,000	2,25,000 + 1.25% above Tk. 1,00,00,000	7,50,000 + 2.5% above 1,00,00,000
from 5,00,00,001 to 10,00,00,000	7,25,000 + 0.5% above Tk. 5,00,00,000	17,50,000 + 1.0% above 5,00,00,000
from 10,00,00,001 to 50,00,00,000	9,75,000 + 0.1% above Tk. 10,00,00,000	22,50,000 + 0.2% above 10,00,00,000
from 50,00,00,000 to 100,00,00,000	13,75,000+0.05% above Tk. 50,00,00,000	24,50,000 + 0.1 above 50,00,00,000
above 100,00,00,000	16,25,000 + 0.01% above Tk. 100,00,00,000	29,50,000 + 0.02% above 100,00,00,000

4. Computation of Fees

- 4.1 Claims and counterclaims are added for the determination of the amount in dispute. The same rule applies to set-off defences, unless the arbitration tribunal, after consulting with the parties, concludes that such set-off claims will not require significant additional work.
- 4.2 The BIAC's Administrative Fees and the Arbitrator's Fees may exceed the amounts set out in the scale above where, in the opinion of the BIAC, there are exceptional circumstances which shall include, and not be limited to, the parties conducting the arbitration in a manner not reasonably contemplated by the arbitration tribunal at the time of appointment.
- 4.3 Interest claims shall not be taken into account for the calculation of the amount in dispute. However, if the interest claims exceed

the amounts claimed in principal, the interest claims alone shall be considered in calculating the amount in dispute.

4.4 If the claims are made in any currency other than in Taka, they shall be converted into Taka using the mean of the buying and selling rates of exchange published by the Bangladesh Bank.

4.5 If the amount in dispute is not quantified, the BIAC's Administrative Fees and the Arbitrators' Fees shall be fixed by the Secretary general, taking into account all relevant circumstances.

5. Arbitration Expenses

The expenses of the arbitration shall relate to the actual disbursements for the arbitration, other than Registration Fee, Administrative Fee, and Arbitrator's Fee. These expenses may cover, but are not limited to: fees and expenses for experts appointed by the Arbitration Tribunal, travel (business class airfare, unless special arrangements have been agreed), accommodation, meals (if in home city, only meals among arbitrators are taken into account), taxi, communications costs, and any other costs related to the conduct of the proceedings (such as rental of hearing rooms, charges for video conferencing, court reporting services, interpreters, etc.). BIAC may issue general guidelines to the arbitrators for the accounting of their expenses. The expenses of the arbitration shall be invoiced and paid separately and are not included in the Arbitrators' Fees under Section 3.

6. Interim Payments

BIAC may direct that interim payments shall be made from time to time out of funds held on deposit to cover BIAC's Administrative Fees and the Arbitrators' Fees and Expenses. Each party shall pay its share of the total advance on costs in cash. However, if a party's share of the advance on costs is greater than Taka 5,00,000 such party may post a bank guarantee for any amount above Taka 5,00,000. BIAC may modify this requirement if circumstances so require it.

7. Parties Jointly and Severally Liable

- 7.1 The parties shall be jointly and severally liable to the arbitration tribunal and BIAC for the costs of the arbitration. BIAC may authorize the payment of advances on costs, or any party's share thereof, in installments, subject to such conditions as it thinks fit.
- 7.2 A party that has already paid in full its share of the advance on costs fixed by BIAC or the arbitration tribunal, may pay the unpaid portion of the advance owed by the defaulting party by posting a bank guarantee.

8. Lien on Award

BIAC and the arbitration tribunal shall have a lien over any awards issued by a tribunal to secure the payment of the costs referred to in Article 26, and may accordingly refuse to release any such awards to the parties until all such costs have been paid in full.

SCHEDULE II
FEES OF FAST-TRACK ARBITRATION
(all amounts are in Bangladesh Taka)

1. Registration Fee

- 1.1 Along with the Notice of Arbitration, the Claimant shall pay a Registration Fee of Taka 15,000.
- 1.2 Without the Registration Fee, BIAC shall not proceed with the arbitration.
- 1.3 The Registration Fee is not refundable.
- 1.4 A Registration Fee of Taka 15,000 shall also be paid by the Respondent, if filing a counterclaim. This fee shall be paid at the time of filing the counterclaim, as required in Rule 4.2(d). This Registration fee is not refundable.

2. Administrative Fee

BIAC's Administrative Fee shall be charged in accordance with the following table:

ADMINISTRATIVE FEE CHART

Sum in dispute (in Taka)	Administrative fee
from 1,00,000 to 10,00,000	Tk. 10,000
from 10,00,001 to 1,00,00,000	Tk. 10,000 + 0.2% above Tk. 10,00,000
from 1,00,00,001 to 5,00,00,000	Tk. 28,000 + 0.1% above Tk. 1,00,00,000

3. The Arbitrator's Fees

Where both parties agree to the application of this Schedule to the determination of the Arbitrator's Fees, the Arbitrator's Fees shall be charged in accordance with the following table:

ARBITRATOR'S FEE CHART

Sum in dispute (in Taka)	Arbitrator's Fee (minimum)	Arbitrator's Fee (maximum)
up to 10,00,000	Tk. 50,000	1,00,000
from 10,00,001 to 1,00,00,000	50,000 + 1.5% above Tk. 10,00,000	1,00,000 + 3.0% above 10,00,000
from 1,00,00,001 to 5,00,00,000	1,85,000 + 1.0% above Tk. 1,00,00,000	3,70,000 + 2.0% above 1,00,00,000

4. Other Charges

The other provisions contained in Schedule I shall apply, mutatis mutandis, to any arbitration conducted under Fast Track Arbitration.

Constitution of the BIAC Arbitration Committee

Article 1: Composition of the Arbitration Committee

1. The Arbitration Committee shall consist of up to fifteen ordinary members appointed by the Council of Directors of the BIAC ('the Council').
2. The members of the Arbitration Committee shall serve for a period of six years. Subject to the Council's discretion, any member may be re-appointed for a further six year period after due consultation with other Arbitration Committee members.
3. The Arbitration Committee shall make recommendations to the Council to fill appointments arising from retirements or casual vacancies and on other issues relating to the composition of the Arbitration Committee from time to time as appropriate.
4. The Arbitration Committee shall consist of:
 - a. A President appointed by the Council on the recommendation of the Arbitration Committee, to serve for a period of up to three years, and to be eligible for reappointment; and
 - b. Up to five Vice-Presidents appointed by the Arbitration Committee, to serve until expiry of their terms as members of the Arbitration Committee.
5. In the absence of the President or at the request of the President, any Vice-President shall be entitled to exercise the functions and powers of the President.
6. Former Presidents may be invited by the Arbitration Committee to attend Arbitration Committee meetings.

Article 2: Secretary General

1. The Council shall appoint a Secretary General to perform day to day operational tasks of the BIAC and fulfil such responsibilities as may arise under the BIAC Arbitration Rules.

2. The Secretary General shall be appointed for a period of three years and may be re-appointed subject to the Council's discretion.

Article 3: Functions of the Arbitration Committee

1. The Arbitration Committee shall have power to do anything which it may consider appropriate for the proper performance of its functions and shall in particular:
 - a. Perform the functions conferred on it under the BIAC Arbitration Rules;
 - b. Keep the BIAC Rules and their associated schedules of costs under review;
 - c. Make recommendations to the Council as appropriate concerning the introduction of new general or special Rules; and
 - d. Promote the objectives of the BIAC and international arbitration generally.
2. The functions of the Arbitration Committee under this Constitution and the BIAC Arbitration Rules shall be performed in its name by the President or, in his absence, by a Vice President of the Arbitration Committee.
3. For the purpose of performing specific tasks in relation to the functions of the Arbitration Committee, the President may set up ad hoc sub-committees of the Arbitration Committee chaired by any member appointed by the President.
4. In the performance of its functions under this Constitution, members of the Arbitration Committee shall at all times act independently of the Council.
5. No member of the Arbitration Committee who is related with an arbitration which is being administered in accordance with the BIAC Arbitration Rules shall participate in or influence any decision of the Arbitration Committee relating to such arbitration.

Article 4: Meetings of the Arbitration Committee

1. The Arbitration Committee shall meet when required under the BIAC Arbitration Rules and at least once every six months.
2. The meetings shall be chaired by the President or, in his absence, by a Vice-President and the quorum shall be five. The Chairman of the meeting shall have a casting vote.

Article 5: Appointment of arbitrators

1. All appointments of arbitrators in the name of the Arbitration Committee shall be made by the President or, in his absence, by a Vice-President on the President's behalf.
2. All ordinary members of the Arbitration Committee shall be eligible for appointment as arbitrators, provided they have not taken part in the appointment of an arbitral tribunal to which they have been nominated or in any other function of the Arbitration Committee relating to such an arbitration.

Article 6: Functions of the Secretary General

The Secretary General shall carry out day to day operations of the BIAC and administrative functions under the BIAC Arbitration Rules.

Article 7: Amendments

The provisions of this Constitution may only be amended with the mutual consent of the Arbitration Committee and the Council.