

# Commercial Arbitration Rules 2019



**JCAA**

### **Standard Arbitration Clause**

All disputes, controversies or differences arising out of or in connection with this contract shall be finally settled by arbitration in accordance with the Commercial Arbitration Rules of The Japan Commercial Arbitration Association. The place of the arbitration shall be [city and country].

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# Commercial Arbitration Rules

As Amended and Effective on January 1, 2019

## PART I ARBITRATION PROCEDURES

### CHAPTER I General Provisions

#### Article 1 Purpose

These Commercial Arbitration Rules (the “**Rules**”) provide for the procedures and the other necessary matters relating to arbitration conducted where the parties have agreed to resolve their dispute by arbitration under the Rules.

#### Article 2 Definitions

- 1 The term “**JCAA**” means the Japan Commercial Arbitration Association.
- 2 The term “**Party**” or “**Parties**” means one or more claimants and respondents.
- 3 The term “**in writing**” includes hard copy and electronic documents. “**Electronic documents**” include electronic, magnetic and any other recording media used in information processing by a computer or other electronic device.
- 4 The term “**Interactive Arbitration Rules**” means the Interactive Arbitration Rules of the JCAA.
- 5 The term “**UNCITRAL Arbitration Rules**” means the UNCITRAL Arbitration Rules supplemented by the Administrative Rules for UNCITRAL Arbitration of the JCAA.

#### Article 3 Scope

- 1 The Rules shall apply where an arbitration agreement provides for arbitration conducted under the Rules.
- 2 The Rules shall also apply where an arbitration agreement provides for JCAA arbitration without specifying the Rules, the Interactive Arbitration Rules or the UNCITRAL Arbitration Rules.
- 3 Notwithstanding Articles 3.1 and 3.2, the Interactive Arbitration Rules or the Administrative Rules for UNCITRAL Arbitration shall apply where:
  - (1) before the confirmation or appointment of any

arbitrator by the JCAA, all the Parties have agreed in writing to arbitration conducted under the Interactive Arbitration Rules or UNCITRAL Arbitration Rules and notify the JCAA of such agreement; or

- (2) the claimant offers in its request that the arbitration be conducted under the Interactive Arbitration Rules or the UNCITRAL Arbitration Rules and the respondent accepts such offer before the confirmation or appointment of any arbitrator by the JCAA.

In these cases, the proceedings conducted under the Rules before such agreement is reached shall remain in effect.

#### **Article 4 Relationship between Part 1 and Part 2 through Part 4**

The Parties' agreement that their disputes are resolved by arbitration under the Rules shall include the rules provided for in Part 2 through Part 4 of the Rules.

#### **Article 5 Derogation from the Rules**

Where the Rules apply, the Parties, the arbitrators and the JCAA, and their relationships shall be governed by the Rules, and by any agreements varying any of the Rules, except for Part 3 and Part 4 of the Rules.

#### **Article 6 Interpretation of the Rules**

- 1 The authentic texts of the Rules are Japanese and English. In the event of any difference or inconsistency between these two versions, the Japanese version shall prevail.
- 2 In the event of any difference as to the interpretation of the Rules, the interpretation by the JCAA shall prevail; provided that the interpretation of an arbitral tribunal as to the provisions of Part 1 and Part 2 of the Rules shall prevail over that of the JCAA in the arbitration proceedings before such arbitral tribunal.

#### **Article 7 Communication**

- 1 Any notice, submission or transmission under the Rules (collectively, a "**Communication**") shall be made by courier, registered mail, e-mail, facsimile, or any other



reasonable means, unless otherwise provided.

- 2 A Communication shall be sent to the street address, habitual residence, or place of business of the recipient (including the street address or habitual residence of the recipient's representative, if the recipient is a legal entity or other association), the e-mail address usually used by the recipient (if the recipient has designated an email address, such e-mail address), facsimile number or any address designated by the recipient (collectively, an "**Address for Communication**").
- 3 Delivery of a Communication shall be effective upon receipt.
- 4 If the intended recipient refuses to receive a Communication, the Communication shall be deemed to have been received on the fourth day after dispatch or on the day of the refusal where such date is verified.
- 5 If a Party (other than the intended recipient) uses reasonable efforts to ascertain an Address for Communication but no Address for Communication can be identified, a Communication may be sent to the last-known Address for Communication. In this case, the Communication shall be deemed to have been received on the fourth day after dispatch.
- 6 If a Communication is deemed to have been received under Article 7.5, any subsequent Communication may be made in accordance with Article 7.5.
- 7 If any Party relocates or makes any change to its Address for Communication, the Party shall promptly designate and notify the new Address for Communication to the JCAA, the arbitrators, and the other Parties.

## **Article 8 Administrative Body and Secretariat**

- 1 The JCAA shall administer the arbitral proceedings under the Rules.
- 2 The JCAA, at the request of the arbitral tribunal or either Party, shall make arrangements for interpreting, making a stenographic transcript of hearings, or providing a hearing room.

## **Article 9 List of Candidates for Arbitrators**

The JCAA shall provide a list of candidates for arbitrators to a Party, if so requested, for the sake of convenience

in the Party's appointment of an arbitrator. The Parties may appoint as an arbitrator a person who is not on the list.

## **Article 10 Representation and Assistance**

A Party may be represented or assisted by any person of its choice in arbitral proceedings under the Rules.

## **Article 11 Language**

- 1 Unless the Parties have agreed on the language(s) of the arbitral proceedings, the arbitral tribunal shall promptly determine the language(s) of the arbitral proceedings. The arbitral tribunal, in so determining, shall take into account the language of the contract containing the arbitration agreement, whether interpretation or translation will be required, the cost thereof and any other relevant circumstances.
- 2 The arbitral tribunal may request a Party to attach to any documentary evidence a translation into the language(s) of the arbitral proceedings.
- 3 Communications between the JCAA and the Parties or between the JCAA and the arbitrators shall be made in either English or Japanese.

## **Article 12 Period of Time**

- 1 In calculating a period of time under the Rules, the initial calendar day shall be excluded.
- 2 Holidays and non-business days occurring during the running of the period of time are included. If the last day of the period falls on a holiday or non-business day at the place of the recipient, the period shall be extended until the next following business day.
- 3 The Parties, by agreement in writing, may change any time limit under the Rules, except for the time limits under Articles 15.2, 18.1, 19.1, 20 and 75.7 and any time limits fixed or changed by the arbitral tribunal under Article 12.4 or by the JCAA under Article 12.5. In the event of such a change, the Parties shall promptly notify the JCAA and the arbitral tribunal thereof.
- 4 The arbitral tribunal, if it considers it necessary, may change any time limit under the Rules (including a time limit fixed by the arbitral tribunal), except for the time limits under Articles 43.1 and 60.4, and any

time limits fixed or changed by the JCAA under Article 12.5. In the event of such a change, the arbitral tribunal shall promptly notify the JCAA and the Parties thereof.

- 5 The JCAA, if it considers it necessary, may fix or change any time limit concerning the arbitral proceedings under the Rules.

### **Article 13 Exclusion of Liability**

Neither the arbitrators, nor the JCAA (including its directors, officers, employees and other staff) shall be liable for any act or omission in connection with the arbitral proceedings unless such act or omission is shown to constitute willful misconduct or gross negligence.

## **CHAPTER II Commencement of Arbitration**

### **Article 14 Request for Arbitration**

- 1 To request the initiation of arbitral proceedings, the claimant shall submit in writing to the JCAA a request for arbitration (the "**Request for Arbitration**") setting forth the following:
  - (1) a request that the dispute be referred to arbitration under the Rules;
  - (2) a reference to the arbitration agreement that is invoked (including any agreement on the number of arbitrators, the procedure for appointing arbitrators, the place of arbitration, and the language(s) of the arbitral proceedings);
  - (3) the Parties' full names (if a Party is a legal entity or other association, the corporate name and the name of the Party's representative), street addresses and other known contact details (i.e. the designated street address including, if a Party is a natural person, such Party's place of employment, telephone number, facsimile number and e-mail address);
  - (4) the full name, street address and other contact details (i.e. the designated address, telephone number, facsimile number and e-mail address) of claimant's counsel, if the claimant is represented by counsel;
  - (5) the relief and remedy sought;
  - (6) a summary of the dispute; and

- (7) a statement of the factual and legal grounds for the claim(s), and the manner and method of proof.
- 2 The Request for Arbitration may set forth the following:
  - (1) the full name, street address and other contact details (i.e. the designated street address, telephone number, facsimile number and e-mail address) of an arbitrator appointed by the claimant, if the Parties have agreed that the number of arbitrators is three;
  - (2) a statement about the number of arbitrators, the procedure for appointing arbitrators, the place of arbitration, or the language(s) of the arbitral proceedings; or
  - (3) a statement about the governing law applicable to the substance of the dispute.
- 3 A copy of the arbitration agreement under Article 14.2 shall be attached to the Request for Arbitration.
- 4 A power of attorney shall be submitted with the Request for Arbitration, if the claimant is represented by counsel.
- 5 The claimant, when it submits a Request for Arbitration, shall pay the administrative fee under Part 4 of the Rules. If the claimant fails to pay such administrative fee in full, the JCAA shall consider that no request for arbitration has been made.
- 6 Arbitral proceedings shall be deemed to have commenced on the date on which the Request for Arbitration has been received by the JCAA.

## Article 15 Single Arbitration for Multiple Claims

- 1 The claimant may submit a single Request for Arbitration containing multiple claims (the "**Single Arbitration for Multiple Claims**"), if:
  - (1) all Parties have agreed in writing that all such claims shall be resolved together in a single set of arbitral proceedings;
  - (2) all claims arise under the same arbitration agreement; or
  - (3) all claims arise between the same Parties, and
    - (a) the same or a similar question of fact or law arises from the claims;
    - (b) the dispute is referred by the arbitration agreement to arbitration under the Rules or at the JCAA; and

- (c) the arbitral proceedings are capable of being conducted in a single set of proceedings with regard to the place of arbitration, the number of arbitrators, language(s) of the arbitral proceedings, and other issues governed by the arbitration agreement under which the claims arise.
- 2 An objection to the Single Arbitration for Multiple Claims shall be made in writing within four weeks from the respondent's receipt of the notice of the Request for Arbitration. The arbitral tribunal shall make a determination on such objection under Article 48.

### **Article 16 Notice of Request for Arbitration**

- 1 The JCAA, on having confirmed that the Request for Arbitration has been made in conformity with Articles 14.1 and 14.3 through 14.5, shall promptly notify the respondent thereof. A copy of the Request for Arbitration shall be attached to such notice.
- 2 The JCAA, after appointing or confirming each arbitrator, shall promptly transmit a copy of the Request for Arbitration to each arbitrator.

### **Article 17 Constitution of Arbitral Tribunal and Jurisdictional Objection**

The JCAA may proceed to constitute the arbitral tribunal even if the respondent raises an objection about the existence or validity of the arbitration agreement, or about a Single Arbitration for Multiple Claims. The arbitral tribunal, after being duly constituted, shall make a determination on any such objection under Article 47.1 or 48.1.

### **Article 18 Answer**

- 1 The respondent, within four weeks from its receipt of the notice of the Request for Arbitration, shall submit in writing to the JCAA an answer (the "**Answer**") setting forth the following:
  - (1) the Parties' full names (if a Party is a legal entity or other association, the corporate name and the name of the Party's representative), street address and other contact details (i.e. the respondent's designated street address, telephone num-

- ber, facsimile number and e-mail address);
  - (2) the full name, street address and other contact details (i.e. the designated street address, telephone number, facsimile number and e-mail address) of the respondent's counsel, if the respondent is represented by counsel;
  - (3) a response to the relief and remedy sought;
  - (4) a summary of the dispute; and
  - (5) the admission or denial of the claimant's statements, a statement of factual and legal grounds, and the manner and method of proof.
- 2 The Answer may set forth the following:
- (1) the name, street address and other contact details (i.e. the designated street address, telephone number, facsimile number and e-mail address) of an arbitrator appointed by the respondent, if the Parties have agreed that the number of arbitrators is three;
  - (2) a statement about the number of arbitrators, the procedure for appointing arbitrators, the place of arbitration, or the language(s) of the arbitral proceedings; or
  - (3) a statement about the governing law applicable to the substance of the dispute.
- 3 A power of attorney shall be submitted, if the respondent is represented by counsel.
- 4 The JCAA, on having received the Answer, shall promptly transmit a copy thereof to the other Party and each arbitrator.

## **Article 19 Counterclaim**

- 1 The respondent, within four weeks from its receipt of the notice of the Request for Arbitration, may submit a counterclaim, if:
- (1) all Parties have agreed in writing that the counterclaim shall be resolved together with all claims in a single arbitral proceeding;
  - (2) the claim and the counterclaim arise under the same arbitration agreement; or
  - (3)
    - (a) the same or a similar question of fact or law arises from the claim and the counterclaim;
    - (b) the dispute is referred by the arbitration agreement to arbitration under the Rules or at the JCAA; and
    - (c) the arbitral proceedings are capable of

being conducted in a single proceeding with regard to the place of arbitration, the number of arbitrators, language(s) of the arbitration, and other issues governed by the arbitration agreement under which the claims arise.

- 2 Articles 14, 15.2, 16, 18 and 23 shall apply *mutatis mutandis* to the counterclaim.

## **Article 20 Set-off Defense**

The respondent, within four weeks from its receipt of the notice of the Request for Arbitration, may submit a set-off defense in writing.

## **Article 21 Amendment to Claim**

- 1 The claimant (or the respondent having submitted a counterclaim) may amend its claim by submitting a request for amendment to the JCAA in writing, if:
  - (1) all Parties have agreed in writing that the amended claim shall be resolved together with other claims or counterclaims in a single arbitration proceeding;
  - (2) the original claim and the amended claim arise under the same arbitration agreement; or
  - (3)
    - (a) the same or a similar question of fact or law arises from the original claim and the amended claim;
    - (b) the dispute is referred by the arbitration agreement to arbitration under the Rules or at the JCAA; and
    - (c) the arbitral proceedings are capable of being conducted under a single set of proceedings with regard to the place of arbitration, the number of arbitrators, language(s) of the arbitration, and other issues governed by the arbitration agreement under which the claims arise.
- 2 After the arbitral tribunal is constituted, the claimant (or the respondent having submitted a counterclaim) shall obtain approval of the arbitral tribunal to amend its claim. The arbitral tribunal shall give the other Party an opportunity to comment before granting approval of an amendment.
- 3 The arbitral tribunal may deny the amendment under Article 21.2, if it considers it inappropriate in view of a

likely substantial delay in conducting the arbitral proceedings, prejudicial to the other Party, or any other circumstances. The arbitral tribunal shall promptly notify the Parties of its decision on approval or denial.

- 4 Articles 14, 15.2 and 16 shall apply *mutatis mutandis* to the amended claim.
- 5 Article 18, 19 or 20 shall apply *mutatis mutandis* to an Answer, a counterclaim, or set-off defense in response to the amended claim.

## Article 22 Number of Copies to be Submitted

- 1 The number of hard copies to be submitted under Articles 14.1, 15.2, 18.1 (including, the application *mutatis mutandis* under Articles 19.2, 21.5 and 56.6), 20 and 21.1 shall be the sum of the number of arbitrators (three if not yet determined), and the number of other Parties, plus one. It shall be sufficient for each Party represented by counsel to submit one original power of attorney to the JCAA.
- 2 Article 22.1 shall not apply to a submission by e-mail, facsimile or any other electronic communication method. A Party, if requested, shall submit the number of hard copies that the JCAA or the arbitral tribunal designates.

## Article 23 Withdrawal of Claim

- 1 Before the constitution of the arbitral tribunal, the claimant may withdraw its claim(s) by submitting a notice to the JCAA in writing (the "**Notice of Withdrawal**") stating that the claimant withdraws the claim(s). The JCAA shall notify the respondent of the Notice of Withdrawal.
- 2 After the constitution of the arbitral tribunal, the claimant may withdraw its claim(s) by submitting a Notice of Withdrawal to the arbitral tribunal and obtaining its approval thereof.
- 3 Upon the request for approval by the claimant under Article 23.2, the arbitral tribunal, after giving the respondent an opportunity to comment, shall approve the withdrawal unless the respondent promptly objects thereto and the arbitral tribunal determines that the respondent has a legitimate interest in resolving the dispute referred to the arbitral proceedings.
- 4 The arbitral tribunal shall make a decision to termi-



nate the arbitral proceedings if the arbitral tribunal approves the withdrawal of all the claims under Article 23.3.

## CHAPTER III Arbitrators and Arbitral Tribunal

### Article 24 Impartiality and Independence of Arbitrators

- 1 A person who is not impartial and independent shall decline to accept an appointment as an arbitrator. An arbitrator shall be, and remain at all times, impartial and independent during the arbitral proceedings.
- 2 When a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall conduct a reasonable investigation into any circumstances which may, in the eyes of the Parties, give rise to justifiable doubts as to his or her impartiality or independence. If he or she finds such circumstances, he or she shall decline to accept the appointment or disclose in writing such circumstances to enable the approaching person to decide whether or not to withdraw its request for appointment.
- 3 When a person is appointed as an arbitrator, he or she shall promptly submit in writing to the Parties and the JCAA his or her undertaking to disclose any circumstances which may give rise to justifiable doubts as to his or her impartiality or independence, or to declare that there are no such circumstances (the "**Declaration of Impartiality and Independence**").
- 4 During the course of the arbitral proceedings, an arbitrator shall have an ongoing duty to make reasonable investigation into any circumstances which may, in the eyes of the Parties, give rise to justifiable doubts as to the arbitrator's impartiality or independence. If the arbitrator finds such circumstances, the arbitrator shall promptly disclose to the Parties and the JCAA in writing such circumstances, unless the arbitrator has already disclosed such circumstances. An advance declaration in relation to such circumstances that may possibly arise in the future does not discharge the arbitrator's ongoing duty of disclosure.

## **Article 25 Appointment and Confirmation of Arbitrators**

- 1 Arbitrator(s) shall be appointed pursuant to the agreement of the Parties.
- 2 If the Parties have not made any agreement provided for in Article 25.1, the arbitrator(s) shall be appointed under Articles 26 through 30.
- 3 The appointment of an arbitrator by a Party or by Parties, or the appointment of third arbitrator by co-arbitrators shall be effective only after confirmation by the JCAA.
- 4 On appointment of an arbitrator by a Party, by Parties or by the co-arbitrators, such Party, Parties, or co-arbitrators shall promptly submit in writing to the JCAA for its confirmation under Article 25.3:
  - (a) a notice of appointment of the arbitrator setting forth the appointed arbitrator's name, street address, contact details (*i.e.*, designated address, telephone number, facsimile number and e-mail address) and occupation ;
  - (b) a document setting forth the arbitrator's acceptance of appointment; and
  - (c) Declaration of Impartiality and Independence.
- 5 The JCAA shall promptly transmit a copy of the documents under Article 25.4 to the other Party (or Parties) and the arbitrator(s).
- 6 The JCAA, after giving a Party or Parties and co-arbitrator(s) that have appointed the arbitrator an opportunity to comment, may refuse to confirm the appointment of an arbitrator without giving reasons if the JCAA finds that the appointment is clearly inappropriate.
- 7 Upon confirming the appointment of the arbitrator, the JCAA shall promptly notify such confirmation to the Parties and the arbitrator(s).
- 8 If the appointment of an arbitrator is not confirmed by the JCAA, the Party, the Parties, or the arbitrators that appointed the arbitrator shall appoint another arbitrator within the period fixed by the JCAA.

## **Article 26 Number of Arbitrators**

- 1 The number of arbitrators is, in principal, one or three.
- 2 If the Parties fail to notify the JCAA in writing of their agreement on the number of arbitrators within four

- weeks from the respondent's receipt of the notice of the Request for Arbitration, such number shall be one.
- 3 Notwithstanding Article 26.2, either Party, within four weeks from the respondent's receipt of the notice of the Request for Arbitration, may make a request to the JCAA in writing that such number shall be three. Such request shall be accepted, if the JCAA considers the request appropriate, taking into account the amount in dispute, the complexity of the case and other relevant circumstances.
  - 4 The JCAA shall promptly notify the number of arbitrators to the Parties when it is fixed.

### **Article 27 Appointment of Arbitrator - Sole Arbitrator**

- 1 If the Parties have agreed that there shall be only one arbitrator, the Parties shall agree on and appoint such arbitrator, and notify the JCAA of such appointment under Article 25.4 within two weeks from the respondent's receipt of the notice of the Request for Arbitration.
- 2 If it is determined that there shall be one arbitrator under Article 26.2, the Parties shall agree on and appoint such arbitrator, and notify the JCAA of such appointment under Article 25.4 within two weeks from the time limit under Article 26.2.
- 3 If the Parties fail to notify the JCAA of such appointment under Article 25.4 within the time limit under Article 27.1 or 27.2, the JCAA shall appoint an arbitrator.
- 4 In the case where the JCAA appoints an arbitrator under Article 27.3 and a Party requests that the arbitrator be a person of a different nationality from that of any of the Parties, the JCAA shall respect such request.

### **Article 28 Appointment of Arbitrators - Three Arbitrators**

- 1 If the Parties have agreed that the number of arbitrators shall be three, each Party shall appoint one arbitrator and notify the JCAA of such appointment under Article 25.4 within three weeks from the respondent's receipt of the notice of the Request for Arbitration.
- 2 If the JCAA determines that the number of arbitrators shall be three under Article 26.3, each Party shall

appoint one arbitrator and notify the JCAA of such appointment under Article 25.4 within three weeks from the Party's receipt of the notice of the determination by the JCAA under Article 26.3.

- 3 If either Party fails to notify the JCAA of such appointment under Article 25.4 within the time limit under Article 28.1 or 28.2, the JCAA shall appoint such arbitrator.
- 4 The two arbitrators appointed under Articles 28.1 through 28.3 shall agree on and appoint the third arbitrator, and notify the JCAA of such appointment under Article 25.4 within three weeks from the two arbitrators' receipt of the notice that the JCAA has confirmed or appointed the two arbitrators.
- 5 The party-appointed arbitrator may communicate *ex parte* with the Party or the Parties who have appointed the arbitrator to discuss the appointment of the third arbitrator only if all the Parties so agree in writing. Notwithstanding any such agreement of the Parties, where any Party fails to appoint a an arbitrator, the other arbitrator appointed by a Party or Parties shall not communicate *ex parte* with the Party or Parties who appointed that arbitrator to discuss the appointment of the third arbitrator.
- 6 If the two arbitrators fail to notify the JCAA of such appointment of the third arbitrator under Article 25.4 within the time limit under Article 28.4, the JCAA shall appoint such arbitrator.
- 7 If the JCAA appoints an arbitrator under Article 28.6, Article 27.4 shall apply *mutatis mutandis*.

### **Article 29 Appointment of Arbitrators - Three Arbitrators in Multi-Party Arbitration**

- 1 If there is more than one claimant or respondent and the number of arbitrators shall be three, the arbitrators shall be appointed under this Article 29.
- 2 If the Parties have agreed that the number of arbitrators shall be three, the claimant(s) and the respondent(s) shall appoint one arbitrator each and notify the JCAA of such appointment under Article 25.4 within three weeks from the receipt by the respondent(s) of the notice of the Request for Arbitration.
- 3 If the JCAA determines that the number of arbitrators shall be three under Article 26.3, the claimant(s) and the respondent(s) shall appoint one arbitrator each and notify the JCAA of such appointment under Article

25.4 within three weeks from the Parties' receipt of the notice of the determination by the JCAA under Article 26.3.

- 4 The two arbitrators appointed by the claimant(s) and the respondent(s) under Articles 29.2 or 29.3 shall agree on and appoint the third arbitrator, and notify the JCAA of such appointment under Article 25.4 within three weeks from the two arbitrators' receipt of the notice that the JCAA has confirmed the two arbitrators.
- 5 Article 28.5 shall apply *mutatis mutandis* where the two arbitrators appoint the third arbitrator under Article 29.4.
- 6 If the two arbitrators fail to notify the JCAA of such appointment of the third arbitrator under Article 25.4 within the time limit under Article 29.4, the JCAA shall appoint such arbitrator.
- 7 If the JCAA appoints an arbitrator under Article 29.6, Article 27.4 shall apply *mutatis mutandis*.
- 8 If either or both of the claimant(s) or the respondent(s), fail to notify the JCAA of such appointment under Article 25.4 within the time limit under Article 29.2 or 29.3, the JCAA shall appoint all three arbitrators. In such case, the JCAA may appoint the arbitrator already appointed by the claimant(s) or the respondent(s) as one of the three arbitrators, if no Party raises an objection.

### **Article 30 Notice of Appointment of Arbitrator by the JCAA**

On appointment of an arbitrator by the JCAA, the JCAA shall promptly transmit to the Parties and the arbitrator(s) the document under Article 25.4(a), together with a copy of the documents under Articles 25.4(b) and 25.4(c).

### **Article 31 Arbitral Tribunal**

- 1 Arbitration under the Rules shall be conducted by an arbitral tribunal composed of one arbitrator or three arbitrators appointed under Articles 25 through 30, 36 and 56.
- 2 The arbitral tribunal shall be constituted on the date when all the arbitrators have been confirmed or appointed by the JCAA.
- 3 If the arbitral tribunal is composed of three arbitra-

tors, the third arbitrator shall be the presiding arbitrator. Unless otherwise agreed by the three arbitrators, the presiding arbitrator shall serve the following tasks:

- (1) presiding over hearings and deliberations;
- (2) transmitting documents and communications on behalf of the arbitral tribunal; and
- (3) preparing the first drafts of arbitral awards and other documents for the arbitral tribunal.

### **Article 32 Decision of Arbitral Tribunal**

- 1 If there is more than one arbitrator, decisions of the arbitral tribunal, including the arbitral award, shall be made by majority vote of the arbitrators.
- 2 If no decision is made by majority vote of the arbitrators, the presiding arbitrator shall make the decision.
- 3 Procedural matters in arbitral proceedings may be decided by the presiding arbitrator alone, if the other members of the arbitral tribunal or all Parties so agree.

### **Article 33 Tribunal Secretary**

- 1 No arbitrator shall delegate to a third person tasks that substantially influence the arbitral tribunal's decision including the arbitral award.
- 2 To the extent compatible with Article 33.1, the sole arbitrator or the presiding arbitrator may appoint a third person to assist such arbitrator in his or her mandate (the "**Tribunal Secretary**"). Before the appointment of the Tribunal Secretary, the sole or presiding arbitrator shall obtain the Parties' consent in writing after providing the Parties with the information regarding the proposed Tribunal Secretary, the tasks that are proposed to be performed and the method for calculating their remuneration if remuneration is to be paid to the proposed Tribunal Secretary.
- 3 Article 24 and Article 42.2 shall apply *mutatis mutandis* to the Tribunal Secretary.
- 4 The remuneration and expenses of the Tribunal Secretary shall be deemed to be the expenses of the sole arbitrator or the presiding arbitrator as set forth in Article 101; provided that the remuneration of the Tribunal Secretary shall be included in the remuneration of such arbitrator for the purpose of calculating the upper limit under Article 94.

## Article 34 Challenge to Arbitrators

- 1 A Party may challenge an arbitrator if circumstances give rise to justifiable doubts as to the arbitrator's impartiality or independence.
- 2 A Party may challenge an arbitrator it has appointed, or whose appointment the Party has participated in by way of recommendation or any similar acts, only for reasons which the Party becomes aware of after the appointment has been made.
- 3 A Party that intends to challenge an arbitrator shall submit in writing to the JCAA a request for challenge (the "**Request for Challenge**") within two weeks from the date of its receipt of the notice by the JCAA confirming the appointment of the arbitrator (the Notice of Appointment of the arbitrator, if the arbitrator is appointed by the JCAA) or the date when it became aware of any circumstance under Article 34.1, whichever comes later.
- 4 On receipt of the Request for Challenge, the JCAA shall promptly notify the other Party and the challenged arbitrator, supplying them with a copy thereof.
- 5 The JCAA shall make a decision on the challenge without giving reasons, after giving the other Party and the challenged arbitrator an opportunity to comment.

## Article 35 Removal of Arbitrators

The JCAA, at the written request of either Party or on its own motion, may remove any arbitrator who fails to perform his or her duties or unduly delays in the performance of his or her duties, or is *de jure* or *de facto* unable to perform his or her duties, after giving the Parties and the challenged arbitrator an opportunity to comment.

## Article 36 Appointment of Substitute Arbitrator

- 1 If an arbitrator ceases to perform his or her duties before the termination of the arbitral proceedings because of resignation, challenge, removal or death, the JCAA shall promptly notify the Parties and the remaining arbitrators thereof.
- 2 If the arbitrator who has ceased to perform his or her duties was appointed by a Party, by Parties or by the remaining arbitrators, such Party, Parties or arbitrators shall appoint a substitute arbitrator and notify

the JCAA of such appointment under Article 25.4 within three weeks from their receipt of the notice under Article 36.1, unless otherwise agreed by the Parties. If such Party, Parties or remaining arbitrators fail to do so, the JCAA shall appoint a substitute arbitrator.

- 3 If the arbitrator who ceases to perform his or her duties was appointed by the JCAA under Article 36.1, the JCAA shall appoint a substitute arbitrator, unless otherwise agreed by the Parties.

### **Article 37 Vacancy after Closing of Arbitral Proceedings**

Notwithstanding Article 36, where an arbitrator ceases to perform his or her duties after the closing of the arbitral proceedings but before an arbitral award is rendered, the arbitral tribunal may render an arbitral award without a substitute arbitrator being appointed, if the JCAA, after giving the remaining arbitrators and the Parties an opportunity to comment, considers it appropriate.

### **Article 38 Repetition of Arbitral Proceedings by Substitute Arbitrator**

If a substitute arbitrator is appointed under Article 36, the arbitral tribunal, after giving the Parties an opportunity to comment, shall decide whether or to what extent arbitral proceedings already conducted should be repeated.

## **CHAPTER IV Arbitral Proceedings**

### **Section 1. Conduct of Arbitral Proceedings**

#### **Article 39 Place of Arbitration**

- 1 Unless otherwise agreed by the Parties, the place of arbitration shall be the city of the office of the JCAA to which the claimant submitted the Request for Arbitration under Article 14.1.
- 2 The arbitral tribunal may conduct the arbitral proceedings at any place it considers appropriate, unless otherwise agreed by the Parties.



## **Article 40 Conduct of Arbitral Proceedings**

- 1 The arbitral tribunal shall direct and control the arbitral proceedings, including hearings.
- 2 The arbitral tribunal shall treat the Parties equally. The arbitral tribunal shall give each Party a sufficient opportunity to state and prove its case and to present a defense against the other Party's case.
- 3 The arbitral tribunal shall use reasonable efforts to resolve the dispute expeditiously.
- 4 A Party shall transmit any material submitted in writing in the arbitral proceedings to the arbitrator(s), the other Party and the JCAA; and the arbitral tribunal shall transmit to the JCAA a copy of any Communications in writing to the Parties.

## **Article 41 Rejection of Party's Untimely Submission of Statement or Evidence**

The arbitral tribunal may reject and disregard a Party's submission of statement or evidence if it is made in an untimely manner.

## **Article 42 Confidentiality**

- 1 Arbitral proceedings shall be held in private, and all records thereof shall be closed to the public.
- 2 The arbitrators, the JCAA (including its directors, officers, employees, and other staff), the Parties, their counsel and assistants, and other persons involved in the arbitral proceedings shall not disclose facts related to or learned through the arbitral proceedings and shall not express any views as to such facts, except where disclosure is required by law or in court proceedings, or based on any other justifiable grounds.

## **Article 43 Time Limit of Arbitral Award and Procedural Schedule**

- 1 The arbitral tribunal shall use reasonable efforts to render an arbitral award within nine months from the date when it is constituted.
- 2 To implement Article 43.1, the arbitral tribunal shall consult with the Parties, and make a schedule of the arbitral proceedings in writing (the "**Procedural Schedule**") to the extent necessary and feasible as early as practicable. The consultation shall be con-

ducted through preliminary meetings, video conferences, telephone conferences, exchanges of documents or any other appropriate methods determined by the arbitral tribunal. The arbitral tribunal shall send the Procedural Schedule to the Parties and the JCAA.

- 3 The arbitral tribunal may amend the Procedural Schedule under Article 43.2 during the course of the arbitral proceedings after giving the Parties an opportunity to comment.

#### **Article 44 Submission of Written Statements and Evidence**

- 1 Within the time limits under the Rules or the time limits fixed by the arbitral tribunal, each Party shall submit to the arbitral tribunal one or more written statements setting forth such Party's case on the facts and law (the "**Written Statements**") and evidence.
- 2 The arbitral tribunal shall acknowledge receipt of the Written Statements and evidence submitted by a Party.

#### **Article 45 Default of a Party**

- 1 If one Party fails to submit the Written Statements including the Answer within the time limits under the Rules or the time limits fixed by the arbitral tribunal, the arbitral tribunal shall continue the arbitral proceedings without treating such failure in itself as an admission of the other Party's statements.
- 2 If one Party, without sufficient cause, fails to appear at a hearing or to produce evidence, the arbitral tribunal may continue the arbitral proceedings and make the arbitral award based on the evidence before it.

#### **Article 46 Issues and Terms of Reference**

- 1 At a stage as early as practicable, the arbitral tribunal shall use reasonable efforts to identify the issues to be determined upon consultation with the Parties.
- 2 If the arbitral tribunal considers it appropriate for promoting efficient arbitral proceedings, the arbitral tribunal, after giving the Parties an opportunity to comment, may prepare terms of reference setting forth the matters referred to the arbitral tribunal and a list of major issues.

## Article 47 Competence of Arbitral Tribunal to Determine Jurisdiction

- 1 The arbitral tribunal may make a determination on any objection as to the existence or validity of an arbitration agreement and any other matters regarding its own jurisdiction.
- 2 The arbitral tribunal shall make a decision to terminate the arbitral proceedings if it finds that it has no jurisdiction.

## Article 48 Decision on Separate Proceedings

- 1 The arbitral tribunal may make a determination on any objection as to a Single Arbitration for Multiple Claims.
- 2 If the arbitral tribunal finds that the requirements under Article 15.1 are not satisfied, the arbitral tribunal shall make a decision to separate the arbitral proceedings (the **“Decision on Separate Proceedings”**) and notify the Parties thereof. The arbitral tribunal shall not make a Decision on Separate Proceedings if the respondent has not raised an objection within the time limit under Article 15.2.
- 3 Upon the Decision on Separate Proceedings, the mandate of the arbitral tribunal shall be terminated, and the arbitral proceedings shall be conducted separately as to each separated claim(s). The mandate of the arbitral tribunal, however, shall not be terminated as to:
  - (a) any claim(s) against which the respondent that has raised no objection within the time limit under Article 15.2; or
  - (b) any claim(s) for which the respondent has requested continuation of the mandate of the arbitral tribunal within one week from the respondent’s receipt of the notice of the Decision on Separate Proceedings.
- 4 If the arbitral proceedings are to be conducted separately under Article 48.3, calculation of periods of time based on the respondent’s receipt of the notice of the Request for Arbitration shall be determined based on the respondent’s receipt of the notice of the Decision on Separate Proceedings.
- 5 Articles 66.2, 66.4, 66.5, 66.6 and 68 through 70 shall apply *mutatis mutandis* to the Decision on Separate Proceedings.

- 6 Articles 48.1 through 48.5 shall apply *mutatis mutandis*, if:
  - (a) the counterclaim does not satisfy the requirements under Article 19.1;
  - (b)
    - (i) the amendment of the claim does not satisfy the requirements under Article 21.1, or
    - (ii) the application for approval of an amendment is denied under Article 21.3; or
  - (c)
    - (i) the joinder does not satisfy the requirements under Article 56.1, or
    - (ii) the joinder is denied under Article 56.5.
- 7 Notwithstanding Article 48.6, the mandate of the arbitral tribunal shall not be terminated as to:
  - (1) any claim(s) pending before the counterclaim or the amendment of the claim was filed; or
  - (2) any claim(s) pending before the joinder that was applied for after the constitution of the arbitral tribunal.

#### **Article 49 Interim Decision**

The arbitral tribunal, if it considers it appropriate, may make an interim decision on a dispute arising during the course of the arbitral proceedings. Articles 66.2 and 67 shall apply *mutatis mutandis* to such decision. The arbitral tribunal may omit the statement of reasons.

#### **Article 50 Decision on Hearings**

- 1 The arbitral tribunal shall decide whether to proceed with holding hearings or whether to proceed based only on documents and other materials; provided that the arbitral tribunal shall hold such hearings if so requested by a Party at an appropriate stage of the arbitral proceedings.
- 2 The arbitral tribunal shall, after giving the Parties an opportunity to comment, decide whether or not witness examination will be conducted during the hearings.
- 3 Where the hearings are to be held, the arbitral tribunal should select appropriate means for holding a hearing, including by video conference or other methods.

#### **Article 51 Scheduled Date and Place of Hearings**

- 1 The arbitral tribunal, after giving the Parties an opportunity to comment, shall fix the scheduled date and

place of hearings. If a hearing lasts more than one day, the arbitral tribunal shall hold the hearing on consecutive days, to the extent feasible.

- 2 If the arbitral tribunal has fixed the scheduled date and place of a hearing, it shall promptly notify the Parties of the scheduled date and place of the hearing.
- 3 The arbitral tribunal shall change the scheduled date of a hearing at the joint request of the Parties. The arbitral tribunal may change the scheduled date at the request of one Party, if it finds a compelling reason to do so.
- 4 Any request under Article 51.3 shall be made in writing, unless made at a hearing or during an oral consultation under Article 43.2.

### **Article 52 Appearance by Parties at Hearings**

- 1 The arbitral tribunal, in principle, shall hold hearings in the presence of all the Parties.
- 2 The arbitral tribunal may hold a hearing even if any or all of the Parties fail to appear.

### **Article 53 Waiver of Right to Object**

A Party who knows that any of the Rules has not been complied with but fails to promptly object to such non-compliance, shall be deemed to have waived its right to object.

### **Article 54 Evidence**

- 1 Each Party shall have the burden of proving the facts relied on to support its claims or defenses.
- 2 The arbitral tribunal, on its own motion, may examine evidence not presented by any Party, when the arbitral tribunal considers it necessary.
- 3 The arbitral tribunal may examine evidence outside the hearings. The arbitral tribunal, however, shall give the Parties an opportunity to submit statements in writing or orally regarding such evidence.
- 4 The arbitral tribunal, at the written request of a Party or on its own motion, may order any Party to produce documents in its possession that the arbitral tribunal considers necessary to examine after giving the Party in possession an opportunity to comment, unless the arbitral tribunal finds reasonable grounds for the Party in possession to refuse the production.

## Article 55 Expert Appointed by Arbitral Tribunal

- 1 The arbitral tribunal, after giving the Parties an opportunity to comment, may appoint one or more experts to advise it with respect to any matters to be determined and to report, in writing or orally, the findings of such expert(s) to the arbitral tribunal.
- 2 If a Party so requests, the arbitral tribunal, after delivery of the report under Article 55.1, shall give the Parties an opportunity to put questions to the expert(s) in a hearing. The arbitral tribunal, if it considers it necessary, may give the Parties an opportunity to submit their own expert reports.

## Article 56 Third Party Joinder

- 1 A third party may join in the arbitral proceedings as a claimant or a Party may request a third party to join in the arbitral proceedings as a respondent, if:
  - (1) all Parties and the third party have agreed in writing to the joinder; or
  - (2) all claims are made under the same arbitration agreement; provided, however, that the third party's consent in writing to such joinder is necessary when the third party is requested to join as respondent after the constitution of the arbitral tribunal.
- 2 If the third party joins the arbitral proceedings before the arbitral tribunal is constituted, the arbitrators shall be appointed under Articles 25 through 27, 29 and 30. If any arbitrators have been appointed under these Rules before the third party joinder, the appointment of such arbitrators shall be no longer effective.
- 3 Where the arbitrators are appointed under Article 56.2, calculation of periods of time under Articles 26, 27.1 and 29.2 shall be determined based on the date that the respondent against whom the claim is made in the application for joinder receives the notice of the application for joinder.
- 4 If the third party joins in the arbitral proceedings after the arbitral tribunal is constituted, the arbitral tribunal shall remain the same.
- 5 Even when the requirement under Article 56.1 is satisfied, the arbitral tribunal may deny joinder if it finds that such joinder will delay the arbitral proceedings or it finds any other reasonable grounds.
- 6 Articles 14, 15.2 and 16.1 shall apply *mutatis mutan-*

*dis* to an application for joinder; provided that “the respondent” under Articles 15.2, 16.1 and 48.3 shall be read as “the Party other than the Party that has submitted an application for joinder, and the third party who has been requested to join as respondent.”

- 7 Article 18, 19 or 20 shall apply *mutatis mutandis* to an answer, counterclaim or setoff defense to the claim made in the application for joinder.

### **Article 57 Consolidation**

The arbitral tribunal may, at the written request of a Party and when it finds it necessary, consolidate and hear the pending claim(s) with the other claim(s) (as to which no arbitral tribunal has been constituted), if:

- (1) all Parties (including the parties to the other claim(s) to be consolidated) have agreed in writing;
- (2) the pending claim(s) and the claim(s) to be consolidated arise under the same arbitration agreement; provided, however, that the written consent to such consolidation by the party to the other claim(s) is necessary when the party has not been a Party to the pending claim(s); or
- (3) both the pending claim(s) and the other claim(s) to be consolidated arise between the same Parties, and
  - (a) the same or a similar question of fact or law arises from the claims;
  - (b) the dispute is referred by the arbitration agreement to arbitration under the Rules or at the JCAA; and
  - (c) the arbitral proceedings are capable of being conducted in a single proceeding with regard to the place of arbitration, the number of arbitrators, language(s) of the arbitration, and other issues governed by the arbitration agreements under which the claims arise.

### **Article 58 Mediation**

- 1 The Parties, at any time during the course of the arbitral proceedings, may agree in writing to refer the dispute to mediation proceedings under the International Commercial Mediation Rules of the JCAA (the “**ICMR**”). No arbitrator assigned to the dispute shall

be appointed as mediator, except if appointed under Article 59.1.

- 2 If the Parties enter into an agreement under Article 58.1, the arbitral tribunal, at the request of either Party, shall stay the arbitral proceedings.
- 3 All offers, admissions, or other statements by the Parties, or recommendations by the mediator, made during the course of the mediation proceedings shall be inadmissible as evidence in the arbitral proceedings unless otherwise agreed by the Parties.
- 4 If the mediation proceedings are terminated under Rule 10.2(2) through 10.2(5) of the ICMR, the arbitral tribunal, at the request of either Party, shall resume the arbitral proceedings.

### **Article 59 Special Rules for the ICMR if an Arbitrator serves as Mediator**

- 1 Notwithstanding Article 58.1, the Parties may agree in writing to appoint an arbitrator assigned to the same dispute as a mediator, and refer the dispute to mediation proceedings under the ICMR. If the Parties do so, the Parties shall not challenge the arbitrator based on the fact that the arbitrator is serving or has served as a mediator.
- 2 Notwithstanding Rule 9.5 of the ICMR, an arbitrator who serves as mediator in regard to the same dispute shall not consult separately with any of the Parties orally or in writing, without the agreement of the Parties in writing. The arbitrator shall disclose to all other Parties, in each instance, the fact that such consultation has taken place, excluding the contents thereof.
- 3 The Parties shall submit to the JCAA a copy of the agreement under Article 59.1, when they refer the dispute to mediation proceedings under Article 59.1.
- 4 The mediator's remuneration under Article 59, the request fee and the administrative fee for the mediation proceedings shall be calculated as follows:
  - (1) the request fee and the administrative fee for the mediation proceedings are not required to be paid; and
  - (2) Articles 81 and 82 and the provisions of Part 3 of the Rules shall apply to the arbitrator's remuneration and expenses incurred with respect to conducting the mediation proceedings.



- 5 The ICMR, except Chapter II, shall apply to the mediation under Article 59.

### **Article 60 Closing and Reopening of Arbitral Proceedings**

- 1 The arbitral tribunal shall close the arbitral proceedings upon determining that the Parties have been given sufficient opportunity to state and prove their respective claims and present defenses thereto and that the arbitral tribunal is able to render an arbitral award.
- 2 The arbitral tribunal may close the arbitral proceedings as to certain claims, upon determining that the requirements under Article 60.1 as to such claims have been satisfied.
- 3 Before closing the arbitral proceedings under Article 60.1 or 60.2, the arbitral tribunal shall provide the Parties with appropriate advance notice thereof.
- 4 The arbitral tribunal, if it considers it necessary, may reopen the arbitral proceedings. The arbitral tribunal shall not, in principle, reopen the arbitral proceedings after the lapse of three weeks from the date of closing.

### **Article 61 Termination of Arbitral Proceedings**

- 1 The arbitral proceedings shall terminate upon the rendering of an arbitral award, upon the Parties' withdrawal of all the claims before the constitution of the arbitral tribunal, or upon a decision to terminate the arbitral proceedings.
- 2 The arbitral tribunal shall make a decision to terminate the arbitral proceedings, if:
  - (1) the arbitral tribunal approves the withdrawal of all the claims under Article 23.3;
  - (2) the arbitral tribunal finds that it has no jurisdiction under Article 47.2; or
  - (3) the arbitral tribunal finds that the continuation of the arbitral proceedings has become unnecessary or impossible.
- 3 The mandate of the arbitral tribunal terminates upon termination of the arbitral proceedings, subject to Articles 68 through 70.
- 4 Articles 66.2, 66.4, 66.5, 66.6 and 67 shall apply *mutatis mutandis* to the decision to terminate the arbitral proceedings.

## Section 2. Arbitral Award

### Article 62 Final Award, Partial Award and Award by Consent

- 1 The arbitral tribunal shall render an arbitral award on all claims presented in the arbitral proceedings.
- 2 Notwithstanding Article 62.1, if the arbitral tribunal has closed the arbitral proceedings as to certain claims under Article 60.2, it may render a partial award on such claims.
- 3 If the Parties agree on a settlement of the dispute during the course of the arbitral proceedings, the arbitral tribunal, upon the request of the Parties, may record the settlement in the form of an arbitral award on agreed terms.

### Article 63 Prohibition of Disclosing Dissenting Opinion

Where the arbitral tribunal is composed of three arbitrators, the arbitral tribunal shall state in the arbitral award only its decision under Articles 32.1 and 32.2. No arbitrator shall disclose its dissenting or individual opinion in any manner.

### Article 64 Effect of Arbitral Award

An arbitral award shall be final and binding on the Parties.

### Article 65 Rules Applicable to Substance of Dispute

- 1 The arbitral tribunal shall decide the dispute in accordance with such rules of law agreed by the Parties to be applicable to the substance of the dispute.
- 2 Failing such agreement by the Parties under Article 65.1, the arbitral tribunal shall apply the substantive law of the country or state to which the dispute referred to the arbitral proceedings is most closely connected.
- 3 Notwithstanding Articles 65.1 and 65.2, the arbitral tribunal shall decide *ex aequo et bono* only if all Parties have expressly requested it to do so.

## **Article 66 Arbitral Award - Number of Copies and Format**

- 1 The arbitral tribunal shall make a number of hard copies of the arbitral award sufficient to provide one hard copy for each of the Parties and one hard copy for the JCAA.
- 2 The arbitral award shall state the following:
  - (1) the full names and street addresses of the Parties (if a Party is a legal entity or other association, the corporate name, street address and the name of the Party's representative);
  - (2) the name and street address of counsel, if a Party is represented;
  - (3) the determination on the relief and remedy sought;
  - (4) the procedural history;
  - (5) the reasons upon which the arbitral award is based;
  - (6) the date of the arbitral award; and
  - (7) the place of arbitration.
- 3 If the Parties have agreed that no reasons are to be given, or if the arbitral tribunal records a settlement in the form of an arbitral award on agreed terms under Article 62.3, the reasons shall be omitted. The arbitral tribunal, however, shall state the reason for such omission in the arbitral award.
- 4 The arbitral tribunal shall determine in the arbitral award the total amount of costs and the allocation thereof under Article 80.1. The arbitral tribunal, however, is not required to do so in a partial award.
- 5 If one Party has to repay an amount to the other Party based on the allocation under Article 66.4, the arbitral tribunal shall order that that Party shall repay such amount to the other Party in the arbitral award.
- 6 The arbitrator(s) shall sign the arbitral award. If there is more than one arbitrator and an arbitrator fails to sign the arbitral award, the signatures of the majority of the arbitral tribunal shall suffice. The reason for such failure to sign shall be stated in the arbitral award.

## **Article 67 Notice of Arbitral Award**

- 1 The JCAA shall send the arbitral award to each Party after the Parties have fully paid to the JCAA the amount due, consisting of the arbitrator(s)' remuner-

ation and expenses, and other reasonable expenses incurred with respect to the arbitral proceedings as required to be paid to the JCAA.

- 2 The JCAA shall keep one original of the arbitral award.

### **Article 68 Correction of Arbitral Award**

- 1 The arbitral tribunal, upon the written request of a Party, or on its own motion, may correct any computational, clerical, or any other errors or omissions of a similar nature.
- 2 A Party, within four weeks from its receipt of the arbitral award, may request the arbitral tribunal to make a correction of the arbitral award.

### **Article 69 Interpretation of Arbitral Award**

A Party, within four weeks from its receipt of the arbitral award, may request in writing the arbitral tribunal to give an interpretation of a specific point or part of the arbitral award.

### **Article 70 Additional Arbitral Award**

A Party, within four weeks from its receipt of the arbitral award, may request in writing the arbitral tribunal to make an additional arbitral award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

## **CHAPTER V Interim Measures by Arbitral Tribunal or by Emergency Arbitrator**

### **Section 1. Interim Measures by Arbitral Tribunal**

#### **Article 71 Interim Measures**

- 1 A Party may apply in writing to the arbitral tribunal for the grant of interim measures against the other Party ("**Interim Measures**"). Interim Measures are, for example, orders to:
  - (1) maintain or restore the status quo;
  - (2) take action that would prevent, or refrain from taking action that is likely to cause, current or imminent harm or prejudice to the arbitral pro-

- ceedings themselves;
  - (3) provide a means of preserving assets out of which a subsequent arbitral award may be satisfied; or
  - (4) preserve evidence that may be relevant and material to the resolution of the dispute.
- 2 The Party requesting Interim Measures under Article 71.1(1), (2) and (3) shall satisfy the arbitral tribunal that:
- (1) harm not adequately reparable by an arbitral award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the Party against whom the measure is directed if the measure is granted; and
  - (2) there is a reasonable possibility that the requesting Party will succeed on the merits of the claim.
- 3 The arbitral tribunal may order Interim Measures under Article 71.1(4) to the extent it considers appropriate after taking into account the standards under Article 71.2.
- 4 The arbitral tribunal, before granting Interim Measures, shall give each Party a reasonable opportunity to comment.
- 5 Articles 66.2, 67, and 68 shall apply *mutatis mutandis* to the Interim Measures.
- 6 The Parties shall be bound by, and carry out, the Interim Measures ordered by the arbitral tribunal.

## **Article 72 Provision of Security**

The arbitral tribunal may require the Party requesting Interim Measures to provide appropriate security in connection with the Interim Measures.

## **Article 73 Disclosure**

A Party shall disclose to the arbitral tribunal any material change in the circumstances on which the application or the arbitral tribunal's determination on the Interim Measures is based.

## **Article 74 Modification, Suspension, Termination**

The arbitral tribunal, on the written application of either Party, or on its own motion in exceptional circumstances, may modify, suspend or terminate Interim Measures

after giving the Parties an opportunity to comment. Article 71.5 shall apply *mutatis mutandis* to such modification, suspension or termination.

## Section 2. Interim Measures by Emergency Arbitrator

### Article 75 Application for Emergency Measures

- 1 Before the arbitral tribunal is constituted, or when any arbitrator has ceased to perform his or her duties, a Party may apply in writing to the JCAA for Interim Measures by an emergency arbitrator ("**Emergency Measures**").
- 2 The application for Emergency Measures shall set forth the following:
  - (1) a statement that the Party is applying for Emergency Measures, and the measures sought;
  - (2) a reference to the arbitration agreement that is invoked;
  - (3) the Parties' full names (if a Party is a legal entity or other association, the corporate name and the name of the Party's representative), street addresses and other known contact details (i.e. the designated street address including, if a Party is a natural person, such Party's place of employment, telephone number, facsimile number and e-mail address);
  - (4) the full name, street address and other contact details (i.e. the designated street address, telephone number, facsimile number and e-mail address) of the applicant's counsel if the applicant is represented by counsel;
  - (5) a summary of the dispute; and
  - (6) a statement of facts supporting the necessity of granting the Emergency Measures.
- 3 A copy of the arbitration agreement under Article 75.2(2) shall be attached to the application for Emergency Measures.
- 4 A power of attorney shall be attached to the application for Emergency Measures, if the applicant is represented by counsel.
- 5 The applicant, when it submits an application for Emergency Measures, shall pay the emergency arbitrator's remuneration under Article 102.2, and the administrative fee and the deposit under Article 108.2. If the applicant fails to pay such amounts in

full, the JCAA shall consider that no application for Emergency Measures has been made.

- 6 Articles 16 and 22 shall apply *mutatis mutandis* to the application for Emergency Measures.
- 7 If the JCAA has received no Request for Arbitration before or at the time of receiving the application for Emergency Measures, the applicant shall submit the Request for Arbitration within ten days from the date of the application.

## **Article 76 Appointment of Emergency Arbitrator**

- 1 The JCAA shall appoint a sole emergency arbitrator.
- 2 An emergency arbitrator who is not impartial and independent shall decline to accept an appointment, and an emergency arbitrator shall remain at all times impartial and independent.
- 3 When the JCAA approaches a person in connection with his or her possible appointment as an emergency arbitrator, he or she shall conduct a reasonable investigation into any circumstances which may, in the eyes of the Parties, give rise to justifiable doubts as to his or her impartiality or independence. If he or she discovers such circumstances, he or she shall decline to accept an appointment or disclose in writing such circumstances to the JCAA.
- 4 The JCAA shall use reasonable efforts to appoint an emergency arbitrator within two business days from its receipt of the application for Emergency Measures, if:
  - (a) it confirms that the application for Emergency Measures has been made in conformity with Articles 75.1 through 75.6; and
  - (b) it considers it appropriate to appoint an emergency arbitrator.
- 5 On appointment of an emergency arbitrator by the JCAA, Article 30 shall apply *mutatis mutandis*.
- 6 A Party may challenge the emergency arbitrator under Article 34. The Party shall submit the Request for Challenge to the JCAA within two days from the date of its receipt of the Notice of Appointment or from the date when the Party became aware of any circumstances that give rise to justifiable doubts as to his or her impartiality or independence, whichever comes later.
- 7 On or after the termination of the mandate of the emergency arbitrator, no Party may challenge the

emergency arbitrator, and the pending challenge procedure shall be terminated.

### **Article 77 Mandate of Emergency Arbitrator**

- 1 The emergency arbitrator may order, modify, suspend or terminate Emergency Measures in accordance with Articles 71 through 74.
- 2 The emergency arbitrator shall make a procedural schedule for Emergency Measures immediately after his or her appointment.
- 3 The emergency arbitrator, if he or she considers a hearing necessary in order to make a determination on the Emergency Measures, may hold such hearing for one day only.
- 4 The emergency arbitrator shall make reasonable efforts to decide on the Emergency Measures within two weeks from his or her appointment.
- 5 The Parties shall be bound by, and carry out, the Emergency Measures ordered by the emergency arbitrator. The Emergency Measures shall be deemed to be Interim Measures granted by the arbitral tribunal when it is constituted or when a substitute arbitrator is confirmed or appointed by the JCAA. The Emergency Measures shall remain in effect until the arbitral tribunal modifies, suspends or terminates such Emergency Measures under Article 78.2.
- 6 The Emergency Measures shall no longer be effective, if:
  - (1) the arbitral tribunal is not constituted or a substitute arbitrator is not confirmed or appointed by the JCAA within three months from the grant of the Emergency Measures;
  - (2) the arbitral proceedings are terminated under Article 61.1; or
  - (3) the JCAA receives no request for arbitration within ten days from the date of the application, where the JCAA has not received such request at the time of or before receiving the application for Emergency Measures.
- 7 The mandate of the emergency arbitrator shall be terminated:
  - (1) in the case that the JCAA receives no request for arbitration within ten days from the date of the application, where the JCAA has not received such request at the time of or before receiving the application for Emergency Measures;



- (2) on the constitution of the Arbitral Tribunal; or
- (3) on the confirmation or appointment of the substitute arbitrator by the JCAA.

The JCAA may extend the mandate, if it considers it necessary.

- 8 The emergency arbitrator shall not be appointed as an arbitrator for the same dispute, unless otherwise agreed in writing by the Parties.

### **Article 78 Approval, Modification, Suspension and Termination by Arbitral Tribunal**

- 1 No determination on Emergency Measures shall be binding on the arbitral tribunal.
- 2 The arbitral tribunal may approve, modify, suspend or terminate the Emergency Measures in whole or in part.

### **Article 79 Application *Mutatis Mutandis***

The other Chapters of the Rules shall apply *mutatis mutandis* to the emergency arbitrator and the Emergency Measures unless they are contrary to the nature thereof.

## **CHAPTER VI Costs**

### **Article 80 Allocation of Costs**

- 1 The costs of the arbitration include the administrative fee, the arbitrator(s)' remuneration and expenses, and other reasonable expenses incurred with respect to the arbitral proceedings; and the fees and expenses of the counsels and other experts incurred by the Parties to the extent the arbitral tribunal determines that they are reasonable.
- 2 The arbitral tribunal may apportion the costs under Article 80.1 between the Parties, taking into account the Parties' conduct throughout the course of the arbitral proceedings, the determination on the merits of the dispute, and any relevant circumstances. If before the constitution of the arbitral tribunal, the claimant withdraws all its claim, the JCAA may apportion such costs (excluding, however, the legal fees and expenses of the counsels and other experts incurred

by the Parties).

- 3 The arbitrators' remuneration and expenses shall be fixed pursuant to the provisions of Part 3 of the Rules, and the administrative fee shall be fixed pursuant to the provisions of Part 4 of the Rules.

### **Article 81 Joint and Several Liability to the JCAA**

All Parties to the arbitration shall be jointly and severally liable for payments that have to be made to the JCAA in respect of the arbitrator(s)' remuneration and expenses, and other reasonable expenses incurred with respect to the arbitral proceedings and that are required to be paid to the JCAA.

### **Article 82 Payment, Deposit and Accounting**

- 1 The Parties shall pay to the JCAA a sum of money in an amount, in the manner and within the time limit fixed by the JCAA, so as to cover the arbitrator(s)' remuneration and expenses, and other reasonable expenses incurred with respect to the arbitral proceedings.
- 2 If a Party fails to make payment under Article 82.1, the arbitral tribunal, upon the JCAA's request, shall suspend or terminate the arbitral proceedings unless the other Party pays such unpaid amount instead.
- 3 If the total sum of money already paid by the Parties to the JCAA exceeds the total sum of the money that is required to be paid as determined by the arbitral tribunal under Article 66.4, the JCAA shall refund the difference to either or both of the Parties on termination of the arbitral proceedings.

## **PART 2 EXPEDITED ARBITRATION PROCEDURES**

### **Article 83 Relationships between Part 1 and Part 2**

- 1 Part 2 provides particular rules designed to ensuring proceedings are conducted in an expeditious manner.
- 2 To the extent that there is conflict between Part 2 and Part 1, Part 2 shall prevail. However, arbitral proceedings falling within the scope of Part 2 shall also be governed by both Part 2 and, to the extent that Part 2

does not make provision for the item in question, Part 1.

## Article 84 Scope

- 1 The provisions of Part 2 shall apply where the amount or economic value of the claimant's claim(s) is not more than JPY50,000,000 (in the case of a foreign currency, the applicable amount shall be converted into Japanese yen at the TTM rate or any other reasonable exchange rate designated by JCAA as of the business day immediately preceding the date of filing of the Request for Arbitration; the same applies hereunder) provided, however, that the provisions of Part 1 shall apply, if:
  - (a) the Parties have agreed in an arbitration agreement that the number of arbitrators is three; or
  - (b) a Party notifies the JCAA in writing of the agreement by the Parties not to submit the dispute to expedited arbitration procedures within two weeks from the respondent's receipt of the notice of the Request for Arbitration.
- 2 Even in the case where the amount or economic value of the claimant's claim(s) exceeds JPY50,000,000, the provisions of Part 2 shall apply if a Party notifies the JCAA in writing of the agreement between the Parties to submit the dispute to expedited arbitration procedures within two weeks from the respondent's receipt of the notice of Request for Arbitration.
- 3 Even in the case where the provisions of Part 2 apply at the time of the Request for Arbitration, the arbitral proceedings conducted under the provisions of Part 2 shall be converted to arbitral proceedings under the provisions of Part 1 if a counterclaim or set-off defense is submitted according to Article 85 and the amount or economic value of the submitted claim exceeds JPY50,000,000; provided that the provisions of Part 2 shall still apply if the Parties agree in writing that expedited arbitration procedures shall be conducted.
- 4 The amount of any interest, rent, damage, penalty, expense, or cost that is incidental to the principal claim shall be excluded when calculating the amount or the economic value of the claim, counterclaim, or set-off defense under Articles 84.1 through 84.3.
- 5 Where the economic value cannot be calculated, or its calculation is extremely difficult, or where there is a

dispute between the Parties concerning such economic value, the economic value under Articles 84.1 through 84.3 shall be deemed to exceed JPY50,000,000.

- 6 The JCAA shall promptly notify the Parties and the arbitrator on determining that expedited arbitration procedures shall be conducted under the provisions of Part 2.

### **Article 85 Time Limit for Counterclaim and Set-off Defense**

Where the provisions of Part 2 apply at the time of the Request for Arbitration, the respondent may submit counterclaim(s) or set-off defense(s) within two weeks from the respondent's receipt of the notice of the Request for Arbitration.

### **Article 86 No Amendment to Claim, Counterclaim or Set-Off Defense**

Neither the claimant nor the respondent shall amend or supplement its claims, counterclaims or set-off defenses.

### **Article 87 Appointment of Arbitrator**

- 1 Expedited arbitration procedures shall be conducted by a sole arbitrator.
- 2 The Parties shall agree upon and appoint an arbitrator and notify the JCAA of such appointment under Article 25.4 within two weeks from their receipt of the notice by the JCAA that the expedited arbitration procedures shall be conducted.
- 3 If the Parties fail to notify the JCAA within the time limit under Article 87.2, the JCAA shall appoint such arbitrator.
- 4 Where the JCAA appoints an arbitrator under Article 87.3, and a Party requests that such arbitrator be a person of a different nationality from that of any of the Parties, the JCAA shall respect such request.
- 5 The appointment of an arbitrator made by Parties shall be effective only after confirmation by the JCAA. The JCAA, after giving the Parties an opportunity to comment, may refuse to confirm the appointment of the arbitrator without giving reasons if the JCAA finds that the appointment is clearly inappropriate.
- 6 Upon confirming the appointment of the arbitrator, the JCAA shall promptly notify such confirmation to the

Parties.

- 7 If the appointment of an arbitrator is not confirmed by the JCAA, the Parties shall appoint another arbitrator within the period fixed by the JCAA.

### **Article 88 Document Only Proceedings**

- 1 The arbitral tribunal shall, in principle, conduct the arbitral proceedings based only on documents and other materials.
- 2 If the arbitral tribunal, after giving the Parties an opportunity to comment, considers hearings are necessary to be held, such hearings shall be held in a reasonable manner for the minimum number of days possible.

### **Article 89 Time Limit of Arbitral Award**

The arbitrator shall make reasonable efforts to render an arbitral award within three months from his or her confirmation or appointment by the JCAA.

### **Article 90 No Third Party Joinder or Consolidation**

Articles 56 and 57 shall not apply to proceedings conducted under the provision of Part 2.

## **PART 3 ARBITRATOR'S REMUNERATION**

### **Article 91 Application of the Provisions of Part 3**

The provisions of Part 3 shall apply to the arbitrator's remuneration and related matters for arbitration conducted under Part 1 or Part 2 of the Rules.

### **Article 92 Definitions**

- 1 Under Part 3 of the Rules, the "**Amount or Economic Value of Claim**" shall mean the sum of the following (or the sum of the following for the each respective arbitration proceedings where two or more arbitral proceedings are consolidated):
  - (a) the amount or economic value of claim(s) made by the claimant;
  - (b) the amount or economic value of counterclaim(s)

- made by the respondent;
- (c) the amount or economic value of claim(s) made by or against the third party who has joined in the arbitral proceedings under Article 56;
  - (d) the deemed amount under Article 94.2;
  - (e) the amount of interest, damages, or other such amounts accruing or being caused continuously, if any, for a period of one year from the date of submitting the claim; and
  - (f) the amount or economic value of claim(s) made by the Parties in set-off defense(s).
- 2 “**Arbitration Hours**” shall mean the time reasonably required to conduct the arbitral proceedings; provided that, only one-half of the traveling time the arbitrator spends for arbitral proceedings shall be included in the Arbitration Hours.
- 3 Where the amount of the claim(s) is denominated in a currency other than Japanese Yen, the amount shall be converted into Japanese Yen at the TTM rate or any other reasonable exchange rate designated by JCAA as of the business day immediately preceding the date of submission of the claim.

### **Article 93 Hourly Charge Basis**

- 1 The amount of an arbitrator’s remuneration shall be based on the hourly rate multiplied by the number of the Arbitration Hours.
- 2 The hourly rate of an arbitrator shall be JPY50,000 (not including consumption tax).
- 3 The arbitrator(s) shall provide the JCAA with a monthly report by the 20<sup>th</sup> of the following month that states the Arbitration Hours under Article 92.2 and a description of the work performed for each day.

## Article 94 Upper Limit of Arbitrator's Remuneration

- 1 The upper limit of a sole arbitrator's remuneration shall be calculated on the basis of the Amount or Economic Value of Claim as follows:

Amount or Economic Value of Claim	Upper limit of Remuneration (not including consumption tax)
Less than JPY 20,000,000	JPY2,000,000
JPY 20,000,000 or more but less than JPY100,000,000	JPY 2,000,000 <i>plus</i> 2.5% of any amount in excess of JPY20,000,000
JPY 100,000,000 or more but less than JPY500,000,000	JPY 4,000,000 <i>plus</i> 1.5% of any amount in excess of JPY100,000,000
JPY 500,000,000 or more but less than JPY1,000,000,000	JPY 10,000,000 <i>Plus</i> 0.4% of any amount in excess of JPY500,000,000
JPY 1,000,000,000 or more but less than JPY5,000,000,000	JPY 12,000,000 <i>Plus</i> 0.1% of any Amount in excess of JPY1,000,000,000
JPY 5,000,000,000 or more but less than JPY10,000,000,000	JPY 16,000,000 <i>plus</i> 0.08% of any amount in excess of JPY5,000,000,000
JPY 10,000,000,000 or more	JPY 20,000,000 <i>plus</i> 0.02% of any amount in excess of JPY10,000,000,000 (JPY 30,000,000 is maximum)

- 2 If the economic value of a claim cannot be calculated or is extremely difficult to calculate, such economic value shall be deemed to be JPY70,000,000.
- 3 Where the arbitral tribunal is composed of three arbitrators, the upper limit of each arbitrator's remuneration shall be calculated as follows:
- (1) presiding arbitrator: 120% of the upper limit of a sole arbitrator's remuneration; and
  - (2) each co-arbitrator: 80% of the upper limit of a sole arbitrator's remuneration.

## Article 95 Reduction of Hourly Rate

- 1 When the Arbitration Hours exceed 150 hours, the

hourly rate shall be reduced by 10% for every 50 hours in excess of the initial 150 hours; provided that the reduction shall not exceed 50% of the original hourly rate.

- 2 At the time of calculating the number of hours under Article 95.1, the traveling time under Article 92.2 shall not be counted.

### **Article 96 Reduction or Non-Payment of Arbitrator's Remuneration**

- 1 The remuneration of the following arbitrator(s) shall not be paid:
  - (1) if the arbitral proceedings have been terminated before constitution of the arbitral tribunal: each member of the tribunal;
  - (2) if an arbitrator ceases to perform his or her duty because of death, challenge, removal (except for removal by the agreement between the Parties), or resignation: such arbitrator;
- 2 Notwithstanding Article 97.1(2), where the arbitral tribunal is composed of more than one arbitrator, the JCAA shall determine the remuneration of the arbitrator who ceases to perform his or her duty because of death or illness, taking into account the Arbitration Hours spent, the arbitrator's contribution to the resolution of the dispute and any other relevant circumstances.

### **Article 97 Parties' Agreement on Change of Arbitrator's Remuneration before Constitution of the Arbitral Tribunal**

- 1 Notwithstanding Articles 93 through 96, the arbitrator's hourly rate, the upper limit of the arbitrator's remuneration, the reduction of hourly rate, or reduction or non-payment of the arbitrator's remuneration may be changed only if all the Parties so agree in writing before constitution of the arbitral tribunal under Article 31.2.
- 2 The conditions with respect to the arbitrator's hourly rate, the upper limit of the arbitrator's remuneration, the reduction of hourly rate, or reduction or non-payment of arbitrator's remuneration which are applied to the arbitrator appointed by the JCAA under Article 28.6 or 29.6 shall be the same as or more favorable than the conditions agreed by the Parties under Article



97.1, whichever is favorable to the co-arbitrators.

- 3 If the Parties make an agreement under Article 97.1, the Parties shall notify the JCAA thereof without delay.

### **Article 98 No-Change of Arbitrator's Remuneration after Constitution of the Arbitral Tribunal**

- 1 No arbitrator shall consult or negotiate with the Parties or the JCAA to change the arbitrator's hourly rate, the upper limit of the arbitrator's remuneration, the reduction of hourly rate, or reduction or non-payment of the arbitrator's remuneration after the constitution of the arbitral tribunal under Article 31.2.
- 2 The arbitrator's hourly rate, the upper limit of the arbitrator's remuneration, the reduction of hourly rate, and reduction or non-payment of the arbitrator's remuneration under Part 3 of the Rules shall not be changed after constitution of the arbitral tribunal under Article 31.2, even if all the Parties so agree.

### **Article 99 Change of the Upper-Limit for Arbitrators' Remuneration by Agreement among Arbitrators**

- 1 Notwithstanding Article 94.3, where the arbitral tribunal is composed of three arbitrators and a co-arbitrator performs the scope of the presiding arbitrator's duties under Article 31.3, all three arbitrators may agree to lower the upper limit of the presiding arbitrator's remuneration and change the upper limit of such co-arbitrator's remuneration to up to 120% of that of the sole arbitrator's remuneration; provided that the sum of the upper limit of each arbitrator's remuneration shall not exceed 280% of that of the sole arbitrator's remuneration.
- 2 If the arbitrators make an agreement under Article 99.1, the arbitrators shall notify the JCAA thereof without delay.

### **Article 100 Payment of Arbitrator's Remuneration**

- 1 The JCAA shall pay to the arbitrator his or her remuneration without delay after the time limit under Articles 68 through 70 has passed, upon the arbitrator's rendering of an arbitral award or making a determination to terminate the arbitral proceedings, or upon termination of arbitral proceedings for any other

reason.

- 2 If an arbitrator ceases to perform his or her duty due to his or her resignation or other reasons, the JCAA shall pay to the arbitrator his or her remuneration without delay after the time limit under Articles 68 through 70 has passed unless such arbitrator's remuneration is not to be paid under Article 96.1.

### **Article 101 Arbitrator's Expenses**

- 1 The arbitrator shall be entitled to reimbursement by the JCAA of the following expenses incurred to the extent reasonable and required for the arbitral proceedings:
  - (1) transportation expenses (business-class airfares and equivalent class fares for other modes of transportation);
  - (2) cost of post, courier, telephone calls, copies or any other expenses that the JCAA finds reasonable taking into consideration the nature of the case; and
  - (3) remuneration and expenses of the Tribunal Secretary
- 2 If an arbitrator is required to use overnight accommodation, he or she shall be paid JPY60,000 as the flat rate of *per diem* allowance which covers hotel charges, meals and other personal living expenses.
- 3 Articles 97.1 through 97.3 shall apply *mutatis mutandis* to Article 101.1 and 101.2.
- 4 The Parties shall bear the expenses and *per diem* allowance under Articles 101.1 through 101.3, and entrust to the JCAA the necessary work for reimbursement and payment of such expenses and allowance.
- 5 The JCAA shall reimburse the arbitrator's expenses and pay the *per diem* allowance under Articles 101.1 through 101.3 if the arbitrator submits to the JCAA the receipt or any equivalent documentary evidence thereof.

### **Article 102 Special Rules concerning Emergency Arbitrator's Remuneration**

- 1 Articles 93 through 95 and 99 shall not apply to the emergency arbitrator's remuneration and related matters.
- 2 The emergency arbitrator's remuneration shall be JPY1,200,000 regardless of the Amount or Economic

Value of Claim. Where the proceedings are terminated before the emergency arbitrator makes a determination on the application for Emergency Measures, the emergency arbitrator's remuneration shall be JPY300,000.

- 3 Articles 96 through 98, 100 and 101 shall apply *mutatis mutandis* to the payment of the emergency arbitrator's remuneration and expenses, respectively.

## PART 4 ADMINISTRATIVE FEE

### Article 103 Administrative Fee

- 1 The administrative fee that the claimant shall pay at the time of submitting a Request for Arbitration shall be the following amount *plus* applicable consumption tax:

Amount or Economic Value of Claim	Amount of Administrative Fee
Less than JPY20,000,000	JPY 500,000
JPY 20,000,000 or more but less than JPY100,000,000	JPY 500,000 <i>plus</i> 1% of any amount in excess of JPY20,000,000
JPY 100,000,000 or more but less than JPY1,000,000,000	JPY 1,300,000 <i>plus</i> 0.3% of any amount in excess of JPY100,000,000
JPY 1,000,000,000 or more but less than JPY5,000,000,000	JPY 4,000,000 <i>plus</i> 0.25% of any amount in excess of JPY 1,000,000,000
JPY 5,000,000,000 or more but less than JPY 10,000,000,000	JPY 14,000,000 <i>plus</i> 0.1% of any amount in excess of JPY5,000,000,000
JPY 10,000,000,000 or more	JPY 19,000,000 <i>plus</i> 0.05% of any amount In excess of JPY10,000,000,000 (JPY 25,000,000 is maximum)

- 2 If the economic value of a claim cannot be calculated or is extremely difficult to calculate, such economic value shall be deemed to be JPY70,000,000.
- 3 Where the claim includes a claim for interest, damages, or other amounts accruing or being caused continuously, the administrative fee shall be calculated

based upon the amount of the claim *plus* the amount of interest, damages, or other such amount for a period of one year from the date of submitting the Request for Arbitration.

- 4 Where the amount of claim(s) is denominated in a currency other than Japanese Yen, the amount shall be converted into Japanese Yen at the TTM rate or any other reasonable exchange rate designated by JCAA as of the business day immediately preceding the date of submission of the Request for Arbitration.

#### **Article 104 Administrative Fee in the Case of Modification of Amount of Claim**

- 1 If, after paying the administrative fee, the claimant increases the amount of the claim or adds another claim, the administrative fee shall be the amount obtained by applying Article 103 to the claim as modified; provided that "the date of submission of the Request for Arbitration" under Article 103.3 shall be read as "the date of increasing the amount of the claim or adding another claim."
- 2 Article 104.1 shall apply *mutatis mutandis* if the economic value of the claim which has been deemed to be JPY70,000,000 under Article 103.2 is found to exceed JPY70,000,000.

#### **Article 105 Administrative Fee in the Case of Withdrawal of All Claims**

If the claimant, within thirty days after the commencement of the arbitral proceedings and before the arbitral tribunal has been constituted, withdraws all its claims, the JCAA shall refund 90% of the total amount of the administrative fee.

#### **Article 106 Administrative Fee in the Case of Withdrawal of All Claims where Expedited Arbitration Procedures Apply**

In the case where the provisions of Part 2 of the Rules shall apply, if the claimant, within ten days after the commencement of the arbitral proceedings and before the arbitral tribunal has been constituted, withdraws all its claims, the JCAA shall refund 90% of the total amount of the administrative fee.

## **Article 107 Application in the Case of Counterclaim and Third Party Joinder**

Articles 103 through 106 shall apply to (a) a counterclaim made by the respondent and (b) a claim made by or against the third party who has joined the arbitration proceedings under Article 56.

## **Article 108 Special Rules concerning Application for Emergency Measures**

- 1 Articles 103 through 107 shall not apply to an application for Emergency Measures.
- 2 At the time of submitting an application for Emergency Measures, the applicant shall pay the following administrative fee and deposit to cover a part of the emergency arbitrator's expenses and other reasonable expenses incurred with respect to the proceedings:  
Administrative Fee: JPY200,000 *plus* applicable consumption tax  
Deposit: JPY100,000.
- 3 If the applicant, before the emergency arbitrator has been appointed, withdraws the application for Emergency Measures, the JCAA shall refund 90% of the amount of the administrative fee.

## **Supplementary Provisions**

- 1 These Rules shall come into effect on January 1, 2019.
- 2 Any arbitral proceedings commenced before these Rules come into effect shall be governed by the former Rules; provided that subsequent proceedings may, upon agreement of the Parties, be conducted pursuant to these Rules. In the event of such an agreement between the Parties, the arbitral proceedings that already have been conducted pursuant to the former Rules shall remain valid.



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