

# **Administrative Rules for UNCITRAL Arbitration**

As amended and Effective on January 1, 2019

## **PART 1 Administrative Rules for UNCITRAL Arbitration**

### **Rule 1. Purpose**

These "Administrative Rules for UNCITRAL Arbitration" (the "**Rules**") provide for the procedures and other necessary matters integrated into and supplemental to the UNCITRAL Arbitration Rules relating to arbitration administered by the JCAA where the Parties have agreed to resolve their dispute by arbitration under the UNCITRAL Arbitration Rules. With regard to the provisions of Part 2 and Part 3, if the provisions of these Parts are in conflict with the provisions of the UNCITRAL Arbitration Rules, the former provisions are to be applied.

### **Rule 2. Definitions**

- 1 The term "**UNCITRAL Arbitration Rules**" means the UNCITRAL Arbitration Rules adopted by the United Nations General Assembly in 1976, 2010 or 2013 applied to the arbitration proceedings in accordance with Rule 3.
- 2 The term "**JCAA**" means the Japan Commercial Arbitration Association.
- 3 The term "**Party**" or "**Parties**" means one or more claimants and respondents.
- 4 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.
- 5 The term "**Commercial Arbitration Rules**" means the Commercial Arbitration Rules of the JCAA
- 6 The term "**Interactive Arbitration Rules**" means the Interactive Arbitration Rules of the JCAA.

### **Rule 3. Application of the UNCITRAL Arbitration Rules 2010**

The UNCITRAL Arbitration Rules adopted by the United Nations General Assembly in 2010 shall apply, where an arbitration agreement provides for arbitration under the UNCITRAL Arbitration Rules without specifying which version (*i.e.*, the UNCITRAL Arbitration Rules adopted in 1976, 2010 or 2013).

### **Rule 4. Application of These Rules**

- 1 The JCAA shall, in either of the following cases, provide administrative

services for arbitration under the UNCITRAL Arbitration Rules in accordance with Rules 5 through 17 below:

- (a) Where the Parties have agreed in advance to have the JCAA provide administrative services for arbitration under the UNCITRAL Arbitration Rules; or
- (b) Where the Parties agree in writing to arbitration conducted under the Rules and notify the JCAA of such agreement (i) after the claimant has requested arbitration under the Commercial Arbitration Rules or the Interactive Arbitration Rules but (ii) before the confirmation or appointment of any arbitrator by the JCAA.

In the case of (b) above, the proceedings conducted under the Commercial Arbitration Rules or the Interactive Arbitration Rules before such agreement is reached shall remain in effect.

- 2 The arbitral proceedings administered under Rule 4.1 shall be conducted under the Rules and, if not provided in the Rules, the UNCITRAL Arbitration Rules.

### **Rule 5. The Relationships between Part 1, Part 2 and Part 3**

Part 2 and Part 3 of the Rules shall apply as the integral part of Part 1 of the Rules.

### **Rule 6. 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 2 and Part 3 of the Rules.

### **Rule 7. Interpretation of the Rules**

- 1 The authentic texts of the Rules shall be English.
- 2 In the event of any difference as to the interpretation of the Rules, the interpretation of the JCAA shall prevail; provided that the interpretation of an arbitral tribunal as to the provisions of Part 1 of the Rules shall prevail over that of the JCAA in the arbitration proceedings before such arbitral tribunal.

### **Rule 8. Appointing Authority**

Unless otherwise agreed by the Parties, the JCAA shall serve as the appointing authority provided for in the UNCITRAL Arbitration Rules where the Rules apply.

### **Rule 9. Request for Arbitration**

- 1 To request the initiation of arbitral proceedings under Rule 4.1(a), the claimant shall submit in writing to the JCAA a request for arbitration (the "**Request for Arbitration**") setting forth the matters provided for in Rules 3.3 and 20.2 of the UNCITRAL Arbitration Rules.
- 2 Arbitral proceedings shall be deemed to have commenced on the date on which the Request for Arbitration has been received by the JCAA.
- 3 The JCAA, on having confirmed that the Request for Arbitration has been made in conformity with Rules 3.3 and 20.2 of the UNCITRAL Arbitration Rules and the administrative fee has been paid, shall promptly notify the claimant and the respondent thereof. A copy of the Request for Arbitration shall be attached to such notice to the respondent.
- 4 Rules 9.1 through 9.3 shall apply *mutatis mutandis* to a counterclaim made by the respondent.

**Rule 10. Withdrawal of Request for Arbitration before the Constitution of the Arbitral Tribunal**

Before the constitution of the arbitral tribunal, the claimant may withdraw its claim by submitting a notice to the JCAA in writing (the "**Notice of Withdrawal**") stating that the claimant withdraws the claim. The JCAA shall notify the respondent of the Notice of Withdrawal.

**Rule 11. Office in Charge of Administrative Services**

The JCAA shall notify, together with the notice of Request for Arbitration under Rule 9.3, the Parties of which of its offices is taking charge of the administrative services.

**Rule 12. Communications**

A Party shall transmit a notice or 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 a notice or any material in writing in the arbitral proceedings to the Parties.

**Rule 13. Service or Assistance to the Parties and the Arbitral Tribunal**

The JCAA shall, at the request of the arbitral tribunal or either Party, make arrangements for interpreting, making a stenographic transcript of hearings, or providing a hearing room or other services necessary for conducting the arbitral proceedings.

**Rule 14. Language to be used in Communications between the JCAA and the Parties or between the JCAA and the Arbitrators**

Communications between the JCAA and the Parties or between the JCAA and the arbitrators shall be made in either English or Japanese.

**Rule 15. 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 under Rule 16.
- 2 The JCAA shall keep one original of the arbitral award.

**Rule 16. Fees and Costs**

- 1 The claimant, when it submits a Request for Arbitration, shall pay an administrative fee to the JCAA under the Administrative Fee Regulations. The respondent shall pay such administrative fee when it submits a counterclaim.
- 2 Notwithstanding Rules 43.1 and 43.2 of the UNCITRAL Arbitration Rules, the JCAA, if it considers it necessary, may request either or both of the Parties to pay all or part of the fees and costs in advance.
- 3 If a party fails to pay the fees or costs under Rule 16.1 and 16.2, the arbitral tribunal may suspend or terminate the arbitral proceedings unless the other Party pays such unpaid amount instead.
- 4 When terminating the arbitral proceedings, the arbitral tribunal shall fix the amounts of the various costs referred to under Rule 40 of the UNCITRAL Arbitration Rules and the amount of the administrative fee and the other costs stipulated under the Rules, and apportion these fees and costs between the Parties. Notwithstanding Rule 43.5 of the UNCITRAL Arbitration Rules, the JCAA shall render to the Parties an account of these fees and costs paid in advance, and return any unexpended balance to either or both of the Parties.

**Rule 17. Other Services**

The JCAA may, upon request of the arbitral tribunal or the Parties, provide any services which are not stipulated under the Rules, if the JCAA finds it appropriate.

**PART 2 ARBITRATOR'S REMUNERATION**

**Rule 18. Application of these Regulations**

The provisions of Part 2 shall apply to the arbitrator's remuneration and related matters for arbitration under the UNCITRAL Arbitration Rules administered by the JCAA.

## **Rule 19. Definitions**

“**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.

## **Rule 20. 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. The amount of each arbitrator’s remuneration shall be fixed by the JCAA.
- 2 The JCAA shall determine an hourly rate within the range of USD 500 to USD 1,500 for each arbitrator taking into account the arbitrator’s experience, the complexity of the case and related matters, and in appropriate cases after having conferred with the Parties; provided that the hourly rate for the presiding arbitrator shall not be lower than the hourly rate for the other arbitrators.
- 3 Notwithstanding Rule 20.2, the JCAA may determine any other hourly rate if all of the Parties agree.
- 4 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 Rule 19 and a description of the work performed for each day.

## **Rule 21. Reduction of Arbitrator’s Remuneration**

- 1 If an arbitrator ceases to perform his or her duties due to his or her resignation or other reasons during arbitral proceedings, the JCAA, in consideration of the circumstances that led to the ceasing of his or her duties, may decide to reduce the arbitrator’s remuneration calculated under Rule 20.
- 2 When the JCAA decides to reduce the arbitrator’s remuneration under Rule 21.1, the JCAA shall consult with the Committee for Reviewing Arbitrator’s Remuneration and take into account the Committee’s proposal.
- 3 The JCAA’s decision to reduce the arbitrator’s remuneration under Rule 21.1 shall be final.

## **Rule 22. Payment of Arbitrator’s Remuneration**

- 1 The JCAA shall pay to the arbitrator his or her remuneration without delay after the time limit under Rules 37 through 39 of the UNCITRAL Arbitration Rules has passed, upon the arbitrator’s rendering an arbitral award or making a determination to terminate the arbitral proceedings, or upon termination of arbitral proceedings for any other reason.
- 2 Notwithstanding Rule 22.1, with the consent of all the Parties, the JCAA may pay to the arbitrator his or her remuneration before the time limit under

Rule 22.1, if the arbitral proceedings are expected to be prolonged.

- 3 When the JCAA pays the arbitrator's remuneration, the applicable consumption tax shall be added to the amount of such remuneration.

### **Rule 23. Arbitrator's Expenses**

- 1 The arbitrator shall be entitled to reimbursement by the JCAA of his or her reasonable hotel and other expenses.
- 2 The Parties shall bear the above expenses and entrust to the JCAA the necessary work for reimbursement of such expenses. The JCAA shall reimburse the arbitrator's expenses if the arbitrator submits to the JCAA the receipt or any equivalent documentary evidence thereof.

## **PART 3 ADMINISTRATIVE FEE**

### **Rule 24. 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:

<b>Amount or Economic Value of Claim</b>	<b>Amount of Administrative Fee</b>
Less than JPY20,000,000	JPY500,000
JPY20,000,000 or more but less than JPY100,000,000	JPY500,000 <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	JPY1,300,000 <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	JPY4,000,000 <i>plus</i> 0.25% of any amount in excess of JPY1,000,000,000
JPY 5,000,000,000 or more but less than JPY10,000,000,000	JPY14,000,000 <i>plus</i> 0.1% of any amount in excess of JPY5,000,000,000
JPY 10,000,000,000 or more	JPY19,000,000 <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.

#### **Rule 25. 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 Rule 24 to the claim as modified; provided that "the date of submission of the Request for Arbitration" under Rule 24.3 shall be read as "the date of increasing the amount of the claim or adding another claim."
- 2 Rule 25.1 shall apply *mutatis mutandis* if the economic value of the claim which has been deemed to be JPY70,000,000 under Rule 25.2 is found to exceed JPY70,000,000.

#### **Rule 26. 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.

#### **Rule 27. Application in the Case of Counterclaim and Third Party Joinder**

Rules 24 through 26 shall apply to (a) a counterclaim made by the respondent and (b) a claim made against the third party who has joined the arbitration proceedings.

### **Supplementary Provisions**

- 1 The Rules shall come into effect on January 1, 2019.
- 2 Any arbitral proceedings commenced before the 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 the 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.