

Appointing Authority Rules 2021



JCAA
日本商事仲裁協会

It is recommended that the parties wishing to select JCAA as appointing authority insert the following wording in their arbitration agreement.

The parties agree to apply the Appointing Authority Rules of the JCAA to appoint one or more arbitrators.

CONTENTS

Appointing Authority Rules	1
Article 1 Scope of Application	1
Article 2 Definitions.....	1
Article 3 Language.....	1
Article 4 Notification.....	1
Article 5 Periods of Time	2
Article 6 Application	2
Article 7 Notification of Application	3
Article 8 Scope of Services.....	4
Article 9 Manner of Appointment.....	4
Article 10 Exclusion of Liability	5
Article 11 Application Fee.....	5
Supplementary Provisions.....	5

Appointing Authority Rules

Effective on July 1, 2021

Article 1 Scope of Application

Appointing Authority Rules (the “Rules”) provide for the procedures and the other necessary matters relating to appointment of impartial and independent arbitrator where the Parties agree to empower the JCAA to appoint one or more arbitrators, or the Parties agree to apply the Rules.

However, the Rules shall not apply where the arbitration is conducted under the UNCITRAL Arbitration Rules supplemented by the Administrative Rules for UNCITRAL Arbitration of the JCAA, the Commercial Arbitration Rules of the JCAA, or the Interactive Arbitration Rules of the JCAA.

Article 2 Definitions

- 1 “**JCAA**” means the Japan Commercial Arbitration Association.
- 2 “**Party**” or “**Parties**” means the applicant(s), the responding party (parties), or both parties. “**Applicant**” means one or more parties requesting services under the Rules and “**Responding Party**” means one or more parties responding to such request.
- 3 “**In writing**” or “**written**” includes electronic documents. “**Electronic documents**” include electronic, magnetic and any other recording media used in information processing by a computer or other electronic device.

Article 3 Language

Communications between the JCAA and the Parties, or between the JCAA and the arbitrator candidates shall be made in either English or Japanese.

Article 4 Notification

- 1 Any notification and written submission under the Rules (collectively, “**Communication**”) shall be made

by courier, registered mail, email, facsimile, or any other reasonable means.

- 2 A Communication shall be sent to the street address, habitual residence, or place of business of the addressee (including the street address or habitual residence of the addressee's representative, if the addressee is a legal entity or other association), the email address usually used by the addressee (if the addressee has designated an email address, such email address), facsimile number or any address designated by the addressee (collectively, "**Address for Communication**").
- 3 A Communication shall be effective upon receipt.
- 4 If the addressee 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 can be ascertained).
- 5 If the Address for Communication of the addressee cannot be ascertained after reasonable efforts by the other Parties, 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 4.5, any subsequent Communication may be made in accordance with Article 4.5.
- 7 Any change to the Parties' Address for Communication shall be promptly communicated to the JCAA and the other Parties.

Article 5 Periods of Time

- 1 For the purpose of calculating a period of time under the Rules, the date when the Communication is delivered or deemed to be delivered shall be excluded from the relevant time period.
- 2 Non-business days or official holidays occurring during the running of the period of time are included in calculating the period. If the last day of such period is a non-business day or a holiday at the place of the addressee, the period shall expire on the following business day.

Article 6 Application

- 1 To request appointment of arbitrator under the Rules,
- 2 Appointing Authority Rules

the Applicant shall submit in writing to the JCAA an application (the "**Application**") setting forth the following:

- (1) a request that one or more arbitrators to be appointed by the JCAA under the Rules;
 - (2) a reference to the agreement that empowers the JCAA to appoint one or more arbitrators;
 - (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 address and other known contact details;
 - (4) the full name, street address and other contact details of the Parties' counsel (if any);
 - (5) the full name, street address and other contact details of the appointed arbitrator (if any);
 - (6) the details of the agreement between the Parties or the Applicant's opinion concerning the appointment of arbitrator, if any, which include the following:
 - (a) the number of arbitrators;
 - (b) the manner of appointment of arbitrator;
 - (c) the place of arbitration; and
 - (d) the language of arbitration.
 - (7) the request for arbitration and, if any, answer; and
 - (8) the estimated amount of dispute.
- 2 The Application shall be accompanied by a copy of the agreement set forth in Article 6.1 (2) and, if any, the agreement set forth in Article 6.1(6).
- 3 The Applicant shall pay the application fee as required by Article 11 upon application. If the Applicant fails to pay the application fee within the time limit designated by the JCAA, the JCAA shall consider that no application has been made.

Article 7 Notification of Application

- 1 Where an Application has been duly made in accordance with Article 6, the JCAA shall promptly notify the Responding Party thereof.
- 2 The Responding Party shall submit its opinion on the Application (including the reasons, if any, why no arbitrator should be appointed by the JCAA) to the JCAA within two weeks from the date of receipt of the notification set forth in Article 7.1.
- 3 If the JCAA finds that the opinion submitted by the Responding Party under Article 7.2 justifies that no

arbitrator should be appointed by the JCAA, it shall decline to appoint an arbitrator.

- 4 If the Responding Party fails to submit its opinion to the JCAA within the time limit under Article 7.2, the JCAA may proceed with the appointment of arbitrator as requested in the Application.
- 5 The JCAA may decline to appoint an arbitrator in the reasonable exercise of its discretion in exceptional circumstances.

Article 8 Scope of Services

- 1 The JCAA shall provide one or more following services, as requested in the Application:
 - (1) appointment of a sole arbitrator;
 - (2) appointment of one or more arbitrators if several arbitrators are to be appointed;
 - (3) appointment of the presiding arbitrator; and
 - (4) appointment of a substitute arbitrator in the case of challenge, removal, resignation or death of arbitrator before the termination of arbitral proceedings.
- 2 The JCAA shall decide on challenge of arbitrator who has been appointed by the JCAA under the Rules, if so requested by the Parties.

Article 9 Manner of Appointment

- 1 The JCAA shall appoint an arbitrator in accordance with the agreement of the Parties, and the applicable arbitration rules.
- 2 In the absence of such agreement or applicable arbitration rules concerning the manner of appointment of arbitrators, the JCAA shall, in principle, having regard to the opinions of the Parties, appoint an arbitrator in pursuant to the procedure below:
 - (1) The JCAA shall send the Parties a list of arbitrator candidates. Each Party shall, within one week from the date of receipt of such list, number the arbitrator candidates in the order of preference and return the list to the JCAA.
 - (2) After receiving the list under Article 9.2 (1) from both Parties or, if either Party fails to send such list to the JCAA within the time limit under Article 9.2 (1), after the expiration of such time limit, the JCAA shall promptly appoint an arbitrator, taking into account the order of preference indi-

cated by the Parties and any other circumstances, and promptly notify the Parties thereof.

- 3 When appointing the arbitrator, the JCAA shall consider the arbitrator candidate's background, nationality, place of residence, language skill, expertise, experience as arbitrator, availability, and any other relevant factors.

Article 10 Exclusion of Liability

JCAA (including its directors, officers, employees and other staff) shall not be liable for any act or omission in connection with the proceedings conducted under the Rules unless such act or omission is shown to constitute willful misconduct or gross negligence.

Article 11 Application Fee

The application fee for the services specified in Article 8 is as follows:

- (a) appointment of arbitrator: JPY100,000 plus consumption tax per arbitrator;
- (b) decision on challenge of arbitrator: JPY300,000 plus consumption tax per arbitrator.

Supplementary Provisions

The Rules shall come into effect on July 1, 2021.

THE JAPAN COMMERCIAL ARBITRATION ASSOCIATION

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