Arbitration Rules of the International Commercial Arbitration Court of the Chamber of Commerce and Industry of the Republic of Moldova

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Chapter I General Provisions

Article 1. Status and Objectives of the Court of Arbitration

The Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of the Republic of Moldova, hereinafter called the *Court of Arbitration*, is a standing, non-governmental, non-corporate body of arbitration, independent in the exercise of its powers, organised and operating in conformity with the current legislation of the Republic of Moldova, present Regulations and international agreements to which the Republic of Moldova is a contracting party.

The mission of the Court of Arbitration is to promote in the Republic of Moldova domestic and international commercial arbitration and mediation procedure as well as other alternative solutions for settlement of commercial disputes.

Article 2. Duties

The major duty of the Court of Arbitration is to organise and settle by arbitration domestic or international disputes, if the implied parties concluded a written arbitral agreement in conformity with the present Regulations or other regulations chosen by the parties and acknowledged by the court.

Other duties of the Court of Arbitration are as follows: to promote the idea of commercial arbitration and provide information support regarding the Court organization and activity to all interested persons, to draft model arbitral agreements and ensure their distribution to businesspersons, to co-operate with other permanent arbitration boards of the country and from abroad and follow international development of arbitration, to keep record of arbitral practice; to prepare collections of arbitral practice; to provide documentation in domestic and international commercial arbitration, to fulfil any other duties that are bestowed on it by the present Regulations and current legislation of the Republic of Moldova.

Article 3. The Arbitral Agreement

The arbitral agreement shall be concluded in writing under the form of an arbitration clause, stipulated in the main contract, or of a separate agreement called compromise.

Under the arbitration clause, the parties agree that disputes arising from the contract stipulating for it or in connection with the same, shall be settled by arbitration.

The validity of the arbitration clause shall be independent of the validity of the contract it is included in.

Under the terms of the compromise, the parties agree that a dispute arising between them shall be settled by arbitration.

The arbitral agreement may also originate from the filing by the Claimant of a Request for Arbitration and written objection or letter nominating the arbitrator presented by the Respondent, where it is agreed that the Court of Arbitration shall settle such request.

Article 4. Operation Principles

The Court of Arbitration settles disputes covered by the terms of its reference and is guided by the following principles:

1. Voluntary subordination of the contending parties to the jurisdiction of the court;
2. Free choice of the arbitrator or the arbitrators' staff by the contending parties;
3. Equal and impartial attitude to the contending parties;
4. Confidentiality of information represented during the dispute settlement;
5. Voluntary subordination of the parties to temporary or final decisions of the arbitrator or the arbitrators' staff;
6. Voluntary fulfillment of the arbitral awards.

Chapter II. Organization and Operation of the Court of Arbitration

Article 5. Structure of the Court of Arbitration

The Court of Arbitration is composed of the President, two vice-presidents, arbitrators and secretariat; their duties and authorities are stipulated by the present Regulations.

Article 6. The President and Vice-presidents of the Court of Arbitration

The arbitrators elect the President and vice-presidents of the Court of Arbitration for a four-year term.

The president of the Court of Arbitration shall head the current management of the Court, represent it in its internal and international relations and fulfil other duties stipulated by the provisions of the present Regulations. The president shall determine the duties of vice-presidents.

Vice-presidents in case of the president's absence or inability to exercise duties stipulated by the Regulations fulfil the duties of the president.

Article 7. Arbitrators

Arbitrator is a natural person enrolled on the list of arbitrators by the decision of the Council of the Chamber of Commerce and Industry of the Republic of Moldova.

Arbitrators are elected for a four-year term and shall be persons with high qualification and expertise in the field of commercial law and/or international economic relations possessing knowledge necessary for the settlement of disputes covered by the terms of reference of the Court of Arbitration.

The list of arbitrators is public and shall include full name, occupation, qualification, the titles and degrees as well as other information regarding each arbitrator's professional work and experience.

The arbitrators shall not be the representatives of the parties, shall be independent and unbiased in fulfilling their duties stipulated by the present Regulations.

Article 8. Secretariat

The Court of Arbitration shall have a secretariat composed of employees hired by the Chamber of Commerce and Industry of the Republic of Moldova

The employees of the secretariat are supervised by the president of the Court of Arbitration and vice-presidents and in strict correspondence with the present Regulations fulfil any office work necessary to maintain the effective activity of the Court of Arbitration and implement arbitration procedure.

Article 9. Location and Seal

The Court of Arbitration has the seal with its full title in Romanian and English languages.

The Court of Arbitration office address: Republic of Moldova, Chisinau, 28 Eminescu Street.

Chapter III. Arbitral Tribunal Composition

Article 10. Arbitrators Appointment

The disputes covered by the terms of reference of the Court of Arbitration are settled by the Arbitral Tribunal consisting of one or three arbitrators, appointed by the contending parties, in the correspondence with the present Regulations.

Contending parties shall agree on the number of arbitrators - members of the tribunal. If the tribunal consists of three arbitrators, each party shall nominate one arbitrator, and arbitrators in their turn within 10 days should nominate the third arbitrator who will become the presiding arbitrator of the tribunal.

If the two appointed arbitrators disagree with the candidacy of the presiding arbitrator of the tribunal, the president of the Court of Arbitration shall appoint the person within 5 days.

In case where there are several claimants or respondents, the parties who have joint interests shall appoint a sole arbitrator.

Parties can offer the president of the Court of Arbitration to appoint the arbitrators.

If a sole arbitrator settles the dispute, parties can nominate it independently or address to the president of the Court of Arbitration with the request to appoint the arbitrator.

If arbitrator refuses to fulfill his functions, or his candidacy is rejected, the president of the Court of Arbitration after the preliminary consultation with the contending parties nominates another arbitrator.

If parties have not nominated arbitrators within the time limit established by the present Regulations, the president of the Court of Arbitration nominates arbitrators and introduces them to the parties.

Article 11. The Arbitrators' Obligation to Inform about the Reasons of Challenge

A person accepting the functions of an arbitrator shall inform the parties requesting his appointment about any circumstances providing grounded doubts of his independence and impartiality. If he has been already appointed, arbitrator has to inform immediately the other party, the Court of Arbitration and other appointed arbitrators about the same circumstances.

Article 12. Arbitrators challenge

Contending parties have the right to challenge any arbitrator basing on the reasons stated in article 11. The challenge can be stated at any stage of the arbitration but not later than it is over.

The challenging petition shall be made in writing. It shall contain the reasons for challenge and be presented within 15 days after the party has found out the circumstances serving as the reason for challenge.

If the party has not submitted the challenging petition by the fixed term, it is considered, that it has refused the right for challenge.

The challenging petition is examined within 5 days by the president of the Court of Arbitration who after the preliminary consultation with the contending parties and other appointed arbitrators can accept the challenge of the arbitrator.

The decision regarding challenge is made in writing without specifying reasons and shall be accompanied by the offer for the new arbitrator appointment.

Article 13. Arbitrator's Challenge

Contending parties have the right to challenge an arbitrator, if he/she de facto or de jure is unable to fulfill his/her duties or they are not fulfilled due to other reasons, which can lead to unjustified delay of the dispute settlement.

Chapter IV. Beginning of the Arbitration

Article 14. Case Transfer to the Court of Arbitration

The arbitral proceedings are commenced with the Request for Arbitration submission. The Request for Arbitration shall be considered to have been filed on the date of its registration with the Chamber of Commerce and Industry of the Republic of Moldova.

The Request for Arbitration and the enclosed documents shall be presented in Romanian language.

Article 15. The Contents of the Request for Arbitration

The Request for Arbitration shall include the following information:

1. title of the Court of Arbitration;
2. the designation of the parties and their adresses ;
3. proof of the existing arbitral agreement;
4. the object and the amount of the claim, including the method of calculation;

5. de facto grounds and proofs for the claim;
6. evidence of the payment of arbitral fee;
7. full name of the appointed arbitrators or request for the arbitrators appointment by the Court of Arbitration ;
8. the list of documents attached to the claim;
9. the Claimant's signature.

The Request for Arbitration shall be provided with copies equal to the number of Respondents.

Article 16. Elimination of Defects

In case the Request fails to meet all the requirements stipulated above, the Secretariat of the Court of Arbitration shall notify the Claimant, as soon as possible, to revise them accordingly within a period of time no longer than 15 days of the date of the receipt of the notification.

If the above-mentioned defects will be eliminated in the notified terms, the Request for Arbitration is considered to have been filed on the day of its initial registration. If the Claimant fails to eliminate the defects of the Request for Arbitration in the notified terms, it is not considered to have been filed.

Article 17. The Value of the Object of the Claim

The value of the object of the Request for Arbitration shall be generally established as follows:

1. in claims for a monetary amount, at the claimed amount;
2. in claims referring to goods, at the value of such goods;

Where the Request contains several points of claim, the value of each individual claim shall be calculated separately. In this case, the value of the object of the Request shall be established at the total amount of all claims.

Where the Claimant has failed to calculate or has inaccurately calculated the value of the object of the claim, the Court of Arbitration shall calculate this value ex officio or on the Respondent's request, based on the relevant data available.

Chapter V. Preparation of the Case to Hearings

Article 18. Notification of the Respondent

Within no more than 5 days of the date of receipt of the Request for Arbitration the Secretariat of the Court of Arbitration shall send to the Respondent a copy of the Request for Arbitration together with the copies of all as well as the list of arbitrators.

Article 19. Statement of Defense

Within 15 days of the receipt of the notification for Arbitration, the Respondent shall communicate his/her statement of defense including the name of the appointed arbitrator or request for the appointment of the arbitrator by the president of the Court of Arbitration.

If the Respondent fails to designate his /her arbitrator within the fixed time limit, the president of the Court of Arbitration can appoint the arbitrator.

Statement of defense shall include objections to the Claimants claims, response de facto and de jure to the claim, evidence for the defense and other details arising from the Request for Arbitration.

Article 20. Counterclaim

Should the Respondent have claims against the Claimant on grounds derived from the same legal relationship, the former may file a counterclaim.

The counterclaim shall be filed within the time limit for filing the statement of defense or by first day of hearings at the latest and shall comply with the same requirements as the main claim. The counterclaim is due to be settled together with the main claim.

Article 21. Case Delivery for Examination

Once the Arbitral Tribunal has been set up, the statement of defense and counterclaim obtained, the Secretariat of the Court of Arbitration must deliver the case to the Arbitral Tribunal making a written note of this fact as well as the time of delivery.

Chapter VI. Arbitral proceedings in hearing the case

Article 22. Competence Determination

The Arbitral Tribunal shall determine its competence in the dispute settlement. If it is determined that the terms of reference of the Court of Arbitration do not cover the case stated in the Request for Arbitration, the Request for Arbitration and all enclosed documents shall be returned to the Claimant.

Article 23. Notification of the Parties

On the case receipt, the Tribunal shall establish the date of the court session and notify the parties.

If the parties have not agreed otherwise, the hearing shall be held in 30 days since the subpoenas have been sent.

Article 24. Parties Participation in the Hearings

The parties can participate in the court examination either in person or through their authorized representatives; they can be assisted by attorneys, councilors, interpreters and other persons.

Either party can request the hearing to be held in its absence.

If either of the parties or its representative, though duly summoned about time and place of hearing, has not been present in the court, the hearing of the case is adjourned for the other date. The repeated or unreasonable absence shall not prevent the court proceedings and the case settlement. In case representatives of both parties are absent, the hearing is postponed to the other day.

Article 25. Examination Proceedings

Having conferred with the parties, the tribunal shall determine the method of the dispute settlement. The method of the dispute settlement shall ensure a rational and fair decision and guarantee each party a possibility to state their position.

Article 26. The Language of the Arbitrary Proceedings

Generally, the hearings of the dispute before the Arbitral Tribunal shall be in Romanian language, unless otherwise provided by the parties. The services of an interpreter can be provided at the expense of both parties equally.

Article 27. Applicable Law

The Arbitral Tribunal shall settle the disputes based on the applicable substantive law, determined by the parties' agreement as the law applicable in case of disputes.

In case such agreement does not exist, the substantive law is determined in accordance with the conflict rules, which arbitral tribunal considers applicable for the resolution of dispute shall be applied.

The decision concerning the applicable law shall be taken in accordance with the agreement provisions and with regard for trade customs and international arbitration practice.

Article 28. Evidence

Either party shall prove the circumstances referred to as the basis of the requests and objections. The Arbitral Tribunal shall check the proofs.

The Arbitral Tribunal has the right to reject the proofs presented by the parties, if they do not concern the essence of the case or the proof of those circumstances can be carried out by more simple, effective and less expensive means.

The tribunal has the right to require other proofs admissible by the applicable law as well as written explanations of the parties regarding the subject of the dispute.

The Arbitral Tribunal shall decide whether the circumstances were proved or not only based on careful investigation and impartial evaluation of the proofs presented by the parties.

Article 29. Provisional and Conservatory Measures

Before the arbitral award pronouncement and with the consent of the parties the Arbitral Tribunal has the right to take necessary provisional and conservatory measures regarding the subject of the dispute.

The Arbitral Tribunal is obliged to explain to the parties the effect of the provisional and conservatory measures requested by any of the parties.

The Arbitral Tribunal shall not take provisional and conservatory measures if there is no agreement for the allocation of charges entailed with their implementation.

Article 30. Session Minutes.

The Arbitral Tribunal shall provide for the session minutes record, if the parties have not stipulated otherwise.

The minutes of the session shall include:

1. title of the Court of Arbitration, surname of the arbitrator or arbitrators;
2. place and date of the session;
3. data on the parties or the parties' representatives;
4. data on the other persons having attended the hearings of the dispute;
5. brief description of the proceedings;
6. requests and pleas made by the parties;
7. pleadings under claim of the parties and other persons having attended the hearings;
8. signatures of the arbitrators.

The parties are entitled to familiarize themselves with the contents of the minutes and obtain a copy of it.

The session minutes is edited by the secretary of the hearings, who, as a rule, is the employee of the Court of Arbitration.

Article 31. Refusal to Refer to the Proceedings Deviation

If during the hearing either of the contending party has not taken the advantage of the right to refer to deviations from the arbitration agreement or arbitration proceedings in correspondence with the present Regulations within 5 days since the moment when the party has learned or should have learned about such deviations, it shall be considered that the parties have refused the right to refer to deviations from the proceedings as the reason for the appeal.

Chapter VII. Arbitral Award

Article 32. Arbitral Award

Arbitration proceedings are closed by pronouncing the final arbitral award. The arbitral award is pronounced in case the dispute is settled, the claimant withdraws his/her claim or the respondent accepts the claim, as well as in case of confirmed amicable agreement.

Article 33. Period of the Arbitral Award Pronouncement

Arbitral award shall be pronounced at least within 6 months since the date the case has been transferred for examination to the competent Arbitral Tribunal.

Article 34. Award Adaptation

In case of the dispute examination by the Arbitral Tribunal consisting of several arbitrators, the award is adopted by a majority vote. Arbitrator withholding his/her consent regarding the decision adopted can express his/her separate opinion, which is rendered to the parties and attached to the arbitral award.

The Arbitral Tribunal has the right to set aside the arbitral award pronouncement notifying the parties of the necessity for supplementary examination.

Article 35. Arbitral Award Contents

The arbitral award shall include:

1. full title of the Court of Arbitration, name of the arbitrator or names of the members of the Arbitral Tribunal, the place and date of the award rendering;
2. full names of the parties or the parties' representatives and other persons having attended the hearings of the dispute;
3. reference to th the dispute; c) reference to ththe arbitral proceedings, applicable law;
4. object of the dispute and the respective claims of the parties;
5. de facto and de jure circumstances of the case established by the Arbitral Tribunal;
6. award justification;
7. sums of the arbitral fees and expenses and their distribution among the parties;
8. signatures of the arbitrators.

Article 36. Award Rendering

The arbitral award shall be rendered to the parties immediately after it is adopted.

The pronounced arbitral award shall be communicated to the parties, at the latest, within 10 days of the date of its rendering.

Article 37. Correction of the Award and Additional Award

On request of either party submitted not later than 30 days since the award rendering, provided that there will be established the failure of the award to satisfy all the claims of the parties, the Arbitral Tribunal has the right to take an additional decision based on supplementary examination of the dispute. The same Arbitral Tribunal shall carry out the supplementary examination of the dispute.

Obvious material errors in the text of the arbitral awards that do not alter the substance of the award, as well as calculation errors, may be corrected unsolicited by the Arbitral Tribunal in a correction decision or upon the request of either party.

The additional award and the correction decision shall be a constitutive part of the final arbitral award.

The parties cannot be compelled to cover the arbitrary award modification or correction costs.

Article 38. Cessation of Arbitration Proceedings without Pronouncing the Arbitrary Award.

The arbitral award may only be set aside following a petition for annulment for one of the following reasons:

1. claimant resigns the Request for Arbitration;
2. the dispute can not be settled by way of arbitration;

3. the dispute examination is impossible because of the Claimant's inactivity, if the dispute is not settled within more than 6 months;
4. the dispute examination and settlement is impossible due to other reasons stipulated by the present Regulations.

In this case Arbitral Tribunal gives a justified decision on setting aside the arbitration. Such decision on setting aside the arbitration does not deprive the claimant of the right to address to the Court of Arbitration a new request for arbitration claim based on common regulations.

Article 39. Setting aside

Contending parties have the right to file a setting aside request against an arbitral award in conformity with the provisions of the current legislation of the Republic of Moldova to the competent judicial instance of the Republic of Moldova.

Article 40. Enforcement of the Arbitral Award

The arbitral award shall be final since it has been pronounced and be implemented voluntarily within the established term.

The arbitral award which has not been executed voluntary and duly, is implemented forcedly in conformity with the current legislation of the Republic of Moldova, international agreements, to which the Republic of Moldova is a party, and current legislation of the state on the territory of which the award should be executed.

Chapter VIII. Final Provisions

Article 41. Application of the Present Regulations

These Regulations shall come into force on August 1, 2001 and substitute the previous Regulations of the Court of Arbitration attached to the Chamber of Commerce and Industry of the Republic of Moldova.

The present Regulations of the Court of Arbitration shall be applied by the Arbitral Tribunal for the arbitration of disputes covered by the terms of its reference, irrespective of the moment of the arbitration agreement conclusion, if the parties have not stipulated otherwise.

Article 42. Annexes

Annex 1 " Regulations on Arbitral Fees and Expenses " and Annex 2 "Recommended Arbitration Clause " constitute the integral parts of the present Regulations.

FEES

I. General provisions

Art. 1. The present Regulations are elaborated in conformity with the provisions of article 24 of the Law regarding the Chamber of Commerce and Industry of the Republic of Moldova and article 42 of the Regulations of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of the Republic of

Moldova and determine the method of payment for the services provided by the Court of Arbitration and other expenses related to commercial disputes arbitration.

Art. 2. "Arbitral fee" - fee charged for each accepted Request for Arbitration to cover expenses regarding the Court of Arbitration activity.

Arbitral fee includes arbitral honorarium (arbitrators' honoraria) related to examination and arbitration of the commercial dispute and administrative fee meant for covering the maintenance expenses of the Court of Arbitration (in particular, wages, servicing , state taxes and dues etc.).

Art. 3. " Arbitral expenses " - real expenses borne by the parties in relation with the dispute examination and settlement by the Arbitral Tribunal (in particular, expertise costs, investigation in situ, assignments of the parties and other participants of the hearing to the Court of Arbitration , payments for representatives, experts, translators, witnesses services and other costs related to the case examination).

II. Arbitral Fee

Art. 4. Arbitral fee is calculated in the same currency as the value of the Request for Arbitration or hard currency, as the exchange rate of the given currency and US dollar at the moment of the Request for Arbitration submission according to the rate established by the National Bank of Moldova for that date.

Art. 5. Arbitral fee is determined based on the value of the object of the Request for Arbitration, as follows:

Value of the object of the claim	**Arbitral fee**
in US dollars	in US dollars
- up to 50.000	5%, but not less than 500
- from 50.001 to 100.000	2.500 plus 3% of the amount exceeding 50.000
- from 100.001 to 500.000	4.000 plus 2% of the amount exceeding 100.000
- from 500.001 to 1.000.000	12.000 plus 1% of the amount exceeding 500.000
- from 1.000.000 to 2.000.000	17.000 plus 0,5% of the amount exceeding 1.000.000.
- more than 2.000.000	22.000 plus 0,3 % of the amount exceeding 2.000.000.

If the value of the object of the claim is expressed in different currencies, the President of the Court of Arbitration shall establish unified currency for charging the arbitral fee.

Arbitral fee is considered to be paid since its receipt to the accounts of the Chamber of Commerce and Industry of the Republic of Moldova.

Art. 6. If the Claimant withdraws his/her Request for Arbitration prior to the issue of the summons for the first day of hearings, the arbitral fee shall be reduced by 75% of its amount.

Where the dispute, as a consequence of the parties' reconciliation or waiver of arbitration, terminates on the first day of hearings, the arbitral fee shall be reduced by 50% of its amount.

Where the Arbitral Tribunal renders an award stating its lack of jurisdiction of arbitration, the arbitral fee shall be reduced by 70% of its amount.

The minimal arbitral fee is irreducible.

In cases stipulated by paragraphs 1-3 of the given article, the indication regarding reimbursement of the arbitral fee difference should be stated in the decision or writ regarding the abatement of action.

In case of the abatement of action till the arbitration tribunal has been set up the decision regarding the reimbursement of the arbitral fee difference shall be adopted by the Presidents of the Court of Arbitration.

Art. 7. Counterclaims shall be charged exactly like the main Request for Arbitration.

Art. 8. The arbitration fee shall be paid in full on filing the Request for Arbitration or, as the case may be, the counterclaim. Proof of the payment shall be attached to the claim. Such proof can also be presented within a time limit set by the Secretariat of the Court of Arbitration, but no later than 30 days since the claim has been filed.

If the proof of the arbitral fee payment fails to be submitted on filing the Request, or within the time limit specifically set for this purpose, the Request for Arbitration shall be returned to the Claimant.

Art. 9. 20% of arbitral fees charged by the Chamber of Commerce and Industry in lei or foreign currency remain at the disposal of the Chamber. 80% - at the disposal of the Court of Arbitration and are spent for maintaining current activity including arbitrators'and secretariat honoraria. 40% of arbitral fees are used to create the fund for arbitrators' honoraria and remuneration of the governing body of the Court of Arbitration including also the secretary participating in preparation and examination of the case by the Arbitral Tribunal, and 40% - to cover the maintenance expenses of the Court of Arbitration as well as payment of state taxes and dues.

The President of the Court of Arbitration establishes the arbitrators' honoraria depending on the complexity of the dispute, time required for its resolution and other circumstances, but for all that, the total sum of the honoraria shall not exceed 40% of arbitral fee charged for the dispute settlement.

The arbitrators' honoraria and secretary remuneration payments are carried out by the Chamber of Commerce and Industry after the dispute is settled on the basis of the President the Court of Arbitration.

Art. 10. Arbitral expenses of the Court of Arbitration are borne by the parties.

The party having requested the Chamber of Commerce and Industry expert's appraisal, consultation, evidence examination or documents translation is obliged to pay these expenses in advance.

If the Arbitral Tribunal initiates such procedures, it can oblige both parties to bear these expenses.

Art. 11. The party whose claims have been rejected is obliged to provide to the winning party the reimbursement of the arbitral expenses related to the dispute settlement.

If the claim is satisfied partially the Claimant is charged with the arbitral fee pro rata to the value of the satisfied claims and the Respondent - pro rata to the value of the dissatisfied claims of the Claimant. The parties can agree to the other method of the arbitral fees payment.