



## **Rules of the Swiss Chambers' Arbitration Institution ("SCAI") as Appointing Authority in UNCITRAL or other Ad Hoc Arbitration Proceedings (the "Rules")**

### **1. General Provisions**

- 1.1 If so empowered by an arbitration clause, a subsequent agreement of the parties, a designation by the Secretary General of the Permanent Court of Arbitration in The Hague, or otherwise, SCAI shall act as appointing authority in accordance with the parties' agreement and/or the UNCITRAL Arbitration Rules.
- 1.2 The present Rules shall also apply where an authority within SCAI<sup>1</sup> or within any Chamber of Commerce and Industry that adheres to the Swiss Rules of International Arbitration,<sup>2</sup> is requested to act as appointing authority in accordance with the parties' agreement or is designated by the Secretary General of the Permanent Court of Arbitration in The Hague. References to SCAI in these Rules include such other authorities.
- 1.3 Where SCAI is empowered or requested to act as appointing authority under Articles 1(1) or 1(2), the function shall be carried out by the Arbitration Court (the "Court") pursuant to its Internal Rules.<sup>3</sup>
- 1.4 When requested to act under these Rules, the Court shall proceed if it is satisfied that an agreement or applicable instrument authorizing it to act as appointing authority and to render the service specifically requested may exist.
- 1.5 SCAI specifically offers the following functions as an appointing authority:
  - appointment of arbitrators (see Article 3);
  - decisions on the challenge of arbitrators and other reasons for the replacement of arbitrators (see Article 4);
  - assistance in fixing the fees of arbitrators, participation in the review mechanism on the costs and fees, and advisory comments regarding deposits and interim payments (see Article 5).
- 1.6 If so empowered by an arbitration clause, a subsequent agreement of the parties, or otherwise, the Court shall consider providing services, besides those specifically indicated above, in accordance with the parties' agreement.
- 1.7 The reasons for the decisions taken by the Court under these Rules shall not be communicated.

### **2. Request for SCAI to Act as Appointing Authority**

- 2.1 In cases referred to in Article 1 of these Rules, a party wishing SCAI to act as appointing authority shall submit a request (the "Request") to any of the offices of the Secretariat of the Arbitration Court listed in Appendix A of the Swiss Rules of

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<sup>1</sup> Such as the President of the Arbitration Court or a member of the Secretariat of the Arbitration Court or a member of the board or the executive director of SCAI.

<sup>2</sup> Currently the Chambers of Commerce and Industry of Basel, Bern, Geneva, Neuchâtel, Ticino, Vaud and Zurich.

<sup>3</sup> The Internal Rules are available on [www.swissarbitration.org](http://www.swissarbitration.org).



International Arbitration, which shall notify the other party or parties of the receipt of the Request and the date of such receipt.

- 2.2 The Request shall contain all information that the requesting party deems appropriate to allow the Court to make the requested appointment.
- 2.3 The Request and all documents annexed thereto shall be submitted in as many copies as there are other parties, together with an additional copy for each arbitrator and one copy for the Secretariat. When submitting its Request, the requesting party shall confirm payment by check or transfer to the relevant account of the non-refundable Registration Fee of CHF 4'500. Should the requesting party fail to comply with either of these requirements, the Secretariat may set a time-limit for compliance. Failing compliance within the time limit, the file shall be closed without prejudice to the right of the requesting party to resubmit its Request at a later date.

### **3. Appointment of Arbitrators**

- 3.1 When acting as the appointing authority for the purpose of appointing a sole or presiding arbitrator, the Court shall follow the list-procedure set forth in the UNCITRAL Arbitration Rules, unless all parties agree that the list-procedure should not be used or the Court determines in its discretion that the use of the list-procedure is not appropriate for the case. If for any reason the appointment cannot be made according to the list-procedure, the Court may exercise its discretion in appointing the sole or presiding arbitrator. When making the appointment, the Court shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and shall take into account as well the advisability of appointing an arbitrator of a nationality other than that of the parties.
- 3.2 When appointing an arbitrator on behalf of a party in default, the Court may exercise its discretion in making the appointment.
- 3.3 In case of multiple claimants and/or respondents and unless otherwise agreed, the multiple claimants, jointly, and/or the multiple respondents, jointly, shall appoint an arbitrator. In the absence of such a joint nomination and if all parties are unable to otherwise agree on a method for the constitution of the arbitral tribunal, the Court shall, upon request of any party, constitute the arbitral tribunal and designate one of the arbitrators to act as the presiding arbitrator.
- 3.4 When appointing a substitute arbitrator, the Court shall follow the procedure set forth in the preceding paragraphs.
- 3.5 Before appointment, the prospective arbitrator shall sign a declaration of acceptance and a statement of independence and disclose in writing to the Secretariat any facts and circumstances which might be of such a nature as to call into question the arbitrator's independence and impartiality in the eyes of the parties.

### **4. Challenge and Other Reasons for Replacement of an Arbitrator**

- 4.1 When making decisions upon challenges or requests for removal submitted by any party or a member of the arbitral tribunal, the Court will do so after the Secretariat has afforded an opportunity for the arbitrator concerned, the other



party or parties and any other members of the arbitral tribunal to comment in writing within a suitable period of time. Such comments shall be communicated to the parties and to the arbitrators, before being submitted to the Court.

- 4.2 When appointing a substitute arbitrator, the Court shall follow the procedure set forth in Article 3, unless, at the request of a party, the Court determines, after giving an opportunity to the parties and the remaining arbitrators to express their views, that in light of exceptional circumstances it (a) appoints itself the substitute arbitrator, or (b), after the closure of the proceedings, authorizes the other arbitrators to proceed with the arbitration and make any decision or award.

## 5. Arbitrator's Fees and Expenses

- 5.1 The arbitral tribunal's fees and expenses will be calculated and charged to the parties in accordance with the relevant provisions of the applicable rules or procedures. The arbitral tribunal's fees shall be invoiced in the currency of account between the arbitral tribunal and the parties.
- 5.2 If the arbitral tribunal's fees are to be based on a fee schedule, the arbitral tribunal, in fixing its fees shall take into account the Schedule of Costs pursuant to Appendix B of the Swiss Rules of International Arbitration in force at the time of the commencement of the arbitration.
- 5.3 If the arbitral tribunal's fees are to be based on the time spent by the arbitral tribunal in the course of the arbitration, they shall be at hourly rates between CHF 300 and CHF 650. In exceptional cases, the rate may be higher, provided that, in such cases, (i) the fees of the arbitral tribunal shall be fixed by the Court following consultations with the arbitrator(s), and (ii) the fees shall be agreed expressly by all parties.
- 5.4 In determining the expenses of the arbitral tribunal the applicable rules or procedures are supplemented by the Guidelines for Arbitrators of SCAI in force at the time of the commencement of the arbitration.
- 5.5 Charges may be subject to Value Added Tax at the prevailing rate.

## 6. Costs of Service

The administrative cost of SCAI for the services rendered pursuant to these Rules shall be fixed at SCAI's discretion depending on the tasks carried out by SCAI and the amount in dispute. Such administrative cost shall be payable in addition to the non-refundable Registration Fee, be commensurate with the specifically requested service and shall not exceed the maximum sum of CHF 10'000 for an individual service.

## 7. Exclusion of Liability

Neither the Swiss Chambers' Arbitration Institution, its members of the board of directors and management, the members of the Court and the Secretariat, nor the individual Chambers or their staff shall be liable for any act or omission in connection with any service rendered under these Rules, except if the act or omission is shown to constitute intentional wrongdoing or gross negligence.

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