



**Russian
Arbitration
Center**

at Russian
Institute
of Modern
Arbitration

Guidelines on Conduct of Arbitration

General Provisions

1. The Arbitral Tribunal shall conduct the arbitration according to the arbitration agreement, the Arbitration Rules, and the applicable laws, as well as taking into account the circumstances of the dispute. Such circumstances include the category, complexity, and value of the dispute, the wishes, and needs of the Parties, their legal traditions, and other circumstances.
2. If any matters related to the conduct of the arbitration are not governed by the arbitration agreement, the Arbitration Rules, or the applicable laws, the Arbitral Tribunal shall conduct the arbitration in such a manner as it deems appropriate, following the principles of arbitration and avoiding any undue delays and costs.
3. The Parties are free to present their positions in the case. During the arbitration, the Parties may submit procedural requests (including for the extension of the time limit for the submission of a counterclaim, for the postponement of an oral hearing) that shall be considered and resolved by the Arbitral Tribunal taking into account the position of the opposing Party. Such requests may be made in writing, as well as verbally during an oral hearing, which shall be reflected in the record of the oral hearing. The Arbitral Tribunal may grant or reject a request by sending an e-mail or by issuing the respective order, as well as by adopting the decision during the oral hearing (provided that the conclusion of the Arbitral Tribunal is reflected in the record of the oral hearing).

Procedural Schedule

4. Procedural schedule of the arbitral proceeding (hereinafter, the "**Procedural Schedule**") shall provide for the dates and time limits of procedural actions and events, as well as for stages of exchange of written submissions by the Parties; it is advisable that these be established taking into account the circumstances of a specific case, the principles of arbitration, and time limits determined by the Arbitration Rules (including the duration of the arbitration).

5. The Procedural Schedule shall provide for the time limits for filing a Claim and a Response, as well as establish additional stages for the exchange of documents and indicate the following:
 - 1) information about the Parties, their representatives, and the Arbitral Tribunal;
 - 2) applicable rules of arbitration;
 - 3) seat of arbitration and the law governing the procedure of arbitration;
 - 4) language of arbitration and language for administering the arbitration;
 - 5) assistant to the Arbitral Tribunal;
 - 6) outcome of the discussion regarding the possibility of an amicable settlement of the dispute, if such a discussion took place previously at the suggestion of the Arbitral Tribunal;
 - 7) oral hearings (their date, venue, and format) or whether the arbitration shall be conducted on the basis of documents;
 - 8) whether a case management conference shall be held;
 - 9) whether separate oral hearings shall be held to consider procedural matters (for example, the jurisdiction of the Arbitral Tribunal) or matters related to the merits of the dispute (for example, liability for breach of obligation, quantum, etc.).
6. Generally, documents shall not be filed after the expiration of time limits prescribed by the Procedural Schedule. The Arbitral Tribunal may, however, allow the submission of documents beyond such time limits in exceptional cases, namely, if there were valid reasons for doing so and taking into account the following circumstances:
 - 1) opinion and interests of the other Party (Parties);
 - 2) the need to conduct the proceedings efficiently and without any undue delays;
 - 3) relevance of the submitted documents to the fair and timely resolution of the dispute;
 - 4) other circumstances.
7. If the Arbitral Tribunal extends a previously fixed time limit for submission of the documents by one of the Parties or provides it with a new time limit,

then, based on the principle of equal treatment of the Parties, it is advisable to also extend the time limit for the submission of the response document by the opposing Party or to provide it with a new time limit, having reflected this change in the Procedural Schedule.

Agreement on the Procedural Schedule

8. As part of a standard arbitration procedure, after the constitution of the Arbitral Tribunal, the Parties and the Arbitral Tribunal shall, as soon as possible, agree on the Procedural Schedule in any available or appropriate manner, including by e-mail or by holding a case management conference. Such a conference may be held in person or using tele- or videoconferencing.
9. Following a discussion with the Parties, the Arbitral Tribunal shall draw up the Procedural Schedule and adopt it by way of issuing an order, which shall then be sent to the Parties in the manner established by the Arbitration Rules. The Procedural Schedule is drawn up in free format. For convenience, the Administrative Office has developed a template Procedural Schedule that can be used by the arbitrators subject to the necessary amendments (attached to these Guidelines).
10. As part of an expedited procedure, the Arbitral Tribunal shall determine the Procedural Schedule unilaterally without seeking the Parties' approval, but in certain cases, it may take into account the positions of the Parties.

Multiple Parties

11. When joining additional Parties, the arbitrators shall consider the expediency of such joinder, as well as ensure the procedural equality of all the Parties participating in the proceedings.

Amicable Settlement

12. When drawing up the Procedural Schedule, the Arbitral Tribunal is advised to invite the Parties to settle the dispute amicably. The Arbitral Tribunal may provide for a time limit for the amicable settlement in the Procedural Schedule or provide for it to be run simultaneously with the arbitral proceeding. At the same time, regardless of whether such a time limit is provided in the Procedural Schedule or whether the Parties have reached an agreement during such a time limit, the Parties may settle the dispute amicably at any stage of the arbitral proceeding, including after the closure of oral hearings.
13. If both Parties at any stage of the arbitration decide to proceed with negotiations for the purposes of settling the dispute amicably, the Arbitral Tribunal is advised to suspend the arbitration. If one of the Parties requests suspension of the arbitration for the purposes of amicable settlement, the arbitrators are advised to request the other Party's position on that matter and based on that, decide on the expediency of suspending the arbitration.
14. If the Parties conclude a settlement agreement as a result of an amicable settlement, they may file a motion for an arbitral award to be issued on agreed terms.
15. Mediation is a type of amicable settlement. To proceed with mediation, the Parties shall submit an agreement on mediation to the arbitrators. In that case, the Arbitral Tribunal shall issue an order to suspend the arbitration.
16. The RAC does not administer mediation. At the same time, if both Parties submit the relevant request, the RAC may provide organizational and technical support of mediation for a fee.
17. If the Parties settle the dispute and the Arbitral Tribunal issues the arbitral award on agreed terms, the arbitration fee shall be reduced by 50 %. If the Parties have settled the dispute and the arbitration has been terminated by issuing an arbitral award on agreed terms, the fee shall be reduced by 50 (25) % depending on the stage of the proceedings. In practice, the Parties

are advised to take account of the reduction of the arbitration fee when allocating the fee in the settlement agreement.

18. If, as a result of negotiations, the Parties failed to settle the dispute, the Arbitral Tribunal shall resume the arbitration and proceed to consider the dispute on the merits.

Arbitral Tribunal's Powers to Request and Assess Evidence

19. The Arbitral Tribunal may, at its own discretion, determine the procedure for submission and assessment of evidence, including with respect to the admissibility, relevance, and weight of any evidence.
20. If the Arbitral Tribunal considers evidence available in the case to be insufficient, it may, at any time, invite the Parties to submit additional evidence and submissions in the case, having provided for the time limits for such submissions in the Procedural Schedule. Based on the principle of adversarial proceedings, the Arbitral Tribunal may also allow all the Parties to make submissions with respect to the requested documents.
21. Moreover, the Arbitral Tribunal may approach a court for assistance in obtaining evidence (including summoning a witness, obtaining evidence from third parties, etc.), if this is provided for by the applicable laws and the rules of arbitration.

Expert Appointed by the Arbitral Tribunal

22. An expert may be appointed by the Arbitral Tribunal unilaterally to present a written opinion on the questions posed by the Arbitral Tribunal and suggested by the Parties that require special expertise.
23. When deciding on the appointment of an expert, the Arbitral Tribunal shall proceed based on the expediency of conducting an expert examination in a particular case and the positions of the Parties. The Arbitral Tribunal shall

also assess the expert's ability to provide information that is lacking from the available evidence or supplements (clarifies) such information.

24. If there are any doubts as to whether there may be a conflict of interest between the expert and one of the Parties and/or the Arbitral Tribunal, the Arbitral Tribunal shall consider such a request in the manner determined by the Arbitral Tribunal.
25. The Arbitral Tribunal shall, within the scope of its mandate, search for expert organizations to select the one that will be able to assess the issues raised most professionally, efficiently, and at the lowest cost.
26. The Arbitral Tribunal may interact with the expert organization(s) unilaterally or through the assistant to the Arbitral Tribunal, as well as through the Administrative Office, having notified the Parties thereof.
27. Upon the approval of the expert organization and payment of the advance for the expert examination in full, the Arbitral Tribunal shall issue an order providing for the procedure for conducting the expert examination, including the issues posed to the expert, procedure for submitting certain documents for the examination, methods of examination, time limits for the examination, and steps to be taken after the conclusion of the examination (for example, ability of the Parties to comment on the expert opinion, participation of the expert in an oral hearing) and other issues.
28. If the Parties fail to pay the advance for the expert examination in full prior to its commencement, then the examination shall not be performed.
29. If the results of the expert examination are crucial to the continuation of the proceeding, the Arbitral Tribunal may suspend the arbitration until the expert opinion is provided.

Expert Appointed by a Party

30. The Parties are free to submit expert opinions as part of the evidence supporting their position in the case, including if it is necessary to provide information on issues requiring special expertise.
31. A Party may select and appoint an expert unilaterally without the need for the Arbitral Tribunal's or the other Party's approval of such an expert.
32. If there are doubts as to whether there may be a conflict of interest between the expert appointed by a Party and one of the Parties and/or the Arbitral Tribunal, the Arbitral Tribunal shall take measures to ensure the fair resolution of the dispute, including by taking into account the respective circumstances when assessing the probative value of such an expert's opinion.

Expert's Participation in Arbitration

33. The expert may be appointed at any stage of the arbitral proceeding prior to the issuance of the arbitral award. At the same time, to improve the efficiency of the proceeding, the Parties and the Arbitral Tribunal are advised to consider the issues related to the appointment of an expert, including the need for his/her appointment at the early stages of the proceeding, for example, when agreeing on the Procedural Schedule.
34. The expert may be invited to participate in an oral hearing to answer the questions of the Arbitral Tribunal and the Parties regarding his/her opinion.

Witnesses

35. The Parties and the Arbitral Tribunal may agree on the procedure and the time limits for summoning a witness in the Procedural Schedule. In that case, a written witness statement shall be presented within the time limits fixed in the Procedural Schedule. The Arbitral Tribunal may also invite the witness to an oral hearing at the initiative of a Party to provide respective testimony.

36. Moreover, the Arbitral Tribunal may require any Party to file a written notice containing information on the identity of each witness this Party intends to summon, the subject matter of his/her testimony, its importance for the case, and its relevance to the merits of the dispute.
37. If the witness has presented his/her testimony during an oral hearing, the Parties may cross-examine such a witness. When choosing the format of the cross-examination, the Parties and the Arbitral Tribunal should account for the differences in the legal traditions of the Parties.
38. The Party at whose initiative the Arbitral Tribunal has summoned the witness shall unilaterally ensure all necessary conditions for such a witness to present their testimony at an oral hearing.
39. When summoning a witness, the Arbitral Tribunal is advised to clarify to this person that all information that has become known to his/her as part of the arbitration, as well as the very fact of the arbitration, are confidential. Witnesses may not disclose information about the arbitration without obtaining the consent of all the Parties according to the Arbitration Rules.
40. If the witness participates in an oral hearing using videoconferencing, for the purposes of complying with the principle of confidentiality, the Arbitral Tribunal is advised to clarify to this witness that there should be no other persons present in the room with him/her.
41. If there is any doubt as to whether there may be a conflict of interest between the witness and one of the Parties and/or the Arbitral Tribunal, this shall be taken into account in assessing the probative value of such a witness's testimony.

Party's Non-Participation in Arbitration

42. Non-participation of a Party in the arbitration (including the Party's failure to submit its position within the prescribed time limits, failure to appear at an oral hearing, etc.), provided that the Party has been duly notified of the existence

of the arbitration, shall not prevent the case from being considered, an oral hearing from being held, and the arbitral award from being issued based on the available documents and evidence.

43. However, to issue an enforceable arbitral award, in the event that the Party is evading the arbitration, the Arbitral Tribunal should take special care to follow the principle of equal treatment of the Parties and due process. In particular, every effort should be made to notify the Parties of the main procedural stages of the arbitration.
44. Even in the absence of objections from the Party, the Arbitral Tribunal, in making its award, shall evaluate the legal grounds of the claims and objections presented by the other Party.

Suspension of Arbitration

45. The Arbitral Tribunal may suspend the arbitration at its own initiative or at the request of one of the Parties; if both Parties have requested suspension of the arbitration, the Arbitral Tribunal must suspend the arbitration by issuing a respective order.
46. In that case, the Arbitral Tribunal should indicate the grounds and the period of the suspension (or the event upon the occurrence of which the arbitration shall resume). The period of suspension of the arbitration may be extended at the initiative of the arbitrators or the Parties. The arbitration shall be resumed at the end of the period of suspension (occurrence of the indicated event).
47. If the arbitration is suspended, the time limits set forth by the Arbitration Rules shall also be suspended, and the Procedural Schedule shall lose effect. Generally, during the suspension of the arbitration, the Arbitral Tribunal shall not issue any procedural documents and consider any requests and evidence from the Parties on the merits of the dispute (except for the requests and evidence relevant to the suspension and/or resuming of the arbitration).
48. The Arbitral Tribunal may extend the period of suspension. The Arbitral Tribunal

shall also resume the arbitration if the grounds for its suspension cease to exist or one of the Parties requests for the arbitration to be resumed. In that case, the Arbitral Tribunal shall suggest to the Parties to agree on the new Procedural Schedule. It may not be necessary to agree on the new Procedural Schedule, if, for example, the Parties have managed to settle the dispute amicably, the Claimant has abandoned its claims, or the arbitration has become unnecessary or impossible.

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