

# TAI ARBITRATION RULES



# The Arbitration Rules

The Thai Arbitration Institute  
Office of the Judiciary

The Thai Arbitration Institute, the Office of the Judiciary was established, in 1990, to promote and develop arbitration as a dispute settlement mechanism for civil and commercial matters, and bring arbitration in Thailand to meet international expectation, alongside the judicial proceedings. Subsequently, the Constitution of the Kingdom of Thailand, B.E. 2540 provided that the Court of Justice shall have its administrative division independent from the Executive Branch. The Judicial Administration Act B.E. 2543 hence established the Office of the Judiciary with the Thai Arbitration Institute as one of its agencies. In order to respond to the current development in the international arbitration, it is deemed expedient to provide the Arbitration Rules of the Thai Arbitration Institute, the Office of the Judiciary, as follows:

## SECTION I GENERAL PROVISIONS

**Article 1** The Thai Arbitration Institute (TAI), Office of the Judiciary, shall be the institution empowered to administer arbitral proceedings under these Rules. The Executive Director shall be the person who is entitled to act on its behalf, and render orders pursuant to the Rules.

In discharging responsibilities of TAI, the director and the Office of Arbitration, Office of the Judiciary shall assist the administrative works of TAI as well as those of Arbitral Tribunals in order to properly carrying out arbitral proceedings.

The Executive Director may assign officials of the Office of Arbitration to carry out any work relating to the proceedings under these Rules, as deemed appropriate.

### Definition

**Article 2** In these Rules:

- (1) “**Institute**” means the Thai Arbitration Institute, Office of the Judiciary;
- (2) “**Executive Director**” means the person(s) whom the Secretary-General of the Office of the Judiciary designates to act on behalf of TAI, and render orders pursuant to these Rules;
- (3) “**Arbitral Tribunal**” means a sole arbitrator or a panel of arbitrators;
- (4) “**Arbitration Rules**” means the Arbitration Rules of the Thai Arbitration Institute, Office of the Judiciary.
- \* (5) “**Arbitrator fee**” means an arbitration committee remuneration for performing their duties based on the rates and methods determined by the institute;
- \*\* (6) “**Cost**” means expense in arbitration proceedings based on the rates and methods determined by the institute.

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\*amended by The Arbitration Rules, The Thai Arbitration Institute Office of the Judiciary (No.3) B.E. 2563

\*\*amended by The Arbitration Rules, The Thai Arbitration Institute Office of the Judiciary (No.3) B.E. 2563

Cost in arbitration proceedings shall also mean a service charge of representative or coordinator for the proceedings as appointed by 12 herein.

### **Application of the Rules**

**Article 3** Unless the parties agree otherwise, the Arbitration Rules shall apply to arbitral proceedings in which the parties agree or give a consent to have their dispute settled by arbitration under these Rules, or which are under the auspices of the Institute.

In case where an agreement stipulates that the dispute arising from the said agreement shall be settled by arbitration without providing for specific arbitration rules, and a party submits a dispute to INSTITUTE, if another party agrees, either explicitly or implicitly, then these Rules shall apply to the arbitration.

In case where a party proceeds with the arbitration without explicitly stating any disagreement or objection against application of the Arbitration Rules, it is deemed that both parties consent to the applicability of the Arbitration Rules to the arbitration.

\*The use of these Rules also includes the use of the Electronic Arbitration System as stipulated by the Thai Arbitration Institute.

\*\* **Article 3/1** Any Electronic Arbitration which performs under these Rules, shall be considered to become effective under these Rules

\*\*\* **Article 3/2** Prior to having a complete Arbitral Tribunal, each party may submit a Statement of Request for expedited arbitration as prescribed in Appendix 1.

The Thai Arbitration Institute, Office of the Judiciary may allow expedited arbitration proceedings when the following requirements are met:

- (1) Parties mutually agree to conduct expedited arbitration or;
- (2) the amount in dispute representing the aggregate of any claim and counterclaim of such dispute shall not exceed 5 million baht.

The party requesting for expedited arbitration as prescribed in Appendix 1 shall instantly deliver a copy of Statement of Request to the other party after submitting such Statement of Request, informing that it wishes to conduct expedited arbitration.

In case where parties mutually agree to apply the Arbitration Rules, the Thai Arbitration Institute, Office of the Judiciary, it shall be deemed that parties agree to be bound and to conduct expedited

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\*\*\*amended by The Arbitration Rules, The Thai Arbitration Institute Office of the Judiciary (No.4) B.E. 2564

arbitration as prescribed in Appendix 1, irrespective of the difference between arbitration clause and arbitral proceedings rules written in such Appendix.

### **Service of Process**

**Article 4** Statement of Claims, Statement of Defense, pleadings, notices, documents or other information may be served by registered mail, courier service, facsimile or any form of electronic communication, or other means that provides records of the delivery or notification.

The service of process referred to in Paragraph 1 shall become effective when they are delivered to

- (1) The other party, its representative or attorney, or any person designated to receive such documents on the party's behalf;
- (2) The domicile, place of business, or address designated in the contract in dispute, by the party for the purpose of receiving any document, or the address that the Institute or the Arbitral Tribunal permits to be used for such purpose;
- (3) The last known domicile or place of business of the addressee, if the current domicile or place of business cannot be found;
- (4) The address designated by a party or its representative to the Institute for the purpose of receiving documents via electronic means.

The Institute or the Arbitral Tribunal may, upon a request of any party or by its own initiative, order any party to deliver the Statement of Claims, Statement of Defense, pleading, notice, document or information to the Arbitral Tribunal or the other party.

### **Calculation of periods of time**

**Article 5** For the purpose of calculating a period of time under these Rules, the first day of such period shall not be calculated. If the last day of such period is a non-business day in the country of the person notified of such period, the period shall be extended until the first business day which follows.

Any non-business day occurring during the running of the period of time shall be included in the calculation of such period.

### **Abridging or extending period of time**

**Article 6** The Institute may, by its own initiative or upon a request by the Arbitral Tribunal or any party, abridge or extend any period of time prescribed under these Rules.

## **SECTION II Submission of Dispute**

### **Statement of Claim**

**Article 7** A party may initiate recourse to arbitration by submitting a Statement of Claim to TAI. (Hereinafter the party shall be referred to as the "Claimant") The Statement of Claims shall consist of the following particulars:

- (1) A request to have the disputes settled by arbitration;
- (2) Name and address of the parties including electronic address (if any);
- (3) Applicable arbitration clause or agreement;
- (4) The contract or legal relationship which gives rise to the disputes;



- (5) The facts which form the basis of the claims and the amount claimed;
- (6) The relief or remedy sought;
- (7) A proposal as to the number of arbitrator(s), if the parties have not previously agreed upon in (3).

Where the arbitration agreement provides for more than one arbitrator, the Claimant shall nominate a person to be appointed as an arbitrator together with his or her letter of consent.

The Claimant shall attach sufficient copies of the Statement of Claim to be delivered to the other party (hereinafter referred to the “Respondent”) and the Arbitral Tribunal.

**Article 8** If the Institute is satisfied that the Statement of Claim conforms with the requirement set forth in Article 7, the Institute shall, without delay, dispatch a copy of the aforesaid Statement of Claim to the other party.

If the Institute is of the opinion that the statement of claim does not conform with the conditions nor contain any particular required by these Rules, the Institute may issue an order rejecting or returning it for modification or amendment within a specified period of time or under any condition as it deems appropriate.

**Article 9** When the Respondent has been served with the statement of claim, the Respondent shall submit a Statement of Defense and a Counterclaim (if any) in writing within 15 days from the date of receipt of the Statement of Claim. The Statement of Defense and the Counterclaim shall consist of the following particulars:

- (1) Name and address of the Respondent including electronic address (if any);
- (2) The facts relating to the disputes as well as the reasons for admitting or refusing the claims made by the Claimant
- (3) Objections regarding the relief and remedy sought;
- (4) The facts which form the basis of the counterclaim, the counterclaims, the amount claimed and the relief or remedy sought (if any);
- (5) A proposal as to the number of arbitrator(s), if the parties have not previously agreed upon in the arbitration agreement.

In case where the arbitration agreement provides for more than one arbitrator, the Respondent shall, at the time of submission of the Statement of Defense, nominate a person to be appointed as an arbitrator together with his or her letter of consent.

The Respondent shall attach sufficient copies of the Statement of Defense and Counterclaim (if any) to be delivered to the Claimant and the Arbitral Tribunal.

In case where there is a Counterclaim, the Claimant shall submit the Answer to the Counterclaim in writing within 15 days from the date of receipt of the Statement of Defense and counterclaim.

The provision of paragraph 1 (2) (3) shall apply to the Answer to the counterclaim. Article 8 shall also apply to the Statement of Defense and counterclaim *mutatis mutandis*.

**Article 10** Where the arbitration agreement does not provide for the language of the arbitral proceedings and the parties have not agreed otherwise, the Statement of Claim, the Statement of Defense and the Counterclaim, and the Answer to Counterclaim shall be in the language used in

the arbitration agreement. However, this provision shall not affect the Arbitral Tribunal's power to determine the language of the arbitral proceedings under Article 30.

Where the arbitration agreement provides for more than one language to be used in the arbitral proceedings and the parties submitted the Statement of Claim, the Statement of Defense and the Counterclaim, and the Answer to Counterclaim in one of the languages, TAI may order the party to submit a translation of the documents in another language specified in the arbitration agreement.

**Article 11** Where a party objects that there is no valid arbitration agreement binding the parties, the disputes do not fall with the scope of the arbitration agreement, or the arbitral proceeding should not be under the auspices of the Institute, the Institute shall inform the other party of such objection and inquire their comments and the opposition regarding the objection (if any). The other party shall submit such comments or opposition in writing within 15 days from the date of receipt of the notification.

If, taking into account the information in the case, there is a prima facie evidence to believe that there may be an arbitration agreement between the parties relating to the disputes submitted to arbitration, the Institute may order that the arbitral proceeding shall be proceeded. If the Institute is of the opinion that there is no such prima facie evidence, the Institute may order that the relevant disputes shall be disposed of.

Any decision by the Institute under paragraph 2 shall not affect the power of the Tribunal to rule on the existence or validity of the arbitration agreement in question and the scope of its own jurisdiction.

### **Representatives and assistants in arbitral proceedings**

**Article 12** The parties may appoint a representative to act on their behalf, or any other person to assist them in the arbitral proceedings. The parties shall, in writing, notify the Institute of their names and the addresses including electronic addresses.

### **Consolidation of Proceedings**

**Article 13** In case where disputed issues in an arbitral proceeding related to those in another arbitral proceeding, regardless of whether the relevant arbitration agreements are identical, the Institute may order that the relevant arbitral proceedings under the auspices of the Institute shall be consolidated, if such consolidation will render the proceeding to be carried out more convenient, or a party or the Arbitral Tribunal requests, and the Institute deems appropriate.

\*In case that related arbitration agreements are different or there are any conflicts regarding arbitral proceedings, the Institute shall determine arbitral proceedings as appropriate.

In case where the Arbitral Tribunal deems proper that an arbitral proceeding should be consolidated with another proceeding, the tribunal shall notify the Institute of their opinion for consideration and order.

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\*amended by The Arbitration Rules, The Thai Arbitration Institute Office of the Judiciary (No.4) B.E. 2564

### **Chapter 3 The Arbitral Tribunal**

**Article 14** In the absence of an agreement by the parties as to the number of arbitrators, a sole arbitrator shall be appointed.

#### **Nomination of the Sole Arbitrator**

**Article 15** In case where a sole arbitrator is to be appointed, the parties may jointly nominate a person to be appointed as the sole arbitrator to the Institute within 15 days from the date of receipt of the Statement of Defense or the Answer to the Counterclaim. Otherwise, the appointment of the sole arbitrator shall proceed as follows:

- (1) Each party shall nominate three persons to the Institute within 15 days from the date of receipt of notification;
- (2) Having received the nomination, the Institute may nominate additional three persons, and dispatch the list of all nominees to the parties;
- (3) Each party shall rank the nominees in order of their preference, and notify the Institute within 15 days from the date of receipt of the list of nominees;
- (4) the Institute may contact the five most preferred nominees to inquire about the availability to act as the arbitrator. In case where there are more than one nominee who are jointly ranked fifth, the Institute may decide which nominee to be contacted. In case of necessity for the interest of justice, the Institute may deem appropriate to contact a nominee ranked next in the order of preference.

If a party or parties fail to nominate or rank the nominees as required under the above procedure, or no nominee accepts to be an arbitrator, the Institute may appoint the sole arbitrator, or carry out the appointment procedure under paragraph one again.

#### **Nomination of more than one arbitrator**

**Article 16** If three arbitrators are to be appointed, each party shall nominate one arbitrator. If a party fails to do so within the prescribed period, the Institute may appoint the arbitrator.

The arbitrators so nominated and appointed pursuant to paragraph one shall jointly designate an arbitrator to be the chairperson of the Arbitral Tribunal. If they fail to reach an agreement as to such person within 15 days from the date of receipt the notification. Article 15 shall apply to the appointment of the chairperson of the Arbitral Tribunal *mutatis mutandis*.

In case where the Arbitral Tribunal composed of more than three arbitrators, paragraph one and two shall apply *mutatis mutandis*.

#### **Nomination of Arbitrators in Multi-Party Arbitration**

**Article 17** In case where there are more than two parties in an arbitral proceeding, the following procedure shall apply;

- (1) If a sole arbitrator is to be appointed, the Claimants and the Respondents shall jointly nominate and rank the nominees in order of preference pursuant to Article 15.
- (2) If more than one arbitrator is to be appointed, each party shall jointly nominate the arbitrator pursuant to Article 16.
- (3) If it cannot be distinguished whether a party should jointly nominate an arbitrator with another party, the Institute may appoint all arbitrators.

### **Appointment of Arbitrator(s)**

**Article 18** In the appointment of a sole arbitrator or a chairperson of the Arbitral Tribunal, the person to be appointed shall express his or her consent by signing in the letter of appointment, and submit it to the Institute.

In the appointment of the arbitrators nominated by the parties according to Article 16, the nominating parties shall request the nominated arbitrator to give their consents by signing the letters of appointment, then submit them to the Institute for consideration.

The persons who accept to be arbitrators shall be deemed to accept fees determined by the Institute.

### **Qualifications and Execution of Duties of Arbitrators**

**Article 19** Arbitrators shall be impartial, independent and possess the qualifications prescribed in the arbitration agreement as well as prepared to execute their duties with speed and efficiency. In the nomination of arbitrators pursuant to Article 16 paragraph one, prior to the nomination, the parties shall ensure that the nominee possesses the qualifications and are so prepared to execute their duties.

Arbitrators shall conduct arbitral proceedings as prescribed in these Rules so that the proceedings are carried out with speed and efficiency. The arbitrators shall not act as lawyers or representatives of either party, and comply with the Code of Ethics for Arbitrators prescribed by the Institute.

### **Disclosure by Arbitrators**

**Article 20** When contacted or appointed to be an arbitrator, as well as throughout the arbitral proceedings, the person shall disclose any facts that may give rise to justifiable doubts as to his impartiality and independence, to the parties and the Institute.

### **Challenge of Arbitrators**

**Article 21** The challenge of Arbitrators shall proceed as follows:

- (1) A party may challenge the arbitrator nominated by another party if circumstances exist that give rise to justifiable doubts as to the impartiality and independence of the arbitrator;
- (2) The challenge shall be made in writing notifying the grounds for challenge within 15 days from the date of the notification of the name and particulars of the arbitrators, or after becoming aware of the facts of the challenge, as the case may be.
- (3) After receiving the notification of the challenge, the Institute shall notify the Arbitral Tribunal and the other party of the challenge.

**Article 22** In case where the other party agrees to the challenge, or the challenged arbitrator withdraws from the office after the challenge, a substitute arbitrator shall be appointed in accordance with the procedure provided in Article 15 to 17, as the case may be, even if during the process of appointing the challenged arbitrator, a party had failed to exercise its right to nominate.

The fact that the other party agrees to the challenge, or the arbitrator withdraws from the office shall not imply an acceptance of the validity of the grounds for challenge.



**Article 23** In case where the other party disagrees with the challenge, or the challenged arbitrator does not withdraw from the office, the Arbitral Tribunal shall decide on the challenge, except when the Institute deems appropriate to appoint an umpire or a panel of not more than three umpires to consider and decide on the challenge. The umpire or panel of umpires shall decide the challenge within 15 days. The decision of the umpire or the panel of umpires shall be final.

Fees and expenses for the umpire or the panel of umpires shall be specified by the Institute, and deemed to be part of fees and expenses in the arbitral proceedings.

In case where the Arbitral Tribunal or the umpire finds the challenged arbitrator lacks of impartiality or independence, the office of the arbitrator shall be vacated. Article 22 paragraph one shall apply *mutatis mutandis* to the replacement of the arbitrator.

### **The Office of Arbitrator being Vacated**

**Article 24** The Institute may order that the office of an arbitrator be vacated, if it is of the opinion that an arbitrator:

- (1) Becomes *de jure* or *de facto* unable to perform his functions;
- (2) Fails to carry out arbitral proceedings in accordance with these Rules, or any act within the prescribed period of time without reasonable causes;
- (3) Fails to execute the duties with speed and efficiency, such as failure to attend the appointed proceedings without reasonable causes.

Prior to render the order pursuant to paragraph one, the Institute may seek views, comments, information and facts from the parties, the arbitrator concerned, and any other arbitrator. The views, comments, information and facts shall be communicated in writing to the Institute within a period of time the Institute deems appropriate.

### **Replacement of an Arbitrator**

**Article 25** The replacement of an arbitrator shall be carried out as follows:

- (1) In the event of death of an arbitrator, or vacating of the office of an arbitrator by the agreement of the parties or pursuant to Article 24(1), the replacement of the arbitrator shall be in accordance with the procedure applicable to the appointment of arbitrator being replaced;
- (2) In the event of the withdrawal of an arbitrator, the office of the arbitrator shall be vacated upon the approval of the Institute. The replacement of the arbitrator shall be in accordance with the procedure applicable to the appointment of arbitrator being replaced;
- (3) In the event of the office of an arbitrator being vacated under Article 24(2)(3) or the withdrawal under Article 25(2) of the arbitrator who was nominated by a party and such withdrawal might cause undue delay in the proceedings, the Institute may appoint an arbitrator without proceeding by the procedure applicable to the appointment of an arbitrator being replaced.

**Article 26** When there is a replacement of an arbitrator, regardless of the causes for such replacement, the Arbitral Tribunal shall be empowered to decide if and to what extent prior proceedings shall be repeated.

### **Communications between Parties and Arbitrators**

**Article 27** No party and their representatives may communicate with an arbitrator or a prospective nominee to be an arbitrator without disclosing such communication to the other party,

the Institute and the Arbitral Tribunal, except when such communication is to provide a brief nature of the dispute, the proceedings to be carried out, qualifications and preparedness to execute the duties with speed and efficiency, as well as the relationship with the parties or the dispute.

No party and their representatives may communicate with a person who is nominated or whom a party intends to nominate to be the chairperson of arbitrators without disclosing such communication to the other party, the Institute and the Arbitral Tribunal.

## **Chapter 4 Arbitral Proceedings**

**Article 28** The Arbitral Tribunal shall conduct any proceedings in a manner as it considers appropriate by taking into account the principle of justice, speed and efficiency, and provide the parties with a reasonable opportunity to present their case, taking into account the circumstances of the dispute, unless the parties agree otherwise.

Within 30 days from the date of appointment of the last arbitrator, the Arbitral Tribunal shall consult the parties to establish the preliminary procedural timetable for the proceedings which shall last no longer than 180 days, then submit it for the approval of the Institute.

In case where the Arbitral Tribunal modifies the procedural timetable, the modified timetable shall be notified to the Institute for its consideration. In case of necessity or reasonable causes, the Institute may allow an extension as it deems appropriate.

**Article 29** The chairperson of the Arbitral Tribunal shall be empowered to render a procedural decision or ruling which is not a decision on the merit of the dispute. Where it subsequently appears to the Arbitral Tribunal that the circumstance of case has changed, the Arbitral Tribunal may review and modify such decision or ruling accordingly.

### **Language of Arbitration**

**Article 31** Unless the parties agree otherwise, the Arbitral Tribunal shall determine the language(s) to be used in the proceedings.

The Arbitral Tribunal, or, in case where the tribunal has not been fully established, the Institute may order the parties to submit the translations of any document submitted into another language as it considers appropriate.

### **Place of Arbitration**

**Article 31** Unless the parties agree otherwise, the place of arbitration shall be Bangkok, except when the Arbitral Tribunal, having regard to the circumstances of the case, determines that the place of arbitration should be at another place.

The Arbitral Tribunal may determine that consultation, hearing of witnesses or experts, examination of any material, place or document shall be conducted at a particular place. For the convenience of the proceedings, the Arbitral Tribunal may conduct the proceedings via a video conference or any other means of communications as it considers appropriate.

### **Hearings**

**Article 32** In the absence of the agreement by the parties, the Arbitral Tribunal shall determine the hearing of witnesses and admissibility of evidence.

In case where the parties have agreed on documents-only arbitration, the Arbitral Tribunal shall consider and make a decision solely on the documents adduced by the parties.

The Arbitral Tribunal shall notify the parties of the date of hearing and meeting for examining any material, place or document.

**Article 33** In case where there are hearings of witnesses, the Arbitral Tribunal may direct the parties to provide the identification of the witnesses to be adduced, the facts or matters on which the witnesses will testify, as well the relevance to the disputed issues.

The Arbitral Tribunal may direct the parties to submit a written testimony of witnesses in advance. In case where the witness fails to testify on the specified date, the Arbitral Tribunal is entitled to render such testimony inadmissible, or give any weight thereon, as it deems appropriate.

**Article 34** During the proceedings, the Arbitral Tribunal may direct the parties to present any document or evidence on the issues determined by the Arbitral Tribunal within the period of time, as it deems appropriate.

**Article 35** The Arbitral Tribunal is empowered to permit, refuse or limit the evidence to be presented, or the testimony of witnesses as it deems appropriate to achieve the fairness, speed and efficiency of the arbitral proceeding.

**Article 36** All arbitral proceedings, the Statement of Claims, the Statement of Defense, documents, evidences, hearings, orders, and award are confidential.

The parties, the Arbitral Tribunal and the Institute shall not disclose all or certain matters relating to the arbitral proceedings except

- (1) With the consents of the parties;
- (2) For the purpose of obtaining protection or exercising rights under the laws, or enforcing or challenging an award;
- (3) Under the duty to disclose as prescribed by a law.

#### **Article 37**

The Arbitral Tribunal may assign officials of the Institute to assist in carrying out any proceeding as it deems appropriate.

#### **Experts appointed by the Arbitral Tribunal**

##### **Article 38**

After consultation with the parties, the Arbitral Tribunal may appoint any expert to prepare a report in writing. The parties shall provide the relevant facts required by such expert.

After receiving the expert's report, the Institute shall dispatch copies of the report to the Arbitral Tribunal and the parties. If any party requests and the Arbitral Tribunal deems appropriate, the Arbitral Tribunal may permit the party to examine the expert as it thinks fit.

#### **Interim Measures**

**Article 39** The Arbitral Tribunal may, at the request of a party, grant interim measures of protection for the party as it deems appropriate. The Arbitral Tribunal may direct the party requesting such interim measure to provide appropriate security for any damage that may arise in connection with the measure.

The request pursuant to paragraph one shall not affect the right of the party to request the court to grant interim measures. Such request shall not be deemed to be incompatible with the arbitral proceedings under these Rules.

### **Default**

**Article 40** In case where the Claimant fails to attend the arbitral proceedings or carries out any act directed by the Arbitral Tribunal or the Institute. The Arbitral Tribunal may suspend the proceeding and notify the Institute of the incident. The Institute may dispose of the dispute from its docket, except where there is any issue that should be decided, and the Arbitral Tribunal deems appropriate to do so.

In case where the Respondent fails to submit the Statement of Defense without a reasonable cause, attend the arbitral proceedings, or carry out any act directed by the Arbitral Tribunal or the Institute, the Arbitral Tribunal or the Institute may continue with the proceedings. If the Respondent submits the Counterclaim, the Arbitral Tribunal may suspend the proceedings in relation to the Counterclaim and notify the Institute thereof. The Institute may dispose of the dispute relating to the counterclaim from its docket.

### **Power of the Majority of Arbitrators to Continue the Proceedings**

**Article 41** In case where an arbitrator refuses or persistently fails to participate in the proceedings or making the award which might cause undue delay to the arbitral proceeding without any reasonable cause, the majority of the arbitrators may proceed with the proceedings, and render an award, notwithstanding the absence of the arbitrator. In this case, the Arbitral Tribunal shall notify the Institute, the parties and such arbitrator of its decision.

In carrying the proceedings under paragraph one, the majority of the arbitrators shall take into account the stage of the arbitration, any explanation of the absent arbitrator or any other facts as they deem appropriate. The reasons for such decision shall be stated in the order, award or any determination made by the majority of the arbitrators.

In case where there is the event under paragraph one and the majority of the arbitrators is of the opinion that further proceeding should be carried out with participation of the arbitrator, the majority of the arbitrators may notify the Institute of its decision. If the Institute deems appropriate, the Institute may order that the office of the arbitrator be vacated pursuant to Article 24.

**Article 42** Any failure by a party to object promptly to any non-compliance with these Rules or the arbitration agreement shall be deemed to be a waiver of the right of such party to make any objection, except when such party can prove any reasonable cause for such failure.

## **Chapter 5 The Award**

### **Applicable Law**

**Article 43** The Arbitral Tribunal shall render the award in accordance with the law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the Arbitral Tribunal shall apply the law which it determines to be appropriate to be the applicable law.



The Arbitral Tribunal shall decide as *ex aequo et bono* only if the parties have expressly authorized the Arbitral Tribunal to do so.

In the interpretation of contract, the Arbitral Tribunal shall take into account any usage of trade applicable to the transaction.

### **Decision**

**Article 44** The award shall be made by a majority of the Arbitral Tribunal. The Arbitral Tribunal shall not decide any matter that is beyond the scope of the arbitration agreement, or the relief sought by the parties, except for the determination of the fees and expenses in the arbitral proceedings, or the arbitrator fee, or in the case of an award on agreed-terms.

### **Time Limit for the Final Award**

**Article 45** The award shall be made within 30 days from the date on which the tribunal declares the proceedings closed or the date on which the submission of written closing statement is due, unless the Institute extends the time limit pursuant to a request from the Arbitral Tribunal.

### **Form of the Award**

**Article 46** The award shall be made in writing and signed by the arbitrators. It shall explicitly specify the date on which, and the place where the award was made. In case where an arbitrator fails to sign in the award, the other arbitrators shall record the reason for such absence in the award, and the Institute may certify the cause of such absence.

The award shall clearly state the reasons upon which it is based.

### **Approval of the Form of the of the Award**

**Article 47** Before an award being signed by the arbitrators, the Arbitral Tribunal shall submit it in draft form to the Institute for its approval with regard to the form within the period under Article 45 or after the period provided for submission of closing statement as the case may be.

### **Effect of the Award**

**Article 48** The award shall be final and binding upon the party from the date on which a copy of the award reaches the party. The parties shall comply with the awards without delay.

### **Award on Agreed-terms**

**Article 49** If, before the award is made, the parties agree on a settlement of the dispute, the Arbitral Tribunal may terminate the arbitral proceedings. The Arbitral Tribunal, if requested by the parties, may record the settlement in the form of an award on agreed terms. Such award may contain no reasoning.

### **Interpretation of the Award**

**Article 50** Within 30 days from the day on which a copy of the award reaches a party, if any reasonable doubt arises concerning the contents of the award, a party may request the Arbitral Tribunal to interpret such contents. The interpretation shall constitute a part of the award.

### **Correction of the Award**

**Article 51** When an award contains an insignificant error or mistake and if the Arbitral Tribunal deems appropriate within 30 days from the date of the issuance of the award, or upon a request by either party within 30 days from the day on which a copy of the award reaches the party, as the case may be, the Arbitral Tribunal may correct such error or mistake.

### **Additional Award**

**Article 52** Within 30 days from the day on which a copy of the award reaches the party, either party may request the Arbitral Tribunal to make an additional award as to any material issue which in the opinion of that party, was not covered in the original award.

If the Arbitral Tribunal considers the request for an additional award to be justifiable, it shall complete its additional award within 30 days from the day on which the request has been filed.

**Article 53** The provisions of Article 47 to 49 shall be applied to an amendment, interpretation, explanation or an additional award *mutatis mutandis*.

**Article 54** The parties shall bring back the dossier as well as any document submitted in the case to the Institute within 90 days from the day on which the copy of the award reaches the party.

If a party fails to do so within such period, the Institute may collect fees for keeping the documents at the rate that the Institute deems appropriate. In addition, the Institute may destroy the documents.

In case where there is an interpretation, correction of insignificant error or mistake, or additional award, the Arbitral Tribunal shall return the dossier as well as the documents to the Institute when the same is made.

## **Chapter 6 Costs, Expenses and Fees**

**Article 55** The parties shall deposit the arbitrator fees and expenses in the arbitral proceedings in the amount determined by the Institute. Where the parties fail to do so, the Institute may issue an order not to accept the Statement of Claims, Statement of Defense or Counterclaims or issue any order as it deems appropriate.

**Article 56** The arbitrator fees and the expenses in the arbitral proceedings shall be at the rate determined by the Institute.

**\*Article 57** The Arbitral Tribunal shall specify the fees, expenses and the arbitrator fees including the fees of assistants or representatives in arbitral proceedings. The assistants or representatives who are appointed under Article 12 of these Rules. The rate of such fees, therefore, shall be in line with the Announcement of the Office of the Judiciary regarding The Fees of Assistants or Representatives in Arbitral Proceedings.

**Article 58** Before commencing any arbitral proceedings, at any stage, if the Institute deems appropriate, it may direct a party to deposit the security for expenses, fees and remuneration. In case where a party fails to do so, another party may deposit the total amount of the security.

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\* amended by The Arbitration Rules, The Thai Arbitration Institute Office of the Judiciary (No.2) B.E. 2562

If a party fails to pay or partially pays for the security of expenses, fees and remuneration, as the case may be, within the period of time determined by the Institute, the Institute may notify the Arbitral Tribunal to suspend the arbitral proceedings for a period of time. If the security is not paid in full within the period for suspension of the arbitral proceeding, it shall be deemed that the Statement of Claims is withdrawn and the Institute may dispose of the dispute from the docket.

Where such security is paid in full in relation to either the Statement of Claims or the Counterclaims, it shall be deemed that the relevant claims or counterclaims for which the parties have not deposited the security are withdrawn and the Institute may dispose of the relevant dispute from its docket. In this event, the Institute shall notify the Arbitral Tribunal to proceed exclusively on the remaining disputes.

## **Chapter 7 Transitional Provision**

**Article 59** Unless the parties agree otherwise, any arbitration agreement or clause, or any references which specify the Arbitration Rules of the Ministry of Justice for a dispute shall be deemed to have referred to these Rules.

**Article 60** Unless the parties agree otherwise, any arbitral proceedings which commenced prior to the effective date of these Rules shall be carried out in accordance with the Rules in force at the time of submission of the Statement of Claims. These Rules shall become effective after 30 days from the date of announcement.

**\*Appendix 1**  
**Expedited arbitration**

**Arbitral Tribunal**

1. A sole arbitrator shall be nominated to resolve the disputes in accordance with this Appendix unless the Institute is of the opinion that according to the circumstances of the case, it is necessary to determine otherwise. The Institute shall appoint the arbitrator according to this Article.

In case where one party appointed the arbitrator prior to requesting for expedited arbitration pursuant to Article 3/2 of The Arbitration Rules, the Thai Arbitration Institute, Office of the Judiciary, it shall be deemed that such appointment is terminated when the Institute allows conducting expedited arbitral proceedings.

**Arbitral Proceedings**

2. The Arbitral Tribunal shall determine disputed issues together with the arbitral proceedings, and complete the arbitral proceedings within 60 days from the date of the Arbitral Tribunal's appointment. In case of failure to complete the arbitral proceedings within such time limit, the Arbitral Tribunal shall present such fact to the Institute for consideration. Nevertheless, in case of extreme necessity or any other reasonable causes, the Institute may grant an extension of such time limit.

3. After the Arbitral Tribunal has consulted with parties, the Arbitral Tribunal may decide the dispute on the basis of documentary evidence unless the Arbitral Tribunal is of the opinion that additional hearing of witness or expert witness should be conducted. Nevertheless, the Arbitral Tribunal shall give an opportunity to parties to equally present their evidence as appropriate.

4. Parties shall not request for an extension of time limit as prescribed in this appendix except in the case of extreme necessity or force majeure.

**Time Limit for Making an Arbitral award**

5. The Arbitral Tribunal shall render an arbitral award within 15 days from the due date of documentary evidence submission in case where the arbitral proceedings are conducted based solely on documentary evidence or from the completion date of the arbitral proceedings unless the Institute deems that it is appropriate to allow an extension of such time limit when receiving a Statement of Request from the Arbitral Tribunal specifying that there is a necessary cause to be unable to complete the proceedings within such time limit.

The Arbitral Tribunal may make the arbitral award in summary form unless parties mutually agree that no reason are to be given.

**Revocation of Expedited Arbitration**

6. At any period of time, when the Institute deems that it is appropriate or any party submits a Statement of Request for not applying expedited arbitration, and the Institute has consulted with The Arbitral Tribunal along with parties and is of opinion that there is an extraordinary circumstance causing expedited arbitration to be improper to apply to the dispute or to affect the interest of justice, the Institute may order that arbitral proceedings shall be conducted pursuant to general Rules.

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\* amended by The Arbitration Rules, The Thai Arbitration Institute Office of the Judiciary (No.4) B.E. 2564



In case where the Institute has issued an order in paragraph one, the existing Arbitral Tribunal shall remain in their duties unless the Institute orders otherwise and it shall be deemed that previous arbitral proceedings are conducted pursuant to general Rules, *mutatis mutandis*.

**Transitional Provisions**

7. The provisions in other sections of the Arbitration Rules, the Thai Arbitration Institute, Office of the Judiciary shall apply to any arbitral proceedings or provisions not specifically stipulated in this Appendix, *mutatis mutandis*.



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