

REGLAMENTO ARBITRAJE INTERNACIONAL  
RULES OF INTERNATIONAL ARBITRATION



CENTRO DE ARBITRAJE Y MEDIACION - CAMARA DE COMERCIO DE SANTIAGO

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Registry of Intellectual Property N° 154771, May 2006.

ISBN 956-8126-06-6

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# Rules of International Commercial Arbitration

In force as from 1<sup>st</sup> of June 2006

**Santiago Arbitration and Mediation Center**

Santiago Chamber of Commerce

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## INTRODUCTION

Today, international arbitration is the system most used in the world for the resolution of international trade disputes. The complexity of cross-border business makes it necessary for trade disputes to be resolved in the shortest time possible by people knowledgeable in these matters.

Through international arbitration, parties can choose the "tailored" method of resolution. This means selecting the governing law, the language and the place of arbitration, among other aspects, making this mechanism the best choice for an effective dispute resolution.

The Santiago Arbitration and Mediation Center (CAM Santiago), created by the Santiago Chamber of Commerce (CCS) in 1992, has vast experience in the administration of national arbitration in Chile. It makes the service of international arbitration available to the national and international legal and business communities. It has specialized arbitrators of different nationalities, renowned internationally, rules of procedure, fee schedules for processes, and an office dedicated to the administration and control of international arbitration.

The Rules of International Commercial Arbitration of CAM Santiago are based on internationally recognized standards and are in line with the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law (UNCITRAL). It establishes an appropriate framework for international commercial arbitration in the country chosen by the parties or determined by the arbitral panel, in full respect for the principle of autonomy of will of the parties.

Located in Edificio del Comercio, the Santiago Arbitration and Mediation Center has the most modern infrastructure from which to conduct international arbitration.

### **Clause on International Commercial Arbitration by CAM Santiago**

All disputes arising out of or in connection with this contract, shall be resolved by arbitration according to the Rules of International Commercial Arbitration of the Arbitration and Mediation Center of the Santiago Chamber of Commerce in effect at the time of its initiation.

Note: We recommend that the parties consider including the following in the previous clause:

- a. The number of arbitrators will be \_\_\_\_ [one or three].
- b. The place of arbitration will be \_\_\_\_ [city and country].
- c. The language of arbitration will be \_\_\_\_.
- d. The law governing the contract will be the substantive law of \_\_\_\_.

# Rules of International Commercial Arbitration

In force as from 1<sup>st</sup> of June 2006

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# RULES OF INTERNATIONAL COMMERCIAL ARBITRATION

Santiago Arbitration and Mediation Center  
In force as from 1<sup>st</sup> of June 2006

## GENERAL PROVISIONS

### Article 1

#### Definitions and Scope of Application

1. For purposes of these Rules:
  - a. "Center" or "CAM Santiago" means the Arbitration and Mediation Center of the Chamber of Commerce of Santiago, Chile;
  - b. "Rules" means these Rules of International Commercial Arbitration of the CAM Santiago;
  - c. "Claimant" means the party who may be comprised of one or more claimants;
  - d. "Respondent" means the party who may be comprised of one or more respondents;
  - e. "Arbitral Tribunal" means the organ that will decide the dispute submitted to arbitration;
  - f. "Judicial Authority" means an organ in the state judicial system of a country; and
  - g. "Arbitration Agreement" or "Arbitral Agreement" means an agreement whereby the parties decide to submit to arbitration all or certain disputes that have arisen or may arise therebetween regarding a certain juridical relationship. The Arbitration Agreement may be in the form of an arbitration clause included in a contract or in the form of a separate agreement, whether or not contractual.

The Arbitration Agreement must be set down in writing. The Agreement will be understood to meet this requirement when it is contained in a document signed by the parties or in an exchange of letters, telexes, faxes, telegrams, e-mails or other means of telecommunication that leave a record of the agreement.

The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement, provided such contract is set down in writing and the reference implies that said clause forms a part of the contract.

2. Whenever:
  - a. The parties have agreed in writing to submit a dispute that has arisen or may arise therebetween regarding a certain juridical, contractual or non-contractual relationship to arbitration under the Rules of International Arbitration of the CAM Santiago; and,

b. The arbitration indicated in letter a. above is an international commercial arbitration;

Such arbitration will be conducted according to these Rules, save as amended by the parties.

3. The parties to arbitration conducted in accordance with these Rules may modify it by mutual written consent, except as provided in articles 5, 6, 11, 12, 13, 14, 21 and 39.

## **Article 2**

### **Notifications and Time Limits**

1. All communications and other briefs submitted or sent by any of the parties as well as all documents annexed thereto shall be sent or provided in as many copies as there are parties, including one for each arbitrator and another for the Secretariat of the Center.
2. All written notifications or communications requested, sent or submitted in accordance with these Rules shall be delivered at the last address available of the addressee or representative thereof, whether delivered by the party himself or by the counterparty.
3. All notifications or communications may be delivered or sent personally, by certified mail, by fax, by e-mail or by any other means that leaves a record of dispatch.
4. All notifications or communications shall be deemed given on the day of receipt by the addressee or representative thereof, or on the day when they should have been received, depending on the means of communication used.
5. The periods of time set in these Rules shall begin to run from the day following the day when a notification, note, communication or proposal is, or is deemed, received, and will include all following calendar days, even official holidays or non-business days. However, if the last day of a time limit is an official holiday or non-business day in the place of residence or establishment of the addressee's businesses, such period of time shall be extended to the next succeeding business day.

## **Article 3**

### **Waiver of the Right to Challenge**

1. If a party pursuing arbitration knowing that any provision in these Rules or any other requirement established in the terms hereof, any instruction of the arbitral tribunal or any stipulation contained in the arbitration agreement in relation to the establishment of the arbitral tribunal or the course of the arbitral process has not been fulfilled but fails to lodge his opposition or objection to the failure, shall be deemed to have validated the procedure and shall forfeit any right to subsequent contest or challenge.

**Article 4****Limitation of Liability**

1. Neither the CAM Santiago nor its administrative staff nor the members of the arbitral tribunal shall be liable to any person or institution for deeds, acts or failures relating to the arbitral process they are conducting.

**COMMENCEMENT OF ARBITRATION****Article 5****Request for Arbitration**

1. The claimant shall send the respondent and the CAM Santiago a request for arbitration that shall be accompanied by payment of the advance or proof thereof according to the existing fee schedule for the calculation of international arbitration expenses of the CAM Santiago. The Center shall notify the parties of the date of receipt of the request for arbitration submitted by the claimant.
2. The arbitral procedure with the CAM Santiago shall be deemed to have begun, for all pertinent purposes, upon delivery of the request for arbitration and payment of the advance required for such commencement.
3. The request for arbitration shall contain:
  - a. A petition to submit the dispute to arbitration;
  - b. The full name and address of the parties and persons representing them as well as the nature of that representation;
  - c. A reference to the arbitration agreement or arbitral clause on which such request is based;
  - d. A reference to the contract or other legal instrument on, or in relation to, which the dispute arose;
  - e. A description of the general nature of the claim by the claimant and, to the extent possible, the sum claimed, if any;
  - f. All information on the number of arbitrators and their selection pursuant to these Rules as well as the appointment of one or more arbitrators whenever the intervention of the Center is required; and,
  - g. Any comment on the arbitration location, the governing rules of law and language of the arbitration.

4. The Secretariat of the CAM Santiago may set a period to fulfill any of the requirements indicated above that has not been met by the claimant. The request thereof shall be set aside should it fail to fulfill such requirements in that period, without prejudice to the right to submit a new request for arbitration.

## **Article 6**

### **Answer to Request for Arbitration**

1. The respondent shall send the CAM Santiago and the claimant an answer to the request for arbitration in a period of 30 days as of receipt of such request pursuant to article 5 above.
2. The answer shall contain at least the following information:
  - a. The full name and address of the parties and persons representing them as well as the nature of that representation;
  - b. Their comments on the nature and circumstances leading to the request for arbitration as well as their position in regard to the claims by the claimant and, to the extent possible, the amount claimed, if any;
  - c. All information on the number of arbitrators and their selection as proposed by the claimant pursuant to these Rules as well as the appointment of one or more arbitrators whenever the intervention of the Santiago Arbitration and Mediation Center is required; and,
  - d. Any comment on the arbitration location, the governing rules of law and language of the arbitration.
3. The answer to the request must be sent in as many copies as ordered by the number 1 of article 2 of these Rules.
4. The CAM Santiago shall appoint the arbitrator(s) who will hear the eventual litigation if there is no answer to the request for arbitration in the period indicated in the number 1 of this article, in harmony with these Rules.

## **COMPOSITION OF THE ARBITRAL TRIBUNAL**

### **Article 7**

#### **Decisions by the Center**

1. All decisions by CAM Santiago on the appointment, confirmation, recusal or substitution of an arbitrator will be final, without any need to state a reason.

**Article 8****Number of Arbitrators**

1. One or three arbitrators may resolve a dispute.
2. Failing agreement among the parties on the number of arbitrators, the dispute shall be resolved by one single arbitrator unless CAM Santiago decides that the arbitral tribunal must be comprised of three. In this latter case, each of the parties shall have a period of 15 days to appoint an arbitrator, counted from receipt of the notification of the decision of CAM Santiago in this regard, for confirmation thereof by the Center.
3. The parties may appoint one single arbitrator by mutual consent if they agree that the dispute will be resolved by just one, which shall be confirmed by CAM Santiago.
4. The arbitrator shall be appointed by the Center if the parties have not made such an appointment within 30 days following notice of the request for arbitration.
5. If the dispute is to be resolved by a three-arbitrator tribunal, both the claimant, in the respective request for arbitration, and the respondent, in the answer thereto, shall appoint an arbitrator for confirmation. CAM Santiago shall make the appointment on behalf of any of the parties who does not name an arbitrator in such briefs. The third arbitrator, who shall, moreover, be the president of the tribunal, shall be appointed by CAM Santiago without having to state the reason for the same.

**Article 9****Appointment, Confirmation and Acceptance of Arbitrators**

1. Save agreement otherwise by the parties, CAM Santiago shall consider, in the appointment or confirmation of one or more arbitrators, as relevant, the information on the nationality of the different parties and of the remainder of the arbitral tribunal, if collegiate, as well as the availability and aptitude of the arbitrators chosen to conduct the arbitration in conformity with these Rules.
2. The resolutions of the CAM Santiago in this regard shall be rendered without stating the reason for the same.
3. The arbitrators or co-arbitrators appointed by the parties shall only be confirmed by CAM Santiago if they have signed a declaration of independence in the terms set down in article 11 of these Rules.
4. If the litigation is resolved by one single arbitrator, the nationality thereof shall be different from that of the litigating parties, unless CAM Santiago deems otherwise after consulting the parties, who may oppose this for good reason. The same shall apply to the president of a three-member tribunal.

5. The arbitrators appointed and/or confirmed by CAM Santiago shall accept such position as soon as possible and the Center shall notify this acceptance to the parties. For all legal purposes, the date of acceptance of the arbitrator or last arbitrator, if a collegiate tribunal, shall be deemed the date that the arbitral tribunal is established.

#### **Article 10**

##### **Multiple Parties**

1. If there are multiple claimants and/or respondents in the respective requests for arbitration or answers thereto, whether a one- or three-arbitrator tribunal must be established, both the claimants, jointly, and the respondents, jointly, shall appoint the arbitrator in their respective briefs, according to these Rules.
2. CAM Santiago shall appoint the relevant arbitrator(s) whenever there is no agreement on such appointment.

#### **Article 11**

##### **Independence and Impartiality**

1. All arbitrators must be and remain at all times independent and impartial in respect of the parties.
2. The candidate for arbitrator must, as a requirement in accepting his appointment, sign and send a written declaration to the CAM Santiago advising that he knows of no circumstance that may give rise to reasonable doubt as to his independence and impartiality. The arbitrator shall disclose to the parties and to the CAM Santiago without delay any circumstance arising subsequently that may reasonably affect his independence and impartiality.
3. Notwithstanding the provisions in numbers 4 and 5 of this article, no party may establish communication with an arbitrator or a candidate for arbitrator in relation to the case unless the other party or parties are present.
4. A party or the representative thereof may contact the candidate of one party for arbitrator for the following purposes:
  - a. To advise the candidate of the general nature of the dispute and of the arbitration procedure; and/or,
  - b. To ask the candidate about his traits, availability, independence in respect of the parties and impartiality in relation to the dispute.
5. Save stipulation by the parties otherwise, any of the parties or the representative thereof may contact the candidate of the other party for arbitrator to receive information on and ask about the traits and suitability of the candidates for chairman of the arbitral tribunal.

## **Article 12**

### **Recusal**

1. An arbitrator may be recused only if:
  - a. There are circumstances that justifiably put his independence and impartiality in doubt; or,
  - b. The arbitrator does not have the salient traits agreed upon by the parties.
2. A party may only recuse the arbitrator in whose appointment it has participated for reasons of which it learned after the appointment.
3. When an arbitration agreement provides that a conciliator or mediator must be appointed and the conciliator or mediator must also subsequently act as arbitrator should the conciliation or mediation fail, a party may not oppose the appointment of the conciliator or mediator to the position of arbitrator based solely on the fact that he was a conciliator or mediator in all or certain matters heard in the arbitration.
4. If a person appointed as conciliator or mediator in accordance with the arbitration agreement later refuses to act as arbitrator, the person who is appointed arbitrator in his stead will not first have to act as a conciliator or mediator.

## **Article 13**

### **Recusal Procedure**

1. The party who attempts to recuse an arbitrator should send a written communication to the CAM Santiago explaining the reasons for the recusal within 15 days following the date when it learned of his appointment or of the circumstances indicated in article 12 above.
2. Upon receipt of the request for recusal, the CAM Santiago will notify such a request to the other party or parties and to the members of the arbitral tribunal.
3. If the other party or parties state their consent regarding the recusal submitted by a party, the arbitrator recused shall resign. Failing agreement among the parties as to the recusal, the recused arbitrator may resign in its own initiative. The resignation of the arbitrator from his position will not imply acceptance of the reasons for the recusal.
4. Unless the arbitrator recused resigns from his position or the other party accepts the recusal, the CAM Santiago shall decide on such recusal without having to state the reason for the same.



**Article 14****Termination of the Functions of Arbitrator**

1. The function of arbitrator shall terminate if:
  - a. The arbitrator becomes incapacitated *de jure* or *de facto* to perform his functions of arbitrator or for any other reason does not perform such functions in a reasonable period of time and officially resigns or the parties jointly decide upon such termination. Failing agreement among the parties on those facts, any of the parties may request that the CAM Santiago declare the termination of the functions of the arbitrator after a hearing thereof;
  - b. The request for recusal is accepted in the terms of article 12 of these Rules;
  - c. The arbitrator resigns for any reason; or,
  - d. The parties consider his functions terminated by mutual written consent.
2. Whenever an arbitrator resigns or a party who has appointed or accepted the appointment thereof states his consent to termination of his functions as arbitrator in accordance with number 1 letter a. above or article 13 above, the arbitrator shall not be deemed to have accepted the applicability of the reasons indicated in number 1 letter a. above or in article 12 of these Rules.
3. If an arbitrator in an arbitral tribunal comprised of three arbitrators refuses to participate in the arbitration even though his termination has not been formally decreed, the other members of the arbitral tribunal may continue with the arbitration procedure. Any decision, procedural order or award will be fully valid should the two arbitrators decide to continue with the arbitration procedure.
4. The two arbitrators remaining in office should take into consideration the stage of the arbitration procedure when deciding whether or not to continue with such procedure, the reasons for which the third arbitrator refuses to participate or other relevant aspects.
5. If the two arbitrators decide not to continue with the arbitration procedure unless the third arbitrator participates, the CAM Santiago shall consider the functions of the third arbitrator terminated and appoint a substitute in the terms set down in these Rules.

**Article 15****Substitution of an Arbitrator**

1. When an arbitrator leaves office by virtue of articles 12 or 14 of these Rules or resigns for any other reason or is removed by agreement of the parties or the term of office thereof expires for any other reason, a substitute arbitrator shall be appointed according to these Rules applicable to the appointment of the arbitrator being substituted unless the CAM Santiago decides, at its exclusive discretion, that another procedure would be more appropriate or expeditious.

2. Save agreement of the parties otherwise, when an arbitrator has been substituted, the arbitral tribunal shall determine whether one or more hearings held prior to the relevant substitution must be repeated.
3. A change in the composition of the arbitral tribunal does not invalidate by that mere fact the resolutions rendered by the arbitral tribunal prior to the substitution of an arbitrator.

## COMPETENCE OF THE ARBITRAL TRIBUNAL

### Article 16

#### Incompetence

1. The arbitral tribunal has the authority to decide on its own competence, even regarding the motions of existence or validity of the arbitration agreement. For these purposes:
  - a. An arbitration clause that forms part of a contract will be deemed an agreement independent of the other stipulations in the contract; and,
  - b. The decision of the arbitral tribunal that the contract is null or void does not entail, *ipso jure*, the nullity or invalidity of the arbitration clause.
2. The motion for incompetence of the arbitral tribunal should be entered no later than the moment when the answer of the claim is submitted or, with respect to a counterclaim, the answering statement to that counterclaim. However, the parties will not be unable to enter this motion because they have appointed an arbitrator or participated in the appointment thereof.
3. The motion based on the arbitral tribunal having exceeded its mandate should be entered as soon as the matter in which it allegedly exceeded its mandate arises during the arbitration proceedings.
4. The arbitral tribunal may, in any of the cases mentioned in numbers 2 or 3 of this article, admit a motion for consideration submitted at a later date if it considers the delay to be justified.
5. The arbitral tribunal may decide, as a prior matter, on the motions indicated in numbers 2 and 3 of this article by means of an interlocutory award or in the final award.

**Article 17****Precautionary and Provisional Measures**

1. Save agreement of the parties otherwise, the arbitral tribunal may, at the petition of any of the parties, order cautionary or provisional measures it deems suitable against any of the parties regarding the objective of the litigation.
2. Such measures may be stipulated in a provisional award. The arbitral tribunal may demand a guarantee of the petitioner in order to ensure redress for eventual damages that may be caused to the party affected by the measure that has been granted.
3. The parties may request the competent judicial authority for the adoption of provisional or cautionary measures. The petition by a party to a judicial authority seeking such measures or the enforcement of similar measures ordered by an arbitral tribunal does not breach the arbitration agreement nor may be it interpreted as a waiver of that agreement nor will it affect the powers of the arbitral tribunal in such regard. Any petition or order in this regard shall be communicated by the petitioner to the arbitral tribunal as soon as possible.

**CONDUCT OF ARBITRATION PROCEEDINGS****Article 18****Representation**

1. The parties may be represented or advised during the arbitration procedure by persons of their choice, without any restriction on nationality or professional title.
2. Each party shall give written notification to the arbitral tribunal or other party or parties of:
  - a. The full name and address of the persons who will represent or advise them; and,
  - b. The capacity in which such persons will participate in the arbitration procedure.

**Article 19****Place of Arbitration and Hearings**

1. The parties shall choose the place or location of arbitration. Failing their agreement, the arbitral tribunal shall determine the place of arbitration, taking into account the positions of the parties and the circumstances of the case, including the convenience of the parties.
2. Without prejudice to the provisions in the preceding paragraph, the arbitral tribunal may, save agreement otherwise by the parties, meet, hold hearings, deliberate and conduct inspections of assets or documents in any location(s) it deems appropriate. If the location

chosen by the arbitral tribunal in those terms turns out to be different from the arbitration location, the arbitration procedure shall be deemed, for all pertinent purposes, to have been conducted, and any award rendered, in the arbitration location.

## **Article 20**

### **Language**

1. Save stipulation otherwise by the parties, prior to establishment of the arbitral tribunal, the parties shall use the language or languages of the arbitration agreement for all communications relating to the arbitration.
2. Failing agreement among the parties, the arbitral tribunal shall determine without delay, after its appointment, the language(s) that will be used in the arbitration procedure, taking into consideration the statements of the parties and the language or languages of the arbitration agreement. Said decision shall apply to the statement of claim, answering statement and any other written statement and, if hearings are held, to the language(s) that must be used at such hearings.
3. The arbitral tribunal may order that any documentary proof be submitted together with a translation into the language(s) agreed upon by the parties or determined by the arbitral tribunal.

## **Article 21**

### **Conduct of the Arbitration Procedure**

1. The parties shall be treated equally and have full opportunity to enforce their rights.
2. The arbitral tribunal may, at its discretion, but always subject to these Rules, direct the procedure in the manner it deems appropriate so as to avoid unnecessary delays and expenses and ensure efficient and fair means so as to achieve a final settlement of the dispute.
3. The power of the arbitral tribunal conferred in number 2 above includes the power to determine the admissibility, pertinence and value of evidence, to disregard irrelevant and repetitive evidence, and to encourage the parties to center their evidence and arguments on aspects that support the partial or total settlement of the dispute.
4. The parties agree that they shall at all time act in good faith, in benefit of a fair, efficient and expeditious conduct of the arbitration procedure.
5. The arbitral tribunal may hold preliminary meetings with the parties to:
  - a. Agree upon the procedure to which the arbitration will be subject;
  - b. Set the period of time indicated in these Rules;

- c. Set the dates for hearings; and,
- d. Decide on any aspect established or permitted in these Rules in order to ensure an efficient functioning of the arbitration procedure.

## **Article 22**

### **Statements of Claim, Answer and Counterclaim**

1. Failing agreement of the parties, the claimant should furnish a statement of claim in the period of time set by the arbitral tribunal that contain his full name and address, capacity in which he intervenes, the name and address of his representatives or advisors, a clear description of the events comprising the facts of his claim and the points in dispute and claims of the claimant, indicating the amounts or obligations claimed. The claimant should send a copy of his statement of claim as well as the copies indicated in article 2 number 1 of these Rules to the respondent and to each of the arbitrators. The statement of claim may also be sent together with the request for arbitration discussed in article 5 of these Rules.
2. Failing agreement by the parties, the respondent shall, in the period of time set by the arbitral tribunal, furnish an answering statement containing his full name, address and the capacity in which he intervenes, the name and address of his representatives or advisors, the motions entered against the claim and a clear explanation of the facts and grounds on which they are supported, as well as his comments on the claims by the claimant. The respondent should send a copy of his answering statement as well as the copies indicated in article 2 number 1 of these Rules to the claimant and to each of the arbitrators.
3. In his answering statement, or thereafter, if the arbitral tribunal so authorize it, the respondent may enter a counterclaim against the claimant regarding one or more aspects relating to the same contract or claim. The statement of counterclaim should contain the full name and address of the parties, the facts on which the counterclaim is based, the points in dispute and the claims of the counterclaimant. The counterclaimant should send a copy of his statement of counterclaim as well as the copies indicated in article 2 number 1 of these Rules to the counterclaim respondent and to each of the arbitrators. The counterclaim respondent should comply with the provisions in number 2 above.
4. The parties must annex all documents to their statements that they deem relevant or make reference to documents or evidence that they will submit thereafter.
5. The respondent shall annex a copy of the arbitration agreement or of the contract or document that is the basis for action to his statement of counterclaim.
6. The parties may submit new claims during the course of the arbitration procedure unless the arbitral tribunal considers it inappropriate, given the circumstances.

7. Any new claim submitted by the parties should be foreseen in the framework of the arbitration agreement.
8. The arbitral tribunal may decide immediately on the successive formalities or move directly onto the evidentiary period if the parties have submitted both a claim and answer thereto and counterclaim and answer thereto.

### **Article 23**

#### **Additional Statements**

1. The arbitral tribunal may request or authorize the parties to present additional statements, for which it will set the periods of time to exchange such statements.
2. When it deems appropriate, the arbitral tribunal may extend the period of time set in the terms of number 1 above.

### **Article 24**

#### **Evidence**

1. Each party shall have the burden of proof of the facts on which his actions or defenses are based.
2. The arbitral tribunal may, if it deems appropriate, request that the parties provide a summary of the documents and evidence that they will present in support of the points in dispute on which their statements of claim or response are based.
3. The arbitral tribunal may occasionally request that the parties furnish additional documents, appendices and evidence and may set the date or period of time for delivery thereof.
4. All statements, documents, requests or information provided to the arbitral tribunal by one party should be communicated to the other party. Any expert opinion or document of proof that the arbitral tribunal takes into account in its decision shall also be advised to both parties.

### **Article 25**

#### **Hearings**

1. Save agreement otherwise of the parties, the arbitral tribunal shall decide whether hearings must be held to present evidence or oral arguments and whether the proceedings will develop on the basis of documents or other proof.

2. The parties shall be notified sufficiently in advance:
  - a. Of any meeting of the arbitral tribunal to examine merchandise or other goods or documents; and,
  - b. Any hearing of the arbitral tribunal.
3. The parties shall, in presenting witnesses, notify the arbitral tribunal and the other party in a period set by the arbitral tribunal:
  - a. Of the full names, surnames, addresses, occupation or trade of the witnesses it wishes to present; and,
  - b. The subject on, and language in, which the witnesses will give their testimony.
4. The arbitral tribunal will make the necessary arrangements for the translation of oral statements made at hearings and for the taping of the hearings, all of which will be covered by the parties:
  - a. If the arbitral tribunal deems it necessary according to the circumstances of the case; or,
  - b. If the parties agreed and so petitioned the arbitral tribunal reasonably in advance prior to the hearing.
5. All oral hearings and meetings of the arbitral tribunal will be private, save written agreement otherwise of the parties.

## **Article 26**

### **Witnesses**

1. The arbitral tribunal shall determine the date and time, means and way in which a witness will give his testimony. It may also request that a witness leave the hearing when another witness must give his testimony.
2. Save provision otherwise of the arbitral tribunal, the testimony of a witness should be in the form of a written and signed statement.
3. A party may petition that the witness presented by the other party attend the hearing in order to cross-examine him. If the arbitral tribunal so decides, and the witness does not attend for no good reason, the arbitral tribunal, if it deems it necessary, may consider the written testimony of the witness or disregard it completely, depending on the circumstances of the case.

**Article 27****Contempt**

1. When the claimant does not present his statement of claim within the purview of article 22 number 1 of these Rules or in the period set for such purpose by the arbitral tribunal without citing a justified reason, the arbitral tribunal may conclude the proceedings in relation to that claim.
2. The decision of the arbitral tribunal to conclude the arbitration proceeding in the terms of number 1 above does not affect the pertinence of the counterclaim presented in the same procedure.
3. When the respondent fails to present his answering statement within the purview of Article 22 number 2 of these Rules or in the period set for such purposes by the arbitral tribunal without citing a justified reason, the arbitral tribunal may continue with the proceedings without such failure being considered in and of itself an acceptance of the allegations of the claimant.
4. When one of the parties does not attend a hearing or does not submit documentary proof without citing a justified reason, the arbitral tribunal may continue with the proceedings and render an award based on the evidence available.

**Article 28****Experts**

1. The arbitral tribunal may:
  - a. Appoint one or more experts to report thereto on the concrete matters to be decided by the arbitral tribunal; and,
  - b. Ask any of the parties to provide all pertinent information to the expert or present for inspection thereby, or provide access to, all documents, merchandise or other pertinent goods.
2. The arbitral tribunal shall advise the parties of the scope of the expert's mandate.
3. Any dispute arising among a party and the expert in relation to the materiality, preparation or pertinence of the information required should be referred to the arbitral tribunal for settlement.
4. Upon receiving the expert opinion, the arbitral tribunal shall furnish a copy thereof to each party in order for them to express in writing whatever they deem suitable.



5. At the petition of a party, the expert shall:
  - a. Make available to the petitioner all documents, goods or other materials he possesses that have been provided thereto to prepare his opinion; and,
  - b. Furnish to the petitioner:
    - i. A list of all documents, goods or any material not in his possession but provided thereto to prepare his opinion; and,
    - ii. Information on the location of such documents, goods or materials.
  
6. Save written agreement of the parties otherwise, when a party so requests or the arbitral tribunal considers it necessary, the expert who has prepared an oral or written opinion should participate in a hearing in order for the parties to have the opportunity to:
  - a. Pose questions to the expert; and,
  - b. Present other experts to report on the points in dispute.

## **RENDERING OF THE AWARD AND CONCLUSION OF THE ARBITRATION PROCEDURE**

### **Article 29**

#### **Applicable Law**

1. The arbitral tribunal shall settle the dispute according to the rules of law chosen by the parties to be applicable to the substance of the litigation.
2. All indications of the law or legal system of a certain State shall be understood to refer, save stipulation otherwise, to the substantive law of that State and not its rules on conflict of laws.
3. Failing choice by the parties in the terms of number 1 above, the arbitral tribunal shall apply the rules of law it deems appropriate according to the circumstances of the case.
4. The arbitral tribunal shall decide *ex aequo et bono* or as an *amiable compositeur* only if the parties have so expressly agreed.
5. In any case, the arbitral tribunal shall take into consideration the stipulations in the contract and the pertinent uses in commerce.

**Article 30****Closing of the Proceedings**

1. The arbitral tribunal may declare the closing of the proceedings when:
  - a. The parties have given notice that they have no further proof or arguments to present; or,
  - b. Subject to article 25 number 1 of these Rules, the arbitral tribunal considers that no further hearings are required.
2. After decreeing the closing of the proceedings, no statement, argument or proof shall be admissible unless the arbitral tribunal so authorizes because of exceptional circumstances, either at the request of a party or in its own initiative.

**Article 31****Rendering of the Award and Period for Issuance Thereof**

1. When the arbitral tribunal is comprised of three arbitrators, the decisions thereof shall be adopted by a majority vote of its members. If there is no majority to decide on the dispute, the chairman of the arbitral tribunal shall render the award alone.
2. However, the chairman of the arbitral tribunal may decide on matters of procedure when he has been authorized by the parties or by the members of the tribunal.
3. The arbitral tribunal shall issue its award in the period of six months. Such period shall begin to run on the date of the answering statement of the claim or on the date of the answer to the counterclaim, if any. The period of six months shall begin, if a respondent does not submit an answering statement in the period set by the arbitral tribunal, on the day following expiration of the period to make such submittal. The arbitral tribunal shall act likewise if the respondent of the counterclaim does not submit his answer to the counterclaim.
4. The arbitral tribunal may, in its own initiative, one-time only, extend the period set in number 3 above by grounded resolution.

**Article 32****Award by Agreement of the Parties**

1. If the parties reach an agreement that settles the dispute during the arbitration procedure, the arbitral tribunal shall conclude the proceedings and, upon request by both parties not opposed by the arbitral tribunal, deem the agreement to be an award.

2. An award by agreement of the parties should be rendered in accordance with the provisions in article 33 of these Rules and should contain the statement that it is a settlement agreed upon by the parties considered to be an award.
3. An award by agreement of the parties shall have the same nature and effects as a final award rendered on the substance of the dispute.

### **Article 33**

#### **Form and Content of the Award**

1. In addition to the final award, the arbitral tribunal may render provisional, interlocutory awards and final partial awards.
2. The final award and other resolutions indicated in number 1 above shall be rendered in writing and will be final, not appealable and binding upon the parties. The award shall be signed by the members of the arbitral tribunal.
3. For purposes of number 2 above, the signatures of a majority of the members of the arbitral tribunal shall suffice in arbitration proceedings with more than one arbitrator provided there is a record of the reasons for the absence of the remaining member.
4. The arbitration award shall be reasoned unless the parties have agreed otherwise or it is an award rendered in the terms agreed by the parties pursuant to article 32 above.
5. The award shall state the date that it is rendered and the place of arbitration determined in accordance with article 19 number 1 of these Rules. The award shall be deemed rendered in that location.
6. Once the final award has been issued, the arbitral tribunal shall send the original version of it to the CAM Santiago for its deposit and this latter shall notify to each party the text of the final award signed by the arbitral tribunal, in accordance with article 2 of this Rules, provided always that the expenses and costs of the arbitration have been fully paid by the parties or by one of them. Save written agreement of the parties otherwise, the present provision implies the waive of any other form of communication or deposit of the final award.
7. The arbitration award may order the payment of simple or compounded interest, including interest prior or subsequent to the award, that will be paid once the parties have fulfilled the award. The award should be fulfilled in the currency or currencies that the arbitral tribunal deems appropriate.
8. The award will be confidential unless disclosure thereof is required for a challenge procedure, fulfillment or enforcement of the award, or the law or any judicial authority

requires disclosure thereof or the parties mutually agree to stipulate that it is not confidential. However, the CAM Santiago may publish the awards while protecting the confidentiality of the identity of the parties.

9. The parties are obligated to comply with the award without delay because they have submitted their dispute to these Rules.

#### **Article 34**

##### **Termination of the Procedure**

1. The arbitration proceedings end by the rendering of a final award or decision of the arbitral tribunal in the terms of number 2 below or article 27 number 1 of these Rules.
2. The arbitral tribunal shall decide to terminate its proceedings when:
  - a. The claimant withdraws his claim unless the respondent is opposed and the arbitral tribunal recognizes the interest of the respondent to be legitimate in seeking a final solution to the dispute;
  - b. The parties agree to conclude the arbitration proceedings; or,
  - c. The arbitral tribunal confirms that the continuation of the arbitration proceedings would be unnecessary or impossible.

#### **Article 35**

##### **Correction and Interpretation of the Award and Additional Award**

1. Any of the parties may request, within 30 days following notice of the award to the parties, that the arbitral tribunal:
  - a. Correct any error in calculation, copy, typing or the like in the award; and,
  - b. Interpret a point or concrete part of the award.
2. If the arbitral tribunal considers the petition made in the terms of number 1 above to be appropriate, it will make the correction or render the interpretation within 30 days following receipt of the request. Such an interpretation shall form a part of the award.
3. The arbitral tribunal may in its own initiative correct any of the errors mentioned in number 1 letter a. above within 30 days following the date when the award was rendered.
4. Any of the parties may, within 30 days following notification of the award, petition, with notice to the other party, for the arbitral tribunal to render an additional award in respect of claims made during the arbitration proceedings but omitted in the award.

5. If the arbitral tribunal considers the petition made in the terms of number 4 above to be appropriate, it will render the additional award within 60 days following receipt of the petition.
6. The arbitral tribunal may extend, if necessary, the period to make a correction, render an interpretation or an additional award within the purview of this article.
7. The provisions in article 33 shall apply in relation to corrections or interpretation of the award or additional awards.

The arbitral tribunal shall give notice to the other party of any petition for a correction or interpretation of the award and further award, and such other party may submit his observations to such petition in a period of 15 days after notice thereof.

### **Article 36**

#### **Expenses and Costs**

1. The expenses and costs of the arbitration include:
  - a. The fees of the arbitral tribunal, indicated separately for each arbitrator;
  - b. Traveling or other expenses incurred by the arbitral tribunal, indicated separately for each arbitrator;
  - c. If pertinent, the fees and expenses of an expert appointed by the arbitral tribunal;
  - d. If pertinent, the fees and expenses of the witnesses approved by the arbitral tribunal;
  - e. Other expenses determined by the arbitral tribunal that were reasonably occurred by the winning party and claimed in the arbitration procedure; and,
  - f. The fee or other charges of the CAM Santiago for administrative or other services provided to the arbitral tribunal or to the parties in relation to the arbitration procedure.
2. The arbitral tribunal shall set the expenses and costs of the arbitration in its final award.

### **Article 37**

#### **Distribution of Expenses and Costs**

1. Subject to the stipulations in number 2 below, the expenses and costs of arbitration will be the expense of the losing party unless the arbitral tribunal decides to prorate them among the parties, taking into account the circumstances of the case.
2. The arbitral tribunal shall decide which party should pay the expenses and costs indicated in article 36 number 1 letter e. of these Rules or whether they should be prorated between both, taking into account the circumstances of the case.

**Article 38****Condemnation to Costs**

1. The arbitral tribunal should include the determination of costs when it orders the termination of the arbitration proceedings or deems an agreement of the parties to be an award.
2. If the CAM Santiago considers it reasonable and justified, the arbitral tribunal may request payment of additional fees to cover the correction, interpretation or addition to the award. This payment should be made in its entirety by the parties prior to the arbitral tribunal making such correction, interpretation or addition.
3. Articles 35 and 36 of these Rules shall apply to the payment of fees stipulated in number 2 above.

**Article 39****Deposits**

1. After the arbitral tribunal has been established, the CAM Santiago may request that each of the parties deposit an equal sum for an advance on the costs mentioned in letters a., b., c. and f. of article 36 number 1 of these Rules.
2. The CAM Santiago may occasionally request additional deposits by the parties, depending on the progress in the process.
3. If the requested deposits have not been furnished within 30 days after request by the CAM Santiago, the Center shall advise the parties for one or the other to make the required deposit. If the payment is not made, the CAM Santiago may order the suspension or conclusion of the arbitration procedure.
4. If requested, the CAM Santiago may withhold any deposit required in the terms of this article.
5. The CAM Santiago may pay the fees or expenses incurred by the arbitral tribunal in the arbitration procedure using the deposits withheld in the terms of this article.
6. Once the final award has been rendered, the CAM Santiago will use the deposits furnished by the parties to pay the costs of the arbitration procedure, as ordered in the award.

**Article 40**  
**Fee Schedule**

1. The fees charged by arbitrators working within the framework of CAM Santiago and the administrative fee of this latter shall be subject to the schedules in effect at the time the arbitral proceeding begins.
2. The arbitral tribunal and Center shall have the right to ask the parties to supply the amount of funds they deem pertinent during the course of the arbitration to defray expenses, fees and the administrative fee, based on the corresponding fee schedule and administrative fee.