

ADRIC

ARBITRATION RULES

Effective 1 December 2014

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ADR Institute of Canada, Inc.

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ARBITRATION RULES

EFFECTIVE 1 DECEMBER, 2014

I. MODEL DISPUTE RESOLUTION CLAUSE

Parties who agree to arbitrate under the Rules may use the following clause in their agreement:

All disputes arising out of or in connection with this agreement, or in respect of any legal relationship associated with or derived from this agreement, will be finally resolved by arbitration under the Arbitration Rules of the ADR Institute of Canada, Inc. [or the Simplified Arbitration Rules of the ADR Institute of Canada, Inc.] The Seat of Arbitration will be [specify]. The language of the arbitration will be [specify].

II. TYPES OF DISPUTES TO WHICH THE RULES APPLY

Although the Rules were drafted to assist in resolving domestic commercial disputes, parties may want to apply them to international or non-commercial disputes.*

Parties should examine the Rules to ensure that their provisions are appropriate and conform with the legislation that applies in respect of the arbitration. With certain exceptions specified in Rule 1.3.5, the Rules may be varied or excluded if the parties agree.

*In Québec, Article 2639 of the *Civil Code of Québec*, L.R.Q., c. C-1991, provides that disputes over the status and capacity of persons, family matters, or other matters of public order may not be submitted to arbitration.

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ADR INSTITUTE OF CANADA, INC.

ARBITRATION RULES

1. INTRODUCTION

1.1 PURPOSE OF THE RULES

The Rules' purpose is to enable parties involved in a dispute to reach a just, speedy, and cost-effective determination of it, taking into account the values that distinguish arbitration from litigation.

1.2 INTERPRETATION

In the Rules:

Arbitration Costs means the costs and expenses of the arbitration, including the Tribunal's fees and expenses.

Arbitrator means a person appointed under the Rules to serve as an arbitrator of a dispute, including a substitute Arbitrator appointed under Rule 3.5 and an Interim Arbitrator appointed under Rule 3.7.

Case Service Fee means the fee paid under Rule 4.10.4(c).

Chair means the person elected or appointed to chair the Tribunal.

Commencement Fee means the fee paid under Rule 2.1.1(c).

Confidential Information includes the existence of an arbitration and the meetings, communications, Documents, evidence, awards, rulings, orders, and decisions of the Tribunal in respect of the arbitration.

Counterclaim means the Counterclaim referred to in Rule 4.10.

Document has an extended meaning and includes a photograph, film, sound recording, permanent or semi-permanent record, and information recorded or stored by any device, including electronic data.

Institute means the ADR Institute of Canada, Inc.

Interim Arbitrator means an Arbitrator appointed under Rule 3.7.

Notice of Request to Arbitrate means the Notice of Request to Arbitrate delivered under Rule 2.1.1.

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Notice of Submission to Arbitration means the Notice of Submission to Arbitration delivered under Rule 2.2.1.

Request to Produce means a written request referred to in Rule 4.13 by one party that another party produce Documents.

Seat of Arbitration means the legal *situs* of the arbitration whose laws govern the conduct of the arbitration, regardless of the location(s) of the arbitration hearings and meetings.

Rules means these Rules as amended by the Institute from time to time.

Statement of Claim means the Statement of Claim referred to in Rule 4.10.

Statement of Defence means the Statement of Defence referred to in Rule 4.10.

Statement of Defence to Counterclaim means the Statement of Defence to Counterclaim referred to in Rule 4.10.

Tribunal means either a sole Arbitrator or a panel of Arbitrators, as the case may be, appointed under the Rules to serve as arbitrator or arbitrators.

UNCITRAL Arbitration Rules means the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules as revised in 2010, General Assembly resolution 65/22, A/RES/65/22.

Urgent Interim Measures means interim or conservatory measures sought under Rule 3.7.

1.3 WHEN THE RULES APPLY

1.3.1 The Rules apply if the parties agree the Rules apply.

1.3.2 If an arbitration to which the Rules apply is international under the law of the Seat of Arbitration, unless the parties agree otherwise the arbitration is governed by the UNCITRAL Arbitration Rules. To the extent that the UNCITRAL Arbitration Rules conflict with any provision of the Rules, the UNCITRAL Arbitration Rules apply.

1.3.3 The Institute may amend the Rules. Unless the parties agree otherwise, the version of the Rules that applies in an arbitration is the version in effect on the date the Notice of Request to Arbitrate or the Notice of Submission to Arbitration is delivered to the first respondent to receive delivery of it.

- 1.3.4 If there is a conflict between the Rules and legislation that applies in respect of an arbitration, the Rules apply except to the extent that they conflict with any legislative provision that cannot be varied or excluded by agreement.¹
- 1.3.5 The parties may agree in writing to vary or exclude any of the Rules except:
- 1.3 (When the Rules apply);
 - 1.5.2 (Fees);
 - 2.3 (Commencement date);
 - 2.4 (Irregularities and waiver of right to object);
 - 3.3.2 (Impartiality);
 - 4.7.2 (Fairness in conduct of arbitration);
 - 6.1 (Immunity); and
 - Schedule B (Fees).
- 1.3.6 These Rules apply if an arbitration agreement or submission to arbitration refers to the arbitration rules of:
- the Institute;
 - the Canadian Foundation for Dispute Resolution, Inc.;
 - The Arbitrators Institute of Canada;
 - The Arbitration and Mediation Institute of Canada;
 - The Canadian Arbitration Association; or
 - any regional affiliate of the Institute or its predecessor.

1.4 TIME

- 1.4.1 If the Rules require a party to act on or by a date that is a statutory holiday, the date is extended to the next day that is not a statutory holiday. This extension applies to statutory holidays in the jurisdiction where the party must perform the action.
- 1.4.2 If the Rules require a party to act but no time limit is set, the party must act:
- (a) within the time the parties agree to; or
 - (b) if there is no agreed time, within the time the Tribunal sets.

¹ In Québec, this rule is subject to Article 940 of the *Code of Civil Procedure*, R.S.Q., c. C-25, if it applies.

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1.4.3 When calculating time under the Rules, the first day is excluded and the last day is included.

1.4.4 The parties may agree to modify any period of time the Rules prescribe.

1.5 INSTITUTE ADMINISTERS THE ARBITRATION

1.5.1 Unless the parties agree otherwise, the Institute must administer an arbitration to which the Rules apply. It must do so as set out in Schedule A.

1.5.2 The Institute sets fees for its administering services and may change the fees from time to time. The fees in effect when the Institute provides the service apply. The current fees are set out in Schedule B. The fees are payable at the time set out in Schedule B.

2. HOW TO COMMENCE AN ARBITRATION

2.1 ARBITRATION UNDER AGREEMENT

2.1.1 If an arbitration clause or arbitration agreement requires or permits arbitration of a dispute, a party, as claimant, may submit that dispute to arbitration by:

- (a) delivering a written Notice of Request to Arbitrate to each respondent at:
 - (i) the address specified by that respondent under the agreement; or
 - (ii) if no address was specified, the last known mailing address or place of business of that respondent;
- (b) delivering a copy of the Notice of Request to Arbitrate to the Institute; and
- (c) if the Institute is administering the arbitration, paying the Institute a Commencement Fee as set out in Schedule B.

2.1.2 A Notice of Request to Arbitrate must contain:

- (a) the name, place of business (if any), and mailing address, telephone number, fax number, and email address of each party to the dispute if known;
- (b) an address, fax number (if any), and email address (if any) for delivery of Documents to the claimant;
- (c) a brief description of the matters in dispute or a Statement of Claim;
- (d) a request to arbitrate the dispute;

- (e) an estimate of the amount claimed or, if that is not available, of the value of what is in issue in the dispute. If the claimant cannot estimate this value, it must explain the reason;
- (f) a statement of what remedy the claimant is seeking;
- (g) a statement of whether the Tribunal is to be made up of one or more Arbitrators, if the parties have agreed;
- (h) the name of any agreed Arbitrator;
- (i) any agreed qualifications of the Arbitrator(s);
- (j) the proposed language of the arbitration; and
- (k) a statement of any variations or exclusions of the Rules to which the parties have agreed in writing.

2.1.3 A Notice of Request to Arbitrate must append:

- (a) a copy of the arbitration clause or agreement between the parties; and
- (b) a copy of the contract(s) (if any) related to the dispute.

2.2 ARBITRATION BY SUBMISSION

2.2.1 Parties to a dispute may submit the dispute to arbitration by:

- (a) delivering a Notice of Submission to Arbitration to the Institute; and
- (b) if the Institute is administering the arbitration, paying the Institute a Commencement Fee as set out in Schedule B.

2.2.2 Parties to the dispute must sign the Notice of Submission to Arbitration. The notice must contain the information listed in Rule 2.1.2 and append a copy of the contract(s) (if any) related to the dispute.

2.3 COMMENCEMENT DATE

An arbitration is commenced against a respondent on the date that either the Notice of Request to Arbitrate or the Notice of Submission to Arbitration is delivered to that respondent.

2.4 IRREGULARITIES AND WAIVER OF RIGHT TO OBJECT

- 2.4.1 A failure to comply with the Rules is an irregularity and does not nullify an arbitration or a step, Document, award, ruling, order, or decision in the arbitration.²
- 2.4.2 Subject to Rule 3.4, a party that knows that a provision or requirement under the Rules was not followed but does not object promptly waives its right to object unless the Tribunal orders otherwise.

3. ARBITRAL TRIBUNAL

3.1 APPOINTMENT OF ARBITRATOR(S) BY PARTIES³

- 3.1.1 A dispute must be determined by a Tribunal made up of a single Arbitrator unless the parties agree otherwise:
- (a) in the arbitration agreement; or
 - (b) within 10 days after delivery of the Notice of Request to Arbitrate or a Notice of Submission to Arbitration to the last respondent to whom it must be delivered.
- 3.1.2 At any time, a party may ask the Institute to deliver to all parties a list of at least three individuals from which the parties may agree to select an Arbitrator.
- 3.1.3 A party may ask the Institute to make the required appointment if:
- (a) the Tribunal is to be made up of a single Arbitrator; and
 - (b) the parties cannot agree on the single Arbitrator within 21 days after delivery of the Notice of Request to Arbitrate or a Notice of Submission to Arbitration to the last respondent to whom it must be delivered.
- 3.1.4 If the parties have agreed to appoint a Tribunal made up of three Arbitrators:
- (a) if there are only two parties to the dispute:
 - (i) each party appoints one Arbitrator; and
 - (ii) the first two Arbitrators jointly appoint the third Arbitrator, who acts as Chair;
 - (b) if there are more than two parties to the dispute:

² In Québec, Article 946.4 of the *Code of Civil Procedure*, R.S.Q., c. C-25, establishes the exclusive grounds upon which courts may refuse to homologate an arbitration award.

³ A sample engagement agreement is available on the Institute's website.

- (i) the parties may agree on the first and second Arbitrators; and
 - (ii) the first and second Arbitrators jointly appoint the third Arbitrator, who acts as Chair;
- (c) a party may ask the Institute to appoint one or more Arbitrators:
- (i) if the parties have not appointed an Arbitrator or Arbitrators under Rule 3.1.4 within the time the parties agree to or, if there is no agreed time, within 21 days after delivery of the Notice of Request to Arbitrate or a Notice of Submission to Arbitration to the last respondent to whom it must be delivered; or
 - (ii) if the parties or the Arbitrators cannot agree on a third Arbitrator within the time the parties agree to or, if there is no agreed time, within 21 days after the appointment of the second Arbitrator.

3.2 APPOINTMENT OF ARBITRATOR(S) BY THE INSTITUTE

3.2.1 If the Institute is asked to appoint an Arbitrator, the following procedure applies:

- (a) the Institute must deliver identical lists of names to the parties;
- (b) the list must contain at least three names, unless the parties agree otherwise or the Institute determines otherwise;
- (c) within 10 days following delivery of the list, each party must deliver it back to the Institute after:
 - (i) deleting any name(s) to which the party objects; and
 - (ii) numbering the remaining names on the list in descending order of preference, where 1 is the party's first choice;
- (d) if a party does not tell the Institute that it objects to any of the listed names within 10 days, the party is deemed not to object to those names;
- (e) after all lists are delivered back or else after 10 days, the Institute must appoint an Arbitrator from among the names that remain on all lists delivered back to it; and
- (f) the Institute may deliver to the parties one more list of names, and the procedure set out in Rules 3.2.1(a) to 3.2.1(e) applies to that new list.

3.2.2 In appointing an Arbitrator, the Institute must consider:

- (a) the parties' orders of preference;
- (b) the parties' requested qualifications;
- (c) the nature and circumstances of the dispute; and
- (d) anything else the Institute considers relevant to appointing a qualified, independent, and impartial Arbitrator.

3.2.3 If no names remain on all lists delivered back to the Institute after two lists of names have been delivered, the Institute must appoint an Arbitrator to whom none of the parties has objected.

3.3 ARBITRATOR INDEPENDENCE AND IMPARTIALITY

3.3.1 Unless the parties agree otherwise, an Arbitrator must be and remain wholly independent.

3.3.2 An Arbitrator must be and remain wholly impartial and must not act as an advocate for any party to the arbitration.

3.3.3 Before accepting an appointment as Arbitrator, each proposed Arbitrator must sign and deliver to the parties a statement declaring that he or she:

- (a) knows of no circumstances likely to give rise to justifiable doubts as to his or her independence or impartiality; and
- (b) will disclose to the parties any such circumstance that arises after accepting the appointment and before the arbitration concludes under Rule 5.5.1.

3.3.4 Arbitrators cannot be disqualified or challenged because they or another Arbitrator, counsel, party, or representative of a party are (or were) a member, officer, or director of the Institute.

3.4 NO WAIVER OF RIGHT TO OBJECT

A party's involvement in appointing an Arbitrator does not prevent it from raising a jurisdictional issue.

3.5 SUBSTITUTING AN ARBITRATOR

3.5.1 The Institute may declare an Arbitrator's office vacant if it has satisfactory evidence that an Arbitrator:

- (a) refuses to act;
- (b) is incapable of acting;

- (c) withdraws;
- (d) is removed by court order;
- (e) is successfully challenged under Rule 3.6; or
- (f) has died.

3.5.2 A substitute Arbitrator must be appointed if an Arbitrator's office is declared vacant under Rule 3.5.1. The substitute must be appointed under the same Rules or parties' agreement that applied to the appointment of the Arbitrator being replaced.

3.5.3 Unless the parties agree otherwise:

- (a) if a Chair or single Arbitrator is substituted, hearings previously held must be repeated; and
- (b) if any other Arbitrator is substituted, hearings previously held may be repeated at the discretion of the Arbitrators after giving the parties an opportunity to be heard.

3.6 CHALLENGING AN ARBITRATOR

3.6.1 A party may challenge an Arbitrator if:

- (a) circumstances give rise to justifiable doubts about the Arbitrator's independence or impartiality; or
- (b) the Arbitrator does not have the agreed qualifications.

3.6.2 A party may not challenge an Arbitrator more than seven days after becoming aware of the appointment or of any grounds referred to in Rule 3.6.1. To challenge an Arbitrator, a party must deliver a written statement of the challenge and the reasons for the challenge to the Tribunal, if it has been fully constituted, and to the Institute.

3.6.3 If a challenged Arbitrator does not withdraw and all other parties do not agree to the challenge:

- (a) in the case of a Tribunal made up of a single Arbitrator, the Arbitrator decides the challenge;
- (b) in the case of a Tribunal made up of more than one Arbitrator and the Chair is not challenged, the Chair decides the challenge (or, if no Chair has been elected or appointed, an Interim Arbitrator appointed under Rule 3.7 decides the challenge); and

- (c) in the case of a Tribunal made up of more than one Arbitrator and the Chair is challenged, all of the Arbitrators (including the Chair) decide the challenge (or, if the Tribunal is not fully constituted, an Interim Arbitrator appointed under Rule 3.7 decides the challenge).

3.6.4 The office of a challenged Arbitrator becomes vacant if:

- (a) the Arbitrator withdraws;
- (b) all other parties agree to the challenge; or
- (c) the challenge is decided and upheld.

3.7 INTERIM ARBITRATOR

3.7.1 A party may apply to the Institute for Urgent Interim Measures:

- (a) before the Tribunal's appointment; or
- (b) if there is a challenge to an Arbitrator

even if the party already delivered its Notice of Request to Arbitrate or the Notice of Submission to Arbitration.

3.7.2 An Urgent Interim Measures application must contain:

- (a) the full name, description, address, and other contact details of each party;
- (b) the full name, address, and other contact details of anyone representing the applicant;
- (c) a description of:
 - (i) the circumstances that led to the Urgent Interim Measures application; and
 - (ii) the underlying dispute;
- (d) a statement of the Urgent Interim Measures the party seeks;
- (e) a statement of the reasons the applicant needs Urgent Interim Measures that cannot wait for the constitution of the Tribunal;
- (f) a copy of any relevant agreement(s) and, in particular, the arbitration agreement;

- (g) any agreement about the location(s) of the arbitration hearings and meetings, the rules of law that apply, or the language of the arbitration;
 - (h) proof of payment of the Urgent Interim Measures application fee as set out in Schedule C; and
 - (i) copies of any Notice of Request to Arbitrate, Notice of Submission to Arbitration, and any other submissions related to the dispute that have been delivered to the Institute by any of the parties before the Urgent Interim Measures application.
- 3.7.3 An Urgent Interim Measures application may be made without notice, in which case the application must also:
- (a) set out why the applicant has applied without notice; and
 - (b) contain a full and frank disclosure of all relevant facts.
- 3.7.4 The Institute must appoint an Interim Arbitrator to hear the Urgent Interim Measures application as soon as possible, normally within two days of receiving the application.
- 3.7.5 An Interim Arbitrator may be appointed even if the Tribunal's jurisdiction is disputed.
- 3.7.6 A challenge to the Interim Arbitrator's appointment must be made within 24 hours of:
- (a) the Institute communicating the identity of the Interim Arbitrator; or
 - (b) delivery of the Interim Arbitrator's statement under Rule 3.3.3,
- whichever is later.
- 3.7.7 After the Institute appoints the Interim Arbitrator:
- (a) the Institute must notify the parties and deliver the Urgent Interim Measures application to the Interim Arbitrator;
 - (b) the parties must deliver all written communications directly to the Interim Arbitrator, with a copy to all other parties and the Institute; and
 - (c) the Interim Arbitrator must deliver a copy to the Institute of any written communication he or she delivers to the parties.
- 3.7.8 The Interim Arbitrator must establish a procedure for the Urgent Interim Measures application as soon as possible, normally within two days after receiving the application.
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- 3.7.9 The Interim Arbitrator must conduct the proceedings in a manner that he or she considers appropriate, taking into account Rule 1.1 and the nature and urgency of the application.
- 3.7.10 The Interim Arbitrator has full discretion to grant the interim relief⁴ he or she considers appropriate and may consider (without limitation):
- (a) the need for the Urgent Interim Measures;
 - (b) the urgency of the matter; and
 - (c) the parties' situations if the Urgent Interim Measures are or are not granted.
- 3.7.11 The Interim Arbitrator may grant interim relief until a decision on the Urgent Interim Measures application is made.
- 3.7.12 The Interim Arbitrator's decision on an Urgent Interim Measures application must:
- (a) be in the form of an order;
 - (b) be in writing;
 - (c) state the reasons on which it is based;
 - (d) be dated and signed by the Interim Arbitrator; and
 - (e) be made within 15 days from the date the file was received by the Interim Arbitrator, unless the parties agree otherwise or the Interim Arbitrator orders otherwise.
- 3.7.13 The Institute must end the Interim Arbitrator proceedings if the Institute does not receive a Notice of Request to Arbitrate or a Notice of Submission to Arbitration from the applicant within 10 days of the Institute receiving the Urgent Interim Measures application, unless the Interim Arbitrator determines that more time is necessary.
- 3.7.14 The parties must comply with any order the Interim Arbitrator makes.
- 3.7.15 If the Urgent Interim Measures application was made without notice, the Interim Arbitrator may:
- (a) grant relief on a without notice basis, in which case:

⁴ In Québec, section 751 of the *Code of Civil Procedure*, R.S.Q., c. C-25, restricts injunctive relief to the exclusive jurisdiction of the Superior Court. As a result, arbitrators in Québec do not have the power to grant injunctive relief.

- (i) the Interim Arbitrator must give all other parties an opportunity to be heard as soon as practicable; and
 - (ii) the order made without notice remains valid only until the Interim Arbitrator renders a decision on notice to all parties; or
 - (b) without giving reasons, may refuse to grant relief on a without notice basis.
- 3.7.16 An Interim Arbitrator's order does not bind the Tribunal with respect to the question, issue, or dispute determined in the order.
- 3.7.17 The Interim Arbitrator or the Tribunal may modify, terminate, or annul an order, or any modification of it, made by the Interim Arbitrator.
- 3.7.18 The Tribunal must decide on any party's requests or claims related to the Urgent Interim Measures application, including reallocating the costs of an application and claims related to compliance or non-compliance with an order.
- 3.7.19 Rule 3.7 applies only to parties who are signatories to the arbitration agreement and their successors.
- 3.7.20 Rule 3.7 does not apply if the parties to the arbitration agreement have agreed to another procedure that provides for conservatory, interim, or similar measures.
- 3.7.21 Nothing in Rule 3.7 prevents a party from seeking interim measures from a court before or after applying for Urgent Interim Measures. An application to a court for interim measures is not considered an infringement or waiver of the arbitration agreement. A party that applies to court for interim measures must notify the Institute without delay of the application and of any court order.

4. PROCEEDINGS BEFORE ARBITRAL TRIBUNAL

4.1 LOCATION OF ARBITRAL HEARINGS AND MEETINGS

- 4.1.1 Unless the parties agree otherwise in writing, and regardless of the Seat of Arbitration, the arbitration hearings and meetings may be held at any location(s) the Tribunal considers convenient or necessary.
- 4.1.2 Part or all of the arbitration hearings may be conducted by telephone, email, the Internet, videoconferencing, or other communication methods, if the parties agree or the Tribunal directs.

4.2 LANGUAGE OF ARBITRATION

The parties may agree in writing on the language of the arbitration. If they do not, the Tribunal may specify the language of the arbitration.

4.3 ADDING PARTIES TO AN ARBITRATION

- 4.3.1 A party may be added to an arbitration, even if the Tribunal has been appointed, if the existing parties and the new party all consent.
- 4.3.2 A party added under Rule 4.3.1 is bound by the arbitration agreement or submission and all of the Tribunal's awards, rulings, orders, and decisions.

4.4 DELIVERY OF DOCUMENTS

- 4.4.1 Documents required by the Rules and communications relating to the arbitration may be delivered:
- (a) to a party by:
 - (i) personal delivery;
 - (ii) a method of delivery that provides proof of delivery; or
 - (iii) any email address or fax number given in that party's address for delivery; and
 - (b) to the Institute by:
 - (i) a method of delivery that provides proof of delivery to the address of the Institute's national office shown at www.adrcanada.ca; or
 - (ii) email to arb-admin@adrcanada.ca or by fax to the fax number of the Institute's national office shown at www.adrcanada.ca.
- 4.4.2 Delivery of Documents occurs as follows:

DELIVERY METHOD	TIME OF DELIVERY
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Personal delivery	When the party receives the Documents.
Method of delivery that provides proof of delivery	When the Documents arrive at the party's address for delivery.
Email	<ul style="list-style-type: none">• When the email with the Document enters an information system outside the sender's control; or• If the sender and intended recipient use the same information system, when it is possible for the intended recipient to retrieve and process the email with the

Documents,

unless the intended recipient proves the Documents were not delivered.

Fax When the Documents are faxed, unless the intended recipient proves the Documents were not delivered.

4.4.3 Received documents that cannot be opened or read are deemed not to have been delivered. Recipients are deemed to be able to open and read received Documents unless the recipient notifies the sender otherwise within three days of receipt, unless the Tribunal orders otherwise.

4.5 COMMUNICATIONS WITH THE TRIBUNAL

4.5.1 Except as Rule 3.7 allows, no party and no representative of a party may communicate with the Tribunal in the absence of any other party concerning the substance of the dispute or any contentious matter relating to the proceeding.

4.5.2 A copy of any communication between the Tribunal and the parties or their representatives must be delivered to the Institute (if it is administering the arbitration).

4.6 PRELIMINARY MEETING

4.6.1 Within 14 days of its appointment, the Tribunal must schedule a preliminary meeting with the parties as soon as practicable.

4.6.2 At the preliminary meeting the parties may:

- (a) identify the issues in dispute;
- (b) set the procedure for the arbitration;⁵ and
- (c) set time periods for taking steps to deal with matters that assist the parties either to:
 - (i) settle their differences; or
 - (ii) enable the arbitration to proceed efficiently and quickly.

4.6.3 The Tribunal must record any agreements or orders made at the preliminary meeting and must, within 7 days of that meeting, deliver a written record of these agreements or orders to each of the parties and the Institute (if it is administering the arbitration).

⁵ On its website the Institute publishes a checklist of matters that the parties and Tribunal may want to consider at the preliminary meeting.

4.7 CONDUCT OF THE ARBITRATION

- 4.7.1 Subject to the Rules, the Tribunal may conduct the arbitration in the manner it considers appropriate.
- 4.7.2 The Tribunal must treat each party fairly and give each party a fair opportunity to present its case.
- 4.7.3 The Tribunal must strive to achieve a just, speedy, and cost-effective determination of every proceeding on its merits, taking into account Rule 1.1.
- 4.7.4 Arbitration proceedings must not be transcribed by a court reporter or recorded in any manner by a party unless the party complies with Rule 4.7.5.
- 4.7.5 A party may arrange for arbitration proceedings to be transcribed by a court reporter or recorded if the party:
- (a) pays for the cost of transcription or recording; and
 - (b) notifies all other parties and the Tribunal at least five days before commencement of the hearing or meeting.

If a party arranges for a transcript or recording under this rule, every other party and the Tribunal is entitled to obtain a copy of the transcript or recording upon payment of the costs of the copy.

4.8 JURISDICTION

- 4.8.1 The Tribunal may rule on its own jurisdiction, including ruling on any objections about the existence or validity of the arbitration agreement, and for that purpose:
- (a) an arbitration clause that forms part of a contract must be treated as an agreement independent of the other terms of the contract; and
 - (b) a Tribunal's decision that the contract containing the arbitration clause is null and void does not invalidate the arbitration clause unless the Tribunal specifically finds that it does.

4.9 GENERAL POWERS OF THE TRIBUNAL

- 4.9.1 Unless the parties agree otherwise, the Tribunal must adopt procedures it considers will best fulfil Rule 1.1, including:
- (a) order an adjournment of the proceedings from time to time;
 - (b) order inspection of Documents, exhibits, or other property;

- (c) order the recording or transcription (or both) of all or part of oral hearings;
- (d) extend or abridge:
 - (i) a period of time that the Tribunal already fixed or determined; or
 - (ii) any period of time set out in the Rules, other than the 60-day period of time set out in Rule 5.1.3 for the Tribunal to make all final awards;
- (e) empower a Tribunal member to hear motions and make procedural orders, including settling matters at the preliminary hearing, that do not deal with the substance of the dispute;
- (f) request further statements clarifying issues in dispute;
- (g) give direction on procedural matters; and
- (h) request court assistance in taking evidence.

4.10 EXCHANGING STATEMENTS

4.10.1 Unless the Tribunal orders otherwise, within 14 days after delivery of the Notice of Request to Arbitrate or the Notice of Submission to Arbitration to a respondent, the claimant must deliver:

- (a) a Statement of Claim to that respondent, the Tribunal, and the Institute (if it is administering the arbitration); and
- (b) a list and electronic copies of all Documents referred to in the Statement of Claim to that respondent and the Institute (if it is administering the arbitration).

4.10.2 If a Tribunal is not appointed within the 14 days set out in Rule 4.10.1, the claimant must deliver a copy of the Statement of Claim to the Tribunal as soon as it is appointed.

4.10.3 A Statement of Claim must set out:

- (a) the material facts supporting the claim;
- (b) the grounds, including applicable law, that support the claim;
- (c) the points in issue; and
- (d) the relief or remedy the claimant is seeking.

4.10.4 Within 14 days after a respondent receives the Statement of Claim, that respondent must:

- (a) deliver a Statement of Defence and any Counterclaim to the claimant, the Tribunal, and the Institute (if it is administering the arbitration);
- (b) deliver a list and electronic copies of all Documents referred to in the Statement of Defence and any Counterclaim to that claimant and the Institute (if it is administering the arbitration); and
- (c) if the Institute is administering the arbitration, pay the Institute a Case Service Fee in accordance with Schedule B.

4.10.5 A Statement of Defence and any Counterclaim must set out:

- (a) the material facts supporting the defence or counterclaim;
- (b) the grounds, including applicable law, that support the defence or counterclaim;
- (c) the points in issue;
- (d) the relief or remedy the respondent is seeking; and
- (e) the respondent's address, fax number (if any), and email address (if any) for delivery of Documents.

4.10.6 The claimant must deliver to the Tribunal and the Institute (if it is administering the arbitration) its Statement of Defence to Counterclaim within 14 days after receiving the Counterclaim.

4.10.7 A Statement of Defence to Counterclaim must set out:

- (a) the material facts supporting the defence;
- (b) the grounds, including applicable law, that support the defence;
- (c) the points in issue; and
- (d) the relief or remedy the claimant is seeking.

4.10.8 If a respondent fails to deliver a Statement of Defence, or a claimant fails to deliver a Statement of Defence to Counterclaim, that party is deemed to deny the allegations in the Statement of Claim or Counterclaim.

4.11 CHANGING ADDRESS FOR DELIVERY

A party may change its address for delivery of Documents by delivering a notice to all other parties and the Institute (if it is administering the arbitration). The notice must provide the party's new address, fax number (if any), and email address (if any) for delivery of Documents.

4.12 AMENDING STATEMENTS

The Tribunal may allow a party to amend or supplement its Statement of Claim, Statement of Defence, Counterclaim, or Statement of Defence to Counterclaim during the arbitration, unless the Tribunal finds:

- (a) the delay caused by amending or supplementing the claim is prejudicial to a party; or
- (b) the amendment or supplement goes beyond the terms of the Notice of Request to Arbitrate or the Notice of Submission to Arbitration.

4.13 PRODUCING DOCUMENTS

4.13.1 Unless the Tribunal orders otherwise, within 14 days after delivery of the Statement of Defence or the Statement of Defence to Counterclaim (whichever is later), a party must deliver to the other parties a list of all Documents available to it on which it relies, including publicly available Documents.

4.13.2 On request, a party must deliver electronic copies of any Documents it lists under Rule 4.13.1.

4.13.3 A party may deliver to any other party a Request to Produce.

4.13.4 A Request to Produce must:

- (a) contain a description:
 - (i) identifying each requested Document; or
 - (ii) giving sufficient detail (including subject matter) of a narrow and specific requested category of Documents that a party reasonably believes to exist. In the case of electronic Documents, the requesting party must identify specific files, search terms, individuals, or other means of searching for the Documents efficiently and economically;
- (b) explain how the Documents are relevant to the case and material to its outcome;
- (c) state that the Documents are not in the possession, custody, or control of the requesting party or state why it would be unreasonably burdensome for the requesting party to produce the Documents; and
- (d) state why the requesting party assumes the Documents are in the possession, custody, or control of another party.

4.13.5 The party to whom a Request to Produce is delivered must produce all the requested Documents in its possession, custody, or control that it does not object to producing. The party must deliver the Documents to the other parties and, if the Tribunal orders, to the Tribunal.

4.13.6 If the party to whom the Request to Produce is delivered objects to producing some or all of the requested Documents, it must state its objection in writing to the Tribunal and the other parties. The reasons for objection must be one or more of the following:

- (a) lack of sufficient relevance to the case or materiality to its outcome;
- (b) legal impediment or privilege under the legal or ethical rules the Tribunal determines apply;
- (c) unreasonable burden to produce the requested Documents;
- (d) loss or destruction of Document(s);
- (e) commercial or technical confidentiality;
- (f) special political or institutional sensitivity (including Documents that have been classified as secret by a government or a public international institution);
- (g) considerations of procedural economy, proportionality, fairness, or equality of the parties; or
- (h) not satisfying a requirement of Rule 4.13.4.

4.13.7 A party may ask the Tribunal to rule on an objection. The Tribunal must, in consultation with the parties, consider the Request to Produce and the objection. The Tribunal may order the party to whom the Request to Produce was delivered to produce Documents in its possession, custody, or control if the Tribunal determines:

- (a) the issues the requesting party wants to prove are relevant to the case and material to its outcome;
- (b) none of the reasons for objection under Rule 4.13.6 applies; and
- (c) the Request to Produce satisfies the requirements of Rule 4.13.4.

Documents that the Tribunal orders to be produced must be delivered to the other parties and to the Tribunal, if the Tribunal orders it.

4.13.8 If an objection can be determined only by reviewing a Document, in exceptional circumstances the Tribunal may decide that it should not review the Document. In that

event, the Tribunal may, after consulting with the parties, appoint an independent and impartial expert, bound to confidentiality, to review the Document and report to the Tribunal on the objection. If the Tribunal upholds the objection, the expert must not disclose to the Tribunal and to the other parties the contents of the reviewed Document.

4.13.9 If a party wants to obtain Documents from a person or organization that is not a party to the arbitration and from whom the party cannot obtain the Documents on its own, the party may:

- ask the Tribunal to take whatever steps are legally available to obtain the requested Documents; or
- seek leave from the Tribunal to take the steps itself.

The party must deliver its request to the Tribunal and to the other parties in writing, and must satisfy the applicable requirements of Rule 4.13.4.

The Tribunal must decide on the request and take, authorize the requesting party to take, or order another party to take steps the Tribunal considers appropriate if it determines that:

- (a) the Documents are relevant to the case and material to its outcome;
- (b) the applicable requirements of Rule 4.13.4 have been satisfied; and
- (c) none of the reasons for objection set out in Rule 4.13.6 applies.

4.13.10 At any time before the arbitration concludes under Rule 5.5.1, the Tribunal may:

- (a) require any party to produce Documents;
- (b) request that any party use all reasonable efforts to take steps the Tribunal considers appropriate to obtain Documents from a person or organization; or
- (c) on notice to the parties take steps itself that it considers appropriate to obtain Documents from a person or organization.

A party that is required to produce Documents under this rule may object for any of the reasons set out in Rule 4.13.6, and the applicable parts of Rules 4.13.5 to 4.13.8 apply.

4.13.11 The parties must deliver to all other parties additional Documents they intend to rely on or that they believe have become relevant to the case and material to its outcome.

4.13.12 When the parties produce Documents or introduce them into evidence, the following applies:

- (a) copies of Documents must match the originals and, if the Tribunal requests, a party must present originals for inspection;
- (b) electronic Documents must be produced or introduced in their most convenient or economical form; and
- (c) a party need not deliver multiple copies of Documents that are essentially identical unless the Tribunal orders otherwise.

4.13.13 If the arbitration is organized into separate issues or phases, the Tribunal may, after consultation with the parties, require a separate Document production process for each issue or phase.

4.14 PRE-HEARING EXAMINATIONS AND WRITTEN QUESTIONS

4.14.1 A party has no right to pre-hearing oral examination unless:

- (a) the party applies to the Tribunal for an order otherwise;
- (b) the Tribunal considers the examination necessary for the party to have a fair opportunity to present its case; and
- (c) the Tribunal orders a party or a representative of a party to be examined orally on issues the Tribunal orders, taking into account Rule 1.1.

4.14.2 The Tribunal may order a party or a representative of a party to respond to written questions on issues the Tribunal orders, taking into account Rule 1.1, by a written statement or declaration affirmed or sworn for its truth.

4.14.3 The Tribunal must, at the time of making an order under this rule, determine the use that may be made of the evidence taken on the examination or in response.

4.15 AGREED STATEMENT OF FACTS

Unless the Tribunal orders otherwise, the parties must identify facts they do not dispute and deliver an agreed statement of facts to the Tribunal.

4.16 REPRESENTATION

4.16.1 If a party intends to be represented at any hearing or meeting, that party must immediately notify, in writing, every other party and the Institute (if it is administering the arbitration). The party must give the representative's name, address, telephone number, fax number, and email address and indicate the representative's role.

4.16.2 If a party has given notice under Rule 4.16.1 and intends to change representation at any scheduled hearing or meeting, that party must immediately issue a further notice in accordance with Rule 4.16.1.

4.17 INTERIM HEARINGS

The Tribunal must set the dates for interim hearings or meetings, oral or otherwise. It must give at least four days' written notice of the dates to the parties and the Institute (if it is administering the arbitration), except in urgent cases.

4.18 PRIVACY AND CONFIDENTIALITY

4.18.1 Unless the parties agree otherwise, the arbitration proceedings must take place in private.

4.18.2 Unless the parties agree otherwise, the parties, any other person who attends any portion of the arbitral hearings or meetings, the Tribunal, and the Institute must keep confidential all Confidential Information except where disclosure is:

- (a) required by a court;
- (b) necessary in connection with a judicial challenge⁶ to, or enforcement of, an award; or
- (c) otherwise required by law.

4.18.3 The Tribunal must decide issues related to privacy or confidentiality (or both) under this rule.

4.18.4 Nothing in this rule precludes disclosure of Confidential Information to a party's insurer, auditor, lawyer, other advisor, or other person with a direct financial interest in the arbitration. Any such person to whom Confidential Information is disclosed must keep it confidential and use it solely for the arbitration, and must not use or allow it to be used for any other purpose unless the parties agree otherwise or the law requires otherwise.

4.19 EVIDENCE

4.19.1 The parties:

- (a) may offer any evidence that is relevant and material to the outcome of the case; and
- (b) must also produce any additional evidence that the Tribunal considers necessary to understand and determine the dispute.

⁶ Article 947 of the *Code of Civil Procedure*, R.S.Q., c. C-25, provides that the only possible recourse against an arbitration award in Québec is an application for its annulment.

- 4.19.2 The Tribunal may be guided by the rules of evidence that apply in a court proceeding, but is not required to conform with them.
- 4.19.3 Subject to Rule 3.7, all evidence must be given in the presence of the Tribunal and all of the parties, except if a party:
- (a) is voluntarily absent;
 - (b) is in default; or
 - (c) has waived the right to be present.
- 4.19.4 The Tribunal must determine the admissibility, relevance, materiality, and weight of the evidence.

4.20 WITNESSES

- 4.20.1 Unless the Tribunal orders otherwise, the evidence in chief of a witness must be presented by a written statement or declaration affirmed or sworn for its truth.
- 4.20.2 Unless the Tribunal orders otherwise, a witness' evidence in chief consists of that witness' written statement and any oral evidence that the Tribunal may permit.
- 4.20.3 If evidence in chief is not delivered orally, the Tribunal may order that the witness be present at an oral hearing for cross-examination.
- 4.20.4 The Tribunal may exclude a witness from an oral hearing during the testimony of other witnesses, unless the witness is a party or a person nominated as a party's representative in the arbitration.

4.21 TRIBUNAL EXPERTS

- 4.21.1 The Tribunal may:
- (a) appoint one or more independent experts to report on specific issues that the Tribunal determines; and
 - (b) require a party to:
 - (i) give the expert relevant information; or
 - (ii) produce, or provide access to, relevant Documents or other property for the expert to inspect.
- 4.21.2 The Tribunal must communicate the expert's terms of reference to the parties. The parties must refer any dispute on the terms of reference, the relevance of the

information, or production of it to the Tribunal to decide. The parties must be responsible for the cost of the expert on a basis the Tribunal determines.

4.21.3 Upon delivery of the expert's report in writing, the Tribunal must:

- (a) deliver a copy of it to the parties; and
- (b) give the parties an opportunity to challenge all or part of it in a manner the Tribunal determines.

4.21.4 At a party's request, the expert must:

- (a) permit that party to examine the Documents or other property in the expert's possession that the expert used to prepare the report;
- (b) provide that party with:
 - (i) a list of all Documents or other property not in the expert's possession, but that were used to prepare the report; and
 - (ii) the location of those Documents or other property.

4.21.5 After a report is delivered under this rule, the expert must attend a cross-examination on some or all of the contents of that report, unless the parties agree otherwise.

4.22 FORMAL SETTLEMENT OFFERS

4.22.1 A party may deliver to another party a written offer to settle one or more of the issues between it and that party, on the terms specified in the offer. A settlement offer that specifies a time within which the other party may accept it expires unless accepted within that time.

4.22.2 Parties must not inform the Tribunal of a settlement offer marked "without prejudice" until after all issues in the arbitration, other than costs, have been determined.

4.22.3 A settlement offer marked "with prejudice" may be put in evidence at any time.⁷

4.23 DEPOSITS TOWARDS ARBITRATION COSTS

4.23.1 From time to time, the Tribunal may directly, or through the Institute, require the parties to deposit an advance for the anticipated Arbitration Costs in a form acceptable to the Tribunal.

⁷ This rule does not apply in Québec, where settlement offers made "with prejudice" do not exist and may offend public order (since settlement discussions are cloaked with confidentiality).

4.23.2 Unless the Tribunal orders otherwise, the parties must pay any deposit required under Rule 4.23.1 in equal amounts.

4.24 DEFAULT OF A PARTY

4.24.1 If a party does not within 15 days pay a deposit required under Rule 4.23.1, or if a respondent fails to pay the Case Service Fee:

- (a) the party is considered a defaulting party; and
- (b) the Tribunal or the Institute (if it is administering the arbitration) must inform the parties of the default. The non-defaulting party or parties may pay the unpaid deposit or fee, in which case the arbitration must continue and must not be deemed to have been abandoned or withdrawn.

4.24.2 If a deposit required under Rule 4.23.1 is not paid within 30 days, the Tribunal may suspend the arbitration until the full amount of the deposit is paid.

4.24.3 If the Case Service Fee is not paid within 30 days of becoming payable, the arbitration must proceed without being administered by the Institute.

4.24.4 If a party does not participate in an arbitration, the Tribunal may continue without that party present and make an award based on the evidence before it, if the Tribunal is satisfied by evidence that appropriate notice of the arbitration proceedings was given to the non-participating party in accordance with the arbitration agreement.

4.25 PAYING OUT DEPOSITS

4.25.1 From time to time, the Tribunal or the Institute (if it is administering the arbitration) may pay the Tribunal from deposits it holds any amount it considers reasonable and appropriate for fees invoiced or expenses incurred by the Tribunal.

4.25.2 When the arbitration concludes under Rule 5.5.1, the Tribunal or the Institute (if it is administering the arbitration) must:

- (a) apply deposits it holds to the costs of the arbitration, including unpaid Tribunal fees and administrative fees;
- (b) account to the parties for the deposits received and applied; and
- (c) return any balance to the parties in proportion to their contributions, or as the Tribunal may direct in a final award.

4.26 CLOSURE OF HEARINGS

4.26.1 The Tribunal may close the hearings if:

- (a) the parties indicate they have no further evidence to give or submissions to make; or
- (b) the Tribunal considers further hearings unnecessary or inappropriate.

4.26.2 In exceptional circumstances, the Tribunal (with or without an application by a party) may re-open hearings to receive evidence or submissions about a matter at any time before issuing a final award on that matter.

4.27 SETTLEMENT

4.27.1 The Tribunal may encourage settlement of the dispute and, with the written agreement of the parties, may order that the parties use mediation, conciliation, or other procedures at any time during the arbitration proceedings to encourage settlement.

5. TRIBUNAL AWARDS, RULINGS, ORDERS, AND DECISIONS

5.1 AWARDS, RULINGS, ORDERS, AND DECISIONS

5.1.1 The Tribunal may make one or more:

- (a) rulings, orders, and decisions on matters of procedure;
- (b) interim awards on matters of substance or procedure; and
- (c) final awards on matters of substance.

5.1.2 The Tribunal may, in an award, ruling, order, or decision do any or all of the following:

- (a) make provision for interim measures of protection, including payment of security for costs, posting of security for the amount claimed, or preservation of property that is the subject matter of the dispute;
- (b) grant equitable relief, injunctions,⁸ or specific performance;
- (c) grant any other relief the Rules allow.

⁸ In Québec, section 751 of the *Code of Civil Procedure*, R.S.Q., c. C-25, restricts injunctive relief to the exclusive jurisdiction of the Superior Court. As a result, arbitrators in Québec do not have the power to grant injunctive relief.

5.1.3 The Tribunal must make all final awards within 60 days after:

- (a) payment of all deposits required under Rule 4.23; or
- (b) the hearings have been closed,

whichever is later, or in another time period the parties agree to in writing or a court directs.

5.1.4 Awards, rulings, orders, and decisions must be in writing. Unless the parties agree otherwise, awards must also state the reasons on which they are based.

5.1.5 Despite Rule 5.1.3, the Tribunal or the Institute (if it is administering the arbitration) need not deliver copies of any award, ruling, order, or decision to the parties until all required fees and expenses are paid. On payment of all required fees and expenses, the Tribunal or the Institute (if it is administering the arbitration) must deliver copies of the award, ruling, order, or decision to the parties. The Tribunal must deliver to the parties or the Institute (if it is administering the arbitration) one originally signed copy of any award, ruling, order, or decision for each party.

5.1.6 If the Tribunal is made up of more than two Arbitrators, any award, ruling, order, or decision must be made by a majority of the Tribunal. If there is no majority decision, the decision of the Chair will be the award, ruling, order, or decision.

5.2 INTEREST

The Tribunal may order the parties to pay simple or compound interest for the time period and at the rate it considers just.

5.3 COSTS

5.3.1 The Tribunal may fix and make part of an award the Arbitration Costs, the parties' reasonable legal fees and expenses (including, where appropriate, full indemnity fees), and the Institute's fees (if the Institute is administering the arbitration).

- 5.3.2 In making an award for costs under Rule 5.3.1, the Tribunal must take into account the parties' respective degrees of compliance with Rule 1.1 and may give an enhanced level of costs recovery in view of:
- (a) any formal without prejudice settlement offers under Rule 4.22.2; and
 - (b) any with prejudice settlement offers made under Rule 4.22.3.⁹
- 5.3.3 The Tribunal may apportion costs between the parties and make separate awards for Arbitration Costs, the parties' reasonable legal fees and expenses, and the Institute's fees, if any.
- 5.3.4 The Tribunal may, at any time, make an interim award for part of the Arbitration Costs, or part of the parties' reasonable legal fees and expenses (including, where appropriate, full indemnity fees) (or both) payable on the terms the Tribunal directs.
- 5.4 AMENDING AND CORRECTING AWARDS, RULINGS, ORDERS, AND DECISIONS**
- 5.4.1 A Tribunal may, on application or its own initiative, amend or vary an award, ruling, order, or decision to correct:
- (a) a clerical or typographical error;
 - (b) an error, slip, omission or other similar mistake; or
 - (c) an arithmetical error.
- 5.4.2 A party may apply to amend or vary an award, ruling, order, or decision only within 15 days after delivery of the award, ruling, order, or decision.
- 5.4.3 The Tribunal must not amend or vary an award, ruling, order, or decision more than 30 days after delivery of the award, ruling, order, or decision unless the parties agree otherwise.
- 5.4.4 A party may apply to the Tribunal for clarification of an award, ruling, order, or decision only within 15 days after delivery of the award, ruling, order, or decision. Any clarification the Tribunal issues becomes part of the award, ruling, order, or decision.
- 5.4.5 A party may apply to the Tribunal to make an additional award for claims presented in the proceedings but omitted from the award only within 30 days after delivery of an award.

⁹ Rule 5.3.2(b) does not apply in Québec, where settlement offers made "with prejudice" do not exist and may offend public order (since settlement discussions are cloaked with confidentiality).

5.4.6 The Tribunal must deliver any amended, varied, or additional award, ruling, order, or decision to the Institute (if it is administering the arbitration).

5.4.7 Unless agreed otherwise and allowed by law:

- (a) an award of the Tribunal is final and binding; and
- (b) there is no appeal from an award, ruling, order, or decision of the Tribunal.¹⁰

5.5 CONCLUSION OF ARBITRATION

5.5.1 An arbitration concludes:

- (a) when it settles;
- (b) when it has been abandoned;
- (c) 30 days after all final awards have been delivered to the parties; or
- (d) when it has been otherwise finally disposed of,

whichever occurs last.

5.5.2 If, during the arbitration proceedings, the parties settle the dispute:

- (a) the Tribunal must, on receiving confirmation of the settlement or determining that there is a settlement, end the proceedings; and
- (b) if requested by the parties, the Tribunal must record the settlement in the form of an award on agreed terms.

5.5.3 The Tribunal must notify the Institute when the arbitration concludes.

6. OTHER PROVISIONS

6.1 IMMUNITY

6.1.1 Neither the Institute nor the Tribunal is liable to any party for any act or omission in connection with any arbitration under the Rules.

6.1.2 The Tribunal and the Institute have the same protections and immunity as a Judge of the superior courts of Canada.

¹⁰ Article 947 of the *Code of Civil Procedure*, R.S.Q., c. C-25, provides that the only possible recourse against an arbitration award in Québec is an application for its annulment.

6.2 SIMPLIFIED ARBITRATION PROCEDURE

6.2.1 If the parties agree in writing, the arbitration must be conducted under this simplified procedure rule.

6.2.2 For arbitrations conducted under this rule:

- (a) the Tribunal is made up of a single Arbitrator appointed by the Institute within 14 days after delivery of the Notice of Request to Arbitrate or the Notice of Submission to Arbitration;
- (b) 14-day time periods set out in Rule 4.10 are abridged to 10 days;
- (c) all pre-hearing and preliminary matters must be complete within 90 days from the date the arbitration commenced under Rule 2.3;
- (d) unless otherwise agreed by the parties or ordered by the Tribunal, there must be no oral discovery;
- (e) no transcript of the proceedings may be made;
- (f) sworn statements of evidence must be filed at the hearing in lieu of examination in chief and are subject to cross-examination and re-examination only;
- (g) the record of the arbitration consists of the Documents and exhibits the parties produce and enter into evidence; and
- (h) the Tribunal must deliver all final awards and reasons within 14 days after the hearing closes under Rule 4.26.1.

6.2.3 The following rules do not apply to arbitrations conducted under this rule:

- 3.1 (Appointment of Arbitrator(s) by parties);
- 3.2 (Appointment of Arbitrator(s) by the Institute);
- 4.9.1(e) (Empowering one Tribunal member to hear motions and make procedural orders); and
- 4.14 (Pre-hearing examinations and written questions).

SCHEDULE A: SERVICES PROVIDED WHEN THE INSTITUTE ADMINISTERS

If a Commencement Fee is paid to the Institute under Rule 2.1.1(c) or 2.2.1(b), the Institute must:

- (a) confirm that the parties agree to apply the Rules;
- (b) confirm that the Institute has received the Notice of Request to Arbitrate or the Notice of Submission to Arbitration;
- (c) confirm that the Institute has received the Commencement Fee;
- (d) open a case file;
- (e) confirm any variation or exclusion agreement under Rule 1.3.5;
- (f) under Rule 3.2.1, or on request under Rule 3.1.2, deliver a list of potential Arbitrators;
- (g) on request under Rule 3.1, appoint in accordance with Rule 3.2 any Arbitrator whose appointment is required;
- (h) declare vacant any office that becomes vacant under Rule 3.5.1;
- (i) on application for Urgent Interim Measures, appoint an Interim Arbitrator under Rule 3.7;
- (j) end Interim Arbitrator proceedings, where Rule 3.7.13 applies;
- (k) receive any advances that the Tribunal requires the parties to deposit through the Institute under Rule 4.23;
- (l) inform the parties under Rule 4.24 of non-payment of required deposits or fees;
- (m) under Rule 4.24.3, cease administering the arbitration if the Case Service Fee is not paid within 30 days of becoming payable;
- (n) administer deposits in accordance with Rule 4.25;
- (o) deliver copies of all awards, rulings, orders, and decisions to the parties in accordance with Rule 5.1; and
- (p) receive copies of all awards, rulings, orders, and decisions in accordance with Rules 5.1 and 5.4.6.

SCHEDULE B: FEES FOR ADMINISTRATION SERVICES PROVIDED BY THE INSTITUTE

In an arbitration administered by the Institute, the fees for the Institute’s administration services consist of:

- (a) a Commencement Fee determined by reference to the amount of the claim and paid by the claimant on delivering the Notice of Request or Notice of Submission to Arbitrate; and
- (b) a Case Service Fee paid by each party that:
 - (i) delivers a Statement of Defence and Counterclaim, in which case the Case Service Fee is determined by reference to the total amount of the claim and counterclaim; or
 - (ii) delivers only a Statement of Defence, in which case the Case Service Fee is determined by reference to the amount of the claim.

The Institute does not charge fees for hearings, postponements, and miscellaneous expenses.

The Commencement Fee and the Case Service Fee are non-refundable once paid.

Amount of Claim or Counterclaim	Commencement Fee	Case Service Fee
\$0 to \$10,000 CAD	\$350 CAD plus taxes	\$175 CAD plus taxes
\$10,000 to \$75,000 CAD	\$600 CAD plus taxes	\$300 CAD plus taxes
\$75,000 to \$150,000 CAD	\$1,000 CAD plus taxes	\$500 CAD plus taxes
\$150,000 to \$500,000 CAD	\$2,000 CAD plus taxes	\$1,000 CAD plus taxes
\$500,000 to \$5,000,000 CAD	\$4,000 CAD plus taxes	\$2,000 CAD plus taxes
Above \$5,000,000 CAD	\$5,000 CAD plus taxes	\$3,000 CAD plus taxes

SCHEDULE C: FEE FOR URGENT INTERIM MEASURES APPLICATIONS

A party applying for Urgent Interim Measures under Rule 3.7 must pay the Institute an Urgent Interim Measures application fee of \$2,000 plus taxes.