

RULES

of the Arbitration Court of the Estonian Chamber of Commerce and Industry

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I. General Provisions

§ 1 Jurisdiction of the Arbitration Court of the Estonian Chamber of Commerce and Industry

(1) The Arbitration Court of the Estonian Chamber of Commerce and Industry (hereinafter ‘the Arbitration Court’) as a permanent arbitration court resolves disputes arising from private law relationships, including foreign trade and other international economic relations.

(2) The Arbitration Court shall accept a dispute for resolution if:

- 1) the parties have a written agreement to refer an existing or potential dispute to the Arbitration Court for resolution;
- 2) consent for resolution of the dispute in the Arbitration Court has been expressed by the plaintiff by filing an action and by the defendant by any action that demonstrates voluntary submission to the jurisdiction of the Arbitration Court;
- 3) the dispute falls within the jurisdiction of the Arbitration Court pursuant to an international agreement.

(3) The Arbitration Court may act as a competent body for the organisation of arbitration proceedings pursuant to the rules of other arbitration courts, including as a body that appoints arbitrators pursuant to the rules of another arbitration court.

(4) The Board of the Arbitration Court shall make the initial decision on whether a dispute falls within the jurisdiction of the Arbitration Court.

(5) The Arbitration Court shall resolve disputes pursuant to these rules (hereinafter Rules), the provisions of which are binding on the parties and cannot be deviated from by agreement of the parties.

(6) The invalidity or cancellation of a contract that foresees the resolution of disputes in the Arbitration Court shall not render invalid the agreement of the parties to refer disputes to the Arbitration Court set out in the contract.

(7) The term “Arbitration Court” is used in the Rules both in the meaning of the institution and in the meaning of the arbitral tribunal that is resolving a specific dispute.

§ 2 Board of the Arbitration Court

(1) The activity of the Arbitration Court shall be directed by the Board of the Arbitration Court that has up to six members who shall be appointed for a term of three years by the Board of the Estonian Chamber of Commerce and Industry. Members of the Board must have higher education in law and have obtained at least a master's degree. At least one member of the board must be a serving judge. The Board of the Arbitration Court shall elect a Chairman and Vice-Chairman of the Board from among its members.

(2) The Board shall adopt decisions as necessary and resolve matters pursuant to the Rules. The Board may convene meetings or adopt decisions by a written procedure without holding a meeting.

(3) The Board shall have a quorum if at least three of its members take part in its activity. Board meetings shall be chaired by the Chairman of the Board or, upon his or her absence, by the Vice-Chairman of the Board or a Member of the Board. Decisions of the Board shall be adopted by a simple majority of votes. Upon an equal distribution of votes, the deciding vote shall be cast by the chair of the meeting.

(4) Decisions of the Board enter into force upon adoption, are final and are not subject to appeal.

§ 3 Administration of Arbitration Court

(1) The Estonian Chamber of Commerce and Industry shall organise the administration of the Arbitration Court.

(2) The Secretary of the Arbitration Court is an employee of the Estonian Chamber of Commerce and Industry who shall organise the day-to-day administration of the Arbitration Court on behalf of the Arbitration Court, pursuant to the Rules and the decisions and orders of the Board.

II. Composition of Arbitration Court

§ 4 Formation of Arbitration Court

(1) The Arbitration Court resolving a dispute shall be formed in one of the following manners:

- 1) the parties appoint one or several (an odd number of) arbitrators, including a presiding arbitrator;
- 2) each party appoints one arbitrator and proposes that this arbitrator, together with the arbitrator appointed by the other party, appoint a third arbitrator who will serve as the presiding arbitrator;
- 3) each party appoints one arbitrator and the parties authorise the Board of the Arbitration Court to appoint a third arbitrator who shall serve as the presiding arbitrator;
- 4) the parties form the Arbitration Court in some other agreed manner (there must be an odd number of arbitrators);
- 5) the parties authorise the Board of the Arbitration Court to appoint the Arbitration Court.

(2) If upon receipt of a petition for the initiation of arbitration proceedings it becomes evident that no Arbitration Court has been formed, the Board of the Arbitration Court shall propose to the parties that they form an Arbitration Court in a manner set out in this section. If the parties fail to form an Arbitration Court in a manner of their choice by a deadline determined by the Board of the Arbitration Court or if the Board of the Arbitration Court does not confirm a candidate for arbitrator who has been appointed by a party for confirmation at least three times, the Arbitration Court shall be formed by the Board of the Arbitration Court, which shall appoint the missing arbitrator or the entire composition of the Arbitration Court resolving the dispute.

(3) The Board of the Arbitration Court has the right to refuse to form the Arbitration Court resolving the dispute in the manner set out in clause 4(1)4) of the Rules, if appointment of an odd number of arbitrators is not foreseen or if one party would have a procedural or other advantage that could significantly harm the other party upon formation of the Arbitration Court. In such case the Board of the Arbitration Court shall propose to the parties that the Arbitration Court be formed in some other manner set out in subsection 1 of this section.

(4) An arbitrator may be nominated or appointed only with the consent of the arbitrator. A candidate for arbitrator must confirm his or her consent and impartiality by submission of an arbitrator's declaration of impartiality to the Board of the Arbitration Court by a determined deadline. If a candidate for arbitrator fails to return an arbitrator's declaration of impartiality by the deadline, the Board of the Arbitration Court has the right to refuse to confirm the candidate and to appoint the missing arbitrator itself.

(5) The term of an arbitrator shall begin upon confirmation of the arbitrator by the Board of the Arbitration Court. Upon confirming an arbitrator, the Board of the Arbitration Court shall consider all information at its disposal, above all the arbitrator's declaration of impartiality, the characteristics of the arbitrator and the ability of the arbitrator to resolve the dispute.

(6) Upon confirmation, an arbitrator acquires the obligations arising from the Rules and the right to demand payment for fulfilment of such obligations in accordance with the Rules.

(7) Upon annulment of an arbitral award pursuant to the procedure prescribed by law, the Arbitration Court resolving the dispute shall be obligated to hear the arbitration case again. If a decision of the Arbitration Court establishes that the Arbitration Court is not competent but the court annuls the arbitral award, then the Arbitration Court that resolved the dispute shall be obligated to hear the arbitration case again.

§ 5 List of Arbitrators and Obligation of Arbitrator to Give Notice of Grounds for Removal

(1) The Board of the Arbitration Court shall confirm and publish on the website of the Arbitration Court a list of arbitrators, whose appointment is recommended upon the appointment of arbitrators.

(2) A person who is invited to serve as an arbitrator is obligated to notify the person who made the proposal of all circumstances that may provide grounds for his or her removal. If the person is nevertheless appointed as an arbitrator, he or she must notify the other party of such circumstances without delay and set out such circumstances in the arbitrator's declaration of impartiality submitted to the Board of the Arbitration Court. An arbitrator is also obligated to notify the parties during the arbitration proceedings of any circumstances that may provide grounds for his or her removal.

§ 6 Removal of Arbitrator

(1) If a party doubts the impartiality of an arbitrator, the party has the right, up to the adoption of a decision resolving the dispute, to submit a reasoned petition of challenge in writing to the Board of the Arbitration Court. Such right must be used by a party immediately after the party becomes aware of the circumstance that provides grounds for removal. If a party submits a procedural document to the Arbitration Court or participates in a session of the Arbitration Court and the party has does not submit a motion for the removal of the arbitrator in the procedural document or during the session, the party shall lose the right to remove the arbitrator on these grounds.

(2) The Board of the Arbitration Court shall decide on the removal of an arbitrator within 15 days after receipt of a petition of challenge.

(3) The Arbitration Court resolving the dispute must suspend the proceedings until the petition of challenge is decided by the Board of the Arbitration Court.

§ 7 Revocation of Appointment of Arbitrator

(1) The Board of the Arbitration Court has the right to decide, upon prior consultation with the parties if necessary, to revoke the appointment of an arbitrator who fails to perform his or her obligations as required or is unable to fulfil the conditions of an arbitration agreement, or in the case set out in subsection 2.

(2) An arbitrator shall not have the right to decide not to fulfil his or her duties. In case of good reason an arbitrator may submit a petition to the Board of the Arbitration Court to release him or her from the duties of arbitrator.

§ 8 Replacement of Arbitrator

(1) An arbitrator who has been removed or released or has died shall be replaced by a new arbitrator pursuant to the same procedure used to nominate or appoint the replaced arbitrator.

(2) After the replacement, the arbitrators shall decide which of the acts that have been performed for the resolution of the dispute must be performed again. If the sole arbitrator of a dispute is replaced or all of the arbitrators who are resolving a dispute are replaced, the Arbitration Court resolving the dispute shall decide, upon hearing the positions of the parties, which of the acts that have been performed for the resolution of the dispute must be performed again.

III Initiation, Suspension and Termination of Arbitration Proceedings

§ 9 Participants in Proceedings

- (1) The parties and third parties are the participants in proceedings.
- (2) The plaintiff (plaintiffs) and the defendant (defendants) are the parties.
- (3) A plaintiff is a person who files an action and a defendant is a person against whom an action is filed.
- (4) The Arbitration Court resolving a dispute may, on the petition of one party and with the consent of the other party, involve a person in the proceedings as a third party, if the third party consents to submitting the legal relationship that affects the third party to the jurisdiction of the Arbitration Court.

§ 10 Petition for the Initiation of Arbitration Proceedings

- (1) To initiate arbitration proceedings, the plaintiff shall submit a petition for the initiation of arbitration proceedings to the Arbitration Court, and shall include the necessary number of copies for the defendant.
- (2) The date on which a petition for the initiation of arbitration proceedings or a statement of claim is received by the Arbitration Court is deemed to be the date of submission of the statement of claim.
- (3) A petition for the initiation of arbitration proceedings shall set out:
 - 1) the names, addresses and telecommunications numbers of the parties and their representatives;
 - 2) a short description of the facts, the claim of action and the value of the action;
 - 3) evidence that the dispute is within the jurisdiction of the Arbitration Court;
 - 4) the names, residential and work addresses and telecommunications numbers of the arbitrator or arbitrators (and the presiding arbitrator) appointed by the parties;
 - 5) proof, in a format which can be reproduced in writing, of formation of the Arbitration Court in a manner set out in section 4 if the parties have so agreed;
 - 6) proof of payment of the registration fee.
- (4) With regard to a natural person, his or her personal identification code or, if no such code exists, his or her date of birth shall be set out in a petition for the initiation of arbitration proceedings. With regard to a legal person entered in a public register, the registry code or, if no such code exists, the legal basis for the activities of the legal person shall be set out.
- (5) If the plaintiff or the defendant is a legal persons that is entered in a public register, a copy of the registry card, an extract from the register or a registration certificate shall be included with the petition for the initiation of arbitration proceedings, except if there is free of charge access to the information in the registry in Estonia through public electronic channels. Other proof of existence and legal capacity shall be submitted for other legal persons.

(6) Upon submission of a petition of securing an action, a statement of claim with the amount of detail set out in the Rules shall be submitted instead of a petition for the initiation of arbitration proceedings. If a plaintiff submits a statement of action instead of a petition for the initiation of arbitration proceedings, proceedings will be conducted for the statement of claim pursuant to the procedure prescribed in the Rules for proceedings for a petition for the initiation of arbitration proceedings.

§ 11 Acts Performed after Receipt of Petition for the Initiation of Arbitration Proceedings

(1) After receipt of a petition for the initiation of arbitration proceedings the Board of the Arbitration Court shall make the initial decision on whether to submit the dispute to the jurisdiction of the Arbitration Court.

(2) The Board of the Arbitration Court shall make a decision to accept a statement of claim or to refuse to accept a statement of claim.

(3) If the dispute does not fall within the jurisdiction of the Arbitration Court the Board of the Arbitration Court shall return the petition for the initiation of arbitration proceedings and all annexed evidence to the plaintiff.

(4) If a statement of claim has an omission that hinders its acceptance and cannot be eliminated, the Board of the Arbitration Board shall refuse to accept the statement of claim.

(5) If a statement of claim has an omission that hinders its acceptance but can be eliminated, the Arbitration Court shall give the plaintiff a deadline for eliminating the omission. If the omission is not eliminated within the term, the Board of the Arbitration Court shall refuse to accept the statement of claim.

(6) The defendant shall submit a written response to the statement of claim without evidence. The response must include, among other information, a position regarding referral of the dispute to the Arbitration Court and a summarised position on the merits of the dispute. The defendant must also send a copy of the response and the annexed evidence to the plaintiff. Failure to file a response shall not hinder resolution of the dispute. After receipt of the response, the Board of the Arbitration Court may make an additional initial decision on whether to submit the dispute to the jurisdiction of the Arbitration Court

§ 12 Application of Measures to Secure a Claim

(1) The Board of the Arbitration Court may, up to the formation of the Arbitration Court resolving the dispute, forward a petition for securing an action to a court.

(2) The Board of the Arbitration Court shall assess the petition for securing an action and may submit the petition to a court together with a decision of the Board of the Arbitration Court, to which a copy of the statement of claim and evidence annexed to it shall be attached.

(3) The Board of the Arbitration Court shall petition for amendment or revocation of a ruling on securing an action if the Board of the Arbitration Court terminates the proceedings before delivery of the statement of claim to the Arbitration Court resolving the dispute.

(4) The Arbitration Court resolving the dispute may, pursuant to a petition submitted by a party, make a ruling to secure a claim, which shall be delivered to the party that submitted the petition. The parties have the right to petition the court to permit enforcement of a ruling to secure a claim.

(5) The following measures may be applied to secure a claim in Arbitration Court proceedings:

- 1) the establishment of a judicial mortgage on an immovable, ship or aircraft belonging to the defendant;
- 2) the seizure of the property of the defendant that is in the possession of the defendant or another person, including making a notation in a property register concerning a prohibition on disposal of property;
- 3) a prohibition on the defendant from entering into certain transactions or performing certain acts;
- 4) a prohibition on other persons from transferring property to the defendant or performing other obligations with regard to the defendant, which may include an obligation to transfer property to a bailiff or to pay money into a bank account prescribed by the court;
- 5) imposition of an obligation on the defendant to deposit a thing with a bailiff;
- 6) the suspension of execution procedure, permitting the continuation of execution procedure only against a security, or cancelling of an enforcement action if the execution document has been contested by the filing of an action, or if a third party has filed an action for the release of property from seizure or for declaration of inadmissibility of compulsory execution due to another reason;
- 7) imposition of an obligation on the defendant and above all, an insurer, to make payments to the extent of the minimum amounts likely to become payable in the course of a proceeding conducted in a matter of illegal causing of damage or of an insurance contract;
- 8) imposition of an obligation on the defendant to terminate the application of an unfair standard term or that the person recommending application of the term terminate or withdraw the recommendation of the term in an action for termination of application of an unfair standard term or for termination and withdrawal by the person recommending application of the term of recommendation of the term;
- 9) other measures considered necessary by the Arbitration Court.

(6) The Arbitration Court resolving the dispute may require a reasonable security from the party that petitions for a claim to be secured, which shall be paid into the bank account of the Estonian Chamber of Commerce and Industry.

(7) The security that the person who petitioned for a claim to be secured has been required to pay to compensate for damage that may be caused by securing the claim shall be returned to the party who petitioned for the claim to be secured if the other party does not submit a claim for compensation for damage within two months from that time that:

- 1) an Arbitration Court decision for refusal to satisfy or hear the secured action enters into force, or the proceeding in the matter is terminated on any other grounds except approval of a compromise between the parties or;
- 2) it becomes evident that no claim for securing a claim or no cause for securing the action existed at the time of securing the action.

§ 13 Payment of Arbitration Fee

(1) After receipt of a petition for the initiation of arbitration proceedings, the Board of the Arbitration Court shall make a proposal to the parties to pay the arbitration fee in equal shares, based on the rates prescribed in the Guidelines annexed to the Rules, by a deadline determined by the Board of the Arbitration Court, unless the plaintiff has expressed the desire to pay the entire chargeable arbitration fee.

(2) If the Board of the Arbitration Court has decided to submit a petition to secure a claim to a court on the petition of the plaintiff, the Board of the Arbitration Court shall make a proposal to the plaintiff to pay the plaintiff's share of the determined arbitration fee before the petition is submitted to a court. If the arbitration fee is not paid the Board of the Arbitration Court shall not submit the petition of the plaintiff to a court.

(3) If the defendant fails to pay the defendant's share of the arbitration fee, the Board of the Arbitration Court shall make a proposal to the plaintiff to also pay the defendant's share of the arbitration fee. If the arbitration fee is not paid, the Board of the Arbitration Court shall refuse to hear the action and shall return the petition for the initiation of arbitration proceedings to the plaintiff.

(4) If resolution of the dispute proves to be more expensive than initially estimated or if due to the presentation of additional facts in the course of resolving the dispute it becomes evident that the arbitration fee has been calculated based on incomplete information or if the plaintiff increases the value of the action after the case is referred to the Arbitration Court resolving the dispute, the Board of the Arbitration Court shall, on the proposal of the arbitrator or arbitrators, make a proposal to the parties to pay an additional arbitration fee. If the plaintiff increases the value of the action before the case is referred to the Arbitration Court resolving the dispute, the Board of the Arbitration Court shall make a proposal to the parties to pay an additional arbitration fee.

(5) The amount of a previously paid or additional arbitration fee subject to payment shall not exceed the maximum rate of an arbitration fee prescribed in the Guidelines annexed to the Rules, based on the value of the action.

§ 14 Referral of a Petition for the Initiation of Arbitration Proceedings to an Arbitration Court and Confirmation of Schedule

(1) After the arbitrators have been confirmed, the Board of the Arbitration Court shall give the petition for the initiation of arbitration proceedings or the statement of claim and all annexes to the arbitrator or, in the case of several arbitrators, to the presiding arbitrator of the Arbitration Court resolving the dispute.

(2) The Arbitration Court shall compose a draft schedule for all necessary procedural acts and shall send it to the parties for examination and, taking the opinions of the parties into account, shall confirm the schedule by an order not later than within two weeks after referral of the arbitration case to the Arbitration Court resolving the dispute, and shall send the schedule to the Board of the Arbitration Court for their information. If the arbitration proceedings deviate significantly from the schedule (more than a 2 week delay for a procedural act), the Arbitration Court is obligated to inform the Board of the Arbitration Court thereof.

(3) The Arbitration Court is obligated to send copies of the schedules adopted by the Arbitration Court, all orders and letters and notices sent to the parties to the Board of the Arbitration Court for their information.

(4) The representatives of the parties are obligated to send copies of all petitions submitted to a court with regard to the arbitration proceedings and the court decisions to the Board of the Arbitration Court for their information.

§ 15 Statement of Claim

(1) The plaintiff must submit a statement of claim to the Arbitration Court resolving the dispute by the deadline determined by the Arbitration Court resolving the dispute. The statement of claim shall set out:

1) the names, addresses and telecommunications numbers of the parties and their representatives;

2) the claim of the action and the value of the action;

3) the facts on which the claim of the action is based and evidence;

4) evidence that the dispute falls within the jurisdiction of the Arbitration Court (unless this has been set out in the petition for the initiation of arbitration proceedings);

5) whether the plaintiff agrees to written proceedings in the matter or wants a session to be held;

6) the names, residential and work addresses and telecommunications numbers of the arbitrator or arbitrators (the presiding arbitration among them) appointed by the parties, or information that the Arbitration Court has not been formed (unless this has been set out in the petition for the initiation of arbitration proceedings).

(2) With regard to a natural person, his or her personal identification code or, if no such code exists, his or her date of birth shall be set out in the statement of claim. With regard to a legal person entered in a public register, the registry code or, if no such code exists, the legal basis for the activities of the legal person shall be set out (unless this has been set out in the petition for the initiation of arbitration proceedings).

(3) If the plaintiff or the defendant is a legal persons that is entered in a public register, a copy of the registry card, an extract from the register or a registration certificate shall be annexed to the statement of claim, except if there is free of charge access to the information in the registry in Estonia through public electronic channels. Other proof of existence and legal capacity shall be submitted for other legal persons (unless this has been set out in the petition for the initiation of arbitration proceedings).

(4) The following shall be annexed to the statement of claim:

- 1) evidence supporting the claim of the action;
- 2) in the case provided for in subsection 10(4), proof that copies of the statement of claim and the evidence annexed to it have been sent to the defendant;
- 3) proof, in a format which can be reproduced in writing, that the Arbitration Court has been formed in a manner set out in section 4, if the parties have so agreed.

(5) If the plaintiff has not submitted a petition for the initiation of arbitration proceedings, then the data and documents required in section 10 of the Rules shall also be annexed to the statement of claim.

(6) A statement of claim must be submitted in accordance with the number of arbitrators, with the necessary number of copies annexed for the defendant.

§ 16 Response to Statement of Claim

(1) The defendant shall submit a written response to the statement of claim to the Arbitration Court resolving the dispute by the deadline determined by the Arbitration Court resolving the dispute. The response to the statement of claim shall set out:

- 1) a position concerning submitting the dispute to the jurisdiction of the Arbitration Court;
- 2) a position on the merits of the dispute;
- 3) whether the defendant agrees to written proceedings in the matter or wants a session to be held;
- 4) whether the defendant wants to file a counterclaim;
- 5) whether, in the opinion of the defendant, it may be possible to resolve the dispute by agreement (compromise).

(2) The defendant shall send a copy of the response and evidence annexed to it to the plaintiff.

(3) Failure to file a response shall not hinder resolution of the dispute.

(4) If the defendant wants to file a counterclaim, the Arbitration Court resolving the dispute shall determine a deadline for filing the counterclaim.

§ 17 Counterclaim

(1) The defendant has the right to file a counterclaim with the Board of the Arbitration Court up to the determined deadline.

- (2) The Board of the Arbitration Court shall adopt a decision on whether to accept or refuse to hear the counterclaim. The Board of the Arbitration Court shall refuse to hear a counterclaim if the arbitration fee has not been paid or if the deadline for filing a counterclaim has passed. The Board of the Arbitration Court may also refuse to hear a counterclaim, for among other reasons, if hearing the main action and counterclaim simultaneously would significantly extend the time needed to resolve the dispute.
- (3) An arbitration fee shall be paid upon filing a counterclaim pursuant to the procedure provided for in the Rules.

§ 18 Applicable Law

- (1) In resolving a dispute, an Arbitration Court shall apply the substantive law agreed by the parties. Upon reference to the law of a specific state it is presumed that the agreement does not extend to the conflict of laws rules of that state, unless the parties have expressly agreed otherwise.
- (2) If the parties have not agreed on the applicable law and it is not possible to determine the applicable law pursuant to law or international law norms, the Arbitration Court shall apply Estonian law.
- (3) An Arbitration Court may resolve a dispute based on the principle of equity if the parties have so expressly agreed. Such agreement may be agreed up to the adoption of the arbitral award. Upon resolving a dispute according to the principle of equity there shall be no derogation from the imperative legal norms of the state which would be applied upon resolving the dispute without an agreement to apply the principle of equity.
- (4) Upon resolving a dispute, an Arbitration Court shall consider contractual terms and conditions and custom in the case provided for in subsections 1 and 2 of this section in so far as this is permissible under the applicable law.

§ 19 Evidence

- (1) In a case, evidence is any information on the basis of which the Arbitration Court ascertains the existence or lack of facts that support the claims and objections of the parties.
- (2) Each party must prove the facts on which the claims and objections of the party are based, unless otherwise provided by law. The parties may agree on a division of the burden of proof other than that provided for by law and on the evidence that can be used to prove a fact, unless otherwise provided for by law.
- (3) Facts which the Arbitration Court deems to be a matter of common knowledge need not be proved. Facts concerning which reliable information is available from sources outside the proceedings may be deemed to be a matter of common knowledge. Arguments made by a party based on a fact need not be proven if the opposing party admits the fact. Admission means unconditional and express agreement with a factual allegation by means of a written statement addressed to the Arbitration Court,

or made during an Arbitration Court session, where such agreement shall be entered in the minutes.

(4) The Arbitration Court has the right to demand evidence necessary for resolving the dispute and replies to the positions of the parties pursuant to a petition submitted by a party or on its own initiative.

§ 20 Assistance of a Court

(1) If an Arbitration Court is not competent to perform an attestation act or to conduct another court activity, the Arbitration Court may make a decision to request the assistance of a court or may make an order by which it permits a party to request the assistance of a court.

§ 21 Witnesses, Inspections and Experts

(1) The Arbitration Court has the right on the petition of a party or on its own initiative to summon witnesses to a court session, perform inspections or summon experts to a court session.

§ 22 Suspension of Proceedings

(1) The Arbitration Court resolving the dispute shall suspend the proceedings with an order:

- 1) until the Board of the Arbitration Court decides on a petition of challenge against an arbitrator or;
- 2) until a court activity is conducted, except upon the filing of a petition to a court to annul an interim decision ordering payment by the defendant of the arbitration fee.

(2) The Arbitration Court resolving the dispute may suspend the proceedings with an order for some other good reason.

§ 23 Refusal to Hear Action

(1) An Arbitration Court shall refuse to hear an action if:

- 1) court proceedings have been initiated with the same cause of action and the same object of dispute or;
- 2) the plaintiff has failed to submit information to the Arbitration Court, regardless of the demand of the Arbitration Court, that would allow for the delivery of procedural documents to the defendant or;
- 3) the Arbitration Court is not competent to resolve the dispute or;
- 4) on some other basis prescribed by law or in the Rules.

(2) Upon refusal to hear a claim, it is deemed that the statement of claim has never been heard by the Arbitration Court and the plaintiff may file a statement of claim against the same defendant with the same cause of action regarding the same object of action with the Arbitration Court again.

§ 24 Termination of Proceedings

(1) An Arbitration Court shall terminate proceedings if:

- 1) the plaintiff discontinues the action, except if the defendant objects to the discontinuation and the Arbitration Court recognises the legal interest of the defendant to have a final resolution to the dispute or;
- 2) the parties agree to terminate the proceedings or;
- 3) the parties do not participate in the proceedings or;
- 4) the Arbitration Court finds that it is impossible to continue the proceedings due to termination of an arbitration agreement or;
- 5) the Arbitration Court, by an interim decision, finds that the claim is unreasoned.

(2) Upon termination of proceedings, the plaintiff can not file a statement of claim against the same defendant with the same cause of action regarding the same object of action with the Arbitration Court again.

IV Hearing the Case

§ 25 Arbitration Court Session

(1) The Arbitration Court, taking into account the opinions of the parties if possible, shall determine the time and place for the hearing of the case and shall inform the parties in due time. The Arbitration Court may hear a case in written proceedings without convening a session if the parties give their consent. The Arbitration Court has the right to adopt a decision in written proceedings without convening a session if the Arbitration Court finds that the dispute is not within the jurisdiction of the Arbitration Court.

(2) A case shall be heard in a closed session by the arbitrator or arbitrators and the representatives of the parties. The Arbitration Court may allow the participation of a secretary and technical assistants in the session. At the request of a party, the Arbitration Court may allow an interpreter or other person to participate in the session. Persons who participate in a session and who are noted in this subsection must confirm in writing their obligation to maintain the confidentiality of all information pertaining to the arbitration proceedings.

(3) At the request of a party, the Arbitration Court may hear a case without the representative of the party. If a party does not request that the case be heard without a representative and does not send a representative to the session, the Arbitration Court shall postpone the hearing of the case. If the party also does not send a representative to the next session, the Arbitration Court shall hear the case without the representative of the party.

(3) The Arbitration Court may also postpone the hearing of the case for some other good reason.

§ 26 Language of the Proceedings

If the parties have not agreed on the language of the proceedings, the language shall be determined by the Arbitration Court based on the language of the statement of claim, among other considerations.

§ 27 Minutes of Sessions

(1) Minutes shall be kept of Arbitration Court sessions, which shall set out the following:

- 1) the name of the Arbitration Court;
- 2) the time and place of the session;
- 3) the names of the parties;
- 4) the names of the arbitrators, representatives of the parties, witnesses and experts;
- 5) the petitions and requests of the parties;
- 6) the essential content of the claims and objections of the parties to the extent that is not reflected in the written documents submitted to the Arbitration Court;
- 7) the essential content of the statements of witnesses, the oral replies of experts and inspection results;
- 8) a short description of the session.

(2) A sound recording of the session may be annexed to the minutes. The minutes shall be signed by the arbitrator or arbitrators who heard the case.

(3) No minutes shall be drafted upon the resolution of a dispute in written proceedings.

§ 28 Specifics of Expedited Procedure

(1) Upon the consent of the parties or pursuant to an agreement within an arbitral agreement, the Arbitration Court may hear a case pursuant to expedited procedure, in which case the Rules shall be applied together with the specific provisions provided for in this section.

(2) In expedited procedure, the following issues shall be regulated as follows:

- 1) the plaintiff shall only file a statement of claim without filing a petition for the initiation of arbitration proceedings;
- 2) the Board of the Arbitration Court shall appoint one arbitrator or several (an odd number of) arbitrators without asking the opinion of the parties;
- 3) the schedule shall be confirmed by the Arbitration Court resolving the dispute without asking the opinion of the parties;
- 4) in addition to a statement of claim and response to the statement of claim each party has the right to submit one additional procedural document (including with regard to evidence) a maximum of once every 14 days as of the time the party is informed.
- 5) the case will be heard in written proceedings unless the Arbitration Court resolving the dispute deems it necessary to hold a session;
- 6) the decision will comprise only the resolution, except if a party requests the descriptive and reasoned parts during the final session at the latest or, in the

case of written proceedings, no later than 14 days before the date on which the arbitral award is made;

7) the decision must be made no later than within three months from delivery of the statement of claim and its annexes to the Arbitration Court resolving the dispute.

VI Arbitral Award and Final Provision of the Rules

§ 29 Term for Resolution of Dispute

(1) An Arbitration Court must resolve a dispute as quickly as possible but by no later than six months after delivery of the petition for the initiation of arbitration proceedings or statement of claim together with its annexes to the Arbitration Court resolving the dispute. The term for resolution of the dispute shall be suspended during the time the arbitration case file is in a court.

(2) If necessary, the Board of the Arbitration Court may, at the request of the Arbitration Court resolving the dispute, extend this term.

(3) If a counterclaim has been filed, the term for resolution of the dispute shall begin again as of delivery of the counterclaim to the Arbitration Court resolving the dispute.

§ 30 Making an Award

(1) The hearing of a case shall terminate upon the making of the arbitral award and its signature by the arbitrators. The award shall be drafted in the language of the proceedings. An arbitral award must be made within 30 days after the date of the last session of the Arbitration Court.

(2) An award is made if the majority of the arbitrators vote in favour.

(3) The parties may agree on a compromise. The Arbitration Court shall, pursuant to a petition of the parties, formalise the compromise in the wording agreed by the parties in the form of an arbitral award, if the content of the agreement is not contrary to good morals or public order.

§ 31 Formalisation and Delivery of Award

(1) The arbitral award shall be formalised in writing in the language of the proceedings and shall set out, in addition to the information prescribed in subsection 27(1) of the Rules, the merits of the dispute, the reasoning of the decision, a decision on the claim and the term for enforcement of the decision and on the division of the arbitration fee and the procedural expenses of the parties. The arbitral award shall set out the amount to be paid in euros if the seat or residence of the debtor is in Estonia or in the currency in which the claim was filed.

(2) The arbitral award shall be signed by all of the arbitrators who made the decision, who shall not have the right to refuse to sign the award. An award may be signed by all of the arbitrators by a digital signature except if the residence or seat of one of the parties is in a foreign country or if a party has petitioned for the award to be signed on

paper. If an award is not made unanimously, an arbitrator in the minority may issue a dissenting opinion together with the award, which he or she shall sign.

(3) Dissenting opinions shall be included at the end of an award.

(4) An arbitral award must bear the seal of the Arbitration Court except where the award is signed by digital signature.

(5) An arbitral award shall be delivered to the parties by the Arbitration Court no later than within 5 working days after the award is made.

§ 32 Interim Decisions, Partial Awards and Orders

(1) Upon hearing an action for the receipt of money and above all, an action for compensation for damage, where proving the amount of the claimed sum is extremely costly or difficult but the Arbitration Court is able to decide on whether the claim is found to be reasoned or unreasoned, on the petition of a party, the Arbitration Court may make an interim decision on whether the claim is reasoned or unreasoned.

(2) If a party petitions for refusal to hear a claim because of a lack of jurisdiction on the part of the Arbitration Court, the Arbitration Court must make an interim decision on the existence or lack of jurisdiction.

(3) If a claim is found to be reasoned or if the Arbitration Court is found to have jurisdiction by an interim decision, the Arbitration Court shall continue the proceedings regarding the size of the claim and shall make a decision in this regard. If the Arbitration Court finds that a claim is unreasoned, it shall terminate the proceedings by a decision. If the Arbitration Court finds that it does not have jurisdiction, it shall refuse to hear the claim.

(4) On the petition of the plaintiff, the Arbitration Court may by an interim decision require the defendant to pay the defendant's part of the arbitration fee as paid by the plaintiff pursuant to subsection 13(3) of the Rules, if payment of the arbitration fee in full by the plaintiff would be unreasonably cumbersome for the plaintiff.

(5) If several independent but related claims have been joined in one proceedings or if one claim or part of one claim that has been set out as one of several claims in a statement of claim is ready for a final decision or, in the case of a counterclaim, only the claim or the counterclaim is ready for a final decision, the Arbitration Court may make a partial award with regard to each, if this expedites the hearing of the case. The Arbitration Court shall continue proceedings with regard to the unresolved claims.

(6) The arbitrator or, in the case of several arbitrators, the presiding arbitrator of the Arbitration Court resolving the dispute if so authorised by the other arbitrators, may issue obligatory orders to the parties.

§ 33 Correction and Additional Award

(1) The Arbitration Court resolving the dispute may, on the petition of a party,:

- 1) correct computation, spelling and other similar errors in the arbitral award;
 - 2) make an additional arbitral award concerning a claim that was filed during the arbitration proceedings but was not resolved in the award.
- (2) A petition set out in subsection 1 of this section may be submitted within 30 days after delivery of the arbitral award unless the parties have agreed to another term.
- (3) The Arbitration Court shall also send a petition for an additional award to the other party for its information.
- (4) The Arbitration Court shall make an initial decision on correction of an award within 30 days after receipt of a petition and a decision on an additional award within 60 days after receipt of a petition.
- (5) An Arbitration Court may also correct an award on its own initiative within 30 days after delivery of the award.
- (6) The provisions applicable to the form and content of arbitral awards shall apply to the correction of arbitral awards and additional awards.

§ 34 Annulment of Award

An arbitral award is final and is not subject to appeal. An arbitral award shall be annulled on the bases and pursuant to the procedure prescribed by law.

§ 35 Entry into Force, Recognition and Enforcement of Award

- (1) An arbitral award shall enter into force on the date it is made.
- (2) An arbitral award shall be enforced immediately after its entry into force. If the Arbitration Court has determined another term for enforcement, the award shall be enforced within the term determined by the Arbitration Court.
- (3) Arbitral awards that are not enforced within the term shall be enforced in accordance with the law and international agreements.
- (4) Arbitral awards shall be recognised and enforced without recognition and without being declared to be subject to enforcement by a court.

§ 36 Deposit of Case Materials

After an award has been formalised, the case file shall, by a decision of the Arbitration Court, be deposited with the Estonian Chamber of Commerce and Industry, which shall ensure that the file is archived for an indefinite period of time.

§ 37 Violation of Requirements of the Rules

- (1) A party who believes that the requirements of the Rules and/or law have been violated shall submit an opinion and any potential petitions arising therefrom without delay to the Arbitration Court resolving the dispute and the Board of the Arbitration Court or, if there is no Arbitration Court resolving the dispute, only to the Board of

the Arbitration Court. If such opinion and petition are submitted after the arbitral award has been made, then the Board of the Arbitration Court shall not examine them.

(2) The Board of the Arbitration Court has the right to demand explanations from the Arbitration Court resolving the dispute regarding violation of requirements and to issue a mandatory order to the Arbitration Court resolving the dispute to conduct proceedings in accordance with the Rules.

(3) In the case of violation of mandatory requirements prescribed by the Rules or by law a party cannot rely on the violation if the party fails to notify the Arbitration Court of the violation without delay after the party becomes aware or should have become aware of the violation.

§ 38 Preclusion of Liability

A person may claim compensation for damage caused in the course of arbitration proceedings, including by a decision of the Arbitration Court only if the Arbitration Court has committed a criminal offence.

§ 39 Arbitration Court Costs, Expenses of the Estonian Chamber of Commerce and Industry, Arbitrators Fees and their Division

(1) Arbitration Court costs and expenses incurred by the Estonian Chamber of Commerce and Industry shall be compensated for, and arbitrators fees shall be paid to arbitrators, in accordance with the Guidelines annexed to the Rules.

(2) Upon satisfaction of a claim, the plaintiff shall be compensated in full, at the expense of the defendant, for the arbitration fee or for costs related to payment of the deposit set out in the Guidelines to the Rules; if a claim is satisfied partially, the plaintiff shall receive compensation in proportion to the amount which the defendant must pay pursuant to the award. Upon the partial satisfaction of a non-pecuniary claim the plaintiff and the defendant shall receive compensation for the arbitration fee or for costs related to payment of the deposit set out in the Guidelines to the Rules at the expense of the defendant in the amount determined by the Arbitration Court.

(3) If a claim is not satisfied, the defendant shall be paid compensation for the arbitration fee at the expense of the plaintiff or for costs related to payment of the deposit set out in the Guidelines to the Rules at the expense of the plaintiff in the amount determined by the Arbitration Court; if a claim is satisfied partially the defendant shall be paid compensation in proportion to the amount that that plaintiff was not required to pay.

§ 40 Division of Costs related to Arbitration Court Proceedings

(1) An Arbitration Court shall award costs related to Arbitration Court proceedings in a justified and necessary amount.

(2) Upon satisfaction of a claim, the plaintiff shall be paid compensation in full at the expense of the defendant for the costs related to the Arbitration Court proceedings

incurred by the plaintiff or, if the claim is satisfied partially, in proportion to the extent to which the claim was satisfied.

(3) If a claim is not satisfied the defendant shall be paid compensation at the expense of the plaintiff for the expenses related to the Arbitration Court proceedings in the amount determined by the Arbitration Court or, if the claim is satisfied partially, in proportion to the amount that the plaintiff was not required to pay.

§ 41 Confidentiality of Arbitration Proceedings

Proceedings in an Arbitration Court are confidential. The parties to the proceedings and the Arbitration Court may divulge facts relating to the arbitration proceedings and arbitral award only with the written consent of both parties, which shall be included in the case file by the Arbitration Court.

§ 42 Implementing Provision

Arbitration proceedings that have been initiated before the amendments to the Rules, which were confirmed by a decision of the Board of the Estonian Chamber of Commerce and Industry of 17.01.2013, entered into force on 01.02.2013, shall be conducted pursuant to the version of the Rules that was in force until that time.

Approved by a Decision of the
Board of the Estonian Chamber of Commerce and Industry
of 17.01.2013

Annex to the Rules of the Arbitration Court
of the Estonian Chamber of Commerce and Industry

**Guidelines for Arbitration Fees and Arbitrators Fees
of the Arbitration Court of the Estonian Chamber of Commerce and Industry**

1. An arbitration fee shall consist of a registration fee and an arbitration fee. The registration fee and arbitration fee shall be paid into the bank account of the Estonian Chamber of Commerce and Industry in euros. The registration fee is 400 euros.

2. The Board of the Arbitration Court shall determine the amount of the arbitration fee based on the value of the action, according to the following table, taking into account the number of claims, the complexity of the case, and the number of plaintiffs, defendants and arbitrators resolving the dispute. At the request of the Arbitration Court resolving the dispute, the Board of the Arbitration Court may, during the arbitration proceedings, impose an additional arbitration fee of up to 10% of the original arbitration fee if an interim decision has been made in the course of arbitration proceedings regarding the jurisdiction of the Arbitration Court, the proceedings are complex and the parties have submitted a larger than usual amount of procedural documents (except if a decision has been made to hear a counterclaim). The value of the action shall be calculated based on the normal value of that which is claimed in the statement of claim, which shall not include collateral claims.

Value of the action in euros	Amount of fee as a flat rate	Additional fee as a percentage of the value of the action
Up to 6500	-	10 - 30 % (but not less than 1000 euros)
6500 - 20000	500–1500	5 – 10 %
20000 – 100000	1500 –4000	5 - 7,5 %
100000 – 200000	4000 –7500	1,5 – 4 %
200000 - 300000	7500 -15000	0,5– 2 %
from 300000	15000 – 25000	0,25 – 2 %

3. If the Arbitration Court is acting as an authorised body in organising arbitration proceedings pursuant to the rules of another arbitration court, a registration fee must be paid and the arbitration fee is 1000 euros.
4. In the case of expedited procedure, the arbitration fee shall be increased by 25%.
5. The arbitration fee shall be paid into the bank account of the Estonian Chamber of Commerce and Industry pursuant to the procedure provided for in section 13 of the Rules in euros or in a currency determined by the Board of the Arbitration Court.
6. In case of a non-pecuniary claim, the Board of the Arbitration Court shall determine the amount of the arbitration fee based on the type of dispute and the total number of claims.
7. The arbitrators fees shall, in the case of three or more arbitrators, equal 75% and, in the case of one arbitrator, equal 40% (but not more than 90% of the arbitration fee actually paid) of the arbitration fee actually paid. Arbitrators fees shall be paid to arbitrators and income tax, an unemployment insurance premium and funded pension payment shall be withheld, and social tax and an unemployment insurance premium shall be paid on the amount in accordance with valid legislation. The arbitrators fees shall be shared by the arbitrators by agreement, for which a decision of the Arbitration Court shall be submitted by the Arbitration Court resolving the dispute to the Board of the Arbitration Court.
8. The arbitrators fees may be reduced by a decision of the Board of the Arbitration Court if an arbitrator does not participate to the necessary extent and/or delays the arbitration proceedings without good reason or if the Arbitration Court resolving the dispute does not make an award during the prescribed term.
9. Ten percent of the paid arbitration fee (excluding the registration fee) shall be retained by the Estonian Chamber of Commerce and Industry and 15% shall go to the Arbitration Court, which shall be deposited in a separate bank account of the Estonian Chamber of Commerce and Industry, which is used pursuant to a decision of the Board of the Arbitration Court to cover, among other costs, the costs of compensation of the activities of the Members of the Board of the Arbitration Court in directing the Arbitration Court (including for participation in meetings of the Board of the Arbitration Court) and to cover the expenses of arbitration proceedings and communication with other permanent arbitration courts and other costs.
10. If an arbitrator who is resolving a dispute is a person whose residence is outside of Estonia, the Board of the Arbitration Court has the right to require that the party that appointed the arbitrator or requested the appointment of the arbitrator pay a deposit, before the arbitrator is confirmed, to cover the potential travel costs of the arbitrator. If the Arbitration Court resolving the dispute decides to order an examination, the Arbitration Court resolving the dispute has the right to require that the parties pay a deposit to cover the expert's fees, in equal parts, before any questions are sent to an expert.

11. If an arbitral award is made that reflects the compromise of the parties or if arbitration court proceedings are suspended, paid arbitration fees and registration fees shall not be refunded to the parties.

12. If an action is discontinued before the statement of claim is delivered to the Arbitration Court resolving the dispute or if the Board of the Arbitration Court finds that the dispute is not within the jurisdiction of the Arbitration Court, 90% of the arbitration fee paid shall be refunded to the parties and the registration fee shall not be refunded.

13. If the Arbitration Court resolving the dispute or a court finds, with a decision that has entered into force, that the dispute is not within the jurisdiction of the Arbitration Court, 50% of the arbitration fee paid shall be refunded to the parties (a minimum of 1000 euro is not subject to refund) and the registration fee shall not be refunded.

14. If an action is discontinued after the statement of claim is delivered to the Arbitration Court resolving the dispute or if an action is not heard (except in connection with a lack of jurisdiction to resolve the dispute) or if proceedings are terminated (except in connection with discontinuation of an action by the plaintiff), the Board of the Arbitration Court shall decide on the amount of the arbitration fee to be refunded, taking into account the complexity of the case and the volume of acts performed towards resolution of the dispute by the Arbitration Court resolving the dispute, and shall not refund the registration fee. The Board of the Arbitration Court has the right to refuse to refund the entire arbitration fee paid, taking the circumstances into account.

15. Arbitrators fees shall be paid to the arbitrators within 45 days after the case file is deposited with the Estonian Chamber of Commerce and Industry, if no petition has been filed with a court to annul the arbitral award. If a petition has been filed with a court to annul the arbitral award, the arbitrators fees shall be paid to the arbitrators after a court decision enters into force by which the petition to annul the arbitral award has not been satisfied. If the arbitral award is annulled, the arbitrators fees shall be paid to the arbitrators after a new decision is made, within 45 days after the case file is deposited with the Estonian Chamber of Commerce and Industry.