



AFGHANISTAN	د افغانستان	مرکز حل
CENTER FOR	د سوداگريزو	منزعات
COMMERCIAL	شخړو	تجارتی
DISPUTE	حل مرکز	افغانستان
RESOLUTION		

Arbitration Rules of the Afghanistan Center for Commercial Dispute Resolution

May 2020

Table of Contents

ARTICLE 1: PURPOSE	1
ARTICLE 2: DEFINITIONS	1
ARTICLE 3: SCOPE OF APPLICATION	2
ARTICLE 4: INTERPRETATION OF THE RULES	2
ARTICLE 5: DIRECTOR AND STEERING COMMITTEE OF ACDR	2
ARTICLE 6: MODIFICATIONS	3
ARTICLE 7: NOTIFICATIONS AND COMMUNICATIONS	3
ARTICLE 8: REQUEST FOR ARBITRATION	3
ARTICLE 9: ANSWER AND COUNTERCLAIMS	4
ARTICLE 10: JOINDER OF THIRD PARTIES	5
ARTICLE 11: MULTI-PARTY DISPUTES	5
ARTICLE 12: CONSOLIDATION	6
ARTICLE 13: FORMATION OF THE ARBITRAL TRIBUNAL	6
ARTICLE 14: TRIBUNAL-APPOINTED EXPERTS	7
ARTICLE 15: JURISDICTION OF THE ARBITRAL TRIBUNAL	8
ARTICLE 16: IMPARTIALITY, INDEPENDENCE AND AVAILABILITY OF THE ARBITRAL TRIBUNAL	8
ARTICLE 17: CHALLENGE AND REPLACEMENT OF ARBITRATORS	9
ARTICLE 18: LEGAL SEAT OF ARBITRATION	10
ARTICLE 19: GOVERNING LAW	10
ARTICLE 20: LANGUAGE OF ARBITRATION	10
ARTICLE 21: APPOINTMENT OF ADMINISTRATIVE SECRETARIES	11
ARTICLE 22: CONDUCT OF THE PROCEEDINGS	11
ARTICLE 23: EQUAL TREATMENT OF PARTIES	12
ARTICLE 24: COST-EFFICIENT AND EXPEDITIOUS PROCEEDINGS	12
ARTICLE 25: EVIDENCE	13
ARTICLE 26: INTERIM RELIEF	13
ARTICLE 27: CONDUCT OF HEARINGS	14
ARTICLE 28: THE AWARD	14
ARTICLE 29: CORRECTION AND INTERPRETATION OF AWARDS	15
ARTICLE 30: ARBITRATION COSTS	15
ARTICLE 31: IMMUNITY	17
ARTICLE 32: CONFIDENTIALITY	17
ARTICLE 33: TERMINATION OF PROCEEDINGS	17
Schedule 1	18
ACDR Administrative Fees	18
Schedule 2	19
ACDR Arbitration Fees	19
ACDR Model Arbitration Clause:	20

ARTICLE 1: PURPOSE

These Rules are enacted for management and administration of Arbitration cases registered with and administered by Afghanistan Center for Commercial Dispute Resolution (“ACDR”).

ARTICLE 2: DEFINITIONS

For the purpose of these Rules the terms below shall denote the meaning specified herein:

- a. ACDR: Afghanistan Centre for Commercial Dispute Resolution.
- b. ACDR Steering Committee: The decision-making body of the ACDR.
- c. Arbitral tribunal: An arbitration panel composed of a sole arbitrator or three arbitrators constituted in accordance with these Rules, tasked with determining disputes arising in arbitrations submitted thereunder.
- d. Arbitration agreement: is the written agreement between parties or a clause in the contract between parties under which the parties refer their disputes to arbitration administered by ACDR.
- e. Award: An interim, partial or final award, or award by consent.
- f. Interim award: An award which is issued by the arbitral tribunal in relation to matters such as interim measures until the issuance of the final award.
- g. Partial award: An award which is issued by the arbitral tribunal in relation to some but not all claims and counterclaims between the parties.
- h. Final award: An award issued by the arbitral tribunal which finally decides the claims or remaining claims (as the case maybe) submitted to arbitral tribunal.
- i. Award by consent/Consent award: The award issued by the arbitral tribunal in the event of final settlement of the parties’ dispute as jointly requested in writing by the parties.
- j. Claim: Any claim by any party against another party.
- k. Claimant: The party or parties that initiates the arbitration.
- l. Dispute: A difference that arises between two or more parties arising out of a legal relationship.
- m. Day: Business day in the country where a notification or communication is made or deemed to be made under these Rules.
- n. Respondent: The party or parties against which the arbitration is initiated.
- o. Registrar: Registrar of the ACDR.
- p. Party: Claimant or Respondent.
- q. Rules: These Rules of Arbitration of the ACDR.

- r. Evidence: Includes credible documents, witness and expert evidence.

ARTICLE 3: SCOPE OF APPLICATION

1. These Rules shall apply to arbitrations where the arbitration agreement provides for these Rules to apply or govern the arbitration or words to similar effect. By submitting their arbitration to the ACDR, the parties shall be deemed to have incorporated the content of these Rules by reference as part of their arbitration agreement whenever they have provided for arbitration of a dispute by the ACDR.
2. These Rules shall come into force on 1st of June 2020 and shall apply to any arbitration which is commenced on or after that date.
3. Unless otherwise agreed by the parties, the version of the Rules in force at the time of the filing of the Request for Arbitration shall apply to the proceedings.
4. The ACDR is the only body authorized to administer arbitrations under these Rules.

ARTICLE 4: INTERPRETATION OF THE RULES

1. ACDR shall have the power to interpret all provisions of these Rules upon request of either one or both parties to a dispute.
2. The arbitral tribunal constituted under these Rules shall also have the power to interpret the provisions of these Rules which are related to its powers and duties hereunder.
3. The interpretation of arbitral tribunal constituted under these Rules shall be subject to review and confirmation of ACDR.
4. The ACDR shall not be obliged to provide reasons for any of the decisions it takes under these Rules, unless in the specific circumstances envisaged under these Rules, where requested to do so jointly by the Parties.
5. In these Rules, words in the singular shall include the plural, and vice versa.

ARTICLE 5: DIRECTOR AND STEERING COMMITTEE OF ACDR

1. The Director of the ACDR (“Director”) may take unilateral decisions on grounds of urgency and necessity on behalf of the ACDR, provided that any such decisions are ratified by the ACDR Steering Committee at its next meeting.
2. The ACDR Steering Committee oversees and directs the ACDR’s case management team, which is composed of Case Managers, who shall manage and run the cases submitted to the ACDR.

3. The duties and responsibilities of Director and Steering Committee of ACDR shall be further regulated in ACDR Charter.

ARTICLE 6: MODIFICATIONS

1. Subject to subsection (2) of this Article, the parties to a specific arbitration case may agree to modify these Rules in writing at any time prior to or following the commencement of arbitration. Any purported modification of these Rules after the commencement of the arbitration must be authorized by the arbitral tribunal and ACDR.
2. Articles 3, 4, 5, 8, 9, 16, 17 and 30 of these Rules are not subject to modification or deletion by the parties.

ARTICLE 7: NOTIFICATIONS AND COMMUNICATIONS

1. The parties or their legal representatives shall submit documents and correspondence in electronic format only, unless it is necessary to submit documents in hard copy format. Except for the Request, all documents produced in hard copy format shall only be sent directly to the other parties and the arbitral tribunal, after it is formed, with an electronic copy to the ACDR.
2. Notifications and communications from the ACDR shall be made by email or courier, or any possible means that provides a record of delivery. Unless requested otherwise by the parties and/or the arbitral tribunal, the ACDR shall transmit a copy of the Request by courier and shall transmit all other communications by email, except where email is unavailable, in which case the correspondence shall be sent by courier.
3. A notification or communication shall be deemed to have been made on the day it was received by the recipient itself or by its representative, or would have been received in accordance with subsection 2 of this Article.
4. Periods of time shall start running under these Rules on the date of receipt of a notification or communication under these Rules.

ARTICLE 8: REQUEST FOR ARBITRATION

1. The Claimant shall file its Request with ACDR which shall include the information listed at subsection 2 of this Article. The date of receipt of the Request by the respondent shall be the date of commencement of the arbitration for the purposes of these Rules and any award rendered in the arbitration.
2. The Request shall be accompanied by the following:

- a. an administrative filing fee of 6500 AFN (the “Filing Fee”);
 - b. the complete name and contact details, including electronic correspondence and telephone details, of each of the parties and their nominated arbitrators (if any);
 - c. a succinct and complete summary of the dispute and the grounds on which the claims are made;
 - d. a statement of the relief claimed including the monetary value of such claims, or if such value cannot be quantified, an estimate of their likely value;
 - e. a complete and legible copy of the documents relied upon, and, where applicable, their translation into Dari or Pashto, including the agreement(s) containing the arbitration agreement(s) relied upon and the governing law provision(s) (where applicable);
 - f. where claims are made under more than one document, confirmation of the arbitration agreement relied upon for each claim or document;
 - g. any relevant comments on the formation of the arbitral tribunal and, if the arbitration agreement(s) provide(s) for three arbitrators, the claimant’s nomination of a co-arbitrator and such co-arbitrator’s contact details; and
 - h. the claimant’s proposals on the applicable rules of law, language, or place of arbitration, where the documents relied upon do not indicate such choice.
3. Subject to the Claimant’s meeting the filing requirements set out in subsection 2 of this Article, the ACDR shall notify a copy of the Request and any supporting documents to the Respondent or its indicated representative(s).

ARTICLE 9: ANSWER AND COUNTERCLAIMS

1. The Respondent shall file its Answer (and Counterclaim, where applicable, subject to this Article) to the Request with the ACDR within 30 days of the date of receipt by the Respondent of the Request.
2. The Respondent may in case of justifiable reasons request an extension of time of up to 30 days from the ACDR for submission of its Answer. Such extension shall be granted, subject to the Respondent’s compliance with any relevant conditions within the time limit that is set by the ACDR (such as commenting on the number of arbitrators, or nominating an arbitrator for appointment). Any additional extension of time requested in writing by the Respondent beyond 30 days must be agreed to by all other parties.
3. The ACDR shall promptly send a copy of the Respondent’s Answer to the Claimant(s).

4. Failure to submit an Answer within the time limit granted shall not:
 - a. delay the arbitration, and any Answer that is submitted out of time by the Respondent shall be transmitted to the arbitral tribunal;
 - b. be construed as a waiver by the Respondent of its right to challenge the arbitral tribunal's jurisdiction in the arbitration. In such circumstances, the arbitral tribunal shall determine the question of its jurisdiction in the matter as one of the issues in the arbitration, without prejudice to the parties' rights to challenge such decision in the competent courts; and
 - c. be construed as representing Respondent's position with regard to the merits of the dispute.
5. Any known Counterclaims must be submitted with the Answer, failing which any subsequent Counterclaims submitted shall be subject to the consent of the arbitral tribunal.
6. Where the Respondent has submitted a Counterclaim with the Answer, the Claimant shall have 30 days from the date of receipt of such Counterclaims to respond (the "Reply"), unless an extension of time is granted by the ACDR.

ARTICLE 10: JOINDER OF THIRD PARTIES

1. Any party wishing to join a third party to the arbitration shall submit its Request for Arbitration against the additional party ("Request for Joinder") to the ACDR.
2. The Request for Joinder shall contain the information set out in Article 8 (2).
3. The date on which the Request for Joinder is received by the ACDR shall be the date of commencement of arbitration against the third party.
4. Any joinder shall be subject to Articles 8 and 9, the provisions of which shall apply *mutatis mutandis* to each joinder.
5. A third party may not be joined to the arbitration after the formation of the arbitral tribunal, unless the existing parties and the arbitral tribunal agree to such joinder.
6. ACDR shall have the discretion to reject a Request for Joinder prior to formation of the arbitral tribunal.

ARTICLE 11: MULTI-PARTY DISPUTES

The arbitral tribunal shall have the complete discretion, after considering the parties' submissions, to determine the procedure for multiparty disputes. In so doing, the arbitral tribunal shall as far as possible maintain the fairness and integrity of the proceedings.

ARTICLE 12: CONSOLIDATION

1. Subject to Article 12(2), the ACDR may consolidate two or more arbitral proceedings under the Rules into a single arbitration, where:
 - a. The parties have agreed to consolidation; or
 - b. All of the claims in the arbitrations are made under the same arbitration agreement; or
 - c. Where the claims in the arbitrations are made under multiple arbitration agreements, but involve the same parties, the same legal relationship, and the arbitration agreements are compatible.
2. The ACDR shall not consolidate arbitrations where different arbitrators have been confirmed or appointed in the different arbitrations.
3. Where the ACDR decides to consolidate arbitrations, they shall be consolidated into the arbitration that commenced first.

ARTICLE 13: FORMATION OF THE ARBITRAL TRIBUNAL

1. The parties are free to determine the number of arbitrators.
2. Where the parties have not agreed on the number of arbitrators, the ACDR shall, as an initial attempt, determine the number of arbitrators. In such cases, there shall be three arbitrators, save where the circumstances of the dispute (such as its nature, complexity and value) are such as to merit a sole arbitrator.
3. Where the ACDR determines, or the parties have agreed, that there shall be three arbitrators and the method of appointment has not been agreed by the parties, the Claimant(s) shall be granted 30 days from the date of notification of the Request to the Respondent to nominate a co-arbitrator, following which the Respondent shall have 30 days from the date of its receipt of the Request to nominate a co-arbitrator for confirmation by the ACDR.
4. Where the ACDR, as an initial attempt, determines that there shall be a sole arbitrator, the parties shall be granted 30 days from the date of the Respondent's receipt of the Request to nominate the sole arbitrator for confirmation by the ACDR.
5. Where either side is unable to nominate an arbitrator in accordance with subsections 3 and 4, the ACDR shall, as an initial attempt, make the relevant appointment.

6. Where the parties have agreed to have a sole arbitrator, the parties shall nominate the sole arbitrator within 30 days of the Respondent's receipt of the Request.
7. The co-arbitrators shall jointly nominate the third arbitrator, who shall be the chair of the arbitral tribunal, within 30 days of the confirmation of the second co-arbitrator.
8. In the interest of fairness and expediency, the ACDR, as an initial attempt, shall have the discretion, having regard to all the relevant circumstances of the case:
 - a. To modify any time limits granted in this Article 13; and/or
 - b. To appoint all members of the arbitral tribunal in the event of a failure by the parties to constitute the arbitral tribunal.
9. Based on the arbitration agreement of the parties, the decisions taken by the ACDR pursuant to this Article 13 shall be final and not subject to challenge or review.
10. In this Article 13, the reference to "party" shall include any third parties joined to the arbitration pursuant to Article 10, and the reference to "side" shall be deemed to refer collectively to Claimants or Respondents, where there are multiple parties.
11. Unless otherwise agreed by the parties, the ACDR shall not appoint an arbitrator who possesses the nationality of any of the parties to the arbitration, unless all the parties possess such nationality.

ARTICLE 14: TRIBUNAL-APPOINTED EXPERTS

1. Unless otherwise agreed by the parties and after consultation with the parties, the arbitral tribunal
 - a. may appoint one or more experts to report to it on issues present in the proceedings
 - b. may require a party to give the expert any relevant information or submit any relevant documents or provide access to goods or other property for his inspection
2. Any expert appointed under this Article 14 shall provide the arbitral tribunal with a written report.
3. Upon receipt of the report, the arbitral tribunal shall share a copy of the report with all the parties. The parties shall have the right to submit written comments on the report.
4. Upon request of any party or if the tribunal considers it necessary, the expert shall, after delivery of the report participate in a hearing where the parties have the opportunity to examine such expert.

5. The payment of costs associated with appointment of expert shall be determined by the arbitral tribunal.

ARTICLE 15: JURISDICTION OF THE ARBITRAL TRIBUNAL

1. The arbitral tribunal shall have the power to determine its own jurisdiction, including with respect to the existence, scope, or validity of the arbitration agreement. For that purpose, an arbitration clause shall be treated as an agreement independent of the other terms of the contract, and a decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.
2. The arbitral tribunal's decision on jurisdiction shall be recorded in the form of a partial or a final award (as the case may be).
3. The arbitral tribunal's decision on jurisdiction shall not be subject to challenge in any court of law by the parties except under the conditions provided by applicable domestic or international law.
4. The parties shall do all that is in their power to preserve the integrity of the proceedings and to ensure that every award rendered by the arbitral tribunal is respected and upheld. The above shall be without prejudice to the parties' right to challenge the jurisdiction of the arbitral tribunal in the limited circumstances set out in subsection 3.
5. The arbitration shall proceed despite the failure by any party, at any stage, to participate in the proceedings.

ARTICLE 16: IMPARTIALITY, INDEPENDENCE AND AVAILABILITY OF THE ARBITRAL TRIBUNAL

1. At all times in the proceedings, every arbitrator shall be impartial and independent of the parties and their counsel. The duty of independence and impartiality shall be a continuing one throughout the proceedings.
2. After confirmation or appointment, no arbitrator shall engage in *ex parte* communications with any of the parties or their counsel for the duration of the proceedings.
3. Before confirmation or appointment, every prospective arbitrator shall sign a statement in which he/she shall declare his/her independence, impartiality and availability to serve as an arbitrator in the proceedings. Such statement shall include the following information:

- a. Where applicable, the disclosure of all facts and circumstances that, from the point of view of a reasonable person and/or the parties, may be relevant to his/her independence and impartiality in the proceedings;
 - b. The dates or likely dates of all known or anticipated commitments, engagements over a minimum period of one calendar year in which the arbitrator shall not be available in respect of the arbitration proceedings concerned;
 - c. Where applicable, details of all remunerated posts or activities, and executive or non-executive affiliations that may be related to the parties, their counsel or any of their affiliates or partners.
4. After confirmation or appointment, every arbitrator shall immediately disclose in writing to the ACDR any facts or circumstances referred to in Article 16(3)(a).
5. Where any party objects to the confirmation or appointment of an arbitrator, the ACDR shall decide on the matter. Such decision shall be final and shall not be subject to review. The ACDR shall not disclose the reasons for its decisions to the parties in such regard, except where such reasons are requested in writing jointly by the parties in advance of such decision being taken.
6. By accepting to serve as arbitrators under these Rules, each arbitrator undertakes to observe his/her duties in accordance with this Article 16.

ARTICLE 17: CHALLENGE AND REPLACEMENT OF ARBITRATORS

1. A party may submit a challenge to the ACDR of an arbitrator, where reasonable facts or circumstances exist that raise doubt as to the independence or impartiality of such arbitrator. Such challenge must:
 - a. Be made within 15 days of such party becoming aware of such facts or circumstances;
 - b. Be in writing;
 - c. Be communicated to the ACDR with a copy to all other parties; and
 - d. Contain a statement of the grounds on which the challenge is made.
2. The burden of proving the date on which the challenging party was made aware of the facts and circumstances referred to in Article 17(1) shall be on the challenging party.
3. Promptly upon its receipt, the ACDR shall communicate such challenge to the challenged arbitrator and provide all parties and the non-challenged arbitrators (as the case may be) a reasonable time to provide their comments.
4. Unless the parties agree that the challenged arbitrator should resign, or the challenged arbitrator voluntarily resigns, the arbitral tribunal shall decide on the

admissibility of the challenge which will be subject to review of ACDR and ACDR shall communicate the decision to the parties and the arbitrators.

5. An arbitrator may be removed or replaced by the ACDR for any of the following reasons:
 - a. Successful challenge
 - b. Death
 - c. Resignation
 - d. Parties' agreement
6. If an arbitrator is removed or replaced for any reason including those reasons listed at Article 17(5) above, the ACDR shall have the discretion to decide upon the method to replace such arbitrator, as the case may be.
7. If an arbitrator is replaced, the proceedings shall resume at the stage where the arbitrator who was replaced ceased to perform his or her functions, unless the arbitral tribunal decides otherwise.

ARTICLE 18: LEGAL SEAT OF ARBITRATION

1. The parties may agree in writing to the seat (*i.e.*, the “legal place”) of arbitration at any time before the formation of the arbitral tribunal.
2. The parties may agree in writing to the seat at any time after formation, subject to the prior written consent of the arbitral tribunal.
3. If the parties have not agreed to the seat of arbitration, the arbitral tribunal shall determine the seat, having due regard to all the circumstances of the case.

ARTICLE 19: GOVERNING LAW

The parties may agree on the governing law to be applied in the arbitration, failing which the arbitral tribunal shall determine the applicable governing law. In making such choice, the arbitral tribunal may have regard to the law that has the closest connection to the merits of the dispute.

ARTICLE 20: LANGUAGE OF ARBITRATION

1. The parties are free to agree on language of arbitration.
2. Where the parties have not agreed on a language of arbitration, the default language shall be Dari or Pashto, either of which shall be selected by the arbitral tribunal in its full discretion.
3. The arbitral tribunal shall consider the convenience of the parties in selection of language of arbitration.

4. Unless otherwise agreed, where one or more parties or the arbitrators (where any have been confirmed) is not an Afghan national, the language of arbitration shall be English.

ARTICLE 21: APPOINTMENT OF ADMINISTRATIVE SECRETARIES

1. Where an administrative secretary is appointed by the arbitral tribunal, his/her fees shall be reimbursed directly by the arbitral tribunal.
2. ACDR will provide a list of administrative secretaries to the arbitral tribunal. The arbitral tribunal may appoint an administrative secretary from ACDR List of Administrative Secretaries.
3. Administrative secretaries shall observe the requirements of Article 16.

ARTICLE 22: CONDUCT OF THE PROCEEDINGS

1. The arbitral tribunal, in consultation with the parties, shall hold a procedural hearing which shall take place in person or by telephone or video conference, to establish the procedural rules and timetable for the arbitration.
2. The arbitral tribunal shall determine the physical venue of any hearings to be held in the arbitration, after consulting with the parties.
3. Unless such requirement is dispensed with by the parties, the arbitral tribunal shall, in consultation with the parties, proceed to establish a document (“Terms of Reference”) within 1 month of formation of the arbitral tribunal. The Terms of Reference shall be signed by the parties and the arbitral tribunal, and shall include the following information:
 - a. The parties’ names and contact details;
 - b. The contact details of the team in charge of the arbitration at the ACDR;
 - c. The relevant procedural history of the dispute, including the method and dates of appointment of the arbitral tribunal and the dates of any key submissions received by the parties in the arbitration;
 - d. The parties’ summaries of the dispute and their statements of relief, including the amount in dispute as currently known; and
 - e. The citation in full of the arbitration agreement(s) relied upon, and any relevant details with respect to the arbitration such as the language, seat and applicable law.
4. If any party refuses to sign the Terms of Reference for any reason, the Terms of Reference shall be submitted to the ACDR to be approved, and such approval shall be deemed to be as effective as the signature thereof.

5. Before the formation of the arbitral tribunal, the ACDR shall require the parties to provide satisfactory proof of the authority of their designated representatives in the proceedings.
6. After the formation of the arbitral tribunal, the arbitral tribunal shall require the parties to provide satisfactory proof of the authority of their representatives in the proceedings.
7. A party may introduce new claims at any time prior to the signature of the Terms of Reference. However, it shall be within the sole discretion of the arbitral tribunal to allow any new claims introduced after the Terms of Reference are signed.
8. If no Terms of Reference are established, new claims by any party shall be admitted at the discretion of the arbitral tribunal, which shall decide on the admission in writing.
9. If a party appoints new counsel in the proceedings at any stage, such party shall immediately disclose the identity of such counsel in writing to the arbitral tribunal. Failure to do so may result in the disqualification of such new counsel by the arbitral tribunal acting in its sole discretion.
10. The arbitral tribunal shall only apply to the merits of the dispute principles deriving from "ex aequo et bono", "amiable composition" or "honourable engagement" where the parties have so agreed in writing.

ARTICLE 23: EQUAL TREATMENT OF PARTIES

The arbitral tribunal shall treat the parties with fairness and equality at all times in the proceedings, while paying due regard to the requirement to ensure that the proceedings are conducted in a time and cost-efficient manner.

ARTICLE 24: COST-EFFICIENT AND EXPEDITIOUS PROCEEDINGS

1. The arbitral tribunal shall use its best endeavors at all times to conduct the arbitration in a cost-efficient and expeditious manner.
2. Failure to conduct the arbitration in a cost-efficient and expeditious manner, without reasonable justification, may result in a penalty by way of reduced fees of arbitrators, to be applied by the ACDR at its sole discretion, at the conclusion of the arbitration.

ARTICLE 25: EVIDENCE

1. The arbitral tribunal shall afford the parties a reasonable opportunity to present their respective cases.
2. The arbitral tribunal shall have the sole discretion to admit evidence and to admit the oral or written entry of witness evidence, having regard to the requirements of due process and to the circumstances of the proceedings.
3. Unless otherwise agreed by the parties, the arbitral tribunal shall determine the admissibility, relevance and materiality of the evidence.
4. Before any hearing, the arbitral tribunal may order any party to give written notice of the identity of each witness they wish to call, and the content of their statement.
5. Upon the request of a party or on its own initiative, the arbitral tribunal may request that a witness, on whose written testimony another party relies, be required to attend for oral questioning at a hearing before the arbitral tribunal. If such witness fails to attend the hearing without good cause, the arbitral tribunal may draw the appropriate inferences from such failure, or exclude all or any part of the evidence presented by such witness where appropriate, having regard to the circumstances.

ARTICLE 26: INTERIM RELIEF

1. Upon the request of a party, the arbitral tribunal shall have the power to grant interim measures in the form of an interim order or partial award, which shall include, but shall not be limited to, the grant of:
 - a. anti-suit injunctions where a party has breached, or has indicated that it shall breach, the arbitration agreement(s) upon which the proceedings are brought. The ability to grant such relief shall not be affected by the status of a challenge to the arbitral tribunal's jurisdiction in the proceedings;
 - b. orders of security for costs by one party against another party in appropriate circumstances, upon demonstration of just cause and urgency by the requesting party;
 - c. provisional relief, such as the disposition of property, or payment of funds by a party to an escrow account, in appropriate circumstances; and;
 - d. orders whose objective is the preservation of assets or evidence connected to the proceedings.

2. The parties agree to act in good faith throughout the proceedings and undertake not to initiate an action in any court of law on the same subject matter of the proceedings against the same parties.

ARTICLE 27: CONDUCT OF HEARINGS

1. The parties shall have a right to jointly request a hearing before the arbitral tribunal at any stage of the proceedings, or to dispense with the hearing.
2. Such hearing may take place by video or telephone conference or in person (or a combination of all three).
3. Where the parties have not agreed, the arbitral tribunal shall have sole discretion to determine whether there will be a hearing, and its form, modality and location, or whether the issues shall instead be determined on paper.
4. All hearings shall be held in private, unless the parties agree otherwise in writing.
5. The arbitral tribunal shall give to the parties reasonable notice in writing of any hearing.

ARTICLE 28: THE AWARD

1. The arbitral tribunal may make separate awards on different issues at different times, including in respect of Legal Costs. Such awards shall have the same status as any other award made by the arbitral tribunal and be final and binding.
2. The arbitral tribunal shall make any award in writing. The award shall state the reasons upon which such award is based unless the parties have agreed that no reasons are to be provided. The award shall also include the issuance date and place.
3. To be valid, the award shall be signed by at least a majority of the arbitral tribunal.
4. The existence and a brief summary of any dissenting opinion by a dissenting arbitrator shall be recorded in the award.
5. Where there is more than one arbitrator and the arbitral tribunal fails to agree on any issue, the arbitrators shall decide that issue by a majority. Failing a majority decision on any issue, the presiding member of the arbitral tribunal shall decide such issue.
6. The sole arbitrator or the presiding member of the arbitral tribunal shall be responsible for delivering the award to the ACDR. The ACDR shall notify and share a copy of the award with the parties, authenticated by the Registrar as an ACDR award, provided that the costs of arbitration have been paid in

full to the ACDR. Such transmission may be made by any electronic means, in addition to paper form (if so requested by any party).

7. Each party will be given a copy of the award and one copy shall be preserved by ACDR.
8. Every award shall be final and binding. In agreeing to arbitrate under these Rules, the parties waive irrevocably their right to undertake an appeal, review or recourse to any competent court or other legal authority against such award, insofar as such waiver may be validly made.
9. In the event of any final settlement of the parties' dispute, the arbitral tribunal may decide to make an award recording the settlement if the parties jointly so request in writing (a "Consent Award").

ARTICLE 29: CORRECTION AND INTERPRETATION OF AWARDS

1. Within 30 days of receipt of any award, a party may, by written notice to the ACDR (copied to all other parties), request the arbitral tribunal to correct in the award any error in computation, any clerical or typographical error, any ambiguity or any mistake of a similar nature.
2. If the arbitral tribunal considers the request to be justified, after consulting the parties, it shall make the correction within 30 days of receipt of the request from the ACDR. Any correction shall take the form of a memorandum.
3. The arbitral tribunal may also correct any such error of the type described in Article 29(1) (including any error in computation, any clerical or typographical error or any error of a similar nature) upon its own initiative by a memorandum within 30 days of the date of the award, after consulting the parties.

ARTICLE 30: ARBITRATION COSTS

1. The costs of arbitration shall include: the fees and expenses of the arbitral tribunal, and the service fee or administrative fee of the ACDR (including the filing fee) (the "Arbitration Costs").
2. The Arbitration Costs shall be fixed by the ACDR, having regard to the nature and complexity of the dispute. Where the amount in dispute has not been fixed, the Arbitration Costs shall be fixed after receipt of the parties' respective submissions on the amounts in dispute.
3. The Arbitration Costs (excluding the filing fee) shall be borne in equal share by the parties and shall be payable in advance, upon the request of the ACDR (the "Advance on Costs").

4. After receipt of the Request, the ACDR may request the claimant to pay a deposit in an amount intended to cover part of the Arbitration Costs until the Terms of Reference have been drawn up.
5. If the Terms of Reference have been dispensed with by the Parties, the Arbitration Costs shall comprise an amount needed to cover the costs of arbitration until the arbitral tribunal has determined the rules applicable to the procedure and the procedural timetable with the Parties.
6. The Arbitration Costs shall be fixed in accordance with Schedule 1 & 2 of these Rules.
7. The amount of any advance on costs fixed by the ACDR pursuant to this Article 30 may be subject to readjustment at any time during the arbitration. In all cases, any party shall be free to pay any other party's share of any advance on costs should such other party fail to pay its share.
8. If a party has not complied with a request for payment of its share of the advance on costs, and after consultation with the arbitral tribunal, the ACDR may request the arbitral tribunal to suspend its work and fix a time limit, which must be not less than 15 days, on the expiry of which the relevant claims shall be considered as withdrawn.
9. Any party that has failed to pay its share of the Arbitration Costs has the right to object to the withdrawal of the relevant claims by making a request within the above period for the matter to be decided by the ACDR. Such request shall suspend the 15 day time limit, which will resume after the ACDR takes a decision on the objection.
10. The withdrawal of any claims pursuant to this Article shall not prevent a party from reintroducing the same claims at a later date, in new proceedings.
11. For any withdrawn claims, the filing fee is non-refundable.
12. The arbitrators' reasonable expenses in connection with the arbitration shall be payable upon submission by the Arbitral tribunal of supporting receipts for such expenses. Failure to provide such receipts shall result in non-payment of such expenses.
13. The Arbitration Costs shall be subject to review by the ACDR at any time during the arbitral proceedings until the rendering of the final award.
14. The arbitral tribunal shall have the power to decide by an award that all or part of the legal or other expenses incurred by a party be paid by the other party ("Legal Costs").
15. The arbitral tribunal shall decide the amount of such Legal Costs on such reasonable basis as it thinks appropriate. The arbitral tribunal shall make such determination based on the circumstances of the case, outcome and conduct of the parties during the proceedings, including any co-operation in facilitating the

proceedings, or any conduct by the parties that has unreasonably or unduly delayed the proceedings. Any such decision shall be supported by reasons in the Award containing such decision.

ARTICLE 31: IMMUNITY

To the extent permissible by law, no member of the ACDR or the arbitral tribunal, nor any expert appointed by the arbitral tribunal or the parties, shall be liable to any party for any act or omission in connection with an arbitration, except where such act or omission is attributable to their intentional wrongdoing. The burden of proof to show such intent lies on the party alleging the wrongdoing.

ARTICLE 32: CONFIDENTIALITY

1. The parties undertake to keep confidential all awards in the arbitration, including all materials in the arbitration and all other documents produced by another party in the proceedings not otherwise in the public domain, except to the extent that disclosure is legally required by a party to protect or pursue a legal right, or to enforce or challenge an award.
2. The deliberations of the arbitral tribunal shall remain confidential to its members, except where required by any applicable law and to the extent that disclosure of an arbitrator's refusal to participate in the arbitration is required of the other members of the arbitral tribunal.
3. The ACDR shall not publish any award or any part of an award without the prior written consent of all parties and the arbitral tribunal.

ARTICLE 33: TERMINATION OF PROCEEDINGS

1. The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal according to section (2) of this Article:
2. The arbitral tribunal may issue an order for termination of the arbitral proceedings in following conditions:
 - a. When the claimant withdraws his claim unless the respondent has a counterclaim against the claimant or respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his part in obtaining a final settlement of the dispute.
 - b. The parties agree on termination of the arbitral proceedings.
 - c. The arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

Schedule 1

ACDR Administrative Fees

Filing/Registration Fees: AFN6500 (non-refundable) by Claimant

No.	Sum in Dispute (AFN-Afghani)	Administrative Fees (AFN-Afghani)
1.	1 to 200,000	10,000
2.	200,001 to 500,000	5.5%
3.	500,001 to 1,000,000	2.5%
4.	1,000,001 to 2,500,000	1.5%
5.	2,500,001 to 5,000,000	1%
6.	5,000,001 to 10,000,000	0.8%
7.	10,000,001 to 30,000,000	0.6%
8.	30,000,001 to 50,000,000	0.5%
9.	50,000,001 to 75,000,000	0.4%
10.	75,000,001 to 100,000,000	0.3%
11.	100,000,001 to 500,000,000	0.2%
12.	500,000,001 to 1,000,000,000	0.11%
13.	Above 1,000,000,000	0.07%

Schedule 2

ACDR Arbitration Fees

No.	Sum in Dispute (AFN-Afghani)	Sole Arbitrator (AFN-Afghani)	3 Arbitrator (AFN-Afghani)
1.	1 to 200,000	10,000	18,000
2.	200,001 to 500,000	3.8%	6%
3.	500,001 to 1,000,000	3%	5.5%
4.	1,000,001 to 2,500,000	2.5%	4.4%
5.	2,500,001 to 5,000,000	2%	3.80%
6.	5,000,001 to 10,000,000	1.5%	3%
7.	10,000,001 to 30,000,000	1%	1.40%
8.	30,000,001 to 50,000,000	0.8%	1.10%
9.	50,000,001 to 75,000,000	0.6%	0.90%
10.	75,000,001 to 100,000,000	0.5%	0.8%
11.	100,000,001 to 500,000,000	0.12%	0.25%
12.	500,000,001 to 1,000,000,000	0.09%	0.15%
13.	Above 1,000,000,000	0.08%	0.11%

ACDR Model Arbitration Clause:

Any dispute arising out of or in connection with this contract including the validity, existence, performance, interpretation or termination thereof shall be referred to and finally resolved by arbitration administered by the Afghanistan Center for Commercial Dispute Resolution (“ACDR”) according to ACDR Arbitration Rules, which rules are deemed to be incorporated by reference into this clause.

The seat or legal place of arbitration shall be [City and/or Country]

The number of arbitrators shall be [one/three]

The language of arbitration shall be [.....]



AFGHANISTAN
CENTER FOR
COMMERCIAL
DISPUTE
RESOLUTION

د افغانستان
د سوداګريزو
شخړو
حل مرکز

مرکز حل
منازعات
تجارتی
افغانستان