

## **ARBITRATION RULES OF THE VILNIUS COURT OF COMMERCIAL ARBITRATION**

**Effective from 1 January 2023**

### **TERMS AND DEFINITIONS**

**Arbitration** (or commercial arbitration) means a mode of resolving a commercial dispute where natural persons or legal entities, based on their agreement, refer or undertake to refer their dispute not to the state court, but to the arbitrator (arbitrators) appointed by their agreement or in accordance with the procedure established by law, and such arbitrators make an arbitral award binding on the parties.

**Arbitration Rules** mean these Arbitration Rules approved by the Board of the Vilnius Court of Commercial Arbitration.

**Arbitral Tribunal** means an arbitrator or a panel of arbitrators appointed in accordance with the established procedure and handling the arbitration case.

**ARBIS** means the Vilnius Court of Commercial Arbitration (VCCA) arbitration case management system online ([www.arbis.lt](http://www.arbis.lt)).

**Place of arbitration** means the place of arbitration indicated in the arbitration agreement or determined by the Arbitral Tribunal. If the parties have not agreed on the place of arbitration or the parties' agreement regarding the place of arbitration is not clear and as long as the place of arbitration has not been determined by the Arbitral Tribunal, the place of arbitration shall be deemed the office of the Vilnius Court of Commercial Arbitration. The place of arbitration may be different than the place of arbitral proceedings.

**Vilnius Court of Commercial Arbitration (the VCCA)** means the permanent arbitral institution organising and administering resolution of a dispute based on the parties' agreement.

**Chair of the VCCA** means a natural person appointed in accordance with the procedure established by the Statute of the Vilnius Court of Commercial Arbitration to organise and administer arbitration proceedings, activities of the Vilnius Court of Commercial Arbitration, and to perform other functions assigned to the Chair of the VCCA by laws or these Arbitration Rules.

**Secretariat** means the secretariat of the Vilnius Court of Commercial Arbitration.

**Arbitration fees** mean fees designated to remunerate for the services provided by the arbitrators and the Vilnius Court of Commercial Arbitration and to compensate for the expenses related to provision of such services. The arbitration fees shall include a registration fee, arbitrating fees and compensation fees.

**Registration fee** means a fee to be paid when filing a claim with the Vilnius Court of Commercial Arbitration (the Secretariat) and designated to cover the initial expenses incurred in preparing the case for arbitral proceedings.

**Arbitrating fee** means a fee to be paid for each claim (request for arbitration) submitted for arbitration and designated to cover arbitrators' fees, maintain the Secretariat and cover other general expenses of the activities of the permanent arbitral institution.

**Compensation fee** means a fee designated to compensate for business trip (travelling, accommodation, etc.) expenses of arbitrators, witnesses, experts, translators/interpreters incurred due to their participation in the arbitration of disputes, and to pay for the services of experts and translators/interpreters, the lease of the premises and equipment for hearings and other services provided to the party.

**Claimant** means one or more claimants within the meaning of these Arbitration Rules.

**Respondent** means one or more respondents within the meaning of these Arbitration Rules.

**Funder** means a person not a party to the arbitration proceedings providing funds for the party to the arbitration proceedings to cover the arbitration costs and having an interest in the outcome of the proceedings.

**Third party** means one or more third parties within the meaning of these Arbitration Rules.

**Party or parties** mean the claimant, the respondent or the third party.

**Claim or claims** mean any claim of any party against any other party.

**Arbitral award** means a partial, final or additional arbitral award.

GDPR - General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC).

## SECTION I

### GENERAL PROVISIONS

#### Article 1. Legal Nature and Scope of the Arbitration Rules

1. These Arbitration Rules have been prepared and approved by the permanent arbitral institution Vilnius Court of Commercial Arbitration in accordance with the Law of the Republic of Lithuania on Commercial Arbitration.
2. The parties These Arbitration Rules shall be applied in deciding commercial disputes irrespective of whether the arbitration is international or national, if the parties to the dispute have agreed in writing that their dispute will be referred to the Vilnius Court of Commercial Arbitration or decided by arbitration based on these Arbitration Rules.
3. If the parties agree to apply these Arbitration Rules, it shall be deemed that the dispute will be administered by the Vilnius Court of Commercial Arbitration.

4. These Arbitration Rules shall be deemed to be part of the arbitration agreement and shall be applied to the extent they do not contradict the imperative rules of laws regulating the arbitral procedure.
5. Issues of the arbitral procedure not regulated by the law applied to the arbitral procedure, these Arbitration Rules or the parties' agreement shall be resolved by the Arbitral Tribunal handling the dispute or the Chair of the VCCA if the Arbitral Tribunal has not yet been constituted.
6. Official languages of the Vilnius Court of Commercial Arbitration shall be the Lithuanian, English and Russian languages. Documents shall be submitted to the Vilnius Court of Commercial Arbitration (the Secretariat) in one of these languages.

## **Article 2. Disputes Subject to Arbitration**

The Vilnius Court of Commercial Arbitration shall accept to hear and resolve by arbitration the disputes arising from contractual or non-contractual legal relations, except for disputes not subject to arbitration.

## **Article 3. Parties' Right to Restrict Application of the Arbitration Rules**

1. The parties to the dispute may by a written agreement provide that certain rules of these Arbitration Rules shall not be applied in deciding their dispute, except for the provisions regarding the arbitration fees. In such a case, the Arbitral Tribunal shall decide the dispute in accordance with the arbitral procedure agreed by the parties or the procedure established in the Arbitration Rules, except for the modifications agreed by the parties.
2. The parties may agree upon:
  - 1) the number of arbitrators;
  - 2) the procedure for appointing an arbitrator(s);
  - 3) the procedure for challenging an arbitrator(s);
  - 4) the place of arbitration;
  - 5) the language of arbitration;
  - 6) an oral or documentary (written) procedure of consideration of the case;
  - 7) the time limits for filing of a claim and submitting an answer to the claim;
  - 8) other issues upon which the parties are not forbidden to agree under the law applicable to the arbitral procedure.
3. A parties' agreement to shorten the terms set in the Arbitration Rules concluded after the appointment of the Arbitral Tribunal shall become effective only upon approval of the Arbitral Tribunal.
4. The Chair of the VCCA may on his/her own initiative extend any time limit which was changed by the parties in accordance with Paragraphs 1, 2 or 3 of this Article where the fulfilment of the obligations of the Vilnius Court of Commercial Arbitration and/or the Arbitral Tribunal under these Arbitration Rules has to be ensured.

## **Article 3<sup>1</sup>. Dispute Administration System**

1. All disputes falling within the scope of these Arbitration Rules shall be administered and dealt with through the Vilnius Court of Commercial Arbitration Information System (ARBIS).
2. The provisions of paragraph 1 of this Article shall not apply in the event when the claim (Request for Arbitration) is submitted to the VCCA not through the information system ARBIS and a 30 percent higher arbitration fee is paid.

3. The Rules for the use of the ARBIS shall be approved by the Chair of the VCCA.

#### **Article 4. Sending, delivery of Procedural Documents and Calculation of Time Limits**

1. If the parties agree on the application of these Arbitration Rules, it shall be deemed that they at the same time agree that all procedural documents shall be submitted by using the ARBIS system, except the case provided in Paragraph 2 of Article 3<sup>1</sup> of these Arbitration Rules. Procedural documents are deemed to have been served to the party on the next day after their submission via ARBIS.
2. The VCCA notice of the received claim (notice of arbitration) shall be sent to the respondent personally in accordance with the procedure established in Paragraph 5 of this Article. The notice shall specify the claimant and the subject of the claim (Request for Arbitration) and offer the respondent to join the ARBIS system or submit a reasoned request to the VCCA regarding the non-application of the ARBIS system within 5 days of receipt of the notice. The Chairman of the VCCA shall resolve this request within 5 days.
3. If the ARBIS system is not used in the case, all procedural documents and other written statements or notifications of the party together with all annexes thereto shall be presented in the number of copies sufficient to present a copy thereof to each of the parties, each arbitrator and the Secretariat (originals and their electronic copies). After transmission of the case file to the Arbitral Tribunal, each party shall send all documents or other information directly to the Arbitral Tribunal and the other party with a copy to the Secretariat, notwithstanding in which way the case will be considered.
4. If the ARBIS system is not used in the case, all notifications and orders of the Arbitral Tribunal shall be sent to the parties with a copy to the Secretariat.
5. If the ARBIS system is not used in the case, all written notifications of the Secretariat and the Arbitral Tribunal shall be sent to the last known address of the party or its representative specified by the party itself or the other party. Such notifications may be delivered in person, by registered mail, courier, by e-mail, other electronic communications terminal equipment or by any other means that provides record of the sending thereof.
6. A written notification shall be deemed received on the day it is served or delivered to the party or its representative or normally deemed to have been served if sent in accordance with Paragraph 5 of this Article.
7. In calculating the time limits under these Arbitration Rules, it shall be deemed that a time limit started to run on the next day after a procedural document or notification has been received in accordance with paragraph 6 of this Article. If at the addressee's place the last day of the time limit is an official holiday or a non-working day, the last day of the time limit shall be deemed the following working day after the official holiday or non-working day. Official holidays and non-working days shall be included in the time limit.

#### **Article 5. Representation**

1. The parties may handle the case themselves or through their representatives.
2. A party appointing its representative shall communicate in writing to the Vilnius Court of Commercial Arbitration and the Arbitral Tribunal the name of organisation, first and last names, address, telephone number and email address of the representative.
3. The representative must prove his/her authority to the Arbitral Tribunal and the Secretariat.

## **Article 5<sup>1</sup>. Disclosure of Funding of the Arbitration Proceedings**

1. The party shall immediately, but not later than within 7 (seven) days following the conclusion of the agreement with the Funder (-s), inform the Secretariat, the Arbitral Tribunal and the parties to the proceedings on the fact of the existence of such agreement and the Funder (-s).
2. If the party discloses the information under Paragraph 1 of this Article prior to the constitution of the Arbitral Tribunal, the Secretariat shall notify the arbitrators to be appointed or already appointed to that effect for the purposes of the implementation of the arbitrators' duties stipulated in Paragraph 2 of Article 18 of these Arbitration Rules. The Secretariat may request additional information from the party.
3. If the party discloses the information under Paragraph 1 of this Article after the constitution of the Arbitral Tribunal, each arbitrator shall, within 15 (fifteen) days following such disclosure, notify in writing on all circumstances which could give rise to reasonable doubt as to independence or impartiality of such arbitrator. The Arbitral Tribunal or the Secretariat may request additional information from the party.

## **Article 6. Principles of the Arbitration Proceedings**

The Arbitral Tribunal, the Chair of the VCCA and the Secretariat shall examine and resolve the issues attributed to their competence in accordance with the principles of the parties' autonomy, procedural equality of arms, disposition, the adversarial principle, the principles of confidentiality, economy, cooperation and expedition of the arbitration proceedings.

## **Article 7. Arbitration Fees**

1. The claimant filing a claim (request for arbitration) or the respondent filing a counterclaim shall pay the registration fee of the defined amount. Preparation of the case for arbitral proceedings shall be started only after the registration fee has been paid. The registration fee shall be non-refundable.
2. The arbitrating fee shall be paid in advance by the claimant for each claim (request for arbitration) or by the respondent for each counterclaim, filed with the Vilnius Court of Commercial Arbitration. The case file shall be transmitted to the Arbitral Tribunal and its consideration on the merits shall be started only after the arbitrating fees have been paid.
3. The rates of the registration fee and arbitrating fees, the procedure for payment of the registration fee, arbitrating fees and the compensation fees as well as distribution thereof, and the procedure for covering other arbitration expenses shall be approved by the Board of the Vilnius Court of Commercial Arbitration.
4. The paid arbitration fees shall be awarded to the successful party from the unsuccessful party, unless the agreement of the parties provides for otherwise. In case of satisfying the claim in part, the arbitration fees shall be distributed between the parties in proportion to the amount of the claims satisfied and rejected. If, after the parties have made the settlement agreement, they fail to agree on distribution of the arbitration fees, such fees shall not be distributed between the parties. In view of the conduct of the parties (party) in the arbitration proceedings and other important circumstances, the arbitrators may deviate from the rules on distribution of the arbitration fees between the parties defined in this Paragraph.
5. The rates of the fees approved by the Board of the Vilnius Court of Commercial Arbitration, the procedure for payment and distribution of the fees (Annex No 2 "Arbitration Fees and Procedure for Their Payment") shall be an integral part of these Arbitration Rules.

## **Article 8. Extension of Procedural Time Limits**

In view of the complexity of the case, and also in the event of international commercial arbitration, the Arbitral Tribunal or the Chair of the VCCA, if the Arbitral Tribunal has not yet been constituted, may extend the time limits set in these Arbitration Rules.

## **SECTION II**

### **INSTITUTION OF THE PROCEEDINGS**

#### **Article 9. Filing of a Request for Arbitration and/or a Claim**

1. The interested party (claimant) shall initiate the arbitration proceedings by filing a claim or request for arbitration with the Vilnius Court of Commercial Arbitration (the Secretariat) and by paying the registration fee.
2. Unless the parties agree otherwise, the arbitral procedure shall be deemed started on the day the Secretariat received the claim or the request for arbitration in compliance with the requirements of this Article and Article 4(3).
3. The claim shall contain the following information:
  - 1) the full names of organisations or first and last names, codes and addresses, telephone, fax numbers, email addresses of the parties;
  - 2) the first and last names (name of organisation), address, telephone, fax numbers and email address of the claimant's representative;
  - 3) a reference to the arbitration agreement;
  - 4) a reference to the contract giving rise to the dispute;
  - 5) the substance of the dispute, the facts and circumstances confirming the demand of the claim;
  - 6) the amount of the dispute and the procedure for calculation thereof;
  - 7) legal justification of the issues in dispute;
  - 8) the demands of the claim indicating separately the amount of each property demand and the monetary estimate of other demands;
  - 9) the claimant's proposals regarding the number of arbitrators, the procedures for their appointment, as well as the arbitrator appointed by the claimant and the contact details of the arbitrator;
  - 10) the place, language of arbitration and the applicable substantive law, unless it is provided in the arbitration agreement.
4. The request for arbitration shall contain information indicated in Items 1-4 and 9-10 of Paragraph 3 of this Article, a preliminary amount of the dispute, a brief description of the demands and essential arguments justifying the same.
5. The arbitration agreement and the contract regulating the relations of the parties giving rise to the dispute or the certified copies thereof and the evidence confirming the payment of the registration fee shall be attached to the claim or the request for arbitration.
6. The claimant may attach to the claim or the request for arbitration all documents which, in the opinion of the claimant, are required, and indicate the documents or other evidence the claimant will submit later.
7. The claim, the request for arbitration and the documents attached thereto, as well as all other required documents shall be presented to the Secretariat in the language agreed to be used during the arbitral proceedings. If the parties agree to use in the arbitration proceedings a language other

than the official language of the Vilnius Court of Commercial Arbitration, the parties must provide a translation of the documents into one of the official languages of the Vilnius Court of Commercial Arbitration.

8. The copies of the documents shall be submitted to the other party to the dispute, to the Vilnius Court of Commercial Arbitration and to each arbitrator, unless the delivery of the documents is carried out by using the information system ARBIS and, in cases when it is not working - by electronic means. The Secretariat of the VCCA may require the claimant to submit one or more sets of documents when the documents are to be sent to the respondent by post or courier.

#### **Article 10. Change of the Elements of the Claim and the Extent of the Demands of the Claim**

1. Unless the parties have agreed otherwise or the Arbitral Tribunal has set a separate time limit, the claimant shall have the right to change the subject or cause of the claim, also reduce or increase the demands of the claim not later than 15 days prior to the commencement of the main hearing.
2. The respondent shall have the right to change the statements of defence laid out in its answer or demands of the counterclaim with permission and within the time limits set by the Arbitral Tribunal.
3. If the demands of the claim or counterclaim increase, the Chair of the VCCA shall order the party or parties to pay additional amounts of money.
4. In exceptional cases and with permission of the Arbitral Tribunal, the actions indicated in the first and second Paragraphs of this Article may also be performed by the parties after the commencement of the main hearing provided they do not cause a significant delay in the proceedings.

#### **Article 11. Actions of the Chair of the Vilnius Court of Commercial Arbitration**

1. Upon receipt by the Vilnius Court of Commercial Arbitration (the Secretariat) of a request for arbitration or a claim (counterclaim) which complies with the requirements of Article 9 of these Arbitration Rules and a document proving payment of the registration fee, the Chair of the VCCA shall make an order and send to the other party a notice on referring the dispute to arbitration together with the request for arbitration or the claim (counterclaim). When a claimant submits a request for arbitration or a claim through ARBIS, the VCCA shall send a notice to the other party in accordance with the provisions of Paragraph 2 of Article 4.
2. If the request for arbitration or the claim (counterclaim) does not comply with the requirements of Article 9 and/or the registration fee has not been paid, the Chair of the VCCA shall not pursue the request for arbitration or the claim (counterclaim) and shall set a reasonable time limit to eliminate the deficiencies. If the deficiencies are not eliminated within the set time limit, the request for arbitration or the claim (counterclaim) shall not be considered as filed.

#### **Article 12. Third Parties**

1. A person having an independent demand to one of the parties pertaining to the case under consideration shall have the right to request the Arbitral Tribunal to allow it (him/her) to join the case as a third party, provided such person is bound by the arbitration agreement. The third party shall join the case in accordance with the same procedure as that established for the claimant.
2. A party shall have the right to involve in the proceedings a person in support of it as a third party having no independent demands, provided such person is bound by the arbitration agreement.

#### **Article 13. Calculation of Arbitration Fees and Procedure for Their Payment**

1. Based on the amount demanded by the claims filed by the party, the effective rates of the arbitration fees approved by the Board of the Vilnius Court of Commercial Arbitration (Annex No

- 2) and in view of the estimated expenses related to the consideration of the case, the Chair of the VCCA shall determine and order the party filing the claims (or the parties, if they have agreed upon the procedure for payment of the arbitration fees) to pay the arbitrating fees in advance within 30 days. The indicated amount of money shall be deemed paid when the bank credits this amount to the account of the Vilnius Court of Commercial Arbitration.
2. At any time during the arbitral proceedings, the Chair of the VCCA may, in view of the increased arbitration expenses or the increased amount of the demands in the filed claims or the complexity of the dispute, recalculate the amount of the arbitrating fee and order the party (or the parties, if they have agreed upon the procedure for payment of the arbitration fees) to pay the additional amounts within the time limit set by the Chair of the VCCA. If the amount of the submitted demands decreases, the arbitrating fee may be recalculated and part of it may be refunded not later than the constitution of the Arbitral Tribunal.
  3. At any time during the arbitral proceedings, the Secretariat may, in view of the estimated expenses, determine and order the party or parties to pay in advance the compensation fees within the set time limit. If the expenses of the Vilnius Court of Commercial Arbitration designated to cover the expenses of the arbitrators, witnesses, experts, translators/interpreters incurred due to their participation in arbitration of the case, the lease of the premises and equipment for hearings and other services provided to the party, as well as designated to pay for the services of the experts and translators/interpreters do not reach the amount of the compensation fees paid in advance by the party or parties, the difference shall be refunded to the paying party or parties within 30 days from the day of making the award of the Arbitral Tribunal. The difference lower or equal to the amount of the bank order charge shall not be refunded.
  4. If the respondent submits a counterclaim, the registration fee must be paid.
  5. If, in accordance with the requirements of this Article, different payable amounts are determined for the parties to the dispute, the parties shall have the right to agree on payment of such amounts in equal parts.
  6. If the parties have agreed on the procedure for payment of the arbitration fees, but one of the parties fails to comply with this procedure and pay its portion due, such portion of the arbitration fees shall be paid by the other party.
  7. The case shall be referred for consideration on the merits only after payment of the determined arbitration fees in advance.
  8. If none of the parties to the dispute pay the arbitrating fees determined by the Chair of the VCCA within the set time limit, after expiry of the set payment due date, the claim (request for arbitration, counterclaim) may be left unconsidered in accordance with the procedure established in Article 41 of the Arbitration Rules.
  9. Where the arbitrating fees due by the party exceed EUR 30 000, the Chair of the VCCA shall have the power to accept a bank guarantee proposed by the party for any amount exceeding EUR 30 000, which, upon order of the Vilnius Court of Commercial Arbitration, shall be paid unconditionally by the bank, if the party fails to pay the determined amount before the commencement of the main hearing. The decision shall be sent to the parties after the total determined amount of the arbitrating fees has been credited to the bank account of the Vilnius Court of Commercial Arbitration. The requirements for bank guarantees to be presented by the parties shall be established by the Board of the Vilnius Court of Commercial Arbitration.



## **Article 14. Answer**

1. Upon adopting an order on opening of the arbitration case, the Chair of the VCCA shall forward to the respondent one counterpart of the claim (request for arbitration) and its annexes or only the VCCA notice complying with the provisions of Paragraph 2 of Article 4 (if the claim (request for arbitration) is submitted through ARBIS) and shall set a time limit not shorter than 14 days and not longer than 40 days for the respondent to submit its answer to the claim (request for arbitration), unless the parties have agreed on another time limit to submit an answer.
2. The respondent shall specify in the answer to the claim (request for arbitration) the following information:
  - 1) full name of organisation (first and last names), legal form, address, telephone, fax and other contact data, including the email address;
  - 2) the first and last names, name, address, telephone, fax and email address of the respondent's representative in the arbitration case;
  - 3) points of defence in respect of the claim filed against it, the circumstances justifying the claim, the grounds of the claim, a possibility to refer the dispute to arbitration and other issues;
  - 4) legal and factual grounds justifying the respondent's statements of defence, the documents and other evidence invoked;
  - 5) an opinion or proposals regarding the number of arbitrators, the procedure for appointment thereof, as well as the first and last names and contact data (address, telephone, fax and email address) and citizenship of the appointed arbitrator;
  - 6) an opinion or proposals regarding the place of arbitration, the applicable law and the language of arbitration.
3. The respondent shall attach to the answer to the claim (request for arbitration) a document confirming the authority of its representative, and it may also attach all documents the respondent invokes in defending its position or indicate documents or other evidence it is going to present later.
4. The answer with its annexes shall be supplied to the Secretariat in the number of copies sufficient to provide a copy to the Vilnius Court of Commercial Arbitration and a copy to each arbitrator, unless the delivery of the documents is carried out by using the ARBIS system. One copy of the answer to the claim (request for arbitration) with its annexes shall be sent by the respondent directly to the claimant, and the respondent shall note such sending in the copy designated for the Vilnius Court of Commercial Arbitration, except when the documents are submitted through ARBIS system.
5. Failure to submit an answer to the claim (request for arbitration) within the set time limit shall not be an obstacle for the arbitration proceedings to be continued. In such a case, the Arbitral Tribunal shall not construe the failure to submit an answer as recognition of the filed claim. If the arbitration agreement provides that each party proposes arbitrators, then failure to submit an answer to the claim (request for arbitration) within the set time limit shall be construed as a waiver by the respondent to appoint an arbitrator.
6. The Chair of the VCCA or the Arbitral Tribunal may, if necessary, request the parties to exchange their answers.
7. Unless the parties have agreed otherwise, during the arbitration proceedings, each of them shall have the right to present new evidence or reasoning, except for the cases where the Arbitral Tribunal recognises that earlier the parties have failed to present such evidence or grounds without valid reasons and their subsequent presentation will delay the proceedings significantly.

## **Article 15. Counterclaim**

1. The respondent may submit, together with its answer to the claim (request for arbitration) or instead thereof, a counterclaim arising out of the disputed legal relationship covered by the arbitration

agreement. The counterclaim submitted subsequently may be admitted by the Arbitral Tribunal, if the Arbitral Tribunal recognises that such later submission is justified by valid reasons.

2. The counterclaim shall comply with the requirements of Article 9 and Article 13(4) of these Arbitration Rules.

### **SECTION III**

#### **CONSTITUTION OF THE ARBITRAL TRIBUNAL**

##### **Article 16. Number of Arbitrators and Procedure for Appointing Them**

1. The parties may agree on the number of arbitrators and the procedure for appointing them. The number of arbitrators shall be uneven. An arbitrator shall be independent and impartial.
2. If the arbitration agreement does not contain a provision regarding the number of arbitrators, the parties shall be deemed to have agreed upon the dispute to be decided by a sole arbitrator, unless any of the parties requests the dispute to be decided by three arbitrators. The request shall be expressed in the claim (request for arbitration) or the answer to the claim (request for arbitration). In such a case, three arbitrators shall be appointed based on the procedure established in Paragraphs 4 and 5 of this Article and Article 17.
3. In the case stipulated in Paragraph 2 of this Article, the Chair of the VCCA shall propose to the parties to appoint a sole arbitrator by consensus.
4. Where the Arbitral Tribunal is constituted of three arbitrators, unless the parties have agreed otherwise, each party shall appoint an arbitrator, and these two arbitrators shall, not later than within 10 days, appoint the third arbitrator who shall chair the Arbitral Tribunal and perform the functions of the rapporteur.
5. In appointing arbitrators, the co-claimants and co-respondents shall act by consensus, unless they have agreed upon a different procedure for appointing arbitrators. The co-claimants, jointly, or correspondents, jointly, shall agree upon appointing an arbitrator, and both appointed arbitrators shall, not later than within 10 days, appoint the third arbitrator (chair).
6. The appointing party shall indicate the first and last names, address, telephone, fax numbers and email address, as well as the citizenship of the appointed arbitrator. Where an arbitrator is appointed from the list of recommended arbitrators of the Vilnius Court of Commercial Arbitration, the party shall indicate the first and last names of the prospective arbitrator.
7. A party shall have the right to appoint as arbitrator a person not included in the list of recommended arbitrators of the Vilnius Court of Commercial Arbitration.

##### **Article 17. Cases where an Arbitrator is Appointed by the Chair of the VCCA**

1. Unless the parties agree otherwise:
  - 1) if the Arbitral Tribunal is constituted of a sole arbitrator, but within 20 days from the delivery of the claim (request for arbitration) to the respondent, the parties fail to agree on the appointment thereof, an arbitrator shall be appointed by the Chair of the VCCA;
  - 2) when filing a claim (request for arbitration), if the claimant or co-claimants fail to appoint an arbitrator within 20 days following the day of filing of the claim (request for arbitration), then an arbitrator shall be appointed by the Chair of the VCCA;

- 3) if the respondent or co-respondents fail to appoint an arbitrator within 20 days following the day of receipt of the claim (request for arbitration), then an arbitrator shall be appointed by the Chair of the VCCA;
  - 4) if two arbitrators appointed by the parties fail to appoint the third arbitrator within 10 days following the appointment of the last of them, the third arbitrator shall be appointed by the Chair of the VCCA.
2. If, upon agreeing by the parties on the procedure for appointing arbitrators:
- 1) a party or parties fail to comply with the procedure for appointing arbitrators established by the parties; or
  - 2) the arbitrators appointed by the parties fail to agree upon appointment of an arbitrator based on the procedure established by the parties; or
  - 3) other persons whom the parties have entrusted with the function of appointing arbitrators fail to perform the functions pertaining to the appointment of an arbitrator, upon request of any of the parties, an arbitrator may be appointed by the Chair of the VCCA,.
3. Decisions of the Chair of the VCCA falling under the competence of the Chairman of the VCCA under the first and second Paragraphs of this Article, Article 18(3) shall be final and not subject to appeal.
4. An arbitrator shall be appointed in view of the substance of the dispute, the circumstances ensuring the independence and impartiality of the arbitrator and the requirements established by the parties for an arbitrator. In appointing an arbitrator, the prospective arbitrator's experience and a possibility to appoint as arbitrator a person of other citizenship or national status than that of the parties may be taken into consideration.
5. If the parties agree to appoint the Vilnius Court of Commercial Arbitration as the institution appointing arbitrators in *ad hoc* arbitration, the party requesting appointment of an arbitrator shall present to the Chair of the VCCA the copies of the request for arbitration and/or the claim complying with the requirements of Article 9 of these Arbitration Rules, and the arbitration agreement. The Chair of the VCCA may request any of the parties to provide information he/she considers as necessary for performing the functions of the Chair of the VCCA.
6. The Chair of the VCCA shall appoint as arbitrator a person from the list of recommended arbitrators of the Vilnius Court of Commercial Arbitration. If necessary or if the parties agree upon the requirements for an arbitrator, the Chair of the VCCA may appoint an arbitrator not from the list of recommended arbitrators of the Vilnius Court of Commercial Arbitration.
7. An arbitrator shall be appointed by an order of the Chair of the VCCA, the copies of the order shall be sent to the parties.

#### **Article 18. Arbitrator's Acceptance. Arbitrator's Statement of Independence and Impartiality**

1. When a person is approached regarding his/her possible appointment as arbitrator, such person shall, prior to accepting to act as an arbitrator, notify in writing of all circumstances that could give rise to reasonable doubts as to the arbitrator's independence or impartiality. An arbitrator must also notify of such circumstances after his/her appointment or during the arbitral proceedings, if this was not done earlier or if the circumstances occurred after the appointment or during the arbitral proceedings.
2. Before considering the case, each arbitrator appointed in the case by the parties, the arbitrators or the Chair of the VCCA shall sign a statement of acceptance, impartiality and independence in the respective case. The arbitrator shall be deemed appointed from the moment of concluding an agreement with such arbitrator.

3. In exceptional cases, having heard the opinion of the parties, the Chair of the VCCA may refuse to sign an agreement with the arbitrator appointed by the party or arbitrators if a conditional statement on the arbitrator's impartiality and acceptance to act as an arbitrator in the case is presented to the Secretariat. In such a case, the party or arbitrators is proposed to appoint another arbitrator. If the party or arbitrators for the second time appoint an arbitrator who presents to the Secretariat a refusal or a conditional statement on the arbitrator's impartiality and acceptance to act as an arbitrator in the case, the Chair of the VCCA shall refuse to sign an agreement with such arbitrator and shall personally appoint an arbitrator.

### **Article 19. Challenge of Arbitrators**

1. An arbitrator may be challenged, if there are circumstances giving rise to reasonable doubts as to the arbitrator's independence or impartiality or the arbitrator has no qualification agreed upon by the parties.
2. If the parties have not agreed upon the procedure for challenging an arbitrator, the issue of challenge shall be resolved in accordance with the procedure established in these Arbitration Rules.
3. The party requesting a challenge of an arbitrator shall submit a request to the Vilnius Court of Commercial Arbitration. In the request to challenge an arbitrator the party shall indicate the circumstances on which the challenge is based and present evidence supporting such circumstances.
4. The party intending to challenge an arbitrator may make the challenge within 15 days after it has become aware of the circumstances indicated in Paragraph 1 of this Article. If the party fails to present its request within the set time limit, the party shall be deemed to have waived its right to challenge the arbitrator.
5. The party which appointed an arbitrator or otherwise participated in the appointment of an arbitrator may challenge the arbitrator only for the circumstances of which the party becomes aware after the appointment has been made.
6. The Vilnius Court of Commercial Arbitration shall present copies of the received request for challenging the arbitrator to the other party to the dispute and the Arbitral Tribunal in order for them to express their opinion in respect of the challenge within the indicated time limit.
7. The Chair of the VCCA shall make a final decision, which is not subject to appeal, regarding the challenge of the arbitrator, by adopting an order which does not require justification.
8. Submission of a request regarding challenge of an arbitrator shall not suspend the arbitral proceedings, unless the Arbitral Tribunal decides otherwise.

### **Article 20. Termination of an Arbitrator's Mandate**

1. If an arbitrator becomes *de jure* or *de facto* unable to perform the arbitrator's functions or delays performing these functions without any valid reasons, the arbitrator shall resign from office. The arbitrator's mandate shall terminate if the arbitrator resigns or the parties agree upon the removal of the arbitrator from office or the arbitration case is consolidated with another arbitration case in accordance with the procedure established in Paragraph 3 of Article 21<sup>1</sup> of these Arbitration Rules. If the arbitrator fails to perform the arbitrator's duty to resign or the parties fail to agree upon the arbitrator's removal from office, any of the parties may apply to the Chair of the VCCA regarding resolution of the respective issue. In such a case, the decision of the Chair of the VCCA shall be final and not subject to appeal.
2. Termination of the arbitrator's mandate shall not constitute recognition of any of the grounds set out in this Article or Article 19 of these Arbitration Rules.

## **Article 21. Replacement of an Arbitrator**

1. An arbitrator shall be replaced upon the arbitrator's death, resignation or challenge or upon agreement by the parties to recall the arbitrator, or by an order of the Chair of the VCCA, or if the arbitrator refuses to sign an agreement with Vilnius Court of Commercial Arbitration.
2. An arbitrator may at any time declare his/her voluntary resignation by presenting a reasoned request to the Chair of the VCCA. If the arbitrator fails to indicate any valid reasons behind the resignation and the proceedings are significantly delayed due to such resignation, the provisions of Article 47 of these Arbitration Rules shall not be applied to the arbitrator.
3. Any of the parties may apply to the Chair of the VCCA requesting to replace the arbitrator due to the arbitrator's failure to fulfil the duties, in particular, if the arbitrator obviously fails to fulfil the arbitrator's functions within the set time limits or delays to fulfil the functions without any valid reasons.
4. Issues of replacement of an arbitrator based on the grounds set out in this Article shall be decided by the Chair of the VCCA in the form of a final order.
5. Upon a second resignation or upon a second challenging of an arbitrator appointed by the party or parties, the other party to the dispute may, within 7 days following the day of receipt of the notice of the arbitrator's resignation or challenge, request the Chair of the VCCA to appoint an arbitrator for the other party or parties.
6. A new arbitrator shall be appointed in accordance with the same procedure as the arbitrator subject to replacement was appointed, except for the case stipulated in Paragraph 5 of this Article.
7. The case proceedings shall be suspended until the arbitrator is replaced. After replacement of the sole or presiding arbitrator, each dispute resolving of which was started earlier shall be decided anew, unless the parties do not object to proceeding with the resolution of the dispute. If part of the arbitrators of the Arbitral Tribunal is replaced, the dispute may be considered anew by decision of the Arbitral Tribunal.

## **Article 21<sup>1</sup>. Consolidation of Arbitration Cases**

1. The Vilnius Court of Commercial Arbitration may, at the request of a party, consolidate two or more arbitration cases pending under these Arbitration Rules into single case, where:
  - 1) the parties have agreed to consolidation of the cases; or
  - 2) claims in the arbitration cases are made under the same arbitration agreement (clause) or agreements (clauses); or
  - 3) claims in the arbitration cases are not made under the same arbitration agreement (clause) or agreements (clauses), however, the arbitration cases are between the same parties, disputes in such cases arise in connection with the same legal relationships and the Vilnius Court of Commercial Arbitration finds that such arbitration agreement (clause) or agreements (clauses) are mutually compatible.
2. The party's request for the consolidation may be submitted not later than its first submission in each other initiated arbitration case sought to be consolidated, unless the other parties do not object.
3. In deciding whether to consolidate the arbitration cases, the Vilnius Court of Commercial Arbitration shall, after hearing all the parties and the arbitrators already appointed, take into account all circumstances it considers relevant, including the compositions of the Arbitral Tribunal, stages of the respective arbitration proceedings.

4. The arbitration cases shall be consolidated into the arbitration case that was initiated first (the claim or request for arbitration filed), unless all parties to the arbitration cases subject to consolidation decide otherwise. If it is impossible to determine which case was initiated first, the Chair of the VCCA shall decide, taking into account the circumstances of the dispute.

## **SECTION IV**

### **ARBITRAL PROCEEDINGS**

#### **Article 22. Transmission of the Case File to the Arbitral Tribunal**

1. Upon the constitution of the Arbitral Tribunal and the payment by the parties of the determined arbitration fees, the arbitration case file shall be transmitted to the Arbitral Tribunal.
2. After the transmission of the case file to the Arbitral Tribunal, all documents of the parties shall be sent directly to the Arbitral Tribunal, the other party (parties) and the Secretariat.
3. Upon transmission of the case file to the Arbitral Tribunal, the latter shall have the power to set the time limit for supplementing the request for arbitration to comply with the requirements applicable to the claim.

#### **Article 23. Place of Arbitral Proceedings**

1. The parties may agree on the place of arbitral proceedings. Failing such agreement, the place of arbitral proceedings shall be fixed by the Arbitral Tribunal in view of the circumstances of the case and the opinion of the parties.
2. Unless the parties have agreed otherwise, the Arbitral Tribunal may gather at any location it considers appropriate for arbitrators' consultations, hearing witnesses, experts or parties, reviewing documents, goods or other property. The parties shall be notified of the time and place of the hearing of the Arbitral Tribunal within a reasonable time in order for them to have an opportunity to take part in performing the above actions.

#### **Article 24. Language of Arbitration**

1. The parties may agree upon the language which will be used during the arbitral proceedings.
2. Unless agreed upon by the parties, the language of arbitration shall be fixed by the Arbitral Tribunal in view of the circumstances of the case, including the language or languages in which the arbitration agreement was made. Unless specified otherwise therein, the parties' agreement or the order of the Arbitral Tribunal shall be applied to all written statements of the party, hearings of the arbitral proceedings, as well as awards, orders or other documents made by the Arbitral Tribunal. Unless agreed upon by the parties, until the language of arbitration is fixed by the Arbitral Tribunal, the language of arbitration shall be deemed to be the language in which the arbitration agreement was made.
3. The Arbitral Tribunal may request a translation of any written evidence or other document into the language or languages upon the use of which the parties have agreed or which were fixed by the Arbitral Tribunal.
4. If necessary, the case may be examined with the assistance of a translator/interpreter.

## **Article 25. Substantive Law Applicable to a Dispute**

1. The parties may agree upon the law applicable to the dispute. A reference to the applicable foreign law shall mean a reference to the national substantive law of the respective state, rather than to the international private law of that state.
2. The Arbitral Tribunal shall resolve disputes in accordance with the law selected by the parties as applicable to the dispute.
3. If the parties have not agreed on the applicable law, the Arbitral Tribunal shall apply the law which, in the justified opinion of the Arbitral Tribunal, is applicable in resolving a particular dispute, including trade customs (*lex mercatoria*).
4. The Arbitral Tribunal acts based on the principles *ex aequo et bono* (at equity) or *amiable compositeur* (amicable mediation) only in cases where the parties expressly authorise it to do so.

## **Article 26. Rules of Arbitral Proceedings**

1. The Arbitral Tribunal shall consider the case in accordance with the procedure agreed by the parties, pursuant to these Arbitration Rules.
2. Where these Arbitration Rules do not regulate the procedure for resolving certain procedural issues, the Arbitral Tribunal shall resolve them in accordance with the principles of reasonableness and justice.
3. The Arbitral Tribunal shall resolve the case in an impartial and expeditious manner. Each party shall be ensured an opportunity to participate in the proceedings.
4. If the case is considered by three or more arbitrators, procedural issues may be decided by the presiding arbitrator unilaterally, provided such authority has been given to the presiding arbitrator by other arbitrators.
5. Unless otherwise agreed upon by the parties, a dispute shall be examined at an *in camera* hearing of the Arbitral Tribunal. Upon request of the Arbitral Tribunal or any of the parties, translators/interpreters may participate and witnesses and experts may be heard at a hearing. Other persons may participate at a hearing only upon consent of the parties to the dispute.

## **Article 27. Forms of Arbitral Proceedings**

1. The parties may agree upon an oral consideration of the case or upon consideration of the case only based on written evidence and other written material presented by the parties.
2. Unless the parties agree upon the form of arbitral proceedings, the Arbitral Tribunal shall consider the case in a written procedure, unless it recognises the necessity of an oral consideration.

## **Article 28. Competence of the Arbitral Tribunal**

1. When starting consideration of the case, the Arbitral Tribunal shall have the power to rule on its competence to resolve the dispute, including the cases where doubts arise in respect of the existence or validity of an arbitration agreement. To this end, the arbitration clause, which constitutes part of the contract, shall be treated as an agreement not contingent on the other conditions of the contract. The decision of the Arbitral Tribunal on recognition of the contract as invalid shall not entail *ipso jure* recognition of the arbitration clause as invalid.

2. The party's plea that the Arbitral Tribunal is incompetent to arbitrate the dispute shall be made not later than submission of the answer to the claim (request for arbitration). The party's participation in appointing an arbitrator shall not preclude the party from raising such a plea. The plea that the Arbitral Tribunal is incompetent to arbitrate shall be made as soon as the circumstances arise to the effect that the dispute, as alleged by the party, is beyond the competence of the Arbitral Tribunal. The Arbitral Tribunal may admit the plea stipulated in this Paragraph later on, if it considers such delay justified.
3. The Arbitral Tribunal may rule on the plea indicated in Paragraph 2 of this Article by making a partial or final arbitral award.

### **Article 29. Preliminary Hearing**

1. A preliminary hearing may be held on the initiative of the party or the Arbitral Tribunal. The parties shall be notified of the place, time and issues to be considered at the hearing in advance, before a reasonable time for the parties to prepare properly, but not less than 10 days before the opening of the hearing. Failure by the parties or any of them to appear shall not preclude from holding a preliminary hearing, unless otherwise agreed by the parties. The parties may agree or the Arbitral Tribunal may rule on holding a preliminary hearing remotely through means of direct communication (a teleconference, video conferencing, other communication technologies or combinations thereof). An order shall be made immediately following the hearing and sent to the parties and the Secretariat.
2. During a preliminary hearing, issues not considered by the parties in the arbitration agreement shall be resolved. In particular, the following issues may be resolved:
  - 1) procedure and time limits for exchanging of the written demands and points of defence, the evidence held and other documents by the parties;
  - 2) types of evidence and procedure for gathering evidence, e.g. an issue of ordering expertise;
  - 3) date, time, place and procedure of the main hearing;
  - 4) adjustment of the demands and points of defence of the parties;
  - 5) other issues.
3. A preliminary hearing shall not be public.

### **Article 30. Main Hearing**

1. The place, time and date of the main hearing shall be communicated in advance, but not less than 10 days before the beginning of the hearing, to the parties (or their representatives), as well as to the witnesses and experts to be questioned at the hearing of the Arbitral Tribunal.
2. Unless otherwise agreed upon by the parties, the main hearing of the Arbitral Tribunal shall not be public. The Arbitral Tribunal may request any witness or expert to leave the courtroom when other witnesses or experts testify. The Arbitral Tribunal shall determine the procedure for examination of witnesses and experts at its own discretion.
3. Upon the agreement of the parties or decision of the Arbitral Tribunal (unless all parties object), the main hearing may be held remotely through means of direct communication (teleconferencing, videoconferencing, other communication technologies or combinations thereof).

### **Article 31. Procedure of a Hearing**



- 1.The procedure and duration of a hearing shall be established by the Arbitral Tribunal in view of the parties' requests. Prior to opening a hearing, the Arbitral Tribunal shall enquire the parties for a possibility to end the case with a settlement agreement.
- 2.If the Arbitral Tribunal deems it necessary due to extraordinary circumstances, it may postpone the hearing on its own initiative or upon a party's request. In such a case, the Arbitral Tribunal shall immediately fix the place, date and time of the next hearing.
- 3.Unless the parties agree otherwise, a verbatim and/or audio recording of the hearing of the Arbitral Tribunal shall be made, which shall be subsequently stored in the case.
- 4.The Arbitral Tribunal shall immediately, but not later than within two working days, inform the Secretariat about the date of closing the last hearing from which the time limit for making an award shall start to run.

### **Article 32. Waiver of the Right to Objection**

- 1.If a party to the dispute being aware of its infringed right proceeds with participation in the arbitral proceedings and fails to express its dissent as to such infringement within a reasonable time (at the earliest opportunity), such party shall be deemed to have waived its right to objection.
- 2.The rule established in Paragraph 1 of this Article shall also be applied to claims regarding recognition of the arbitration agreement as invalid or cancellation thereof.

### **Article 33. Absence of a Party**

Unless the parties have agreed otherwise, where a party fails to present a mandatory procedural document or does not take part in the arbitral hearing without a valid reason, the Arbitral Tribunal shall have the power to proceed with conducting the arbitral proceedings and make an arbitral award based on the evidence available in the case or make procedural decisions stipulated in Article 41 of these Arbitration Rules.

## **SECTION V INTERIM MEASURES AND SECURITY FOR ARBITRATION COSTS**

### **Article 34. Interim Measures**

1. Unless the parties have agreed otherwise, upon request of the interested party, the Arbitral Tribunal considering the case may resolve the issue of ordering interim measures by making an appropriate order. The Arbitral Tribunal may obligate the party applying for interim measures to provide a security for compensation of the other party's losses that might possibly be incurred through the ordering of interim measures.
2. A party may apply on its own to a competent court of any country requesting to order interim measures if failure to take these measures may render enforcement of the arbitral award more difficult or impossible. Such application of the party to the state court before the start of or during the arbitral proceedings and an order of the state court on ordering interim measures shall not be incompatible with the arbitration agreement. Such application by the party and any interim measures ordered by the state court shall be immediately communicated to the Secretariat which shall inform the Arbitral Tribunal to that effect without delay.
3. A party shall justify its request for interim measures.

### **Article 34<sup>1</sup>. Security for Arbitration Costs**

1. In exceptional cases the Arbitral Tribunal may at a party's request and after hearing the parties' opinion to order the other party to provide a security for arbitration costs in any manner the Arbitral Tribunal considers appropriate.
2. In deciding the issue of the security for arbitration costs, the Arbitral Tribunal must assess:
  - 1) *prima facie* validity of the claims/counterclaims and points of defence made by the party to the arbitration proceedings;
  - 2) ability of the party to the arbitration proceedings that submitted the claims to comply with the adverse award on arbitration costs;
  - 3) assets held by the party to the arbitration proceedings that submitted the claims out of which the enforcement of the adverse award on arbitration costs would be possible;
  - 4) the appropriateness of the order to provide the security for the arbitration costs of the other party taking into account all relevant circumstances of the case;
  - 5) any other relevant circumstances.
3. Should the party fail to comply with the order or partial award of the Arbitral Tribunal on the provision of the security for the arbitration costs, the Arbitral Tribunal may fully or partially stay the examination of the demands of the claim of such party or leave the claim unconsidered.
4. The Arbitral Tribunal shall decide on the issue of staying the examination of the party's demand of the claim or leaving the claim unconsidered in the form of an order or arbitral award.

### **Article 35. Emergency Arbitrator**

1. A party requesting urgent interim measures that cannot await the constitution of the Arbitral Tribunal shall submit an application for interim measures in accordance with the procedure established in Annex No 1 of these Arbitration Rules "*Procedure for ordering interim measures prior to the constitution of the Arbitral Tribunal*". Any such application shall be accepted if it is received by the Secretariat prior to the transmission of the case file to the Arbitral Tribunal pursuant to Article 22 of these Arbitration Rules and irrespective of whether the party has filed the claim (request for arbitration) with the Vilnius Court of Commercial Arbitration.
2. An emergency arbitrator's decision on ordering of interim measures shall take the form of an order which shall be a document subject to enforcement.
3. An order made by the emergency arbitrator shall not bind the Arbitral Tribunal with respect to any issues or disputes resolved in the order of the emergency arbitrator. The Arbitral Tribunal may modify, suspend or annul the order or any modification thereto made by the emergency arbitrator.
4. The Arbitral Tribunal shall rule on any party's applications or claims related to the procedure of ordering interim measures prior to the constitution of the Arbitral Tribunal, including reallocation of the costs of such procedure or any demands arising out of or in connection with the compliance or non-compliance with the order made by the emergency arbitrator.
5. The rules in Paragraphs 1-4 of this Article and Annex No 1 to these Arbitration Rules shall be applied only in respect of the parties that have signed the arbitration agreement regarding application of these Arbitration Rules that stand as a basis for the application, or successors (assignees) to such parties.
6. The procedure of ordering interim measures prior to the constitution of the Arbitral Tribunal shall not be applied if:
  - 1) the arbitration agreement regarding the application of the Arbitration Rules was signed before coming into effect of the Arbitration Rules;

- 2) the parties have agreed to opt out of the Procedure of ordering interim measures prior to the constitution of the Arbitral Tribunal stipulated in Annex No 1 to the Arbitration Rules;
- 3) the parties have agreed upon another pre-arbitral procedure that provides for ordering urgent interim measures or other similar measures.
7. Unless the parties have agreed otherwise, the emergency arbitrator shall resolve the issue of ordering urgent interim measures in compliance with the laws of the place of arbitration.
8. The procedure of ordering interim measures prior to the constitution of the Arbitral Tribunal shall not preclude any party from seeking interim measures from the state court at any time prior to submission of an application for such measures to the Secretariat pursuant to the Arbitration Rules or, in appropriate circumstances, thereafter. An application of a party to the state court for interim measures shall not be deemed an infringement or waiver of the arbitration agreement. Any such application admitted or any measures taken by the judicial authority shall be communicated to the Secretariat without delay.

## **SECTION VI EVIDENCE AND BURDEN OF PROOF**

### **Article 36. Evidence and Burden of Proof**

1. Evidence in arbitration shall be written documents and other written evidence, real evidence, expert's findings, witnesses' testimony and other factual data recognised as evidence by the Arbitral Tribunal considering the case.
2. Unless otherwise agreed by the parties or otherwise required under the law applicable to the dispute, each of the parties shall prove the circumstances it invokes in justifying its claims or points of defence.
3. In the absence of the parties' agreement on the admissibility of evidence and other issues related to evidence and burden of proof, all issues related to relevance, admissibility of evidence and burden of proof shall be decided by the Arbitral Tribunal. Unless otherwise agreed by the parties, no evidence shall be binding on the Arbitral Tribunal.
4. The Arbitral Tribunal may request any of the parties to present evidence supporting certain circumstances within the set time.
5. The Arbitral Tribunal shall have the power to refuse to admit the evidence not relevant to the case or presented with delay, if it finds that the party did not present it earlier without any valid reasons and the admission of such evidence will significantly delay the proceedings.
6. If a party fails to present evidence as requested by the Arbitral Tribunal, the Arbitral Tribunal may make an award based on the available evidence or in exceptional cases evaluate the fact of failure to present the evidence against the defaulting party.
7. The Arbitral Tribunal shall present a final and binding evaluation of evidence in the final arbitral award.
8. The Arbitral Tribunal or a party upon approval of the Arbitral Tribunal shall have the right to apply to the state court requesting to gather evidence.

### **Article 37. Written Evidence**

1. Upon transmission of the case file to the Arbitral Tribunal, the parties shall exchange the available written evidence.
2. Written evidence presented to the Arbitral Tribunal shall be translated into the language in which the case is considered.

### **Article 38. Experts**

1. Unless otherwise agreed by the parties, upon request of the interested party or upon consent of the parties, the Arbitral Tribunal may order expertise to determine certain circumstances. One or several persons may be appointed to be experts.
2. Expertise may also be ordered in cases where issues pertaining to the applicable foreign law have to be clarified.
3. The parties shall be notified of the expert (experts) appointed. Unless otherwise agreed by the parties, the Arbitral Tribunal may request the parties to present to the expert any information and deliver evidence related to the case or provide conditions for reviewing such evidence. The parties shall present the information and documents necessary to the expert.
4. A copy of the expert's findings shall be presented to the parties prior to the beginning of the hearing. The parties shall have the right to express their opinion in respect of the expert's findings orally or in writing.
5. Unless otherwise agreed by the parties, and if any party requests or the Arbitral Tribunal so decides, the expert must participate at the hearing and present the expert's findings and answer the questions asked by the parties or the Arbitral Tribunal.
6. Experts may be challenged on the same grounds as arbitrators in compliance with Article 19 of these Arbitration Rules. The Arbitral Tribunal examining the dispute shall decide on the validity of the challenge of experts.
7. The expert's findings shall not be binding on the Arbitral Tribunal and shall be evaluated in compliance with the same principles as other evidence.
8. Upon approval of the Arbitral Tribunal, a party may invite experts to a hearing on its own initiative. In such a case, expenses incurred by the expert shall be compensated and remuneration shall be paid to the expert by the party which invited the expert. In such a case, Paragraphs 1, 4 and 6 of this Article shall not be applied.

### **Article 39. Witnesses**

1. A party requesting to call and examine a witness shall, not later than 15 days prior to the hearing, notify the Arbitral Tribunal to that effect and indicate the first and last names, place of residence of the witness, the circumstances of the case which can be confirmed or denied by the witness and the language in which the witness will testify. If the party fails to fulfil these requirements, the Arbitral Tribunal shall have the power to refuse to call a person as a witness.
2. Unless the Arbitral Tribunal specifies otherwise, the party inviting the witnesses shall inform the witnesses about the date, time and place of the hearing.

## **Article 40. Inspection of Real Evidence and Site**

If necessary, the Arbitral Tribunal may, on its own initiative or upon the party's request, inspect the real evidence at its location or perform inspection of the site. The parties shall be notified in advance of the place and time of the inspection.

## **SECTION VII**

### **ARBITRAL AWARDS AND ORDERS**

#### **Article 41. Closing of Arbitral Proceedings**

1. The Arbitral Tribunal or, where the case file has not been transmitted to the Arbitral Tribunal yet, the Chair of the VCCA shall make an order on termination of the arbitral proceedings if:

- 1) the case may not be considered in arbitration;
- 2) a judgement of the court has taken effect in respect of the dispute between the same parties, regarding the same subject and on the same grounds;
- 3) an arbitral award has taken effect in respect of the dispute between the same parties, regarding the same subject and on the same grounds;
- 4) the claimant has withdrawn its claim, unless the respondent objects to the withdrawal of the claim;
- 5) the parties have concluded a settlement agreement and do not request confirmation of such agreement by an arbitral award;
- 6) the natural person who was one of the parties to the proceedings has died and succession of his/her rights is not possible;
- 7) the legal entity which was one of the parties to the proceedings has been liquidated and succession of its rights is not possible;
- 8) further conducting of arbitral proceedings is impossible and the claimant has no right to apply to arbitration in future regarding resolution of the same dispute.

2. Upon termination of the arbitral proceedings, the Chair of the VCCA, taking into account the stage of the terminated arbitral proceedings, the work performed by the Arbitral Tribunal, the complexity of the case and other relevant circumstances, may decide to refund up to 70 per cent of the paid arbitrating fee to the party.

3. Upon termination of the arbitral proceedings, the parties shall not be allowed to make a repeat application to arbitration regarding a dispute between the same parties, regarding the same subject and on the same grounds.

4. The Arbitral Tribunal or, where the case file has not been transmitted to the Arbitral Tribunal yet, the Chair of the VCCA shall adopt an order to leave the claim (request for arbitration) unconsidered if:

- 1) the claim (request for arbitration) was filed by a legally incapable natural person or a person not authorised by the claimant to plead the arbitration case;
- 2) an arbitral tribunal is considering the dispute between the same parties, regarding the same subject and on the same grounds;
- 3) without requesting to hear the case in their absence, both parties have failed to appear without valid reasons;
- 4) the person who has filed the claim (request for arbitration) has failed to pay the determined arbitration fees;
- 5) the parties against which no bankruptcy proceedings have been brought request not to examine the dispute in arbitration;
- 6) the arbitration case is not subject to further examination or its examination is impossible.

5. If the claim (request for arbitration) is left unconsidered, the Chair of the VCCA, taking into account the stage of the claim (request for arbitration) which was left unconsidered, the work performed by the Arbitral Tribunal, the complexity of the case and other relevant circumstances, may decide to refund up to 50 per cent of the paid arbitrating fee to the party.
6. Leaving the claim (request for arbitration) unconsidered shall not preclude the parties from repeat applications to arbitration regarding resolution of the dispute.
7. The Arbitral Tribunal or the Chair of the VCCA shall make reasoned orders in the cases stipulated in Paragraphs 1 and 4 of this Article.

#### **Article 42. Content and Form of an Arbitral Award**

1. A dispute shall be resolved on the merits by rendering an arbitral award not later than within six months following the transmission of the case file to the Arbitral Tribunal. A final award shall be made (written down) as soon as possible after the main hearing, but not later than within 30 days following the last main hearing (or the deadline for presentation of the closing statements) and shall be immediately transmitted to the Secretariat which shall send the award to the parties, if all arbitration fees determined for the parties to the dispute have been paid. In exceptional cases the Chair of the VCCA may extend at his/her own discretion the term for making (writing down) an award for another period of up to 30 days or longer provided the parties consent thereto. A part of the dispute may be resolved by the Arbitral Tribunal by making a partial award which shall be final in that part.
2. An arbitral award shall be made in writing and signed by the arbitrator or arbitrators considering the case. If three or more arbitrators consider the case, the signatures of a majority of the arbitrators on the award shall suffice indicating the reasons for the other arbitrators not signing. An arbitrator or arbitrators refusing to sign the award shall have the right to present their separate opinion in writing which shall be attached to the arbitral award. The parties may agree that the Chair of the Arbitral Tribunal may sign the award solely.
3. An arbitral award shall contain the following information:
  - 1) the date and place of making the award;
  - 2) the first and last names of the arbitrator or arbitrators considering the case, the parties to the dispute, their place of residence or registered office, representatives of the parties;
  - 3) the substance of the demands and statements of defence of the parties;
  - 4) a short description of the case;
  - 5) reasoning based on which the award was made, except for the cases where the parties agree that indication of reasoning is not necessary or a settlement agreement signed by the parties is confirmed by the arbitral award;
  - 6) an opinion of the Arbitral Tribunal as to whether the claim is satisfied in full or in part or dismissed;
  - 7) grounds and procedure for annulment of the arbitral award;
  - 8) the amount of the arbitration fees, other arbitration costs, separately, and allocation thereof to the parties;
  - 9) if a settlement agreement is approved by the arbitral award, such an award shall contain all conditions of the settlement agreement.
4. In deciding on the arbitration costs and allocation thereof, the Arbitral Tribunal may take into account the fact of the existence of the Funder.
5. Before signing any arbitral award, the Arbitral Tribunal shall submit it in draft form to the Vilnius Court of Commercial Arbitration (the Secretariat) for assessing the compliance of the arbitral award with the

requirements of form (in this case the legitimacy and validity of the rendered arbitral award shall not be assessed). Having received the draft arbitral award, the Vilnius Court of Commercial Arbitration (the Secretariat) shall present its assessment not later than within 10 days.

6. Having made a final arbitral award, an order on closing of the arbitral proceedings or an order on leaving the claim unconsidered, the Arbitral Tribunal shall transmit the case with all copies of the arbitral award to the Secretariat, and the Secretariat shall send the award or order to the parties and keep the case file for one year.
7. After making a final arbitral award resolving the dispute on the merits or an order on closing the arbitral proceedings or an order on leaving the claim unconsidered, the arbitrators' mandates shall expire, except for the cases stipulated in Article 44 of these Arbitration Rules.
8. An arbitral award shall take effect from the moment it is made. An arbitral award shall be deemed made from the moment it is written down and signed. An arbitral award shall be binding on the parties and the parties undertake to carry it out to the full extent without delay.

### **Article 43. Procedure for Making an Award**

1. If the case was considered by several arbitrators, an arbitral award shall be made by a majority vote of the arbitrators. Each arbitrator shall express his/her opinion regarding the award. The arbitrators can express their opinion regarding the award orally or in writing. If there is no majority of votes for making an arbitral award or in case of a tie, the presiding arbitrator shall have the casting vote.
2. The Arbitral Tribunal and the Vilnius Court of Commercial Arbitration may not pronounce or publish the arbitral award without consent of all parties.

### **Article 44. Adjustment, Interpretation of an Award and an Additional Award**

1. An additional arbitral award shall be made to resolve the claims stated during the arbitral proceedings, but not resolved in the arbitral award made. The additional award may also adjust or interpret the arbitral award where it is necessary:

- 1) to correct spelling, arithmetic or any other errors of similar nature in the arbitral award;
- 2) to elucidate the substantive provisions of the arbitral award or their item;
- 3) to resolve the issue of allocation of the arbitration expenses.

2. An additional arbitral award may be made on the initiative of the Arbitral Tribunal or upon request of an interested party. The Arbitral Tribunal may on its own initiative make an additional award within 30 days after the final arbitral award has been made. An interested party shall have the right to submit a request for an additional arbitral award not later than 30 days following the day of receipt of the arbitral award.

3. The additional arbitral award shall be made within 30 days after a request for this award has been received from the interested party. The additional award shall be a composite part of the arbitral award and shall be subject to the provisions of Articles 42 and 43 of these Arbitration Rules.

4. The Arbitral Tribunal shall have the power to extend or renew the time limits set in Paragraphs 2 and 3 of this Article.

5. The additional award may not alter the substance of the arbitral award.

#### **Article 45. Orders of the Arbitral Tribunal**

1. The Arbitral Tribunal shall make orders on issues which do not resolve the dispute on the merits.
2. If the arbitrators conducting the proceedings have assigned certain issues to the presiding arbitrator for resolution, the presiding arbitrator shall make orders on such issues solely. In other cases, orders shall be made by a majority vote.
3. An order shall contain the following information:
  - 1) the first and last names of the arbitrator or arbitrators, the date and place of making the order;
  - 2) the number of the case;
  - 3) the names and addresses of the parties;
  - 4) the issue on which the order is made;
  - 5) the reasoning, unless the parties have agreed otherwise;
- 6) the resolution of the Arbitral Tribunal.
4. Orders of the Arbitral Tribunal shall take effect from the moment they are made and shall be carried out by the parties.

### **SECTION VIII**

#### **FINAL PROVISIONS**

#### **Article 46. Amendment and Validity of the Arbitration Rules**

1. The Board of the Vilnius Court of Commercial Arbitration may amend and supplement these Arbitration Rules at any time. Amendments and supplements of the Arbitration Rules shall have no retroactive effect.
2. The provisions of the Arbitration Rules effective at the time the Vilnius Court of Commercial Arbitration (the Secretariat) receives a claim (request for arbitration) shall be applied, except for the cases where the parties have agreed in the arbitration agreement to apply the provisions of the Arbitration Rules effective at the time of signing the arbitration agreement.
3. These Arbitration Rules shall take effect from 1 January 2023.

#### **Article 47. Disclaimer**

Arbitrators, the Vilnius Court of Commercial Arbitration, the Chair of the VCCA, the Secretariat and its employees and representatives shall not be liable to any persons for any actions or mistakes in arbitration proceedings, except for the cases where such disclaimer is not allowed under the applicable law.

#### **Article 48. Protection of personal data**

1. Participating in arbitral proceedings under this Arbitration Rules, the parties, their representatives, arbitrators, witnesses, experts and other persons participating in the proceedings in any form shall



recognize that the processing, collection, transmission and archiving of personal data is necessary during the arbitral proceedings and that these personal data may be used in a arbitral award of the Arbitral Tribunal, in a procedural order or in other documents adopted by the Arbitral Tribunal and the VCCA.

2. The parties to the arbitral proceedings under this Arbitration Rules shall ensure that:
  - 1) their representatives, as well as witnesses, experts appointed by the party and any other persons participating on the side of that party, are aware that their personal data may be collected, transmitted, published and archived for the purposes of arbitral proceedings;
  - 2) shall be complied with personal data protection legal acts, including the GDPR and the Law on the Legal Protection of Personal Data of the Republic of Lithuania.
3. The parties, representatives of the parties, witnesses, experts or any other persons who provide evidence in the case or any other information containing personal data of the third parties must ensure that such personal data is obtained and provided to the VCCA and the Arbitral Tribunal lawfully, and assumes full liability to other participants in the case, including the Arbitral Tribunal and the VCCA, for any possible claims of these third parties for the processing of unlawfully submitted data.
4. The parties must ensure that only those personal data is processed and transmitted to the VCCA or the Arbitral Tribunal that is accurate and the processing of which is necessary to make or defend legal demands in the arbitral proceedings. Before providing evidence or other information containing data of the third parties, a party must assess whether the processing of such personal data is necessary and expedient for the purposes of the arbitral proceedings. The VCCA and the Arbitral Tribunal are not obliged to assess whether the processing of personal data submitted by the parties is necessary and expedient for the purposes of the arbitral proceedings.
5. At the beginning of the arbitral proceedings, the Arbitral Tribunal shall inform the parties and their representatives of the application of the GDPR in the arbitral proceedings and of the fact that their personal data may be collected, transmitted, published and archived. The parties and their representatives must inform witnesses, experts or other persons involved in the arbitral proceedings about the application of the GDPR in the arbitral proceedings and that their personal data may be collected, transmitted, published and archived by agreeing to participate in the arbitral proceedings.
6. At the end of the arbitral proceedings, the arbitrators may retain personal data that have been processed during the arbitration proceedings for as long as the arbitrators keep the case itself.
7. At the end of the arbitral proceedings, the VCCA keeps the personal data related to the case. This data must be archived. Other personal data that is not necessary for VCCA to fulfil its obligations under this Arbitration Rules must be deleted or erased.

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