

L.N. 421 of 2004

ARBITRATION RULES, 2004

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L.N. 421 of 2004

ARBITRATION ACT, 1996

(Cap. 387)

Arbitration Rules, 2004

IN exercise of the powers conferred by paragraph (ii) of sub-article (1) of article 10 of the Arbitration Act, the Malta Arbitration Centre, with the concurrence of the Deputy Prime Minister and Minister of Justice and Home Affairs, has made the following rules:-

Part I

PRELIMINARY PROVISIONS

Title and
Commencement.

1. (1) The title of these rules is the Arbitration Rules, 2004.
- (2) These rules shall come into force on the 24th September, 2004.

Interpretation.

2. (1) In these rules, unless the context otherwise requires:

“the Act” means the Arbitration Act, 1996;

“arbitral tribunal” means a tribunal constituted of a sole arbitrator or a number of arbitrators;

“the Board” means the Board of Governors of the Malta Arbitration Centre;

“the Centre” means the Malta Arbitration Centre established by Article 3 of the Arbitration Act;

“Chairman” means the Chairman of the Board of Governors;

“claimant” includes one or more claimants;

“foreign arbitration award” means an award issued outside Malta;

“international award” means an award issued in an arbitration governed by Part V of the Act;

“mandatory arbitrations” means arbitrations referred to in the Fourth Schedule to the Arbitration Act;

“Notice” means the Notice of Arbitration referred to in rule 13;

“party” includes one or more parties;

“the Registrar” means the Registrar of the Malta Arbitration Centre;

“register of acts” means a register in which the acts pertaining to arbitrations are registered by the Registrar;

“respondent” includes one or more respondents;

“service agent” means a service agent as approved by the Centre.

3. (1) Whenever reference is made to the filing or serving of acts or documents in terms of these rules, the party shall file or serve such number of copies as are required to provide a copy to each party, each arbitrator and the Registrar unless the parties agree otherwise and such agreement is recorded by the arbitral tribunal.

Filing and Service
of Acts and
Documents.

(2) Whenever any act, document, note or request is filed pursuant to these rules, there shall be inserted a clear indication on such act, document, note or request, the reference number given to the arbitration proceedings by the Registrar on the filing of the Notice.

4. (1) These rules shall apply to all arbitrations which are commenced in terms of the Act and governed by Part IV (Domestic Arbitration) of the Act, whether by operation of law or when agreed upon by the parties.

Applicability.

(2) These rules may be applied to international arbitration when expressly selected by the parties to the arbitration agreement or when Part IV (Domestic Arbitration) of the Act applies to such arbitration in terms of article 60 of the Act: provided that in the latter case the provisions of rule 13 relating to the Notice shall not apply. Rule 65 shall apply in accordance with its terms in all other international arbitrations.

(3) These rules shall also apply to arbitrations, other than mandatory arbitrations, which are subject to special rules of procedure as hereunder stated except to the extent modified by such special rules. Special rules shall apply as follows to:

(i) Short Form Arbitrations, which are subject to the Short Form Arbitration Rules in the First Schedule;

(ii) Motor Claims Arbitrations, which are subject to the Motor Claims Arbitration Rules in the Second Schedule;

(iii) Condominium Arbitrations, which are subject to the Condominium Arbitration Rules in the Third Schedule; and

(iv) Co-operative Societies Arbitrations, which are subject to the Co-operative Societies Arbitration Rules in the Fourth Schedule.

(4) These rules shall not apply to the extent to which the parties expressly agree to exclude them, except when they relate to procedures which are mandatory in terms of the Act.

Part II

THE ARBITRAL TRIBUNAL

Oath of Office.

5. (1) On appointment, an arbitrator shall take an oath of office in the form hereunder:

“I swear/solemnly affirm that I shall perform my duties as arbitrator honestly, impartially, with due diligence, and without fear or favour according to law.”

(2) In the case of an arbitrator who is selected from the panel of arbitrators appointed by the Centre, he shall take his oath only once, upon his appointment to the panel.

Confirmation.

6. The appointment of an arbitrator shall be accompanied by a confirmation by such arbitrator accepting his appointment together with a declaration by him confirming his independence and impartiality in terms of article 23 of the Act.

7. The confirmation referred to in rule 6 may also be requested by the Registrar at any time.

8. Where the parties have not agreed on the number of arbitrators, the number of arbitrators shall be established in accordance with article 19 of the Act. Number of Arbitrators.

9. (1) In the absence of an agreed sole arbitrator, the party filing the Notice shall be bound to propose in writing one or more arbitrators for consideration by the other party, either on filing of the Notice, or within fifteen days of the filing of such Notice. Sole Arbitrator.

(2) The respondent shall reply to such proposal as soon as practicable and the parties shall seek agreement on the arbitrator within thirty days of the filing of the Notice.

(3) If the parties reach an agreement on the person to be chosen and appointed as the sole arbitrator, they may file a joint note with the Registrar indicating the name, profession, qualifications, nationality, communication details and address of the arbitrator so chosen. In any such case, the arbitrator so chosen may himself provide the Registrar with such information.

(4) In the event that the parties fail to agree on a sole arbitrator on the lapse of thirty days after the receipt by a party of a proposal in accordance with rule 9(1), either party may file with the Registrar a request for the appointment of a sole arbitrator by the Chairman, who shall proceed with the appointment of the sole arbitrator:

Provided that the Chairman, in making such appointment, shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and to the members of the Domestic Arbitration Panels as established under article 10(2) of the Act.

10. (1) Where three arbitrators are to be appointed, the claimant and the respondent shall each appoint an arbitrator by filing a separate note with the Registrar, either on filing of the Notice but in any case within fifteen days of the filing or notification of such Notice, as the case may be, indicating the name, profession, qualifications, nationality, communication details and address of the arbitrator chosen by them. Three Arbitrators.

(2) Should any of the parties fail to appoint an arbitrator as above provided, any party may, on the lapse of thirty days after the receipt by a party of a note in accordance with rule 9(1), file with the Registrar a request for the appointment of an arbitrator by the Chairman, who shall proceed with the appointment of such arbitrator in accordance with the provisions of rule 9(4).

(3) The two arbitrators so chosen shall appoint the presiding arbitrator within fifteen days of their appointment, by jointly filing a note with the Registrar indicating the name, profession, qualifications, nationality, communication details and address of the presiding arbitrator. If within the said period of fifteen days, the two arbitrators have not reached an agreement on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the Chairman in accordance with the provisions of rule 9(4).

(4) Where three arbitrators are appointed, unless otherwise agreed between them, the presiding arbitrator shall ensure that proceedings are conducted in conformity with the Act, these rules and any applicable guidelines issued by the Centre from time to time and he shall also draft the award.

Applicability of article 21A of the Act.

11. Article 21A of the Act shall apply in the following manner:

(a) the parties shall have fifteen days from the filing or notification of the Notice, as the case may be, to propose arbitrators, whether a sole arbitrator or three arbitrators;

(b) failing agreement, either party may, within thirty days from the filing or notification of the Notice, as the case may be, file with the Registrar a request for the appointment by the Chairman of all arbitrators or of such number as have not been agreed upon. The Chairman shall so proceed with the appointment of such arbitrators in accordance with the provisions of rule 9(4).

Challenge of Arbitrators.

12. (1) Any party intending to challenge an arbitrator who has been appointed shall notify the Registrar of such challenge by means of a note in writing stating the reasons for such challenge, and such note shall be served on the challenged arbitrator, on the other party to the arbitration and on the other arbitrators, if any. Upon receipt of challenge, the Registrar is to notify the Chairman within five days.

(2) Where the challenged arbitrator has withdrawn or the other party agrees to the challenge within fifteen days from the service thereon of the said note, a note to that effect shall be filed within such term with the Registrar, and a substitute arbitrator shall be appointed by the person who shall have appointed the challenged arbitrator in accordance with these rules.

(3) Where within the said term the challenged arbitrator has not withdrawn or the challenge has not been agreed to by the other party, the challenge shall be determined by the Chairman in accordance with article 26 of the Act within fifteen days of the referral to him, by the Registrar, of the challenge.

(4) This rule shall apply, *mutatis mutandis*, to the appointment of an arbitrator in accordance with article 27 of the Act and with the appointment of an arbitrator or arbitrators in accordance with article 21A of the Act.

Part III

THE ARBITRAL PROCEEDINGS

13. (1) The Notice shall be in writing and shall set out the matters listed in article 17(3) of the Act. The Notice may also include the matters listed in sub-article (4) of the same article. Notice of Arbitration.

(2) The Notice shall be filed with the Registrar, who shall cause such Notice to be served on the other party unless such Notice is already acknowledged in writing by such other party. An endorsement by the party or his representative on the written Notice shall be sufficient acknowledgment.

(3) The Registrar shall register receipt of any Notice in the register of acts.

(4) The Notice shall be served on the arbitral tribunal by the Registrar as soon as this is appointed.

(5) The Notice may be filed at any time prior to the issue of the award by the arbitral tribunal, provided that if the arbitral tribunal deems it necessary in the circumstances, it may order the claimant to file such Notice within such time as it shall order, failing which the respondent may himself file such Notice.

(6) Late filing of the Notice shall not interrupt prescription retrospectively.

(7) It shall be lawful for the claimant and the respondent to file a Notice jointly. The provisions of this rule together with the requirements of the Act shall apply to such Notice, which Notice shall be signed by both claimant and respondent and shall be deemed to be served and acknowledged upon filing.

(8) The filing fees prescribed in Appendix A to these rules shall be paid on filing of the Notice.

(9) A declaration indicating the name and address of any person, if any, who has been chosen to represent or assist the claimant or the respondent and whether such appointment is made for the purpose

of representation or assistance in accordance with article 18 of the Act, shall be communicated in writing to the Registrar as part of the Notice or separately.

(10) Any person appointed by claimant or respondent for the purpose of representation may sign, file and be served with all acts and documents in the arbitration, including the Notice, and these rules shall apply to such representative in lieu of the party.

(11) Any advocate or legal procurator acting for a party in an arbitration shall be deemed to be a representative with full powers of representation unless the Centre is informed otherwise in writing.

(12) It shall not be required to file a Notice in the cases referred to in article 46 (4) and (5) of the Act and in such cases, the Registrar shall proceed with the registration of the award as therein provided.

Powers of the
Registrar and
Preliminary
Meeting.

14. (1) When the Notice is validly filed in accordance with rule 13 of these rules, the Registrar shall, unless it is filed jointly by all parties or is otherwise acknowledged, notify the other party with:

(a) a certified copy of the Notice; and

(b) a proposed time-frame for the conduct of the proceedings.

(2) If the Registrar considers it appropriate in the circumstances, he may issue an order establishing the date and time of the preliminary meeting, the time-limits for the filing of the statement of claim, statement of defence and the holding of a first hearing in terms of the proposed time-frame and notify it to the other parties in accordance with these rules.

(3) If the arbitral tribunal has not yet been appointed, the Registrar shall preside over the preliminary meeting and shall have all the powers of the arbitral tribunal in relation to the proceedings including the making of time-frames for the filing of the statement of claim and statement of defence, the establishment of the time-table and other related matters.

(4) If the arbitral tribunal has been appointed by the date of the preliminary meeting, then, the arbitral tribunal shall preside over such meeting, without prejudice to any order which may have been issued by the Registrar in terms of the preceding sub-rule:

Provided that in the event that the arbitrator or arbitrators are unable to attend, the Registrar shall preside over the preliminary meeting and give such preliminary orders as are necessary after consultation with the arbitral tribunal.

(5) The time-frame or any order related thereto shall bind the parties and the arbitral tribunal, subject to the right of the arbitral tribunal to agree to any change thereto in exceptional circumstances and only in a manner that does not delay the proceedings unnecessarily. In the event of any change to the time-frame, the arbitral tribunal shall notify the parties and the Registrar of any such change.

15. The statement of claim shall contain the particulars contained in article 29 of the Act and shall be filed within the time established by the arbitral tribunal or by the Registrar as the case may be.

Statement of Claim.

16. The statement of defence shall contain the particulars contained in article 30 of the Act and shall be filed within the time established by the arbitral tribunal or by the Registrar as the case may be.

Statement of Defence.

17. A counter-claim or a claim relied upon for the purpose of a set-off shall contain the particulars contained in article 30(4) of the Act.

Counter-Claim.

18. Should the arbitral tribunal fail to establish any applicable time-limit for the filing of the statement of claim or the statement of defence or otherwise and it is evident to the Registrar that such failure is causing delay in the proceedings, the Registrar, shall, after consulting the arbitral tribunal, if possible, and upon authority from the Chairman, establish such time-limit as may be necessary and communicate the same to the arbitral tribunal and the parties. Such time-limit shall be binding subject to any subsequent order in writing by the arbitral tribunal.

Registrar to establish time-limits.

19. (1) The responsibility of notifying all acts and communicating them as required by the Act and these rules, shall lie solely with the party promoting such acts and the arbitral tribunal as the case may be, except in case of the Notice which shall be notified by the Registrar as required by these rules.

Responsibility of Notifying Acts.

(2) The parties shall have the option of utilising the services of the Centre in relation to the deposit and notification of the statement of claim, the statement of defence, any attachments thereto and all subsequent and relating acts.

(3) Such option shall be adopted by means of a joint note signed by both claimant and respondent, endorsed by the arbitral tribunal

and presented to the Registrar and shall be against such fees as are provided in Appendix A to these rules.

(4) When such an option is adopted, all parties and the arbitral tribunal shall thereafter deliver all pleadings and any attachments in the arbitral proceedings to the Centre for onward transmission to the other parties and the arbitral tribunal.

(5) Filing, deposit and notification of documents may be made electronically provided the parties, the arbitral tribunal and the Registrar have agreed to such system and have established means of authentication of electronic communications.

(6) When the parties select the option specified in sub-rule (2), all references in these rules and in the Act to the notification of acts to notify the parties or the arbitral tribunal shall be interpreted as referring to the Registrar, who shall notify the same to the arbitral tribunal and the other parties, as the case may be.

Registered Post.

20. (1) Besides the manner provided for in article 16 of the Act, the Registrar may affect service of any notice, notification, communication or proposal to the claimant or respondent or to the arbitral tribunal by mailing the same by registered post to one of the addresses of the persons to be notified.

(2) Where the registered letter is not accepted or cannot otherwise be delivered at such address for any reason, the Registrar may publish a notice in a local daily newspaper stating that the document to be delivered has been deposited at the Registry and such document shall be deemed to have been received by the person indicated in the notice five working days after the date when such notice has been so published.

(3) When a person files the Notice, he shall communicate therewith an address where any document in connection with the arbitration may be served on him and on the other party and where any document has been posted by registered mail to any such address, it shall be deemed to have been received by the addressee within three working days following such postage.

(4) A person served with the Notice shall communicate to the Registrar an address where any document in connection with the arbitration may be served on him if such address is different from that given by the person filing the Notice. Thereupon the provisions of the sub-rule (3) shall *mutatis mutandis* apply to any document posted by registered mail to such address.

21. (1) Any document, which is to be served on any other party by the Registrar or by any party in the arbitration, may be served by hand on such party by the Registrar, an officer or employee of the Centre or a service agent. Service by hand.

(2) A service agent for the purpose of these rules shall be an advocate, a notary public or a legal procurator in possession of a valid warrant so to act.

(3) Upon service of an act, the service agent shall confirm in writing:

- (a) the date and time of service;
- (b) the place of service;
- (c) the details of the person on whom such service was made and a statement on how such person was identified.

Such document shall be confirmed on oath before a Commissioner of Oaths and filed with the Registrar within seven days of such service.

(4) When service by hand is affected by the Registrar, an officer or employee of the Centre, a memorandum under his hand shall be entered in the records of the proceedings.

(5) Any person wishing to act as service agent for the purpose of the foregoing rule shall apply to the Registrar for authority so to act and the Registrar shall administer the following oath prior to issuing such authority in writing:

“I, the undersigned, hereby swear/solemnly affirm that I shall perform my duties as service agent in arbitration proceedings honestly and with due diligence and I shall faithfully abide by all rules of the Malta Arbitration Centre.”

(6) The Registrar may issue a licence to act as service agent for the purposes of these rules for a period of one year at a time against the fee established by the Centre.

(7) The Registrar may issue guidelines for service agents from time to time and shall have the power to revoke any licence issued by him for non-observance of these rules or any applicable guidelines.

Records of Proceedings.

22. Unless the parties expressly agree otherwise, within thirty days of the registration of an award, the arbitral tribunal shall deliver the file with all original documents presented to the arbitral tribunal for archiving by the Centre.

23. The Centre shall keep all such documents filed in any arbitral proceedings for five years from the date of the award, after which they may be destroyed at the discretion of the Centre.

24. The documents shall be accessible to the arbitral tribunal and the parties thereto on request but to no other person, unless the confidentiality of the proceedings has been waived by the parties in accordance with these rules.

Date of hearings and of any time-limits by the arbitral tribunal.

25. (1) The date of hearings and any time-limits shall be fixed by the arbitral tribunal, as far as reasonably possible, in accordance with the proposed time-frame. The arbitral tribunal shall keep the Registrar informed with the date of hearings and with any time-limits set by it.

(2) The time-limits fixed by the arbitral tribunal shall be as short as reasonably possible and the same applies to any extensions it may grant. The arbitral tribunal shall endeavor to conduct the proceedings as expeditiously as possible.

Date of hearings by the Registrar.

26. When requested by the Chairman, the Registrar shall fix the date of any hearing by notice in writing to the parties and to the arbitral tribunal as the case may be, and such order shall be binding on the parties and the arbitral tribunal. The arbitral tribunal, or if it has not yet been appointed, the Registrar, may for good cause, extend any time within which anything is to be done in accordance with these rules.

Evidence.

27. The arbitral tribunal shall regulate the production of evidence before it to ensure compliance with the provisions of the Act. Any application for the subpoena of a witness before an arbitral tribunal shall indicate that the witness is to appear before an arbitral tribunal for the purpose of arbitration proceedings and shall indicate clearly the address of the place the witness is to attend and the date and time of attendance.

28. (1) The Registrar and any arbitral tribunal may administer oaths to persons called as witnesses or experts to give evidence before an arbitral tribunal. The form of the oath shall be as follows:

“I swear/solemnly affirm to tell the truth, the whole truth and nothing but the truth.”

(2) Any party may demand that the documents or statements filed during the arbitral proceedings shall be confirmed on oath before the Registrar or the arbitral tribunal or in any other manner provided by law, in the form hereunder:

“I swear/solemnly affirm that the facts stated in this (name of document or statement being verified) are true.”

(3) In the absence of such confirmation, the arbitral tribunal may disregard the documents or statements not confirmed.

29. (1) An arbitral tribunal may apply the provisions of the Electro-Magnetic Recording of Proceedings Act to arbitration proceedings.

Applicability of the Electro-Magnetic Recording of Proceedings Act, Cap. 284.

(2) The arbitral tribunal may take down in indelible ink the evidence of a witness and shall insert both the hand-written version and a printed copy, certified to be a true copy of the original by the arbitral tribunal, in the records of the arbitration. Should the witness desire to correct or add anything in or the deposition as printed, the arbitral tribunal shall make a note of such correction or addition, and in any such case it shall be lawful for either claimant or respondent to request the arbitral tribunal to reproduce the witness before the arbitral tribunal in order that he may confirm the correction or addition.

(3) With the consent of the arbitral tribunal evidence may be given over video or telephone links provided that the arbitral tribunal is able to satisfactorily identify the witness. In such cases, the arbitral tribunal shall record the fact that evidence has been given in the above manner and the means of identification used. The evidence taken shall, when transcribed, be sent by the arbitral tribunal by registered mail directly to the witness, who shall sign and send the same back directly to the arbitral tribunal:

Provided that the arbitral tribunal shall proceed irrespective of whether it receives the signed version of the evidence unless it receives a notice of objection against the transcribed evidence from the witness within thirty days after receipt by such witness of the evidence.

Provided further that where there is an objection, the arbitral tribunal shall consider the reasons for such objection and record them together with its considerations as to why such objection was not sustained or considered reasonable.

Part IV

ORDERS AND AWARDS

Plea of Non-Jurisdiction.

30. The determination by the arbitral tribunal on a plea of non-jurisdiction or on any other matter referred to in article 32 of the Act or on any other interim award, shall not be subject to the registration procedure as stated in article 44(8) of the Act until the issue of the final award, provided that if the arbitral tribunal decides that it does not have jurisdiction, such award shall be a final award and shall be communicated to the Registrar within fifteen days of its delivery.

Interlocutory Orders.

31. Interlocutory orders given by an arbitral tribunal are not subject to registration, no recourse may be taken against them and they are binding on the parties to the proceedings immediately on their notification to the parties who shall carry them out without delay.

Interpretation of an Award.

32. (1) The claimant or the respondent may request that the arbitral tribunal give an interpretation of the award within fifteen days from receipt of the award.

(2) The request shall contain:

- (a) the name of the parties and arbitrators;
- (b) the reference number of the award;
- (c) the date of the final award;

(d) a reference to the part of the award that needs to be interpreted; and

(e) reasons for the request.

(3) The request shall be accompanied by such number of copies as there are parties and a copy of such request shall be notified to the Registrar, who shall promptly notify the same to the arbitral tribunal.

(4) The Registrar shall register receipt of any such request in the register of acts.

(5) The interpretation, which shall form part of the award, shall be given in writing within forty-five days from the receipt of the request, and the provisions of article 44(2) to (8) of the Act shall apply to such interpretation.

33. (1) The claimant or the respondent may request the arbitral tribunal to correct any errors in computation, any clerical or typographical errors or any errors of a similar nature in the award within fifteen days from receipt of the award.

Correction of an Award

(2) The request shall contain:

- (a) the name of the parties and arbitrators;
- (b) the reference number of the award;
- (c) the date of the final award;
- (d) a reference to the part of the award that needs to be corrected; and
- (e) reasons for the making of such correction.

(3) The request shall be accompanied by such number of copies as there are parties and a copy of such request shall be notified to the Registrar, who shall promptly notify the same to the arbitral tribunal.

(4) The Registrar shall register receipt of any such request in the register of acts.

(5) The correction, which shall form part of the award, shall be given in writing within thirty days from the receipt of the request, and the provisions of article 44(2) to (8) of the Act shall apply to such correction.

(6) The arbitral tribunal may, within thirty days from the issue of the award, make such corrections on its own initiative.

34. (1) The claimant or the respondent may request that the arbitral tribunal make an additional award as to claims presented in the proceedings but omitted from the award within fifteen days from receipt of the award.

Additional Award.

(2) The request shall contain:

- (a) the name of the parties and of the arbitrators;
- (b) the reference number of the award;
- (c) the date of the final award;

(d) an indication of the claims presented in the proceedings but omitted from the award; and

(e) reasons for the making of such request.

(3) The request shall be accompanied by such number of copies as there are parties and a copy of such request shall be notified with the Registrar, who shall promptly notify the same to the arbitral tribunal.

(4) The Registrar shall register receipt of any such request in the register of acts.

(5) If in the opinion of the arbitral tribunal, the request for an additional award is justified and that the omission can be rectified without any further hearings or evidence, it shall complete the award within forty-five days from the receipt of the request, and the provisions of article 44(2) to (8) of the Act shall apply to such additional award.

(6) The above rules shall not apply when the request for the additional award does not relate to the merits of the dispute but only to costs or other purely administrative issues which may not have been addressed by the arbitral tribunal in the award. In such cases :

(a) the request may be made within three calendar months from the date of the award; and

(b) the application, or notice thereof, shall not hinder the registration and enforcement of the award in any manner;

(c) any additional award on costs subsequently issued shall be subject to registration as a separate award in the event that the award on the merits has been registered in the meantime.

Registration of an Award.

35. (1) On the lapse of thirty days from the date of which the award has been notified to the parties, the Registrar shall proceed to register the award unless:

(a) the award does not qualify as final in terms of the Act;
or

(b) any recourse contemplated by the Act has been taken against the award in terms of the Act.

36. (1) The parties are obliged to inform the Centre in writing within fifteen days of any recourse taken by them against any award whether by means of an appeal, an application for the setting aside of an award or otherwise. A copy of all judicial acts shall be sent to the Centre and filed in the relevant docket of the arbitration.

Notice to the Centre of any recourse taken.

(2) The parties taking recourse shall keep the Centre regularly informed of progress of any recourse taken.

(3) When the recourse taken consists of an application for an interpretation, correction or additional award, the Registrar shall not register the award until the determination of the request by the arbitral tribunal except in the case provided for in rule 34(6).

Part V

COSTS

37. The Registrar may request the claimant and the respondent to pay in advance or otherwise, any expenses which the Centre may incur for the purposes of or in relation to the arbitral proceedings.

Payment of Expenses of the Centre in relation to arbitral proceedings.

38. A request for the registration of an award by the Centre shall be accompanied by a fee prescribed in Appendix A to these rules and any outstanding expenses due to the Centre in terms of the preceding rule.

Fee for Registration of an Award.

39. In the absence of an agreement between the arbitral tribunal and the parties on costs and where the parties have expressly agreed that the costs shall be determined by the Centre, costs shall be taxed by the Sub-Committee on Charges established by the Centre.

Sub-Committee on Charges.

40. (1) The fees payable to arbitrators and to persons representing or assisting the parties shall be as stated in Appendix A to these rules.

Fees payable to arbitrators, etc..

(2) The Centre may from time to time issue indicative fees for arbitrators in domestic arbitrations.

(3) The arbitral tribunal may, unless otherwise agreed by the parties, direct that the recoverable costs of the arbitration, or of any part of the arbitral proceedings, shall be limited to a specified amount.

(4) In exercising its discretion, the arbitral tribunal shall observe the principle of proportionality of the costs with the merits of the case.

(5) Any such direction may be given or varied by the arbitral tribunal at any stage of the proceedings provided that this is done sufficiently in advance of the incurring of costs to which it relates, or of the taking of any steps in the proceedings which may be affected by it.

Agreement relating to fees and responsibility for costs.

41. A copy of any agreement or record between the arbitral tribunal and the parties relating to fees and responsibility for costs shall be delivered to the Registrar prior to the commencement of the arbitral proceedings.

Orders on costs.

42. (1) The arbitral tribunal may from time to time issue orders on costs and the party or parties so ordered shall be obliged to deposit such costs with the Registrar for appropriate administration and payment when due to the arbitral tribunal or the parties, in refund or otherwise, as the case may be.

(2) The continuation of the arbitral proceedings shall be contingent on the payment of costs and fees as ordered by the arbitral tribunal in terms of this rule.

(3) The arbitral tribunal may immediately issue an award on costs and register the same in accordance with these rules in the event that the respondent fails to pay his share upon an interim order on costs and the claimant has fulfilled such interim order by paying the costs in full.

Time-limits for payment of costs or fees.

43. The Registrar and the arbitral tribunal may set time-limits for payment of any costs or fees payable and the party receiving such request shall be bound accordingly.

Parties jointly and severally liable for the payment of fees and costs.

44. (1) The arbitral tribunal is entitled to fees and reimbursement of expenses and any value added tax. The parties are jointly and severally liable to the arbitral tribunal for payment of the fees and costs of the arbitral proceedings, notwithstanding any claim for reimbursement by one party against the other.

(2) Nothing in this rule shall restrict the freedom of the arbitral tribunal and the parties to adopt other rules on fees provided that, except as provided in sub-rule (3), any agreement whereby only one of the parties shall bear all the costs or any agreement specifying the exact proportion on which the costs will be borne between the parties shall be null and void unless approved in writing by the Registrar in advance of the appointment of the arbitral tribunal.

(3) An agreement whereby the parties agree to bear the costs equally shall be valid.

(4) In case of contestation of fees and expenses issued by the arbitral tribunal, a party may apply to the Sub-Committee on charges for review of such fees or expenses. The decision shall be final and binding.

Part VI

RULINGS AND GUIDELINES

45. The Centre may from time to time issue such rulings on procedures and other matters relating to the Act or these rules to assist in the interpretation and application of the Act and these rules so as to achieve efficiency and cost effectiveness in the arbitral process. Such rulings shall be applicable to all arbitrations and shall be accessible to all arbitrators and to any person interested. Rulings.

46. The Centre may from time to time issue guidelines for the better administration of arbitration in Malta. Guidelines.

Part VII

CONFIDENTIALITY AND OTHER MATTERS

47. (1) Every person who participates in the arbitration proceedings in whatever capacity must maintain the confidentiality of the arbitration. Confidentiality of Arbitration.

(2) The existence of arbitration proceedings, the filing of the Notice and the award will not be publicised or otherwise be publicly acknowledged by the Centre or the parties.

(3) The Centre shall treat all documents filed with it as confidential except to the extent as authorised by the parties or otherwise necessary to implement the provisions of the Act.

(4) The hearings will be held in private chambers and no person other than the parties and their assistants or representatives, and the Registrar, will be permitted to attend except for the support of the proceedings as ordered by the arbitral tribunal.

Exceptions.

48. The provisions of the preceding rule shall not apply in the following cases:

(a) where the parties expressly consent to the publication of any of the events stated in the preceding rule, and to such extent as may be consented to; or

(b) if any party seeks recourse in terms of the arbitration agreement or the Act and limitedly to such extent or otherwise requires to divulge the information to protect his own interests; or

(c) in the case of mandatory arbitrations.

Statistics on arbitrations.

49. The provisions of the preceding two rules shall not limit the freedom of the Centre to publish statistics on arbitrations taking place under its administration or from publishing any procedural or other guidance notes or restricted summaries relative to issues which may have arisen in any arbitration proceedings or awards, provided, in so doing, it does not divulge the names of the parties or make specific references to the subject-matter of an arbitration so as to enable identification of the parties therefrom.

Exclusion of Liability.

50. The arbitrators, the Centre, its officers and its employees shall not be liable in damages to any person for any act or omission in connection with their duties, provided such act or omission does not constitute an intentional or grossly negligent breach of duty, or such act or omission is not attributable to malice or fraud.

Matters not provided for.

51. (1) In any matter not provided for in these rules, the parties shall act in accordance with such directives as may be given by the arbitral tribunal, or where the arbitral tribunal is not fully constituted, by the Registrar.

(2) In any matter not provided by these rules, the arbitral tribunal or the Registrar, as the case may be, may give such directives as are consistent with the Act to ensure efficient and cost effective proceedings.

Pending Court Proceedings

52. (1) In the event that there are proceedings in terms of article 15(3) of the Act, the arbitral tribunal shall not proceed until the court determines the issue, unless the arbitral tribunal decides that irreparable harm may ensue to one of the parties and cannot be compensated in monetary terms. In such a case, the arbitral tribunal is to notify the court of the arbitral tribunal's determination and shall proceed in terms of article 15(4) of the Act.

(2) The parties may agree that the arbitral proceedings shall be consolidated with other arbitral proceedings, or that concurrent hearings shall be held, on such terms as may be agreed upon.

(3) The arbitral tribunal has no power to order consolidation of proceedings or concurrent hearings, unless all the parties agree to confer such power to the arbitral tribunal.

(4) A third party can be requested to join as a party in the arbitral proceedings and may be so joined provided all the parties to the proceedings are in agreement.

Part VIII

REGISTRATION OF FOREIGN ARBITRATION AWARDS

53. The following rules shall apply to a foreign arbitration award to be registered by the Centre in terms of article 74 of the Act. For the purposes of Articles II and III of Part II of the Second Schedule to the Act and of paragraph 2 of Article V of Part III of the Second Schedule to the Act, the functions of the court and the competent authority referred to therein shall be carried out by the Malta Arbitration Centre.

Registration of
Foreign Arbitral
Award.

54. The applicant for the registration of a foreign arbitration award shall present the following documents to the Registrar:

Documents to be
presented.

(a) the duly authenticated original award or a duly certified copy thereof. Authentication shall be made in accordance with the law of the state in which the award is issued and certification shall take place in accordance with the law of the place of certification or in each case by a Maltese diplomatic or consular officer in accordance with the Hague Convention on Apostilles;

(b) when the award is not in the English language a certified translation of the award into English. The certification shall be certified by an official or sworn translator or a Maltese diplomatic or consular officer;

(c) the original arbitration agreement between the parties which resulted in the arbitration proceedings and the relative award, or a certified copy thereof;

(d) a sworn declaration by the applicant or his authorised attorney that no recourse has been taken and is pending against the award and the award is final;

(e) the name, address and all other known communication details of the respondent, and if he is not resident or otherwise present in Malta, of his representative or other person who have some connection to him in Malta together with a description of the connection to him or his property in Malta.

Copy of documents
to be served on
respondent.

55. (1) On receipt of an application with all the attachments stated in the preceding rule, the Registrar shall serve the respondent with a copy of all the documents received and the respondent shall have ten working days to state in writing whether there are any reasons why the Registrar should not proceed with the registration of the award.

(2) If the respondent is not resident or otherwise present in Malta, the Registrar shall notify the person indicated by the applicant as being a representative or having a connection with the respondent or his property in Malta or such other person as the Registrar may establish as having representation of the respondent upon directly communicating with such respondent by any means available to him. The person who receives the documents is to be advised in writing by the Registrar that :

(a) if he is the representative of the respondent, he should respond to the application within ten working days;

(b) if he is not the representative of the respondent –

(i) he is to communicate the documents to the respondent as soon as possible (not later than five days from receipt) and take instructions from him as to the request for registration of the award and inform the Registrar in writing of the date on which he sent the documents to the respondent, the manner of communication and the address, fax numbers or electronic address at which they were sent; or

(ii) he is to advise the Registrar within five working days that he does not represent the respondent and has no means of communicating with him and to provide all available information about his connection or otherwise with the respondent while returning to the Registrar all the documents served upon him.

(3) In the cases referred to in sub-rule (2)(b)(i) the time for the respondent to reply to the application shall start to run after the lapse of five days from the date on which the person served sends the documents to the respondent; provided that the Centre may determine a later date on which the documents were effectively received by the respondent.

(4) In the cases referred to in sub-rule (2)(b)(ii) or in case no response is received, in which case it is to be presumed that the recipient is not the representative of the respondent, the Registrar shall advise the applicant of the response (or lack of it) and the applicant shall be entitled to request the court to nominate and appoint, at his cost, a curator *ad litem* for the respondent for the purposes of these rules and such curator shall henceforth be deemed to be the lawful representative of the respondent in Malta for the purpose of the registration of the foreign award and all subsequent and related acts, including those relating to enforcement of the award. The applicant shall send certified copies of all proceedings and any court orders to the Centre without making it a party.

(5) In appointing a curator *ad litem* for the purposes of the preceding rules, the court shall select a person from the panels of domestic arbitrators maintained by the Centre, a copy of which shall be presented to the court together with the applications made to the Centre referred to above.

(6) It shall be lawful for the respondent to assume his own representation at any time, directly or through an attorney appointed in writing, by means of a notice to that effect served on the curator *ad litem* and the Centre. In such cases the respondent shall be responsible for the fees and expenses of the curator *ad litem* until such time.

(7) The curator *ad litem* shall be entitled to an hourly fee of twenty-five Maltese liri (LM 25) for services rendered. The Registrar of the Centre shall determine in a final manner the fees of the curator *ad litem* if requested to do so.

56. A response shall contain all relevant information and shall have attached to it all documents, which are necessary to sustain the objections to registration made by the respondent. Response.

57. (1) On receipt of the response to the application for registration of a foreign award or on the lapse of the period for filing a response, the Registrar shall refer the application and the response to the Chairman of the Centre for determination. Determination by Chairman.

(2) The Chairman of the Centre shall determine the issue in a final manner on the basis of the documents presented but may at his discretion order a hearing of the parties and their representatives if he considers that the arguments merit further discussion or evidence.

(3) If the application is made in accordance with these rules and the respondent is properly notified directly or through a curator *ad litem*, recognition of a foreign award may only be refused if the respondent proves the operation of any of the grounds stated in Article V of Part III of the Second Schedule to the Act.

(4) The Chairman of the Centre shall have the powers stated in Article II and III of Part II of the Second Schedule to the Act and those stated in Article VI of Part III of the Second Schedule to the Act.

(5) There shall be no appeal against the decision of the Chairman of the Centre which shall be final and binding on the parties.

(6) The refusal of an application to register a foreign award shall not be an obstacle to the filing of another application by the same applicant against the same respondent and on the same merits at a later date.

Part IX

TRANSFER OF PROCEEDINGS FROM COURT OR OTHER TRIBUNALS

Transfer of Proceedings.

58. It shall be lawful for the parties to a suit or other proceeding pending before any court or tribunal to refer the matter in dispute, or a specific part thereof, to arbitration. In such event the following rules shall apply.

Joint Note.

59. The parties shall present a joint note before the court or tribunal stating that they have agreed to refer the dispute to arbitration. Unless the parties agree otherwise, in which case they must expressly state what has been agreed, the parties shall declare that the arbitration is to proceed with immediate effect from the same position in which it had reached before the court or tribunal, without the need for filing of documents or acts already filed or the re-submission of witnesses already heard, and without prejudice to all acts already done and carried out or declarations, waivers, admissions or undertakings made.

Original Duplicate of Note.

60. An original duplicate of such note, signed by both parties or their representatives, shall be filed at the Malta Arbitration Centre. Such note shall specify the following matters:

(a) the court or tribunal before which the suit or proceedings is pending and the reference number of the suit or proceeding;

(b) a brief description of the dispute which is to be referred to arbitration;

(c) if agreed between the parties, the name of the arbitrator or arbitrators;

(d) any other matters relating to the arbitration proceedings which may be agreed between the parties.

61. A certified copy of the full docket or file in possession of the court or tribunal shall be attached to the note filed at the Centre, and in the case of a referral of part of the pending dispute to arbitration, a certified copy of such of the docket as the parties agree to be relevant to the arbitration.

Certified copy of full docket.

62. The note filed at the Centre shall constitute the Notice for all purposes at law and these rules, without prejudice, however, to the rules applicable to the interruption or suspension of prescription which shall continue to be regulated by the applicable law in relation to the filing of the original judicial or other acts. Referral of any dispute pending before a court or tribunal to arbitration shall not be considered to be a waiver of any rights or a novation.

Joint Note to constitute the Notice.

63. On filing of the Note by any party with the Centre, the Registrar or the arbitral tribunal, as the case may be, shall proceed with the arbitration in terms of these rules and shall give such procedural orders so as to confirm any acts already filed as the equivalent acts (contemplated by the Act and these rules) in the arbitration and issue any orders for the filing of any further acts, the holding of hearings or otherwise as the case may require.

Procedural Orders.

64. On registration of the final award in the arbitration, the Registrar shall send a certified copy of the award to the court or tribunal from which the arbitration was referred for any action which the court or tribunal deems necessary to take.

Registration of Final Award.

Part X

INTERNATIONAL ARBITRATION

65. These rules shall apply, *mutatis mutandis*, to all arbitrations which are commenced in terms of the Act and governed by Part V (International Arbitration) of the Act, whether by operation of law or when agreed upon by the parties, until such time as rules under the Act are promulgated specifically for international arbitration.

Applicability of rules to international arbitration.

B 6720

Specific reference to International Arbitration.

66. Where the Act or any rules specifically refer to international arbitration, they shall apply accordingly notwithstanding any rule on a similar subject in other parts of these rules.

Model Law.

67. The Model Law shall apply to all international arbitrations except to the extent the parties agree otherwise.

Commencement of International Arbitration.

68. An international arbitration in relation to a particular dispute commences

(a) when one party to an arbitration agreement sends a written request to the other referring a dispute covered by the arbitration agreement to arbitration; or

(b) both parties sign and date a joint declaration that a particular dispute has been referred to arbitration by the parties.

(2) The written request may be sent by hand, by mail or by fax and takes effect for all purposes at law when received by the respondent and in the case of a joint declaration when it is signed and dated by both parties.

69. When the parties wish that the arbitration be administered by the Centre or when it has been agreed to be so administered, a copy of the written request (with all evidence relating to the receipt and date thereof by the respondent) or the joint declaration shall be sent to the Centre. The Registrar shall register the arbitration when satisfied that a referral has been made and received in terms of this rule.

Applicability of article 61 of the Act.

70. Article 61 of the Act shall apply to the registration of an international award with the Centre.

Part XI

DISCIPLINARY PROVISIONS

Responsibility for discipline over arbitral proceedings.

71. (1) The arbitral tribunal is primarily responsible for exercising discipline over the arbitral proceedings and shall have all the necessary powers to issue orders to the parties in relation thereto.

(2) The arbitral tribunal shall have the power to impose penalties for non-compliance with orders, for failure to observe time-limits and for failure to attend hearings or cancellation thereof without valid reasons.

(3) The penalties shall reasonably reflect the seriousness of the non-compliance, the costs incurred by the Centre, by the arbitral tribunal and by the other parties due to the non-compliance and generally the need to maintain order in the proceedings.

(4) There shall lie an appeal to the Board of the Centre on any penalty. Such appeal shall be filed in writing within five days of the imposition of the penalty and the decision of the Board shall be final and binding.

(5) It shall not be a valid ground of challenge of an arbitrator to claim that the arbitrator has exercised undue disciplinary action against a party except where there is evidence of disproportionate use of the powers of the arbitral tribunal relative to the action of a party. The burden of proving disproportionality shall rest with the party claiming it and arbitrators shall be *prima facie* presumed to have acted within their powers.

72. (1) In case of breach of duty by an arbitrator in relation to the management of the arbitration proceedings, the Registrar may issue orders in writing to the arbitrator who shall be bound to comply as soon as possible with such order.

Breach of duty by an arbitrator.

(2) The Board may request the Registrar to issue any such orders to any arbitrator if, when reviewing progress in any arbitration, the Board notes that any provisions of the Act, these rules or any guidelines are not being observed or that the arbitrator is failing to manage the arbitration process efficiently.

(3) When an arbitrator fails to observe the orders of the Registrar issued in terms of this rule, the Registrar shall report on such circumstances to the Board and the Board shall determine what disciplinary action to take against the arbitrator.

(4) In case of breach of the duty of independence by the arbitrator because of an undisclosed conflict of interest or because of irregular communication or otherwise, with one of the parties or any person on behalf of a party, the Registrar shall make a written report to the Board copied to the arbitrator and to the parties and the Board shall decide what actions are to be taken.

(5) In cases referred to above, the Board shall determine the issue after giving the arbitrator the opportunity of being heard and after considering such other evidence as may be appropriate.

(6) In such cases the Board has the power to take such disciplinary action as it considers appropriate in view of the circumstances. The powers of the Board include:

- (a) the issuing of orders in relation to the proceedings;
- (b) the removal of the arbitrator from the arbitration;
- (c) the removal of the arbitrator from the domestic panel of arbitrators, and
- (d) the imposition of a disqualification to act as an arbitrator in Malta for a stated period not exceeding three years.

(7) Action taken in terms of this rule by the Centre shall be without prejudice to any rights of the parties under applicable law.

(8) Nothing in the foregoing rule shall limit the rules applicable to the challenge of arbitrators in the Act.

Part XII

REPEAL AND SAVING

Repeal of Legal
Notice 53 of 2000.

73. The Arbitration Rules, 2000, are hereby repealed.

Conflict between
the English and the
Maltese texts.

74. In these rules, if there is any conflict between the English and the Maltese text, the English text shall prevail.

Difference between
these rules and any
publications issued
by the Centre.

75. In the event of any difference between these rules and any publications issued by the Centre from time to time, these rules shall prevail.

FIRST SCHEDULE

Short Form Arbitration Rules

These Rules shall apply when the parties expressly agree, in an arbitration clause or agreement, that the arbitration will be governed by the Short Form Arbitration Rules of the Malta Arbitration Centre.

These Rules are combined with the Motor Claims Arbitration Rules, the Condominium Arbitration Rules or the Co-operative Societies Arbitration Rules which appear in the following schedules to these Rules.

Special tariffs apply to short form arbitrations due to the greater role taken on by the parties in preparation of the documentation for the arbitrator, the probability of no hearings and the lesser administrative role undertaken by the Malta Arbitration Centre.

Parties who are not prepared to co-operate and be organised in preparing the documentation before commencing the arbitration should not select these short form rules. In such a case, the Arbitration Rules, 2004 shall apply in full and the ordinary tariffs shall be applicable.

1. The arbitration procedures shall be those applicable to domestic arbitration, namely Part IV of the Arbitration Act, 1996 and the Arbitration Rules, 2004, but subject to the determinations and modifications made herein.
2. The parties agree that the arbitral tribunal is composed of one arbitrator.

Part A Documents Only Procedures

3. The parties agree that, except where clause 10 applies, the subject matter of the dispute is such that the arbitrator may determine the dispute by means of reviewing only the documents and submissions submitted by the parties and a hearing shall not be required.
4. The parties agree that the Notice of Arbitration (the "Notice") shall be signed by both parties and filed by the claimant, the arbitrator chosen shall be named therein and the respondent waives the right to be notified therewith by the Registrar provided that if a party requires to file a Notice in order to preserve any rights and avoid the operation of a time bar or other rule of prescription, a Notice may be filed unilaterally at any time. In such case, reference shall be made to the fact that the parties have agreed the Short Form Arbitration Rules and the Registrar shall notify the Notice to the respondent and inform the parties that these Rules shall continue to apply with immediate effect, giving the parties time-limits for:

- (a) the agreement on the arbitrator, failing which the Chairman shall proceed to appoint an arbitrator; and
 - (b) the filing of all the documents as contemplated hereby.
- 5. If the arbitrator is not named therein, the submission of the Notice shall be deemed to be a formal request by the parties to the Chairman to immediately appoint an arbitrator in terms of the Act.
- 6. The parties agree that the Notice shall be accompanied by:
 - i. the statement of claim as required by article 29 of the Act together with all documents which the claimant may wish to submit to the arbitrator to enable him to reach his decision on the claim;
 - ii. the statement of defence as required by article 30 of the Act together with all documents which the respondent may wish to submit to the arbitrator to enable him to reach his decision on the defence;
 - iii. up to one additional written statement by claimant in terms of articles 31 and 33 of the Act;
 - iv. up to one additional written response by respondent in terms of articles 31 and 33 of the Act;
 - v. a declaration by the parties that they are in possession of all the documents filed with the Notice.
- 7. Against the payment of an administration fee, the Registrar may give all necessary orders and open a docket at the Centre into which the parties may file their respective documents and this so as to assist the parties in collating all necessary documents required by clause 6 for the filing of the Notice.
- 8. The arbitrator shall consider the documents and reach his decision on the referral within thirty days of receiving the documents from the Centre. He may extend such period by an additional thirty days by notice in writing to the parties copied to the Centre.
- 9. If the arbitrator believes that additional documents, submissions or a hearing are required he may exceptionally so order and this at the cost of whichever party is in default or, in case of a hearing, at the provisional cost of the party he may order or both in equal shares.

Part B
Documents plus Limited Additional Evidence

10. The parties agree that when the dispute relates to issues on which evidence is to consist of or include statements by means of affidavits and where the other party has reserved the right to cross-examine the witness, then the Notice shall be accompanied by:
 - i. the statement of claim as required by article 29 of the Act together with all documents and affidavits of all persons who can give evidence on the facts, which the claimant may wish to submit to the arbitrator to enable him to reach his decision on the claim;
 - ii. the statement of defence as required by article 30 of the Act together with all documents and affidavits of all persons who can give evidence on the facts, which the respondent may wish to submit to the arbitrators to enable him to reach his decision on the defence;
 - iii. any further written statement by claimant in terms of articles 31 and 33 of the Act;
 - iv. any further written statement by respondent in terms of articles 31 and 33 of the Act;
 - v. any reservations to the right to cross-examine any witness for whom an affidavit has been filed with any of the statements by the parties.

11. The parties making reservations to the right to cross-examine witnesses who have made affidavits shall endeavour to carry out all cross-examinations and all additional or final oral submissions during one hearing. Any hearing in excess of one of a duration of more than two hours shall entitle the arbitrator to the additional hourly fees stated in Appendix A, unless otherwise agreed by him at the time of his acceptance to act as arbitrator in the dispute.

Part C
General

12. The parties may agree to file a joint statement of the facts and the respective claims of the parties to the dispute and that joint statement shall replace the statement of claim and defence as well as the submissions of the parties. In such cases the joint statement and any documents attached in evidence shall be the basis of the decision of the arbitrator.

13. Any party may at its own cost request -
 - (i) permission to file additional written statements; or
 - (ii) a hearing for additional submissions.

The other party shall be entitled to the right to reply in writing to written submissions or to reply verbally in case of oral submissions at the same hearing without additional costs.

14. The award shall state the reasons upon which it is based.

Part D Costs

15. Fees and costs are paid to the Registrar in advance on filing of the Notice. Fees shall be calculated on the basis of the value of the dispute in accordance with Appendix A but shall be reduced by 25% in view of the adoption of these Short Form Rules.
16. Upon any application by any party which gives rise to any additional fees in terms of the Appendix A, the applicant shall pay the applicable fees to the Registrar on filing such application.
17. The award shall be sent by registered mail or physically delivered by the arbitrator to the parties and to the Centre.

Part E Miscellaneous

18. On all matters not expressly regulated by a provision in the preceding parts, the Act and the Rules shall continue to apply.
19. If it results to the Centre or the arbitrator that the arbitration, notwithstanding the use by the parties of procedures contemplated hereby, is not indeed a short form arbitration as described in this Schedule and the additional hourly fees and tariffs for additional services are not adequate to reasonably compensate the Centre and/or the arbitrator, the Centre and/or the Arbitrator may issue a notice to the parties to that effect and the special tariffs in Appendix A for short form arbitrations shall not be applicable. In such a case, the Tariffs in Appendix A for ordinary arbitrations shall be applicable *ab initio* and the parties shall pay any additional fees before the arbitration continues.
20. The award may be published, however in such a manner as not to divulge details of the parties and other issues which enable identification of the parties.
21. There shall be no appeal from the award.

SECOND SCHEDULE

Motor Claims Arbitration Rules

These Rules shall apply only when the parties expressly agree, in an arbitration clause or agreement, that the arbitration will be governed by the Motor Claims Arbitration Rules of the Malta Arbitration Centre.

These Rules are combined with the Short Form Arbitration Rules appearing in the First Schedule.

The Centre maintains a domestic panel of arbitrators to deal with motor traffic claims.

1. The parties expressly agree that the arbitration of the dispute which has been referred to arbitration shall be held in accordance with the Motor Claims Arbitration Rules of the Malta Arbitration Centre contained in the Second Schedule to the Arbitration Rules, 2004.
2. The arbitration procedures shall be those applicable to domestic arbitration, namely Part IV of the Arbitration Act, and the Arbitration Rules, 2004, subject to the determinations and modifications made herein.
3. The Short Form Arbitration Rules shall apply to the extent not modified by the agreement between the parties.
4. The fees of the Centre and of the arbitral tribunal shall be paid provisionally by the claimant on the filing of the Notice.

THIRD SCHEDULE

Condominium Arbitration Rules

These Rules shall apply only when the parties expressly agree, in an arbitration clause or agreement, that the arbitration will be governed by the Condominium Arbitration Rules of the Malta Arbitration Centre.

These Rules are combined with the Short Form Arbitration Rules appearing in the First Schedule.

The Centre maintains a domestic panel of arbitrators to deal with condominium disputes.

1. The parties expressly agree that the arbitration of the dispute which has been referred to arbitration shall be held in accordance with the Condominium Arbitration Rules of the Malta Arbitration Centre contained in the Third Schedule to the Arbitration Rules, 2004.
2. The arbitration procedures shall be those applicable to domestic arbitration, namely Part IV of the Arbitration Act, and the Arbitration Rules, 2004, subject to the determinations and modifications made herein.
3. The Short Form Arbitration Rules shall apply to the extent not modified by the agreement between the parties.
4. The arbitrator shall be chosen and appointed by the Chairman of the Centre from among the Domestic Arbitration Panel members for Condominium disputes.
5. The fees of the Centre and of the arbitral tribunal shall be paid provisionally by the claimant on the filing of the Notice.
6. The Notice may be signed by one *condominus* only as claimant or as respondent but such *condominus* must name the other *condomini* on behalf of whom he is acting.
7. When an administrator acts in his capacity as administrator to file an arbitration or to appear as respondent, the authority of the *condomini* shall be presumed unless the Centre is otherwise notified in writing. In such case, the *condomini* need not be included as claimants or respondents with the administrator except in so far as a *condominus* is actually a claimant or respondent himself.
8. The administrator has the responsibility of notifying all acts and documents to the other *condomini*, provided that if the administrator is a party to the dispute, the Centre shall have the responsibility of notifying all acts and documents to the other *condomini* or to such person as it is notified to be their representative.

FOURTH SCHEDULE

Co-operative Societies Arbitration Rules

These Rules shall apply only when the parties expressly agree, in an arbitration clause or agreement, that the arbitration will be governed by the Co-operative Societies Arbitration Rules of the Malta Arbitration Centre.

These Rules are combined with the Short Form Arbitration Rules appearing in the First Schedule

The Centre maintains a domestic panel of arbitrators to deal with Co-operative Societies disputes.

1. The parties expressly agree that the arbitration of the dispute which has been referred to arbitration shall be held in accordance with the Co-Operative Societies Arbitration Rules of the Malta Arbitration Centre contained in the Fourth Schedule to the Arbitration Rules, 2004.
2. The arbitration procedures shall be those applicable to domestic arbitration, namely Part IV of the Arbitration Act, and the Arbitration Rules, 2004, subject to the determinations and modifications made herein.
3. The Short Form Arbitration Rules shall apply to the extent not modified by the agreement between the parties.
4. The fees of the Centre and of the arbitral tribunal shall be paid provisionally by the claimant on the filing of the Notice of Arbitration.

APPENDIX A

Part I – Fees and Costs

1.1 MALTA ARBITRATION CENTRE FEES DUE ON FILING OF A NOTICE OF ARBITRATION

1.1.1 Domestic/Ordinary Arbitration

1.1.1.A The filing fee, which is not refundable, in respect of a claim, counter claim or any additional claim shall be 25% of the equivalent *ad valorem* registry fees due to the Superior Courts of Malta as these emerge from the relative legal notices issued in terms of the Code of Organization and Civil Procedure with a minimum fee of **LM 50**.

1.1.1.B When a claim, counter claim or any additional claim is not expressed in monetary terms, and in cases where the amount is not stated, the claimant shall declare the value of its claim. Such declaration shall be made upon the filing of the Notice or upon the filing of a counter claim or any additional claim as the case may be. The Registrar may revise the above-mentioned value.

1.1.1.C If more than two parties are involved in arbitral proceedings, a flat rate of LM5 for each additional party is charged in the case of Motor Claims Arbitrations, Condominium Arbitrations and Co-operative Societies Arbitrations, whether such arbitrations are Short Form Arbitrations or Mandatory Arbitrations; and in all other cases, a flat rate equivalent to 10% of the registry fee stated in paragraph 1.1.1.A is charged for each additional party.

1.1.2 Short Form Arbitrations

The filing fee, which is not refundable, in respect of a claim, counter claim or any additional claim shall be as stated in paragraph 1.1.1.A with an additional discount of 25% on the registry fee on the basis of compliance with the Short Form Rules with a minimum fee of **LM 38**.

1.1.3 Mandatory Arbitrations

LM 30

Provided that in the case of Motor Claims Arbitrations where the value of the dispute does not exceed LM 3,000, the filing fee shall be **LM 10**.

1.2 FEES DUE ON THE TRANSFER OF PROCEEDINGS FROM COURT OR OTHER TRIBUNALS TO ARBITRATION:

LM 50 due on filing of docket with copies of all relevant documents.

1.3 MALTA ARBITRATION CENTRE SERVICE CHARGES

The Centre provides administrative services in support of arbitration. The following are the charges of the Centre:

Service	Costs
Secretarial service	LM 3.50 per hour or part thereof
Transcription of evidence	LM 2 per page
Cassettes for recording evidence	LM 1 each
Photocopies	10c per page
Authenticated True Copies of Original Documents	20c per page
Postage expenses for distributing claim and response, orders, awards etc.	at cost
Use of MAC Premises	LM5 per hour or part thereof, LM 6 per hour or part thereof if after office hours.
Catering costs	at cost
Telecommunications	at cost
Subpoena of witnesses	according to the applicable court tariff
Translation services	at cost
Administration fee for deposits	1% of total deposit or LM 10 whichever is the greater
Service of documents and other acts [Rule 20] (excluding Notice of Arbitration)	LM 5 per document served

Service of documents and other acts by
electronic means

LM 2 per document served

1.4 REGISTRATION OF AWARDS ISSUED IN ACCORDANCE WITH ARTICLE 46 (4) AND (5) OF THE ACT – CONSENT AWARDS

50% of the filing fee as stated in paragraph 1.1.1.A of this Appendix with a minimum fee of **LM 50**.

1.5 REGISTRATION OF FOREIGN ARBITRAL AWARDS

The registration fee for foreign arbitral awards shall be equal to that payable for proceedings for the same purpose in the Courts of law subject to a minimum fee of **LM 50**.

1.6 FILING/REGISTRATION FEES OF INTERNATIONAL ARBITRATION

The following non-refundable fee is payable in full by a filing party to the Centre for services provided under the Arbitration Act, 1996 when a claim, counter claim or additional claim is filed, as provided in the following Tariff:

Amount of claim in US\$	Fees in US\$
up to 10,000	500
above 10,000 up to 50,000	750
above 50,000 up to 100,000	1,250
above 100,000 up to 250,000	2,000
above 250,000 up to 500,000	3,000
above 500,000 up to 1,000,000	4,000
above 1,000,000 up to 5,000,000	6,000
above 5,000,000	negotiable

- (a) When a claim or counter claim or additional claim is not a monetary amount an appropriate filing fee will be determined by the Centre which, in no event, will be less than US\$ 1,250. In exercising its discretion, the Centre may take various factors into consideration, such as the anticipated length of time that the arbitration process is expected to take, and the complexity of the issue.
- (b) The minimum filing fee for any case having more than one arbitrator is US\$ 1,500.
- (c) For each day of hearing held before a single arbitrator, an administrative fee of US\$ 150 is payable by each party to the Centre.

- (d) For each day of hearing held before a three arbitrator panel, an administrative fee of US\$ 250 is payable by each party to the Centre.
- (e) A fee of US\$ 200 is payable to the Centre by a party causing a postponement of any hearing before a sole arbitrator.
- (f) A fee of US\$ 350 is payable to the Centre by a party causing a postponement of any hearing before an arbitral tribunal composed of more than one arbitrator.
- (g) In addition to the fees set out in this Part, the Centre shall charge such other fees or costs as may be determined by the Board from time to time for the use of its services and premises. Such fees and costs shall be published in a notice which will be posted at the Centre.
- (h) When no administrative services of the Centre are required except for registration of an international award, the fee shall be 50% of the table stated above.

1.7 OTHER FEES

1.7.1 Registration of an Additional Award

LM 15

1.7.2 Registration of a Partial Award

LM 10

1.7.3 Confirmation of Documents on Oath

LM 10 per document

Part II – Arbitrators’ Fees

1. Arbitrators’ fees may be agreed between the arbitral tribunal and the parties, but in the absence of any such agreement, the tariffs applicable shall be as per table below.

Amount of Claim in Malta Liri			Arbitrators’ Fees in Malta Liri
0	to	500	50
above 500	to	1,500	120
above 1,500	to	5,000	180
above 5,000	to	10,000	300
above 10,000	to	20,000	450
above 20,000	to	50,000	800
above 50,000	to	100,000	1,250
above 100,000	to	250,000	2,000
above 250,000	to	500,000	3,500
above 500,000	to	1,000,000	5,000
in excess of 1,000,000			5,000 + 0.3% of any amount in excess of 1,000,000

2. Unless there is an agreement on the arbitrators’ fees between the arbitral tribunal and the parties, in the case of Short Form Arbitrations, the tariff shall be **LM 55** but the arbitral tribunal is entitled to an extra fee of **LM 10** per hour for any subsequent hearing of a duration of more than two hours in excess of one.
3. In the case of mandatory arbitrations, the arbitrators’ fees shall be **LM 45** and such fees shall be payable provisionally by claimant on the filing of the Notice but the arbitral tribunal may, in special circumstances, charge supplementary fees.
4. The above arbitrators’ fees are exclusive of Value Added Tax.

Part III - Representation and Assistance

These amounts are extracted from the tariff applicable to lawyers as per Legal Notice 142 of 2000.

Value of Claim – Lm	Fee – Lm
1,000	65
1,500	80
2,000	95
2,500	110
3,000	125
5,000	185
8,000	275
10,000	335
20,000	435
30,000	535
40,000	735
100,000	1,235
1,000,000	10,235

1. Legal representation or assistance fees may be agreed between the representative or assistant and the client and in the absence of any such agreement, the tariffs applicable shall be as per above table.
2. In the case of Short Form Arbitrations, representation or assistance fees that the unsuccessful party may be condemned to pay notwithstanding any agreement reached between the representative or assistant and his client will not exceed **LM 50**.

Provided that if in the opinion of the arbitral tribunal as stated in the award, there exist special circumstances which may merit a higher fee, the arbitral tribunal may exceed such sum in condemning the unsuccessful party to costs.

3. The above representation and assistance fees are exclusive of Value Added Tax.

APPENDIX B

Model Arbitration Clauses

B.1 Ordinary Procedure – Domestic

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with Part IV (Domestic Arbitration) of the Malta Arbitration Act and the Arbitration Rules of the Malta Arbitration Centre as at present in force.

Additional issues which may be regulated by the arbitration agreement:

- (a) the appointing authority shall be the Malta Arbitration Centre;
- (b) the number of arbitrators shall be (one or three);
- (c) the place of arbitration shall be Malta;
- (d) the language(s) to be used in the proceedings shall be
- (e) the applicable substantive law shall be
- (f) the award shall be final and binding and there shall be no appeal;
- (g) the arbitrator shall decide *ex aequo et bono*;

B.2 Short Form Arbitration

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration, by one arbitrator, in accordance with Part IV (Domestic Arbitration) of the Malta Arbitration Act and the Short Form Arbitration Rules of the Malta Arbitration Centre as at present in force. The award shall be final and binding and there shall be no appeal.

Additional issues which may be regulated by the arbitration agreement:

- (a) the appointing authority shall be the Malta Arbitration Centre;
- (b) the place of arbitration shall be Malta;
- (c) the language(s) to be used in the proceedings shall be

- (d) the applicable substantive law shall be
- (e) the arbitrator shall decide *ex aequo et bono*.

B.3 Motor Claims Arbitration

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration, by one arbitrator, in accordance with Part IV (Domestic Arbitration) of the Malta Arbitration Act and the Motor Claims Arbitration Rules of the Malta Arbitration Centre as at present in force. The award shall be final and binding and there shall be no appeal.

Additional issues which may be regulated by the arbitration agreement:

- (a) the appointing authority shall be the Malta Arbitration Centre;
- (b) the place of arbitration shall be Malta;
- (c) the language(s) to be used in the proceedings shall be
- (d) the applicable substantive law shall be
- (e) the arbitrator shall decide *ex aequo et bono*.

B.4 Condominium Arbitration

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration, by one arbitrator, in accordance with Part IV (Domestic Arbitration) of the Malta Arbitration Act and the Condominium Arbitration Rules of the Malta Arbitration Centre as at present in force. The award shall be final and binding and there shall be no appeal.

Additional issues which may be regulated by the arbitration agreement:

- (a) the appointing authority shall be the Malta Arbitration Centre;
- (b) the place of arbitration shall be Malta;
- (c) the language(s) to be used in the proceedings shall be
- (d) the applicable substantive law shall be
- (e) the arbitrator shall decide *ex aequo et bono*.

B.5 Co-operative Societies Arbitration

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration, by one arbitrator, in accordance with Part IV (Domestic Arbitration) of the Malta Arbitration Act and the Co-operative Societies Arbitration Rules of the Malta Arbitration Centre at present in force. The award shall be final and binding and there shall be no appeal.

Additional issues which may be regulated by the arbitration agreement:

- (a) the appointing authority shall be the Malta Arbitration Centre;
- (b) the place of arbitration shall be Malta;
- (c) the language(s) to be used in the proceedings shall be
- (d) the applicable substantive law shall be
- (e) the arbitrator shall decide *ex aequo et bono*.

B.6 International Arbitration

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration, in accordance with Part V (International Arbitration) of the Malta Arbitration Act and the Arbitration Rules of the Malta Arbitration Centre as at present in force.

Additional issues which may be regulated by the arbitration agreement:

- (a) the appointing authority/administrator of the arbitration shall be the Malta Arbitration Centre;
- (b) the number of arbitrators shall be (one or three)
- (c) the place of arbitration shall be Malta;
- (d) the language(s) to be used in the proceedings shall be
- (e) the applicable substantive law shall be
- (f) the arbitrator shall decide *ex aequo et bono*;

B.7 International Arbitration Administered by a Foreign Institution with whom there exists a Co-operation Agreement¹

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the International Arbitration Rules of the (name of co-operating institution) as in force at the time.

Arbitral proceedings shall be held at the premises of the Malta Arbitration Centre.

¹ On the date hereof the Malta Arbitration Centre is a party to the following co-operation agreements:

Date	Institution	Nationality
1 26 th March, 1999	Gulf Cooperation Council Arbitration Centre	Gulf Countries
2 6 th April 2001	Arbitraje Y Mediacion, Grupo ARyME, S.A. (ARyME)	Spain
3 26 th May 2002	Arbitration Court Attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic	Czech Republic
4 29 th August 2002	American Arbitration Association	U.S.A.