



P.R.I.M.E. FINANCE
Panel of Recognised International Market Experts in Finance

P.R.I.M.E. Finance Arbitration and Mediation Rules

P.R.I.M.E. Finance
Peace Palace
Permanent Court of Arbitration
The Hague
The Netherlands

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**P.R.I.M.E. Finance
Model Clauses**



OPTION 1 (INCLUDING AN EXPRESS OPTION FOR MEDIATION)

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be submitted to mediation in accordance with the P.R.I.M.E. Finance Mediation Rules. Any mediation shall take place in **[town & country]** and be administered by P.R.I.M.E. Finance.

Subject to Articles 18 and 19 of the P.R.I.M.E. Finance Mediation Rules, a party may commence arbitration proceedings administered by P.R.I.M.E. Finance in accordance with the P.R.I.M.E. Finance Arbitration Rules:

- a. The number of arbitrators shall be **[one or three]**, and **[this/these]** arbitrators shall be selected from P.R.I.M.E. Finance's list of approved arbitrators.
- b. **[Where there will be three arbitrators]** Each party shall appoint one arbitrator from P.R.I.M.E. Finance's list of approved arbitrators, and the Chairman shall be selected in line with article 9(1) of the P.R.I.M.E. Finance Arbitration Rules.
- c. Where necessary, the Secretary-General of the Permanent Court of Arbitration shall act as the appointing authority, and shall appoint from P.R.I.M.E. Finance's list of approved arbitrators, to which list the parties herewith agree as the basis for the appointment of the arbitrators.
- d. The place of arbitration shall be **[town & country]**;
- e. The language to be used in the arbitral proceedings shall be **[..]**; and

[Optional]

- f. The Emergency Arbitration Rules as set out in ANNEX C to the P.R.I.M.E. Finance Arbitration Rules shall not apply.
- g. The Referee Arbitration Rules as set out in ANNEX D to the P.R.I.M.E. Finance Arbitration Rules shall apply.*
- h. The administrative costs of P.R.I.M.E. Finance shall be calculated in accordance with article 3 of Annex E to the P.R.I.M.E. Finance Arbitration Rules.

* Please note that this option is only open in cases where the place of arbitration is located in The Netherlands.

OPTION 2 (NOT INCLUDING AN EXPRESS OPTION FOR MEDIATION)

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be resolved by arbitration administered by P.R.I.M.E. Finance in accordance with the P.R.I.M.E. Finance Arbitration Rules.

- a. The number of arbitrators shall be **[one or three]**, and **[this/these]** arbitrators shall be selected from P.R.I.M.E. Finance's list of approved arbitrators.
- b. **[Where there will be three arbitrators]** Each party shall appoint one arbitrator from P.R.I.M.E. Finance's list of approved arbitrators, and the Chairman shall be selected in line with article 9(1) of the P.R.I.M.E. Finance Arbitration Rules.
- c. Where necessary, the Secretary-General of the Permanent Court of Arbitration shall act as the appointing authority, and shall appoint from P.R.I.M.E. Finance's list of approved arbitrators, to which list the parties herewith agree as the basis for the appointment of the arbitrators.
- d. The place of arbitration shall be **[town & country]**;
- e. The language to be used in the arbitral proceedings shall be **[...]**; and

[Optional]

- f. The Emergency Arbitration Rules as set out in ANNEX C to the P.R.I.M.E. Finance Arbitration Rules shall not apply.
- g. The Referee Arbitration Rules as set out in ANNEX D to the P.R.I.M.E. Finance Arbitration Rules shall apply.*
- h. The administrative costs of P.R.I.M.E. Finance shall be calculated in accordance with article 3 of Annex E to the P.R.I.M.E. Finance Arbitration Rules.

POSSIBLE WAIVER STATEMENT

If the parties wish to exclude recourse against the arbitral award that may be available under the applicable law, they may consider adding a provision to that effect as suggested below, considering, however, that the effectiveness and conditions of such an exclusion depend on the applicable law.

WAIVER

The parties hereby waive their right to any form of recourse against an award to any court or other competent authority, insofar as such waiver can validly be made under the applicable law.

* Please note that this option is only open in cases where the place of arbitration is located in The Netherlands.



**P.R.I.M.E. Finance
Arbitration Rules***

In force as from 9 February 2016



SECTION I. INTRODUCTORY RULES

SCOPE OF APPLICATION

Article 1

1. Where parties have agreed that disputes between them in respect of a defined legal relationship, whether contractual or not, shall be referred to arbitration by “P.R.I.M.E. Finance” or under the P.R.I.M.E. Finance Arbitration Rules, then such disputes shall be settled in accordance with these Rules subject to such modification or applicability of other rules as the parties may agree.

2. These Rules shall govern the arbitration except that where any of these Rules is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

3. P.R.I.M.E. Finance may, at any time, amend these Rules. Such amendments have no effect with regard to arbitrations that have already been commenced, unless the parties explicitly agree otherwise.

4. “Arbitral tribunal” means any arbitrator(s) as appointed in accordance with articles 6 - 15 of these Rules. “P.R.I.M.E. Finance” means the Stichting P.R.I.M.E. Finance Disputes Center, having its corporate seat in The Hague, the Netherlands.

* These P.R.I.M.E. Finance Arbitration Rules are a modified version of the UNCITRAL Arbitration Rules (as revised in 2010); any reference in the rules to the “P.R.I.M.E. Finance List of Experts” shall be construed as a reference to the P.R.I.M.E. Finance Experts list (including both Finance and Dispute Resolution Experts) as appears on the P.R.I.M.E. Finance website at www.primefinancedisputes.org.

NOTICE AND CALCULATION OF PERIODS OF TIME

Article 2

1. Any notice or other communication in respect of proceedings under these Rules may be given in any manner described below to the address or number or in accordance with the electronic messaging system or e-mail details provided by the addressee and will be deemed effective as indicated:

- a. if in writing and delivered in person or by courier, on the date it is delivered;
- b. if sent by telex, on the date the recipient's answerback is received;
- c. if sent by facsimile, on the date it is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by transmission report generated by the sender's facsimile machine);
- d. if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date it is delivered or its delivery is attempted;
- e. if sent by electronic messaging system, on the date it is received; or
- f. if sent by e-mail, on the date it is delivered.

SECTION I. INTRODUCTORY RULES

2. For the purpose of calculating a period of time under these Rules, such period shall begin to run on the first General Business Day following the day when a notice is deemed received. If the last day of such period is not a General Business Day the period is extended until the first General Business Day which follows. Days occurring during the running of the period of time which are not General Business Days are included in calculating the period, unless the period is 5 days or shorter. A General Business Day means a day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) at the place where a notice or other communication in issue is to be received.
3. Nothing in these Rules will affect the right of either party to serve process in any other manner permitted by applicable law.

EXPEDITED PROCEEDINGS

Article 2a

The parties may agree to shorten time lines set out in these Rules. If the parties have agreed upon shortened time lines, the shortened time lines shall only become effective after approval by the arbitral tribunal. The arbitral tribunal will communicate its approval, or refusal thereof, within 7 days of the parties' submissions, notwithstanding the arbitral tribunal's inherent discretion to suggest reasonable modifications of the parties' agreed time line.

NOTICE OF ARBITRATION, FILING AND ADMINISTRATIVE FEES

Article 3

1. The party or parties initiating recourse to arbitration (the “claimant”) shall file with the P.R.I.M.E. Finance/PCA Registry, if by post, to the P.R.I.M.E. Finance/PCA Registry, Permanent Court of Arbitration, Peace Palace, Carnegieplein 2, 2517 KJ, The Hague, or, if by e-mail, primeregistry@pca-cpa.org (hereinafter the “P.R.I.M.E. Finance/PCA Registry”) a notice of arbitration. The notice of arbitration shall be filed in a number of copies sufficient to provide one copy for each arbitrator, for each party other than the claimant and for the P.R.I.M.E. Finance/PCA Registry. The P.R.I.M.E. Finance/PCA Registry shall then notify the claimant of the receipt of the notice of arbitration and the date of such receipt, and transmit to the counterparty (the “respondent”) a copy of the notice of arbitration including the date of receipt, together with an invitation to submit a response to the notice of arbitration.

2. Arbitral proceedings shall be deemed to commence on the date on which the notice of arbitration is received by the P.R.I.M.E. Finance/PCA Registry.

3. The notice of arbitration shall include the following:

- a. A demand that the dispute be referred to arbitration;
- b. The names and contact details of the parties;
- c. Identification of the arbitration agreement that is invoked;

SECTION I. INTRODUCTORY RULES

- d. Identification of any contract or other legal instrument out of or in relation to which the dispute arises or, in the absence of such contract or instrument, a brief description of the relevant relationship;
 - e. A brief description of the claim and an indication of the amount involved, if any;
 - f. The relief or remedy sought;
 - g. A proposal as to the number of arbitrators, language and place of arbitration, if the parties have not previously agreed thereon.
4. The notice of arbitration may also include:
- a. A proposal for the appointing authority referred to in article 6, paragraph 1;
 - b. A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;
 - c. Notification of the appointment of an arbitrator referred to in article 9 or 10.
5. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the sufficiency of the notice of arbitration, which shall be finally resolved by the arbitral tribunal.
6. Upon filing the notice of arbitration, the claimant shall pay a registration fee as prescribed in Annex E ("Schedule of institutional costs") in force on the date when the notice of arbitration is filed. If the registration fee is not paid upon filing the notice of arbitration, the P.R.I.M.E. Finance/PCA Registry shall not proceed with the arbitration and the arbitration shall be treated as not having been commenced without prejudice to any right of the claimant to submit the same claims at a later date in another notice of arbitration.

7. As soon as possible after the filing of the notice of arbitration, the P.R.I.M.E. Finance/PCA Registry shall send a notice to the claimant requesting the payment of an initial deposit to cover costs foreseen in article 44, paragraph 2. Within 7 days of the receipt of such notice, the claimant shall remit to the P.R.I.M.E. Finance/PCA Registry such initial deposit required by the P.R.I.M.E. Finance/PCA Registry. In the event that the claimant fails to make the payment as requested, the P.R.I.M.E. Finance/PCA Registry may fix a time limit within which the claimant must comply, failing which the file will be closed without prejudice to any right of the claimant to submit the same claims at a later date in another notice of arbitration.

RESPONSE TO THE NOTICE OF ARBITRATION

Article 4

1. Unless otherwise indicated by the P.R.I.M.E. Finance/PCA Registry, the response to the notice of arbitration shall be filed with the P.R.I.M.E. Finance/PCA Registry in a number of copies sufficient to provide one copy for each arbitrator, for each party other than the respondent and for the P.R.I.M.E. Finance/PCA Registry within 30 days of the date of the invitation to submit a response to the notice of arbitration, and shall include:

- a. The name and contact details of each respondent;
- b. A response to the information set forth in the notice of arbitration, pursuant to article 3, paragraphs 3 (c) to (g).

2. The response to the notice of arbitration may also include:

- a. Any plea that an arbitral tribunal to be constituted under these Rules lacks jurisdiction;

SECTION I. INTRODUCTORY RULES

- b. A proposal for the designation of an appointing authority referred to in article 6, paragraph 1;
- c. A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;
- d. Notification of the appointment of an arbitrator referred to in article 9 or 10;
- e. A brief description of counterclaims or claims for the purpose of a set-off, if any, including where relevant, an indication of the amounts involved, and the relief or remedy sought;
- f. A notice of arbitration in accordance with article 3 in case the respondent formulates a claim against a party to the arbitration agreement other than the claimant.

3. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the respondent's failure to communicate a response to the notice of arbitration, or an incomplete or late response to the notice of arbitration, which shall be finally resolved by the arbitral tribunal.

4. The P.R.I.M.E. Finance/PCA Registry shall send a copy of the response to the notice of arbitration of the respondent to the claimant.

REPRESENTATION AND ASSISTANCE

Article 5

Each party may be represented or assisted by persons chosen by it. The names and addresses of such persons must be communicated to the P.R.I.M.E. Finance/PCA Registry, all other parties and the arbitral tribunal. Such communication must specify whether the appointment is being made for purposes of representation or assistance. Where a person is to act as a representative of a party, the arbitral tribunal, on its own initi-

ative or at the request of any party, may at any time require proof of authority granted to the representative in such a form as the arbitral tribunal may determine.

APPOINTING AUTHORITY

Article 6

1. If the parties have not otherwise agreed on the choice of an appointing authority by the time of commencement of the arbitration, any party may request the Secretary-General of the PCA to act as the appointing authority.
2. In exercising its function under these Rules, the appointing authority may require from any party and the arbitrators the information it deems necessary and it shall give the parties and, where appropriate, the arbitrators, an opportunity to present their views in any manner it considers appropriate. All such communications to and from the appointing authority shall also be provided by the sender to all other parties and the P.R.I.M.E. Finance/PCA Registry.
3. When the appointing authority is requested to appoint an arbitrator pursuant to articles 8, 9, 10 or 14, the party making the request shall send to the appointing authority copies of the notice of arbitration and, if it exists, any response to the notice of arbitration.
4. Subject to article 10a, the appointing authority shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator, including reference, if appropriate, to the P.R.I.M.E. Finance List of Experts.

SECTION II. COMPOSITION OF THE ARBITRAL TRIBUNAL

NUMBER OF ARBITRATORS

Article 7

1. If the parties have not previously agreed on the number of arbitrators, and if, within 30 days after the receipt by the P.R.I.M.E. Finance/PCA Registry of the notice of arbitration the parties have not agreed that there shall be only one arbitrator, three arbitrators shall be appointed.
2. Notwithstanding paragraph 1, if no other parties have responded to a party's proposal to appoint a sole arbitrator within the time limit provided for in paragraph 1 and the party or parties concerned have failed to appoint a second arbitrator in accordance with article 9 or 10, the appointing authority may, at the request of a party, appoint a sole arbitrator pursuant to the procedure provided for in article 8, paragraph 2, if it determines that, in view of the circumstances of the case, this is more appropriate.

APPOINTMENT OF ARBITRATORS

Article 8

1. If the parties have agreed that a sole arbitrator is to be appointed, the sole arbitrator shall be jointly appointed by the parties, subject to article 10a, from the P.R.I.M.E. Finance List of Experts. If, within 30 days after receipt by all other parties, and the P.R.I.M.E. Finance/PCA Registry, of a proposal for the appointment of a sole arbitrator, the parties have not reached agreement thereon, a sole arbitrator shall, at the request of a party, be appointed by the appointing authority, from the P.R.I.M.E. Finance List of Experts.

2. The appointing authority shall appoint the sole arbitrator as promptly as possible. In making the appointment, the appointing authority shall use the following list-procedure, unless the parties agree that the list-procedure should not be used or unless the appointing authority determines in its discretion that the use of the list-procedure is not appropriate for the case:

- a. The appointing authority shall communicate to each of the parties an identical list containing at least three names;
- b. Within 15 days after the receipt of this list, each party may return the list to the appointing authority after having deleted the name or names to which it objects and numbered the remaining names on the list in the order of its preference;
- c. After the expiration of the above period of time the appointing authority shall appoint the sole arbitrator from among the names approved on the lists returned to it and in accordance with the order of preference indicated by the parties;
- d. If for any reason the appointment cannot be made according to this procedure, the appointing authority may exercise its discretion in appointing the sole arbitrator.

Article 9

1. If three arbitrators are to be appointed, each party shall appoint one arbitrator, subject to article 10a, from the P.R.I.M.E. Finance List of Experts. The two arbitrators thus appointed shall choose the third arbitrator, subject to article 10a, from the P.R.I.M.E. Finance List of Experts, which third arbitrator will act as the presiding arbitrator of the arbitral tribunal.

SECTION II. COMPOSITION OF THE ARBITRAL TRIBUNAL

2. If within 30 days after the receipt of a party's notification of the appointment of an arbitrator the other party has not notified the first party of the arbitrator it has appointed, the first party may request the appointing authority to appoint the second arbitrator from the P.R.I.M.E. Finance List of Experts. article 8, paragraph 2, applies accordingly.

3. If within 30 days after the appointment of the second arbitrator the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the appointing authority in the same way as a sole arbitrator would be appointed under article 8, paragraph 2.

Article 10

1. For the purpose of article 9, paragraph 1, where three arbitrators are to be appointed and there are multiple parties as claimant or as respondent, unless the parties have agreed to another method of appointment of arbitrators, the multiple parties jointly, whether as claimant or as respondent, shall appoint an arbitrator, subject to article 10a, from the P.R.I.M.E. Finance List of Experts.

2. If the parties have agreed that the arbitral tribunal is to be composed of a number of arbitrators other than one or three, the arbitrators shall be appointed according to the method agreed upon by the parties.

3. In the event of any failure to constitute the arbitral tribunal under these Rules, the appointing authority shall, at the request of any party, constitute the arbitral tribunal, subject to article 10a, from the P.R.I.M.E. Finance List of Experts and, in doing so, may revoke any appointment already made and appoint or reappoint each of the arbitrators and designate one of them as the presiding arbitrator and in doing so apply the list procedure described in article 8, paragraph 2.

Article 10a

Notwithstanding the provisions of articles 6, paragraph 4, and articles 8, 9 and 10 above, and article 4 of Annex C below, the parties, the arbitrators or the appointing authority, as the case may be, may also appoint arbitrators not included on the P.R.I.M.E. Finance List of Experts and, in doing so, preferably take into consideration qualifications comparable to those of the persons on the P.R.I.M.E. Finance List of Experts.

DISCLOSURES BY AND CHALLENGE OF ARBITRATORS*

Article 11

When a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality, independence or availability. An arbitrator, from the time of his or her appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties and the other arbitrators unless they have already been informed by him or her of these circumstances.

Article 12

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
2. A party may challenge the arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made.

* Model statements of independence pursuant to article 11 can be found as Annex B to the Rules.

SECTION II. COMPOSITION OF THE ARBITRAL TRIBUNAL

3. In the event that an arbitrator fails to act or in the event of the de jure or de facto impossibility of his or her performing his or her functions, the procedure in respect of the challenge of an arbitrator as provided in article 13 shall apply.

Article 13

1. A party that intends to challenge an arbitrator shall send notice of its challenge within 15 days after it has been notified of the appointment of the challenged arbitrator, or within 15 days after the circumstances mentioned in articles 11 and 12 became known to that party.

2. The notice of challenge shall be communicated to all other parties, to the P.R.I.M.E. Finance/PCA Registry, to the arbitrator who is challenged and to the other arbitrators. The notice of challenge shall state the reasons for the challenge.

3. When an arbitrator has been challenged by a party, all parties may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his or her office. In neither case does this imply acceptance of the validity of the grounds for the challenge.

4. If, within 15 days from the date of the notice of challenge, all parties do not agree to the challenge or the challenged arbitrator does not withdraw, the party making the challenge may elect to pursue it. In that case, within 30 days from the date of the notice of challenge, it shall seek a decision on the challenge by the appointing authority.

REPLACEMENT OF AN ARBITRATOR

Article 14

1. Subject to paragraph 2, in any event where an arbitrator has to be replaced during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in articles 8 to 11 that was applicable to the appointment or choice of the arbitrator being replaced. This procedure shall apply even if during the process of appointing the arbitrator to be replaced, a party had failed to exercise its right to appoint or to participate in the appointment.

2. If, at the request of a party, the appointing authority determines that, in view of the exceptional circumstances of the case, it would be justified for a party to be deprived of its right to appoint a substitute arbitrator, the appointing authority may, after giving an opportunity to the parties and the remaining arbitrators to express their views: (a) appoint the substitute arbitrator; or (b) after the closure of the hearings, authorize the other arbitrators to proceed with the arbitration and make any decision or award.

REPETITION OF HEARINGS IN THE EVENT OF THE REPLACEMENT OF AN ARBITRATOR

Article 15

If an arbitrator is replaced, the proceedings shall resume at the stage where the arbitrator who was replaced ceased to perform his or her functions, unless the arbitral tribunal decides otherwise.

SECTION II. COMPOSITION OF THE ARBITRAL TRIBUNAL

EXCLUSION OF LIABILITY

Article 16

Save for intentional wrongdoing, gross negligence or fraud, the parties waive, to the fullest extent permitted under the applicable law, any claim against the arbitrators, the appointing authority, the P.R.I.M.E. Finance/PCA Registry, P.R.I.M.E. Finance, and any person appointed by the arbitral tribunal based on any act or omission in connection with the arbitration.

COMMUNICATION BETWEEN THE PARTIES, THE APPOINTING AUTHORITY AND P.R.I.M.E. FINANCE

Article 16a

1. All communications to and from the appointing authority shall be copied to all other parties and to the P.R.I.M.E. Finance/PCA Registry at the same time.
2. When the P.R.I.M.E. Finance/PCA Registry receives notice from the appointing authority of the appointment of the arbitrator(s), the P.R.I.M.E. Finance/PCA Registry shall proceed to transmit the arbitration file to the arbitral tribunal.

GENERAL PROVISIONS

Article 17

1. Subject to these Rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at an appropriate stage of the proceedings each party is given a reasonable opportunity of presenting its case. The arbitral tribunal, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the parties' dispute.
2. As soon as practicable after its constitution and after inviting the parties to express their views, the arbitral tribunal shall establish the provisional timetable of the arbitration. The arbitral tribunal may, at any time, after inviting the parties to express their views, extend or abridge any period of time prescribed under these Rules or agreed by the parties.
3. If at an appropriate stage of the proceedings any party so requests, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.
4. All communications to the arbitral tribunal by one party shall be communicated by that party to all other parties and the P.R.I.M.E. Finance/PCA Registry. Such communications shall be made at the same time, except as otherwise permitted by the arbitral tribunal if it may do so under applicable law.

SECTION III. ARBITRAL PROCEEDINGS

5. The arbitral tribunal may, at the request of any party, allow one or more third persons to be joined in the arbitration as a party provided such person is a party to the arbitration agreement, unless the arbitral tribunal finds, after giving all parties, including the person or persons to be joined, the opportunity to be heard, that joinder should not be permitted because of prejudice to any of those parties. The arbitral tribunal may make a single award or several awards in respect of all parties so involved in the arbitration.

PLACE OF ARBITRATION

Article 18

1. If the parties have not previously agreed on the place of arbitration, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case. The award shall be deemed to have been made at the place of arbitration.

2. The arbitral tribunal may meet at any location it considers appropriate for deliberations. Unless otherwise agreed by the parties, the arbitral tribunal may also meet at any location it considers appropriate for any other purpose, including hearings.

LANGUAGE

Article 19

1. The parties may determine the language or languages of the proceedings. In the absence of an agreement by the parties, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. This determination shall apply to the statement of claim, the statement of defence, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.
2. The arbitral tribunal may order that any documents annexed to the statement of claim or statement of defence, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

STATEMENT OF CLAIM

Article 20

1. The claimant shall communicate its statement of claim in writing to the respondent, to each of the arbitrators and to the P.R.I.M.E. Finance/PCA Registry within a period of time to be determined by the arbitral tribunal. The claimant may elect to treat its notice of arbitration referred to in article 3 as a statement of claim, provided that the notice of arbitration also complies with the requirements of paragraphs 2 to 4 of this article.

SECTION III. ARBITRAL PROCEEDINGS

2. The statement of claim shall include the following particulars:
 - a. The names and contact details of the parties;
 - b. A statement of the facts supporting the claim;
 - c. The points at issue;
 - d. The relief or remedy sought;
 - e. The legal grounds or arguments supporting the claim.

3. A copy of any contract or other legal instrument out of or in relation to which the dispute arises and of the arbitration agreement shall be annexed to the statement of claim.

4. The statement of claim should, as far as possible, be accompanied by all documents and other evidence relied upon by the claimant, or contain references to them.

STATEMENT OF DEFENCE

Article 21

1. The respondent shall communicate its statement of defence in writing to the claimant, to each of the arbitrators and to the P.R.I.M.E. Finance/PCA Registry within a period of time to be determined by the arbitral tribunal. The respondent may elect to treat its response to the notice of arbitration referred to in article 4 as a statement of defence, provided that the response to the notice of arbitration also complies with the requirements of paragraph 2 of this article.

2. The statement of defence shall reply to the particulars (b) to (e) of the statement of claim (article 20, paragraph 2). The statement of defence should, as far as possible, be accompanied by all documents and other evidence relied upon by the respondent, or contain references to them.

3. In its statement of defence, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counterclaim or rely on a claim for the purpose of a set-off provided that the arbitral tribunal has jurisdiction over it.

4. The provisions of article 20, paragraphs 2 to 4, shall apply to a counterclaim, a claim under article 4, paragraph 2(f), and a claim relied on for the purpose of a set-off.

5. If a counterclaim is filed, even if it is a provisional counterclaim, the respondent shall pay a registration fee as prescribed in Annex E in force on the date when the counterclaim is filed upon filing the counterclaim. If the registration fee is not paid upon filing the counterclaim, the arbitral tribunal will not take account of the counterclaim without prejudice to the right of the respondent to submit the same counterclaim at a later date, complying with the time deadlines set out in these Rules.

SECTION III. ARBITRAL PROCEEDINGS

6. If the respondent files a counterclaim, even if it is a provisional counterclaim, administration costs shall be paid by the respondent in accordance with Annex E in force on the date when the counterclaim is filed. As soon as possible after the filing of the counterclaim, the P.R.I.M.E. Finance/PCA Registry shall send a notice to the respondent requesting the advance payment on administrative costs as required by the P.R.I.M.E. Finance/PCA Registry. Within 7 days of the receipt of such notice, the respondent shall remit to the P.R.I.M.E. Finance/PCA Registry the advance payment on administrative costs required by the P.R.I.M.E. Finance/PCA Registry. In the event that the respondent fails to make the payment as requested, the P.R.I.M.E. Finance/PCA Registry may fix a time limit within which the respondent must comply, failing which the counterclaim will be considered abandoned without prejudice to the right of the respondent to submit the same counterclaim at a later date, complying with the time deadlines set out in these Rules.

AMENDMENTS TO THE CLAIM OR DEFENCE

Article 22

During the course of the arbitral proceedings, a party may amend or supplement its claim or defence, including a counterclaim or a claim for the purpose of a set-off, unless the arbitral tribunal considers it inappropriate to allow such amendment or supplement having regard to the delay in making it or prejudice to other parties or any other circumstances. However, a claim or defence, including a counterclaim or a claim for the purpose of a set-off, may not be amended or supplemented in such a manner that the amended or supplemented claim or defence falls outside the jurisdiction of the arbitral tribunal.

PLEAS AS TO THE JURISDICTION OF THE ARBITRAL TRIBUNAL

Article 23

1. The arbitral tribunal shall have the power to rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause that forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null shall not entail automatically the invalidity of the arbitration clause.

2. A plea that the arbitral tribunal does not have jurisdiction shall be raised no later than in the statement of defence or, with respect to a counterclaim or a claim for the purpose of a set-off, in the reply to the counterclaim or to the claim for the purpose of a set-off. A party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

3. The arbitral tribunal may rule on a plea referred to in paragraph 2 either as a preliminary question or in an award on the merits. The arbitral tribunal may continue the arbitral proceedings and make an award, notwithstanding any pending challenge to its jurisdiction before a court.

SECTION III. ARBITRAL PROCEEDINGS

FURTHER WRITTEN STATEMENTS

Article 24

The arbitral tribunal shall decide which further written statements, in addition to the statement of claim and the statement of defence, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

PERIODS OF TIME

Article 25

The periods of time fixed by the arbitral tribunal for the communication of written statements (including the statement of claim and statement of defence) should not exceed 45 days. However, the arbitral tribunal may extend the time limits if it concludes that an extension is justified.

INTERIM MEASURES

Article 26

1. The arbitral tribunal may, at the request of a party, grant interim measures if it finds that it has prima facie jurisdiction to decide the claim.
2. An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to:
 - a. Maintain or restore the status quo pending determination of the dispute;

- b. Take action that would prevent, or refrain from taking action that is likely to cause, (i) current or imminent harm or (ii) prejudice to the arbitral process itself;
 - c. Provide a means of preserving assets out of which a subsequent award may be satisfied; or
 - d. Preserve evidence that may be relevant and material to the resolution of the dispute.
3. The party requesting an interim measure under paragraphs 2 (a) to (c) shall satisfy the arbitral tribunal that:
 - a. Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and
 - b. There is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.
4. With regard to a request for an interim measure under paragraph 2 (d), the requirements in paragraphs 3 (a) and (b) shall apply only to the extent the arbitral tribunal considers appropriate.
5. The arbitral tribunal may modify, suspend or terminate an interim measure it has granted, upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative.

SECTION III. ARBITRAL PROCEEDINGS

6. The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.
7. The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which the interim measure was requested or granted.
8. The party requesting an interim measure may be liable for any costs and damages caused by the measure to any party if the arbitral tribunal later determines that, in the circumstances then prevailing, the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.
9. A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

EMERGENCY ARBITRAL PROCEEDINGS

Article 26a

1. A party in need of (an) urgent provisional measure(s) that cannot await the constitution of the arbitral tribunal pursuant to section II may make an application for such measure(s) in accordance with the present provision and the emergency arbitration rules as set out in Annex C to these Rules (the “Emergency Arbitration Rules”).
2. The decision on (the) emergency measure(s) shall be rendered by the emergency arbitrator in the form of an order (the “Order”). The parties undertake to comply with any Order made by the emergency arbitrator.

3. The Order shall not bind the arbitral tribunal with respect to any question, issue or dispute determined in the Order, and shall in no way prejudice a final decision of the arbitral tribunal on the merits of the case.
4. The arbitral tribunal shall decide upon any party's requests or claims related to the emergency arbitral proceedings, including the reallocation of the costs of such proceedings as set out in article 11 of the Emergency Arbitration Rules and any claims arising out of or in connection with the compliance or non-compliance with the Order.
5. The Emergency Arbitration Rules shall not apply if the parties have agreed to opt out of the Emergency Arbitration Rules.
6. By submitting to these Rules, the parties do not waive any right that they may have under the relevant applicable laws to submit a request for interim measures to a judicial authority. Article 26, paragraph 9, applies accordingly.

REFEREE ARBITRAL PROCEEDINGS

Article 26b

1. Any party in need of (an) urgent provisional measure(s) may make an application for such measure(s) in referee arbitral proceedings, as referred to in article 1043(b), paragraph 1, of the Dutch Code of Civil Procedure, in accordance with the present provision and the referee arbitral proceedings rules as set out in Annex D (the "Referee Arbitration Rules") .

SECTION III. ARBITRAL PROCEEDINGS

2. Article 26b and the Referee Arbitration Rules shall apply only if:
 - a. the parties have agreed that the Referee Arbitration Rules shall apply; and
 - b. the place of arbitration is situated in the Netherlands.
3. The parties undertake to comply with any decision made by the referee arbitral tribunal.
4. The referee arbitral award is an arbitral award as referred to in article 1043(b), paragraph 4, of the Dutch Code of Civil Procedure. It shall in no way prejudice a final decision of an arbitral tribunal on the merits of the case.
5. By submitting to these Rules, the parties do not waive any right that they may have under the relevant applicable laws to submit a request for interim measures to a judicial authority. Article 26, paragraph 9, applies accordingly.

EVIDENCE

Article 27

1. Each party shall have the burden of proving the facts relied on to support its claim or defence.
2. Witnesses, including expert witnesses, who are presented by the parties or testify to the arbitral tribunal on any issue of fact or expertise may be any individual, notwithstanding that the individual is a party to the arbitration or in anyway related to a party. Unless otherwise directed by the arbitral tribunal, statements by witnesses, including expert witnesses, may be presented in writing and signed by them.

3. At any time during the arbitral proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time as the arbitral tribunal shall determine.

4. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

HEARINGS

Article 28

1. In the event of an oral hearing, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof.

2. Witnesses, including expert witnesses, may be heard under the conditions and examined in the manner set by the arbitral tribunal.

3. Hearings shall be held in camera unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses, including expert witnesses, during the testimony of such other witnesses, except that a witness, including an expert witness, who is a party to the arbitration shall not, in principle, be asked to retire.

4. The arbitral tribunal may direct that witnesses, including expert witnesses, be examined through means of telecommunication that do not require their physical presence at the hearing (such as videoconference).

SECTION III. ARBITRAL PROCEEDINGS

THE EXPERTS APPOINTED BY THE ARBITRAL TRIBUNAL

Article 29

1. After consultation with the parties, the arbitral tribunal may appoint one or more independent experts to report to it, in writing, on specific issues to be determined by the arbitral tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.

2. The expert shall, in principle before accepting the appointment, submit to the arbitral tribunal and to the parties a description of his or her qualifications and a statement of his or her impartiality and independence. Within the time ordered by the arbitral tribunal, the parties shall inform the arbitral tribunal whether they have any objections as to the expert's qualifications, impartiality or independence. The arbitral tribunal shall decide promptly whether to accept any such objections. After an expert's appointment, a party may object to the expert's qualifications, impartiality or independence only if the objection is for reasons of which the party becomes aware after the appointment has been made. The arbitral tribunal shall decide promptly what, if any, action to take.

3. The parties shall give the expert any relevant information or produce for his or her inspection any relevant documents or goods that he or she may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the arbitral tribunal for decision.

4. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties, which shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his or her report.

5. At the request of any party, the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing, any party may present expert witnesses in order to testify on the points at issue. The provisions of article 28 shall be applicable to such proceedings.

AMICUS CURIAE

Article 30

The arbitral tribunal may, at the request of a party or at its own initiative, if it considers it necessary or appropriate for the proper determination of the case, invite or grant leave to a government, organization or person to appear before it and make submissions on any issues relevant for the proceedings, as determined by the arbitral tribunal.

DEFAULT

Article 31

1. If, within the period of time fixed by these Rules or the arbitral tribunal, without showing sufficient cause:
 - a. The claimant has failed to communicate its statement of claim, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings, unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so;

SECTION III. ARBITRAL PROCEEDINGS

- b. The respondent has failed to communicate its response to the notice of arbitration or its statement of defence, the arbitral tribunal shall order that the proceedings continue, without treating such failure in itself as an admission of the claimant's allegations; the provisions of this subparagraph also apply to a claimant's failure to submit a defence to a counterclaim or to a claim for the purpose of a set-off.

2. If a party, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.

3. If a party, duly invited by the arbitral tribunal to produce documents, exhibits or other evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the award on the evidence before it.

CLOSURE OF HEARINGS

Article 32

1. The arbitral tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.
2. The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own initiative or upon application of a party, to reopen the hearings at any time before the award is made.

WAIVER OF RIGHT TO OBJECT

Article 33

A failure by any party to object promptly to any non-compliance with these Rules or with any requirement of the arbitration agreement shall be deemed to be a waiver of the right of such party to make such an objection, unless such party can show that, under the circumstances, its failure to object was justified.

SECTION IV. THE AWARD

DECISIONS

Article 34

1. When there is more than one arbitrator, any award or other decision of the arbitral tribunal shall be made by a majority of the arbitrators.
2. In the case of questions of procedure, when there is no majority or when the arbitral tribunal so authorizes, the presiding arbitrator may decide alone, subject to revision, if any, by the arbitral tribunal.

FORM AND EFFECT OF THE AWARD

Article 35

1. The arbitral tribunal may make separate awards on different issues at different times.
2. All awards shall be made in writing and shall be final and binding on the parties. The parties shall carry out all awards without delay.
3. The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
4. An award shall be signed by the arbitrators and it shall contain the date on which the award was made and indicate the place of arbitration. Where there is more than one arbitrator and any of them fails to sign, the award shall state the reason for the absence of the signature.

5. An award may be made public with the consent of all parties or where and to the extent disclosure is required of a party or by legal duty, to protect or pursue a legal right or in relation to legal proceedings before a court or other competent authority. The P.R.I.M.E. Finance/PCA Registry may furnish P.R.I.M.E. Finance with anonymized excerpts of the arbitral award or of orders. The P.R.I.M.E. Finance/PCA Registry may furnish an award or an order in its entirety, in anonymised form, to P.R.I.M.E. Finance under the condition that no party objects within one month after receipt of the award. P.R.I.M.E. Finance may publish the anonymized excerpts and anonymized awards furnished to it by the P.R.I.M.E. Finance/PCA Registry.

6. Copies of the award signed by the arbitrators shall be communicated to the parties by the P.R.I.M.E. Finance/PCA Registry on behalf of the arbitral tribunal.

APPLICABLE LAW, AMIABLE COMPOSITEUR

Article 36

1. The arbitral tribunal shall apply the rules of law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the arbitral tribunal shall apply the law which it determines to be appropriate, taking into account the international and/or financial nature of the transaction and/or dispute.

2. The arbitral tribunal shall decide as amiable compositeur or ex aequo et bono only if the parties have expressly authorized the arbitral tribunal to do so.

3. In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract, if any, and shall take into account any usage of trade applicable to the transaction.

SECTION IV. THE AWARD

SETTLEMENT OR OTHER GROUNDS FOR TERMINATION

Article 37

1. If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by the parties and accepted by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.

2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the arbitral tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so.

3. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the arbitral tribunal to the parties and to the P.R.I.M.E. Finance/PCA Registry. Where an arbitral award on agreed terms is made, the provisions of article 35, paragraphs 2, 4 and 5, shall apply.

CURRENCY OF THE AWARD

Article 38

1. The final award, and any other decision of the arbitral tribunal, shall be issued in the currency of the underlying contract upon which the claim is based or, where the contract does not specify a contractual currency or where the claim is not based on contract, in a currency to be determined by the arbitral tribunal, having regard to the circumstances of the case, which may include the underlying contract.
2. Where there are claims under multiple contracts in dispute, and the currency of these contracts differs, each claim shall be awarded in the contractual currency of the contract under which the claim arose. If a contract does not specify a contractual currency, the award in relation to that contract shall be awarded in a currency to be determined by the arbitral tribunal, having regard to the circumstances of the case, which may include the underlying contract that does not specify a contractual currency.

INTEREST CALCULATION

Article 39

1. Unless otherwise agreed, the arbitral tribunal may fix a rate of interest payable on any amount due from one party to another, in the final award and, if it deems appropriate, in another decision.
2. Unless the parties have agreed otherwise, the arbitral tribunal may order that simple or compound interest shall be paid.

SECTION IV. THE AWARD

3. The interest should be calculated for the period from (and including) the due date for payment, as indicated by the arbitral tribunal, to (but excluding) the date of actual payment, unless otherwise agreed.

TAX CONSEQUENCES

Article 40

The arbitral tribunal may, after consulting the parties, in the final award and, if it deems appropriate, in another decision, take into consideration for any of the parties any tax consequences of the amounts payable under the award.

INTERPRETATION OF THE AWARD

Article 41

1. Within 30 days after the receipt of the award, a party, with notice to the other parties and the P.R.I.M.E. Finance/PCA Registry, may request that the arbitral tribunal give an interpretation of the award.
2. The interpretation shall be given in writing within 45 days after the receipt of the request. The interpretation shall form part of the award and the provisions of article 35, paragraphs 2 to 6, shall apply.

CORRECTION OF THE AWARD

Article 42

1. Within 30 days after the receipt of the award, a party, with notice to the other parties and the P.R.I.M.E. Finance/PCA Registry, may request the arbitral tribunal to correct in the award any error in computation, any clerical or typographical error, or any error or omission of a similar nature. If the arbitral tribunal considers that the request is justified, it shall make the correction within 45 days of receipt of the request.
2. The arbitral tribunal may within 30 days after the communication of the award make such corrections on its own initiative.
3. Such corrections shall be in writing and shall form part of the award. The provisions of article 35, paragraphs 2 to 6, shall apply.

ADDITIONAL AWARD

Article 43

1. Within 30 days after the receipt of the termination order or the award, a party, with notice to the other parties and the P.R.I.M.E. Finance/PCA Registry, may request the arbitral tribunal to make an award or an additional award as to claims presented in the arbitral proceedings but not decided by the arbitral tribunal.
2. If the arbitral tribunal considers the request for an award or additional award to be justified, it shall render or complete its award within 60 days after the receipt of the request. The arbitral tribunal may extend, if necessary, the period of time within which it shall make the award.

SECTION IV. THE AWARD

3. When such an award or additional award is made, the provisions of article 35, paragraphs 2 to 6, shall apply.

DEFINITION OF COSTS

Article 44

1. The arbitral tribunal shall fix the costs of arbitration in the final award and, if it deems appropriate, in another decision.
2. The term “costs” includes only:
 - a. The fees of the arbitral tribunal to be stated separately as to each arbitrator and to be fixed by the tribunal itself in accordance with article 45;
 - b. The reasonable travel and other expenses incurred by the arbitrators;
 - c. The reasonable costs of expert advice and of other assistance required by the arbitral tribunal;
 - d. The reasonable travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;
 - e. The legal and other costs incurred by the parties in relation to the arbitration to the extent that the arbitral tribunal determines that the amount of such costs is reasonable;
 - f. The registration fees;
 - g. The administrative costs of the P.R.I.M.E. Finance/PCA Registry as described in Annex E;
 - h. Any fees and expenses of the appointing authority.

3. Before making the final award, the arbitral tribunal shall request the P.R.I.M.E. Finance/PCA Registry to finally determine the costs. The P.R.I.M.E. Finance/PCA Registry shall finally determine the costs in accordance with these Rules and Annex E.

4. If the arbitration is terminated before the final award is made pursuant to article 37, the P.R.I.M.E. Finance/PCA Registry shall finally determine the costs at its discretion, taking into account the stage attained by the arbitral proceedings, the applicable method of calculation of the costs and any other relevant circumstances.

5. The arbitral tribunal shall include in the final award or, as the case may be, in the order for the termination of the arbitral proceedings or in the arbitral award on agreed terms, the costs as finally determined by the P.R.I.M.E. Finance/PCA Registry.

6. In relation to interpretation, correction or completion of any award under articles 38 to 40, the arbitral tribunal may charge the costs referred to in paragraphs 2 (b) to (f), but no additional fees.

7. The parties are jointly and severally liable to the arbitrator(s) and to P.R.I.M.E. Finance, the P.R.I.M.E. Finance/PCA Registry and the PCA, for the costs of arbitration.

FEES AND EXPENSES OF ARBITRATORS

Article 45

1. The fees and expenses of the arbitrators shall be reasonable in amount, taking into account the amount in dispute, the complexity of the subject matter, the time spent by the arbitrators and any other relevant circumstances of the case.

SECTION IV. THE AWARD

2. If there is an appointing authority and it applies or has stated that it will apply a schedule or particular method for determining the fees for arbitrators in international cases, the arbitral tribunal in fixing its fees shall take that schedule or method into account to the extent that it considers appropriate in the circumstances of the case.
3. Promptly after its constitution, the arbitral tribunal shall inform the parties as to how it proposes to determine its fees and expenses, including any rates it intends to apply. Within 15 days of receiving that proposal, any party may refer the proposal to the appointing authority for review. If, within 45 days of receipt of such a referral, the appointing authority finds that the proposal of the arbitral tribunal is inconsistent with paragraph 1, it shall make any necessary adjustments thereto, which shall be binding upon the arbitral tribunal.
4. a. When informing the parties of the arbitrators' fees and expenses that have been fixed pursuant to article 44, paragraphs 2 (a) and (b), the arbitral tribunal shall also explain the manner in which the corresponding amounts have been calculated;
- b. Within 15 days of receiving the arbitral tribunal's determination of fees and expenses, any party may refer for review such determination to the appointing authority;
- c. If the appointing authority finds that the arbitral tribunal's determination is inconsistent with the arbitral tribunal's proposal (and any adjustment thereto) under paragraph 3 or is otherwise manifestly excessive, it shall, within 45 days of receiving such a referral, make any adjustments to the arbitral tribunal's determination that are necessary to satisfy the criteria in paragraph 1. Any such adjustments shall be binding upon the arbitral tribunal;

- d. Any such adjustments shall either be included by the arbitral tribunal in its award or, if the award has already been issued, be implemented in a correction to the award, to which the procedure of article 42, paragraph 3, shall apply.
5. Throughout the procedure under paragraphs 3 and 4, the arbitral tribunal shall proceed with the arbitration, in accordance with article 17, paragraph 1.
6. A referral under paragraph 4 shall not affect any determination in the award other than the arbitral tribunal's fees and expenses; nor shall it delay the recognition and enforcement of all parts of the award other than those relating to the determination of the arbitral tribunal's fees and expenses.

ALLOCATION OF COSTS

Article 46

1. The costs of the arbitration shall in principle be borne by the unsuccessful party or parties. However, the arbitral tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.
2. The arbitral tribunal shall in the final award or, if it deems appropriate, in any other award, determine any amount that a party may have to pay to another party as a result of the decision on allocation of costs.

SECTION IV. THE AWARD

DEPOSIT OF COSTS

Article 47

1. Following the establishment of the arbitral tribunal, the P.R.I.M.E. Finance/PCA Registry may request the parties to deposit an equal amount taking into account any deposit made by the Claimant pursuant to article 3, paragraph 7, as an advance for the costs referred to in article 44, paragraphs 2 (a) to (c). Such deposits will be made to the bank account number of the PCA ("the PCA bank account"), held in the PCA bank account and from time to time may be released from the PCA bank account to the arbitrator(s), any expert appointed by the arbitral tribunal and to the P.R.I.M.E. Finance/PCA Registry itself as the arbitration progresses.
2. During the course of the arbitral proceedings the P.R.I.M.E. Finance/PCA Registry may request supplementary deposits from the parties.
3. When a party so requests, and the appointing authority consents to perform the function, the arbitral tribunal shall fix the amounts of any deposits or supplementary deposits only after consultation with the appointing authority, which appointing authority may make any comments to the arbitral tribunal that it deems appropriate concerning the amount of such deposits and supplementary deposits.
4. If the required deposits are not paid in full within 30 days after the receipt of the request, the arbitral tribunal shall so inform the parties in order that one or more of them may make the required payment. If such payment is not made, the arbitral tribunal may order the suspension or termination of the arbitral proceedings.
5. After a termination order or final award has been made, the P.R.I.M.E. Finance/PCA Registry shall render an account to the parties of the deposits received and return any unexpended balance to the parties.

MODEL ARBITRATION CLAUSE FOR CONTRACTS

Option 1 (including an express option for mediation)

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be submitted to mediation in accordance with the P.R.I.M.E. Finance Mediation Rules. Any mediation shall take place in **[town & country]** and be administered by P.R.I.M.E. Finance.

Subject to articles 18 and 19 of the P.R.I.M.E. Finance Mediation Rules, a party may commence arbitration proceedings administered by P.R.I.M.E. Finance in accordance with the P.R.I.M.E. Finance Arbitration Rules:

- a. The number of arbitrators shall be **[one or three]**, and **[this/these]** arbitrators shall be selected from the P.R.I.M.E. Finance List of Experts.
- b. **[Where there will be three arbitrators]** Each party shall appoint one arbitrator from P.R.I.M.E. Finance's list of , and the Chairman shall be selected in line with article 9(1) of the P.R.I.M.E. Finance Arbitration Rules.
- c. Where necessary, the Secretary-General of the Permanent Court of Arbitration shall act as the appointing authority, and shall appoint from the P.R.I.M.E. Finance list of Experts, to which list the parties herewith agree as the basis for the appointment of the arbitrators.
- d. The place of arbitration shall be **[town & country]**;
- e. The language to be used in the arbitral proceedings shall be **[...]**; and

ANNEX A. MODEL ARBITRATION CLAUSE FOR CONTRACTS

[Optional]

- f. The Emergency Arbitration Rules as set out in ANNEX C to the P.R.I.M.E. Finance Arbitration Rules shall not apply.
- g. The Referee Arbitration Rules as set out in ANNEX D to the P.R.I.M.E. Finance Arbitration Rules shall apply.*
- h. The administrative costs of P.R.I.M.E. Finance shall be calculated in accordance with article 3 of Annex E to the P.R.I.M.E. Finance Arbitration Rules.

* Please note that this option is only open in cases where the place of arbitration is located in The Netherlands.

Option 2 (not including an express option for mediation)

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be resolved by arbitration administered by P.R.I.M.E. Finance in accordance with the P.R.I.M.E. Finance Arbitration Rules.

- a. The number of arbitrators shall be [one or three], and **[this/these]** arbitrators shall be selected from the P.R.I.M.E. Finance list of Experts.
- b. **[Where there will be three arbitrators]** Each party shall appoint one arbitrator from the P.R.I.M.E. Finance list of Experts, and the Chairman shall be selected in line with article 9(1) of the P.R.I.M.E. Finance Arbitration Rules.
- c. Where necessary, the Secretary-General of the Permanent Court of Arbitration shall act as the appointing authority, and shall appoint from the P.R.I.M.E. Finance list of Experts, to which list the parties herewith agree as the basis for the appointment of the arbitrators.
- d. The place of arbitration shall be **[town & country]**;
- e. The language to be used in the arbitral proceedings shall be [...]; and

[Optional]

- f. The Emergency Arbitration Rules as set out in ANNEX C to the P.R.I.M.E. Finance Arbitration Rules shall not apply.
- g. The Referee Arbitration Rules as set out in ANNEX D to the P.R.I.M.E.

ANNEX A. MODEL ARBITRATION CLAUSE FOR CONTRACTS

- h. The administrative costs of P.R.I.M.E. Finance shall be calculated in accordance with article 3 of Annex E to the P.R.I.M.E. Finance Arbitration Rules.

POSSIBLE WAIVER STATEMENT

If the parties wish to exclude recourse against the arbitral award that may be available under the applicable law, they may consider adding a provision to that effect as suggested below, considering, however, that the effectiveness and conditions of such an exclusion depend on the applicable law.

WAIVER

The parties hereby waive their right to any form of recourse against an award to any court or other competent authority, insofar as such waiver can validly be made under the applicable law.

MODEL STATEMENTS OF INDEPENDENCE PURSUANT TO ARTICLE 11 OF THE P.R.I.M.E. FINANCE RULES

No circumstances to disclose

I am impartial and independent of each of the parties and intend to remain so. To the best of my knowledge, there are no circumstances, past or present, likely to give rise to justifiable doubts as to my impartiality or independence. I shall promptly notify the parties and the other arbitrators of any such circumstances that may subsequently come to my attention during this arbitration.

Circumstances to disclose

I am impartial and independent of each of the parties and intend to remain so. Attached is a statement made pursuant to article 11 of the P.R.I.M.E. Finance Rules of (a) my past and present professional, business and other relationships with the parties and (b) any other relevant circumstances. I confirm that those circumstances do not affect my independence and impartiality. I shall promptly notify the parties and the other arbitrators of any such further relationships or circumstances that may subsequently come to my attention during this arbitration.

Availability

I confirm, on the basis of the information presently available to me, that I can devote the time necessary to conduct this arbitration diligently, efficiently and in accordance with the time limits in the Rules.

EMERGENCY ARBITRAL PROCEEDINGS

Article 1

Any party wishing to have recourse to an Emergency Arbitrator pursuant to article 26a of the P.R.I.M.E. Finance Arbitration Rules (the “Rules”) may apply for the appointment of an Emergency Arbitrator (the “Application”) until the case has been referred to the arbitral tribunal pursuant to section II of the Rules (the “Arbitral Tribunal”).

APPLICATION

Article 2

1. The Application shall contain the information mentioned in article 3, paragraph 3, under (b), (c), (d) and (e) of the Rules. In addition, the Application shall contain:

- i. a statement of the measure(s) sought and the reasons thereof, in particular the reasons for the purported urgency;
- ii. comments on the seat of the emergency arbitral proceedings, the applicable law(s) and the language of the emergency arbitral proceedings;
- iii. proof of the payment of the registration fee, the administrative costs and the deposit for the Emergency Arbitrator’s fees pursuant to article 11.

NOTIFICATION

Article 3

As soon as the P.R.I.M.E. Finance/PCA Registry has received an Application for emergency arbitral proceedings, the P.R.I.M.E. Finance/PCA Registry shall send the Application to the other party, unless

- i. the P.R.I.M.E. Finance/PCA Registry finds that it is manifest that the Emergency Arbitration Rules do not apply.
- ii. the applicant fails to pay the registration fee, the administrative costs and/or the deposit for the Emergency Arbitrator's fees pursuant to article 11.

APPOINTMENT OF THE EMERGENCY ARBITRATOR

Article 4

1. Within 72 hours of receipt of the Application, the PCA Secretary-General shall - in deviation of any appointment process agreed to by the parties for proceedings in the merits - appoint an Emergency Arbitrator, subject to article 10a, from the P.R.I.M.E. Finance's List of Experts.

2. The PCA Secretary-General will not appoint an Emergency Arbitrator if it is manifest that the Emergency Arbitration Rules do not apply and/or it has not received proof of payment of the registration fee, the administrative costs and the deposit for the Emergency Arbitrator's fees pursuant to article 11.

3. Articles 11, 12, 13 and 16 of the Rules shall apply to the Emergency Arbitrator except that the time-limit of article 13, paragraph 1, shall be 72 hours instead of 15 days. The time-limit of article 13, paragraph 4, shall be 72 hours respectively 7 days instead of 15 respectively 30 days and the appointing authority referred to in this paragraph shall be the PCA Secretary-General.

4. In any event, where the Emergency Arbitrator has to be replaced during the course of the emergency arbitral proceedings, the PCA Secretary-General shall appoint a substitute Emergency Arbitrator in accordance with this article

ANNEX C. EMERGENCY ARBITRAL PROCEEDINGS

5. The P.R.I.M.E Finance/PCA Registry shall transmit the file to the Emergency Arbitrator immediately after the Emergency Arbitrator has been appointed.

6. The Emergency Arbitrator shall not act as an arbitrator in any future arbitration relating to the dispute, unless otherwise agreed by the parties.

FILING THE NOTICE OF ARBITRATION

Article 5

The applicant shall file a notice of arbitration pursuant to article 3 of the Rules within 10 days after receipt of the Application by the P.R.I.M.E. Finance/PCA Registry . If the notice of arbitration is not filed on time, the Emergency Arbitrator shall terminate the emergency arbitral proceedings, unless the Emergency Arbitrator agrees to an extension of the time-limit upon a reasoned request of the applicant.

POWER OF THE EMERGENCY ARBITRATOR

Article 6

If the Emergency Arbitrator is appointed prior to the transmission of the file to the Arbitral Tribunal pursuant to article 16a of the Rules, the Emergency Arbitrator retains the power to make a decision on emergency measures after the Arbitral Tribunal has been appointed.

PLACE OF THE EMERGENCY ARBITRAL PROCEEDINGS

Article 7

1. The place of the emergency arbitral proceedings shall be the place agreed by the parties for the arbitration proceedings. In the absence of such an agreement or if such agreement is unclear or incomplete, the PCA Secretary-General shall determine the place, without prejudice to the determination of the place of the arbitration pursuant to article 18, paragraph 1, of the Rules.
2. The Emergency Arbitrator may decide to conduct the hearings at any location he considers appropriate. He may also consider to conduct the hearings by means of video-conference, telephone or other means of communication.

CONDUCT OF THE EMERGENCY ARBITRATION PROCEEDINGS

Article 8

Article 17, paragraphs 1 and 4, of the Rules shall apply to the emergency arbitration proceedings.

THE ORDER

Article 9

1. Pursuant to article 26a, paragraph 2, of the Rules, the Emergency Arbitrator's decision shall take the form of an order (the "Order").
2. The Emergency Arbitrator shall render an Order within 15 days after the date upon which the Application has been transmitted to him pursuant to article 4, paragraph 5. The P.R.I.M.E. Finance/PCA Registry may extend this time limit upon a reasoned request of the Emergency Arbitrator.

ANNEX C. EMERGENCY ARBITRAL PROCEEDINGS

3. The Emergency Arbitrator shall determine in the Order whether the Application is admissible and whether he has jurisdiction pursuant to article 26a and this Annex C.
4. The Order shall be in writing and state the date on which it was made, the place of the emergency arbitral proceedings and the reasons upon which the Order is based, unless the parties have agreed otherwise.
5. The Order signed by the Emergency Arbitrator shall be transmitted to the P.R.I.M.E. Finance/PCA Registry. Copies of the Order shall be promptly communicated to the parties by the P.R.I.M.E. Finance/PCA Registry.

BINDING EFFECT OF THE ORDER

Article 10

1. The Emergency Arbitrator or, after the constitution of the Arbitral Tribunal, the Arbitral Tribunal may modify or terminate the Order.
2. The Order shall cease to be binding if:
 - i. the emergency arbitral proceedings are terminated pursuant to article 5;
 - ii. the Arbitral Tribunal has rendered a final award, unless the Arbitral Tribunal decides otherwise;
 - iii. the arbitral proceedings are terminated before the Arbitral Tribunal has rendered a final award.

REGISTRATION FEE, ADMINISTRATIVE COSTS AND EMERGENCY ARBITRATOR'S FEES

Article 11

1. Upon filing the Application, the applicant shall pay a registration fee and administrative costs as prescribed in Annex E ("Schedule of institutional costs").

2. Upon filing the Application, the applicant shall also pay an amount of EUR 20.000 as deposit for the Emergency Arbitrator's fees and expenses.

3. Upon a request from the Emergency Arbitrator or if otherwise deemed appropriate, the P.R.I.M.E. Finance/PCA Registry may decide to increase or reduce the administrative costs as well as the Emergency Arbitrator's fees taking into account the nature of the case, the work performed by the Emergency Arbitrator and the P.R.I.M.E. Finance/PCA Registry . If the applicant fails to pay the costs mentioned in this paragraph in due time, the P.R.I.M.E. Finance/PCA Registry shall dismiss the Application.

4. The Emergency Arbitrator shall determine in the Order which of the parties shall bear:

- i. the costs mentioned in this article; and
- ii. the reasonable legal and other costs incurred by the parties for the emergency arbitral proceedings,

or in what proportion these costs shall be borne by the parties.

ANNEX D. REFEREE ARBITRAL PROCEEDINGS

REFEREE ARBITRAL PROCEEDINGS (“*ARBITRAAL KORT GEDING*”)

Article 1

1. Any party wishing to have recourse to a Referee Arbitral Tribunal pursuant to article 26b of the P.R.I.M.E. Finance Arbitration Rules (the “Rules”) may apply for the appointment of a Referee Arbitral Tribunal until arbitration proceedings have been commenced pursuant to article 3, paragraph 2, of the Rules and the arbitral tribunal has been constituted pursuant to section II of the Rules (the “Arbitral Tribunal”).

2. Articles 1, 2 and 5 of the Rules apply to the referee arbitral proceedings referred to in article 26b of the Rules and in this Annex D. Further provisions of the Rules apply only in so far as reference is made to those provisions in this Annex D.

NOTICE OF REFEREE ARBITRATION

Article 2

1. The claimant initiating referee arbitral proceedings shall file with each respondent and with the P.R.I.M.E. Finance/PCA Registry a notice of referee arbitration. The notice shall be accompanied by the exhibits on which the claimant bases its claim. Proof of the notification to each respondent shall at the latest be submitted by the claimant at the hearing referred to in article 5, paragraph 1.

2. The referee arbitral proceedings shall be deemed to commence on the date on which the notice of referee arbitration is received by the P.R.I.M.E. Finance/PCA Registry. The P.R.I.M.E. Finance/PCA Registry shall send a written notice of receipt of the notice of referee arbitration to the parties, mentioning the date of receipt of such notice of referee arbitration.

3. The notice of referee arbitration shall contain the information mentioned in article 3, paragraph 3 under (a), (b), (c), (d), (e) and (f) of the Rules, on the condition that the brief description of the claim is accompanied by a description of the reasons for the claim and for the purported urgency.

4. Upon filing the notice of referee arbitration, the claimant shall pay a registration fee as prescribed in Annex E ("Schedule of institutional costs") in force on the date when the notice of referee arbitration is filed. If the registration fee is not paid upon filing the notice of referee arbitration, the P.R.I.M.E. Finance/PCA Registry shall not proceed with the referee arbitral proceedings and the referee arbitral proceedings shall be treated as not having been commenced without prejudice to any right of the claimant to submit the same claim(s) at a later date in another notice of referee arbitration or in a notice of arbitration as referred to in article 3 of the Rules.

5. As soon as possible after the filing of the notice of referee arbitration, the P.R.I.M.E. Finance/PCA Registry shall send a notice to the claimant requesting the payment for administrative costs in accordance with Annex E ("Schedule of institutional costs") in force on the date when the notice of referee arbitration is filed as required by the P.R.I.M.E. Finance/PCA Registry. Within 7 days of the receipt of such notice, the claimant shall remit to the P.R.I.M.E. Finance/PCA Registry the payment of administrative costs. In the event that the claimant fails to make the payment as requested, the P.R.I.M.E. Finance/PCA Registry may fix a time limit within which the claimant must comply, failing which the file will be closed without prejudice to any right of the claimant to submit the same claim(s) at a later date in another notice of referee arbitration or in a notice of arbitration as referred to in article 3 of the Rules.

ANNEX D. REFEREE ARBITRAL PROCEEDINGS

RESPONSE TO THE NOTICE OF REFEREE ARBITRATION

Article 3

The response to the notice of referee arbitration needs to be filed with the P.R.I.M.E. Finance/PCA Registry and the claimant within 10 days after the date of the written notice of receipt of the notice of referee arbitration, as referred to in article 2, paragraph 2, and shall include:

- a. The name and contact details of each respondent; and
- b. A response to the information set forth in the notice of referee arbitration.

APPOINTMENT OF REFEREE ARBITRAL TRIBUNAL

Article 4

1. Within 5 days of the receipt of the notice of referee arbitration, the PCA Secretary-General shall - in deviation of any appointment process nominated by the parties for proceedings on the merits - appoint the Referee Arbitral Tribunal, consisting of a sole arbitrator, which shall decide in referee arbitral proceedings.

2. The appointment of the Referee Arbitral Tribunal shall be confirmed by the PCA Secretary-General by a letter of appointment addressed to the sole arbitrator. A copy of this letter shall be sent to the parties simultaneously.

3. The following articles of section II of the Rules apply to the referee arbitral proceedings:

- a. Articles 11, 12, 13, paragraph 2 and 3, and article 16.

- b. Article 13, paragraph 1, shall apply accordingly, except that the notice by which a party challenges an arbitrator shall be sent within 5, instead of 15, days after it has been notified of the appointment of the challenged arbitrator, or within 5 days of the circumstances mentioned in articles 11 and 12 becoming known to that party.
- c. Article 13, paragraph 4, shall apply accordingly, except that the party making the challenge may elect to pursue its challenge if, within 5, instead of 15, days from the date of the notice of challenge, all parties do not agree to the challenge or the challenged arbitrator does not withdraw. In that case within 10, instead of 30, days from the date of the notice of the challenge, the challenging party shall seek a decision on the challenge by the PCA Secretary-General.
- d. Article 14 shall apply accordingly, except that the substitute arbitrator shall be appointed pursuant to the procedure of article 4, paragraph 1.

HEARING

Article 5

1. Immediately after its constitution, the Referee Arbitral Tribunal shall determine the date, time and place of the hearing for the claim in referee arbitral proceedings and shall promptly notify the parties in writing thereof, taking into account the date for filing the response to the notice of referee arbitration.
2. Written memorials are to be filed only if the Referee Arbitral Tribunal so determines, without prejudice to the provisions of articles 2 and 3.

PLEA OF LACK OF JURISDICTION

Article 6

1. If the respondent wishes to raise the plea of lack of jurisdiction of the Referee Arbitral Tribunal, it shall raise this plea in the response to the notice of referee arbitration referred to in article 3. Article 23, paragraph 1, of the Rules applies accordingly.
2. The Referee Arbitral Tribunal may continue the referee arbitral proceedings and make an award, notwithstanding any pending challenge to its jurisdiction before a court.

COUNTERCLAIM

Article 7

1. The respondent is entitled to submit a counterclaim in referee arbitral proceedings. The counterclaim shall be made by means of a written memorial which shall be submitted to the Referee Arbitral Tribunal at the latest in the response to the notice of referee arbitration referred to in article 3.
2. If a counterclaim is filed, even if it is a provisional counterclaim, the respondent shall pay a registration fee as prescribed in Annex E (“Schedule of institutional costs”) in force on the date when the counterclaim is filed upon filing the counterclaim. If the registration fee is not paid upon filing the counterclaim, the arbitral tribunal will not take account of the counterclaim without prejudice to the right of the respondent to submit the same counterclaim at a later date, complying with the time deadlines set out in this Annex D.
3. If the respondent files a counterclaim, even if it is a provisional counterclaim, administrative costs shall be paid by the respondent in accordance with Annex

E (“Schedule of institutional costs”) in force on the date when the counterclaim is filed. As soon as possible after the filing of the counterclaim, the P.R.I.M.E. Finance/PCA Registry shall send a notice to the respondent requesting the payment of administrative costs. Within 7 days of the receipt of such notice, the respondent shall remit to the P.R.I.M.E. Finance/PCA Registry the payment of administrative costs required by the P.R.I.M.E. Finance/PCA Registry . In the event that the respondent fails to make the payment as requested, the P.R.I.M.E. Finance/PCA Registry may fix a time limit within which the respondent must comply, failing which the counterclaim will be considered abandoned without prejudice to the right of the respondent to submit the same counterclaim at a later date, complying with the time deadlines set out in this Annex D.

4. If the claimant wishes to raise the plea of lack of jurisdiction of the Referee Arbitral Tribunal in respect of the counterclaim in referee arbitral proceedings, it shall raise this plea within at least 3 working days prior to the hearing referred to in article 5, paragraph 1.

PROCEDURE FOR REFEREE ARBITRAL PROCEEDINGS

Article 8

The provisions of article 17, paragraphs 1, 4 and 5, article 18, paragraph 2, articles 19, 22, 27, 28, 29, article 31, paragraphs 2 and 3, and article 33 of the Rules apply accordingly. Article 31, paragraph 1 of the Rules applies with regard to the submission of the response to the notice of referee arbitral proceedings and to the submission of written memorials as referred to in article 5, paragraph 2, if any.

REFERRAL TO ARBITRATION

Article 9

1. If, after a notice of referee arbitration has been made relying on article 1, the Referee Arbitral Tribunal determines that the case is not sufficiently urgent, it may reject the claim either wholly or partially and refer the parties to the arbitral proceedings as referred to in sections I - IV of the Rules.
2. If, after a notice of referee arbitration has been made relying on article 1, the Referee Arbitral Tribunal determines that the case is too complicated to be decided by referee arbitral proceedings, it may reject the claim either wholly or partially and refer the parties to the arbitral proceedings as referred to in sections I - IV of the Rules.

REFEREE ARBITRAL AWARD

Article 10

1. The Referee Arbitral Tribunal shall procure that the award is made as soon as possible after the hearing. The provisions of articles 34, 35 and 36 of the Rules apply accordingly. Articles 37, 38 and 39 of the Rules also apply to the referee arbitral proceedings, though the terms mentioned in these articles as 30 days and 45 days are instead 7 days and 10 days respectively.
2. The referee arbitral award, although expressly recognized as an arbitral award in the meaning of article 1043b, paragraph 4, of the Dutch Code of Civil Procedure, shall in no way prejudice a final decision of the Arbitral Tribunal on the merits of the case.

COSTS AND FEES

Article 11

The provisions of articles 44, 45, 46 and 47 of the Rules apply to referee arbitral proceedings, save that the deposit for costs referred to in article 44, paragraph 2, of the Rules shall be deposited prior to the hearing referred to in article 5.

REGISTRATION FEE

Article 1

1. When submitting a notice of arbitration pursuant to article 3 of the P.R.I.M.E. Finance Arbitration Rules (the “Rules”), the claimant shall pay a non-refundable registration fee of EUR 2,000 (the “Registration Fee”) to the bank account number of the PCA (“the PCA bank account”).
2. Article 1, paragraph 1, shall apply accordingly to any counterclaim referred to in article 21, paragraph 3 of the Rules.
3. A party applying for emergency arbitral proceedings pursuant to article 26a of the Rules shall pay a non-refundable registration fee of EUR 1,000 to the PCA bank account together with the submission of the application mentioned in article 2 of Annex C (“Emergency arbitral proceedings”).
4. Article 1, paragraphs 1 and 2, shall apply accordingly to the notice of referee arbitration referred to in article 2 of Annex D (“Referee arbitral proceedings”) and to any counterclaim referred to in article 7 of Annex D, respectively.

COSTS

Article 2

1. The costs referred to in article 3, paragraph 7 of the Rules and in article 2, paragraph 5 of Annex D shall be determined in accordance with article 3, which is an indicative scale only; the P.R.I.M.E. Finance/PCA Registry may charge the PCA hourly rates, if these total to a higher amount than the indicative scale mentioned in article 3 below.

2. The administrative costs shall be no less than EUR 10,000.

Article 3

The indicative scale set out hereinafter (the “Scale”) shall guide the fixing of administrative costs by the P.R.I.M.E. Finance/PCA Registry. The P.R.I.M.E. Finance/PCA Registry retains discretion in the fixing of the administrative costs and, in exceptional circumstances, may fix the administrative costs at a lower or higher figure than that which would result from the application of the Scale.

The indicative scale:

Amount in Dispute (in EUR)	P.R.I.M.E. Finance administrative fees (in EUR)
Up to 1,000,000	10,000
From 1,000,001 to 2,000,000	10,000 + 1% on the amount above 1,000,000
From 2,000,001 to 5,000,000	20,000 + 0.28% on the amount above 2,000,000
From 5,000,001 to 10,000,000	28,400 + 0.15% on the amount above 5,000,000
From 10,000,001 to 20,000,000	35,900 + 0.07% in the amount above 10,000,000
From 20,000,001 to 50,000,000	42,900 + 0.045% on the amount above 20,000,000
From 50,000,001 to 100,000,000	56,400 + 0.004% on the amount above 50,000,000
From 100,000,001 to 300,000,000	58,400 + 0.0025% on the amount above 100,000,000
From 300,000,001 to 500,000,000	63,400 + 0.0015% on the amount above 300,000,000
Over 500,000,000	66,400

Article 4

When submitting an Application in accordance with article 2 of Annex C (“Emergency arbitral proceedings”), the applicant shall pay administrative costs of EUR 10,000 upon filing the Application, to the PCA bank account.



P.R.I.M.E. Finance Mediation Rules

In force as from 26 February 2016



APPLICATION OF THE RULES

Article 1

1. Where parties have agreed by prior existing agreement or, if there is no prior agreement, by agreement after the dispute arises, or because a judicial authority advises them or refers them to mediation, that disputes between them in respect of a relationship, whether contractual or not, shall be referred to mediation under the P.R.I.M.E. Finance Mediation Rules, then these Rules, subject to such modification as the parties may agree, shall apply.

COMMENCEMENT OF MEDIATION PROCEEDINGS

Article 2

1. Any party may initiate recourse to mediation by filing with the the P.R.I.M.E. Finance/PCA Registry a notice of mediation. Unless the initiation is by all the parties, the initiating party shall send to every other party (hereinafter called the “invited party”) a copy of the notice of mediation as soon as practical.

2. The notice of mediation shall include the following:
- a. A request that the dispute be referred to mediation;
 - b. The names and contact details of the parties and their representatives;
 - c. Identification of the mediation agreement, if any, that is invoked;
 - d. Identification of any contract or other legal instrument out of or in relation to which the dispute arises or, in the absence of any such contract or instrument, a brief description of the relevant relationship, including a brief description of the dispute.

3. A party may request the P.R.I.M.E. Finance/PCA Registry to invite another party to join in a submission to mediation. The P.R.I.M.E. Finance/PCA Registry shall send the invited party an invitation for the submission to mediation as soon as practical. The P.R.I.M.E. Finance/PCA Registry shall send the initiating party a copy of such invitation.

4. Mediation proceedings commence when the mediator(s) is/are appointed in accordance with Articles 3, 4, 4a, 5 and 5a herein and all the parties have informed the P.R.I.M.E. Finance/PCA Registry that they agree to pay the costs and fees calculated in accordance with Article 21 to the bank account number of the PCA (“the PCA bank account”) when requested to do so.

5. Until the mediator(s) is/are appointed and all the parties have accepted to pay the costs as aforesaid there will be no mediation proceedings.

6. If any party does not comply with any reasonable request of the mediator or the P.R.I.M.E. Finance/PCA Registry within a reasonable period of time as specified in the request, the mediator or the P.R.I.M.E. Finance/PCA Registry, as the case may be, may elect to treat this as a rejection of the agreement to mediate and the mediation shall come to an end.

NUMBER OF MEDIATORS

Article 3

1. There shall be one mediator unless the parties agree that there shall be two or three mediators (hereinafter when it reads “mediator” it can also refer to “mediators”). Where there is more than one mediator, they shall act in co-operation.

APPOINTMENT OF THE MEDIATOR

Article 4

1. As soon as possible after the acceptance of the invitation to mediate, the parties shall select or the appointing authority shall appoint the mediator, subject to article 5a, from the P.R.I.M.E. Finance List of Experts. If the parties have agreed on the name or on a method of appointment of the mediator, that method shall be followed. If no such appointment has been made within 30 days or such longer period as the P.R.I.M.E. Finance/PCA Registry shall allow after acceptance of the invitation to mediate, the appointing authority shall appoint the mediator in accordance with Article 5.
2. The appointment of the mediator shall be confirmed by the P.R.I.M.E. Finance/PCA Registry by a letter of appointment addressed to the mediator. A copy of this letter shall be sent to the parties simultaneously.
3. As soon as practical after the appointment of the mediator the P.R.I.M.E. Finance/PCA Registry shall inform the parties of how the fees of the mediator and its administrative costs are to be calculated.

Article 4a

1. If two mediators are to be appointed, each party shall appoint one mediator, subject to article 5a, from the P.R.I.M.E. Finance's List of Experts.
2. If three mediators are to be appointed, each party shall appoint one mediator, subject to article 5a, from the P.R.I.M.E. Finance's List of Experts. The two mediators thus appointed shall choose the third mediator, subject to article 5a, from the P.R.I.M.E. Finance's List of Experts, which third mediator will act as the presiding mediator.

3. If within 30 days after the receipt of a party's notification of the appointment of a mediator the other party has not notified the first party of the mediator it has appointed, the first party may request the appointing authority to appoint the second mediator, subject to article 5a, from the P.R.I.M.E. Finance's List of Experts.

4. Where 3 mediators are to be appointed, if within 30 days after the appointment of the second mediator the two mediators have not agreed on the choice of the presiding mediator, the presiding mediator shall be appointed by the appointing authority in the same way as a sole mediator would be appointed under article 5.

APPOINTING AUTHORITY

Article 5

1. If the parties have not otherwise agreed on the choice of an appointing authority by the time of commencement of the mediation, any party may request the Secretary-General of the PCA to act as the appointing authority.

2. In exercising their functions under these Rules, the appointing authority may require from any party and the mediators the information they deem necessary and they shall give the parties and, where appropriate, the mediators, an opportunity to present their views in any manner they consider appropriate. All such communications to and from the appointing authority shall also be provided by the sender to all other parties and the P.R.I.M.E. Finance/PCA Registry.

3. When the appointing authority is requested to appoint a mediator pursuant to Articles 4 and 4a, the party making the request shall send to the appointing authority copies of the notice of mediation and, if it exists, any response to the notice of mediation.

4. The appointing authority shall have regard to such considerations as are likely to secure the appointment of an independent and impartial mediator.

Article 5a

Notwithstanding the provisions of Articles 4, 4a and 5 above, the parties, the mediators or the appointing authority, as the case may be, may also appoint arbitrators not included on P.R.I.M.E Finance's list of Experts and, in doing so, preferably take into consideration, to the extent possible, qualifications comparable to those of the persons on P.R.I.M.E Finance's list of Experts

QUALIFICATIONS OF THE MEDIATOR

Article 6

1. When a person is approached in connection with his or her possible appointment as a mediator, he or she shall disclose to the P.R.I.M.E. Finance/PCA Registry any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. A mediator, from the time of his or her appointment and throughout the mediation, shall without delay disclose any such circumstances to the parties unless they have already been informed of these circumstances.

2. Upon receipt of such information, the P.R.I.M.E. Finance/PCA Registry shall immediately inform the parties about these circumstances and invite the parties to indicate whether they approve that the mediator shall be appointed or remain appointed. In the event that a party states that the mediator should not be or remain appointed, the P.R.I.M.E. Finance/PCA Registry shall appoint another mediator.

REPLACEMENT OF THE MEDIATOR

Article 7

Where a mediator has to be replaced during the course of the mediation, a substitute mediator shall be appointed pursuant to the procedure provided for in Articles 4 and 5.

EXCLUSION OF LIABILITY

Article 8

Save for intentional wrongdoing, gross negligence or fraud, the parties waive, to the fullest extent permitted under the applicable law, any claim against the mediators, the appointing authority, the P.R.I.M.E. Finance/PCA Registry, P.R.I.M.E. Finance, and any person appointed by the mediators based on any act or omission in connection with the mediation.

SUBMISSION OF STATEMENTS TO MEDIATOR

Article 9

1. Upon his or her appointment, the mediator shall request each party at least 10 days prior to the first scheduled mediation session to submit a brief written statement describing the general nature of the dispute and the points at issue. This memorandum shall be simultaneously transmitted to the other parties.
2. The mediator may request each party to submit a further written statement of its position and the facts and grounds in support thereof, supplemented by any documents and other evidence that such party deems appropriate. At the discretion of the mediator, after having received the views of the parties on the issue, such additional written statements and supporting information may be mutually exchanged by the parties.

3. At any stage of the mediation proceedings the mediator may request a party to submit such additional information as the mediator deems appropriate to be received by the mediator in confidence.

REPRESENTATION AND ASSISTANCE

Article 10

1. The parties may be represented or assisted by persons of their choice. An initiating party shall communicate the names and addresses of such persons in the notice of mediation. An invited party shall communicate the names and addresses of such persons after receipt of the notice of mediation. In such communications, the parties should also specify whether the appointment is made for purposes of representation or of assistance.

2. Each party shall communicate in writing to the mediator, to the other party and to the P.R.I.M.E. Finance/PCA Registry, the names of the representatives of that party who possess all necessary authority to negotiate and resolve the dispute.

ROLE OF THE MEDIATOR

Article 11

1. The mediator should assist the parties in an independent and impartial manner to reach an amicable settlement of their dispute.

2. The mediator will be guided by principles of objectivity, fairness and justice, giving consideration to all matters that appear to him to be of relevance.

3. The mediator may conduct the mediation proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the mediator hear oral statements, and the need for a speedy settlement of the dispute.

4. The mediator may, at any stage of the mediation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons justifying the proposals.

ADMINISTRATIVE ASSISTANCE

Article 12

In order to facilitate the conduct of the mediation proceedings, the P.R.I.M.E. Finance/PCA Registry will provide such administrative assistance as it considers appropriate.

COMMUNICATION BETWEEN MEDIATOR AND PARTIES

Article 13

1. The parties may be invited by the mediator for sessions together, or to ex parte meetings. Invitations for such meetings may be communicated by the mediator orally or in writing.

2. Unless the parties have agreed upon the place where meetings with the mediator are to be held, such place will be determined by the mediator, after consultation with the parties. The time of meetings with the mediator will also be set by the mediator, after consultation with the parties.

CO-OPERATION OF PARTIES WITH MEDIATOR

Article 14

The parties will in good faith co-operate with the mediator and, in particular, will endeavour to comply with requests by the mediator to submit written materials, provide evidence and have appropriate participants attend the meetings.

PRIVACY

Article 15

1. Mediation sessions shall be private. Only the parties and their representatives should be allowed to attend the mediation sessions, unless the mediator for reasons he/she considers sufficient, agrees otherwise.
2. The attendance at mediation sessions of individuals other than the parties and their representatives requires the prior approval of both parties and the mediator.
3. Hearings shall be held in camera unless the parties agree otherwise.

CONFIDENTIALITY

Article 16

1. The mediator shall not disclose any information provided to him or her by a party or witness without the consent, as appropriate, of that party and witness.
2. The mediator shall not be compelled to divulge such information, or to testify in regard to the mediation in any proceedings unless required to do so by law.

3. The parties shall maintain the confidentiality of the mediation and shall not – except where its disclosure is required by law or is necessary for purposes of implementation and enforcement – rely on, or introduce as evidence in any arbitral, judicial, or other proceeding, any observations, statements or propositions made before or by the mediator or any documents produced in relation to the mediation proceedings.

SUGGESTIONS BY PARTIES FOR SETTLEMENT OF DISPUTE

Article 17

Each party may, on its own initiative or at the invitation of the mediator, submit to the mediator suggestions for the settlement of the dispute.

SETTLEMENT AGREEMENT

Article 18

1. If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the mediator may draw up, or otherwise assist the parties in drawing up, the settlement agreement.
2. The parties, by signing the settlement agreement, put an end to the dispute and are bound by the agreement.

TERMINATION OF MEDIATION PROCEEDINGS

Article 19

The mediation proceedings are terminated:

- a. By the signing of the settlement agreement by the parties, on the date of the agreement; or
- b. By a written declaration of the mediator, after consultation with the parties, to the effect that further efforts at mediation are no longer justified, on the date of the declaration; or
- c. By a written declaration of the parties addressed to the mediator to the effect that the mediation proceedings are terminated, on the date of the declaration; or
- d. By a written declaration of a party to the other party and the mediator to the effect that the mediation proceedings are terminated, on the date of the declaration.

RESORT TO ARBITRAL OR JUDICIAL PROCEEDINGS

Article 20

The parties undertake not to initiate, or continue during the mediation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject of the mediation proceedings, except that a party may initiate arbitral or judicial proceedings where, in its opinion, such proceedings are necessary for preserving its rights or as required by a court.

COSTS

Article 21

1. Upon appointment of the mediator, a fixed equal amount for the fees of the mediator and the costs of administration of the mediation is due from each party as an advance for the costs referred to in paragraph 5 of this article. The amount due shall be determined by the P.R.I.M.E. Finance/PCA Registry. The P.R.I.M.E. Finance/PCA Registry shall send a notice to the parties communicating how the amount of administration costs and mediator's fees due will be calculated as soon as possible after the appointment of the mediator.

2. During the course of the mediation proceedings, the P.R.I.M.E. Finance/PCA Registry may request supplementary equal sums from each party.

3. If the required deposits under paragraphs 1 and 2 of this article are not paid in full by both parties within thirty days, the mediator may suspend the proceedings or may make a written declaration of termination to the parties, effective on the date of that declaration.

4. After the termination of the mediation in accordance with article 19, the P.R.I.M.E. Finance/PCA Registry shall determine the costs of mediation. The P.R.I.M.E. Finance/PCA Registry shall render an account to the parties of the deposits received and return any unexpended balance to the parties.

5. The term "costs" includes only:

- a. The fees of the mediator to be fixed by the mediator in conjunction with the P.R.I.M.E. Finance/PCA Registry;
- b. The reasonable travel and other expenses incurred by the mediator;

- c. The travel and other expenses of witnesses requested by the mediator with the consent of the parties;
- d. The cost of any expert advice requested by the mediator with the consent of the parties;
- e. Any fees and expenses of the P.R.I.M.E. Finance/PCA Registry.
- f. Any fee or expenses of the appointing authority

6. The fees and expenses of the mediator shall be reasonable in amount, taking into account the amount in dispute, the complexity of the subject matter, the time spent by the mediator and any other relevant circumstances of the case.

7. The costs, as defined above, are borne equally by the parties, unless the settlement agreement provides for a different apportionment. All other expenses incurred by a party are borne by that party.

ROLE OF MEDIATOR IN OTHER PROCEEDINGS

Article 22

The parties and the mediator undertake that the mediator will not act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceedings in respect of a dispute that is the subject of the mediation proceedings. The parties also undertake that they will not present the mediator as a witness in any such proceedings.

MISCELLANEOUS

Article 23

1. The parties may agree to exclude or vary any of these Rules at any time.
2. Where any of these Rules is in conflict with a provision of law from which the parties cannot derogate, that provision of law prevails.

REGISTRATION FEE

Article 1

When submitting a notice of mediation pursuant to article 2 of the P.R.I.M.E. Finance Mediation Rules (the “Rules”), the claimant shall pay a non-refundable registration fee of EUR 1,500 (the “Registration Fee”) to the bank account number of the PCA (“the PCA bank account”).

COSTS

Article 2

1. The costs referred to in article 2 paragraph 4 and 5 of the Rules shall be determined in accordance with Article 3 below, which is an indicative scale only; the P.R.I.M.E. Finance/PCA Registry may charge the PCA hourly rates, if these total to a higher amount than the indicative scale mentioned in Article 3 below.

2. The administrative costs shall be no less than EUR 3,500.

Article 3


1. The indicative scale set out hereinafter (the “Scale”) shall guide the fixing of administrative costs by the P.R.I.M.E. Finance/PCA Registry. The P.R.I.M.E. Finance/PCA Registry retains discretion in the fixing of the administrative costs and, in exceptional circumstances, may fix the administrative costs at a lower or higher figure than that which would result from the application of the Scale.

The indicative scale:

Amount in Dispute (in EUR)	Prime Finance administrative fees (in EUR)
Up to and including 200,000	3,500
From 200,001 to 2,000,000	6,500
From 2,000,001 to 10,000,000	10,000
From 10,000,001 to 50,000,000	13,500
From 50,000,001 to 100,000,000	17,000
Over 100,000,001	20,000

If the parties do not identify the value of the dispute the P.R.I.M.E. Finance/PCA Registry may determine the indicative value.

2. The above mentioned prices are excluding any possible value added tax (VAT). The P.R.I.M.E. Finance/PCA Registry may add VAT in the invoices.



P.R.I.M.E. Finance

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