ARBITRATION RULES
2018 EDITION
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1. SCOPE OF APPLICATION AND INTERPRETATION

1.1 The Tanzania Institute of Arbitrators TIArb (hereinafter referred to as “TIArb”) is a professional body which provides services for the fair resolution of commercial disputes through Alternative Dispute Resolution (ADR) mechanisms.

1.2 TIArb reminds all those who want to pursue arbitration that, the essence of arbitration is to obtain fair resolution of disputes by an impartial tribunal without unnecessary delay and expenses.

1.3 These Rules are designed for disputes arising under domestic contracts but can equally be applied to international contracts provided necessary safeguards are made; particularly with regard to the law governing the arbitral process.

Parties to a contract who wish to have any dispute referred to arbitration under these Rules are advised to insert in the contract an arbitration clause in the following form:

"Any dispute or reference of any kind whatsoever which arises or occurs between the parties in relation to anything or any matter arising out of or in connection with this agreement shall be referred to arbitration administered by the Tanzania Institute of Arbitrators under its Arbitration Rules."

1.4 Where any agreement or submission or reference provides for arbitration under the Rules of the TIArb, the arbitration shall be conducted in accordance with the following Rules or such amended Rules as the TIArb may have adopted to take effect before the commencement of arbitration.

1.5 Matters not covered in the Rules shall be subject to the agreement of the parties and the laws of the United Republic of Tanzania in the case of disputes arising out of or in connection with domestic contracts or in accordance with the law agreed by the parties in case of disputes arising out of or in connection with international contracts.

1.6 These Rules as amended shall come into force on 1st August 2018 and, unless otherwise agreed by the parties, shall apply to any arbitration which is commenced on or after that date.

1.7 In these rules:

“arbitrator” means sole arbitrator or arbitral tribunal

“Award” includes a partial, interim or nal award and an award of an Emergency Arbitrator;
“Rules” means the Arbitration Rules of the Tanzania Institute of Arbitrators (2018 Edition);

“TIArb” means the Tanzania Institute of Arbitrators;

“Tribunal” includes a sole arbitrator or all the arbitrators where more than one arbitrator is appointed.

Any pronoun in these Rules shall be understood to be gender-neutral. Any singular noun shall be understood to refer to the plural in the appropriate circumstances.
2. **GENERAL PRINCIPLES**

2.1 The object of arbitration is to obtain fair resolution of disputes by an impartial tribunal without unnecessary delay or expense.

2.2 Generally, the parties should be free to agree how their disputes are to be resolved, subject only to such safeguards as are necessary in the public interest. However, a decision to use these Rules mandatorily binds the parties to their requirements.

3. **GENERAL DUTIES OF THE ARBITRATOR**

3.1 The arbitrator shall act fairly and impartially as between the parties, giving each party a reasonable opportunity of putting his case and dealing with that of his opponent.

3.2 The arbitrator shall adopt procedures suitable to the circumstances of each particular case, avoiding unnecessary delay or expense, so as to provide a fair means for the resolution of the matters failing to be determined.

3.3 The arbitrator shall not divulge any confidential information disclosed to him during the proceedings by parties or by the witnesses unless the parties consent to the disclosure.

4. **GENERAL DUTIES OF THE PARTIES**

4.1 The parties shall do all things necessary for the proper and expeditious conduct of the proceedings;

This includes:

4.1.1 Complying without delay with any order or direction of the Tribunal;

4.1.2 Taking without delay any necessary steps to obtain a decision of the court on question of jurisdiction or law.

4.2 The parties are free to agree to confer any other additional powers to the arbitral tribunal for the purposes of and in relation to the proceedings.

5. **REQUEST FOR OR NOTIFICATION OF ARBITRATION**

5.1 Any party wishing to commence arbitration under these Rules shall send to the TIArb a written request for arbitration, which shall include or be accompanied by:-

5.1.1 The names and addresses of all the parties to the dispute;

5.1.2 A brief statement of the nature and circumstances of the dispute;
5.1.3 A statement of any matters on which the parties have previously agreed as to the conduct of the arbitration;

5.1.4 Copies of the contractual documents under which the dispute arises;

5.1.5 Any separate submission or reference to the arbitration and shall confirm to the TIArb that copies have been sent to all the other parties.

6. APPOINTMENT OF THE TRIBUNAL

6.1 On accepting the request, the TIArb shall submit to the Claimant the list of the Panel of Arbitrators.

6.2 On receipt of the list, the Claimant shall select three names from the list and shall submit these three names to the TIArb within fourteen (14) days of the receipt of the list.

6.3 After checking on the availability of the three names, the Institute shall request the Respondent to select one out of the three names submitted within 14 days of receipt of the letter.

6.4 If the Respondent is not in agreement with all of the three names or he/she does not respond within the said 14 days, then the Claimant may request the Chairman to appoint an arbitrator who shall not be one of the names proposed by the Claimant in the first place.

6.5 If the arbitration is complicated in the nature then each of the Parties shall nominate one Arbitrator from the approved list and the party appointed arbitrators shall appoint an umpire/ third arbitrator.

6.6 Selection of the arbitrator/ umpire, will, as far as possible, have regard to the nature of the contract and circumstances of the dispute.

6.7 If any arbitrator or umpire, after appointment dies, refuses, fails or in the opinion of the TIArb becomes unable or unfit to act, the TIArb will, upon request from any of the parties appoint another arbitrator or umpire in his place.

6.8 When appointing arbitrators, the Chairman shall consider the nature and circumstances of the dispute, the applicable law, the seat and language of the arbitration and the nationality of the parties.

7. REPLACEMENT OF AN ARBITRATOR

7.1 In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen
pursuant to the procedure provided for in rules 6 to 9 that was applicable to the appointment or choice of the arbitrator being replaced.

7.2 In the event that an arbitrator fails to act or in the event of the de jure or de facto impossibility of his performing his functions, the procedure in respect of the challenge and replacement of an arbitrator as provided in the preceding articles shall apply.

7.3 If the sole or presiding arbitrator is replaced, any hearings held previously shall be repeated; if any other arbitrator is replaced, such prior hearings may be repeated at the discretion of the TIArb.

8. COMMUNICATION BETWEEN PARTIES AND ARBITRATOR

8.1 In the following Rules, the expression ‘the arbitrator’ includes all the arbitrators where more than one has been appointed.

8.2 All parties shall communicate directly with the arbitrator unless he directs otherwise.

8.3 Where the TIArb, on behalf of the arbitrator, sends any communication to one party, a copy to each of the other parties shall also be sent.

8.4 Where any party sends any communication (including any statement under Rule 6) to the arbitrator, then he shall also send copies to all the other parties (including the TIArb) and confirm to the arbitrator that he has done so.

8.5 The addresses of the parties for the purpose of all communications during the proceedings shall be those set out in the Request for or Notification of Arbitration, or such other addresses as the parties shall later agree or as any party concerned shall at any time notify to the arbitrator and to all the other parties and TIArb.

9. JURISDICTION AND POWERS CONFERRED ON THE ARBITRATOR

9.1 By submitting to the arbitrator under these Rules, the parties shall be taken to have conferred on the arbitrator the following jurisdiction and powers, to be exercised by him so far as Tanzania Law allows and in his absolute and unfettered discretion, if he shall judge it to be expedient for the purpose of ensuring the just, expeditious, economical and final determination of the dispute referred to him.

9.2 The arbitrator shall have jurisdiction to:

9.2.1 determine any question as to the validity, extent or continuation in force of any contract between the parties;
9.2.2 order the correction or amendment of any such contract, and of the arbitration agreement, submission or reference, but only to the extent required to rectify any manifest error, mistake or omission which he determines to be common to all the parties;

9.2.3 determine any question of law arising in the arbitration;

9.2.4 determine the validity of the arbitration agreement;

9.2.5 determine any question as to his jurisdiction;

9.3 Unless all the parties shall at any time agree otherwise, the arbitrator shall have power, on the application of any of the parties or of his own motion, but in either case only after hearing or receiving any representations from the parties concerned to;

9.3.1 Allow other parties to be joined in the arbitration with their express consent, and make a single final award determining all disputes between them;

9.3.2 Allow any party upon terms as to costs and otherwise, to amend his statement of claim, defence or reply;

9.3.3 Extend or abbreviate any time limits provided by these Rules or by his directions; appoint experts or legal advisors on any matter;

9.3.4 Direct the parties to submit to the TIArb or arbitrator, for subsequent exchange, written statements, whether or not verified by oath or affirmation, of the evidence of witnesses, and direct which of the makers of such statements are to attend before him for oral examination;

9.3.5 Conduct such inquiries as may appear necessary or expedient;

9.3.6 Order the parties to make any property or thing available for inspection in their presence;

9.3.7 Order the parties to produce to him and to each other, for inspection and to supply copies of any documents or classes of documents in their possession or power which he determines to be relevant;

9.3.8 Order the preservation, storage, sale or other disposal of any property or thing under the control of any of the parties;

9.3.9 Make interim orders for security for any party’s own costs, and to secure all or part of any amount in dispute in the arbitration;
9.3.10 Order any party to furnish him with such further details of its case, in fact or in law, as he may require;

9.3.11 Proceed in the arbitration notwithstanding the failure or refusal of any party to comply with these Rules or with his orders or directions, or to attend any meeting or hearing, but only after giving that party written notice that he intends to do so;

9.3.12 Receive and take into account such written or oral evidence as he shall determine to be relevant, whether or not strictly admissible in law;

9.3.12.1 Make one or more interim award order the parties to make interim payments towards the costs of arbitration

9.3.12.2 Hold meetings and hearings in and outside of Tanzania;

9.3.12.3 Express awards in the currency stated in the contracts;

9.3.12.4 Award interest on any amount from and to any date at such rate as he determines to be appropriate;

9.3.12.5 Correct any accidental mistake or omission or clarify or remove an ambiguity in the awards;

6.3.12.6 Make an additional award in respect of any claim which was presented to the arbitrator but was not dealt with in the award.

10. PROCEDURE IN THE ARBITRATION

10.1 The arbitrator shall have the jurisdiction and the powers to direct the procedure in the arbitration, necessary to ensure the just, expeditious, economical and final determination of the disputes, as set out under Rule 6.

10.2 In the absence of any other agreements and directions, the procedure will be that as set out in Rule 11, 12 or 13.

11. SUBMISSION OF PLEADINGS.

11.1 The arbitrator at any time shall fix the date for submission of pleadings.

11.2 Within 14 days of notification of appointment of the arbitrator the Claimant shall send to the arbitrator a Statement of Claim setting out in sufficient details:

a) the factual and legal basis that the Claimant relies on;
b) any evidence the Claimant relies on; and

c) the specific reliefs sought.

11.3 Within 21 days of receipt of the Statement of Claim or a period as may be determined by the arbitrator, the Respondent shall send to the arbitrator a Statement of Defence stating in sufficient detail:

a) any objections concerning the existence, validity or applicability of the arbitration agreement;

b) the factual and legal basis the Respondent relies on;

c) any counterclaim or set-off and the grounds on which it is based; and

d) any evidence the Respondent relies on.

11.4 Within 7 days of receipt of the Statement of Defence or a period as may be determined by the arbitrator, the Claimant may send the arbitrator a Reply with defence to the counterclaim.

11.5 Where there is a counterclaim, the Claimant shall send the arbitrator a Statement of Defence to it within 7 days of its receipt to which the Respondent may reply within a further 7 days of receipt.

11.6 All Statement of Claim, defence and reply shall be accompanied by copies or a list if they are especially voluminous, of all essential documents on which the party concerned relies on and which have not previously been submitted by any party and where practicable by any relevant submission.

11.7 After the submission of all the statements, the arbitrator will give directions for the further conduct of the arbitration.

12. MEETINGS AND HEARINGS

12.1 The arbitrator may at any time fix the date, time and place of meetings and hearings in the arbitration, and the arbitrator will give all the parties adequate notice of these. Subject to any adjournment which the arbitrator allows, the final hearing will be continued on successive working days until it is concluded. That the hearing can be through written submission or oral presentation or both.

12.2 All meetings and hearings will be in camera unless all the parties require otherwise. Other people may be granted permission to attend as observers upon request.

12.3 In the absence of an agreement by the parties, the arbitrator shall determine the language or languages of the arbitration, due regard being given to all relevant circumstances including the language of the contract, language or
languages of the parties and of the witnesses and may make provisions for interpretation and translation.

12.4 Any party may be represented by legal practitioners or any other representatives. At any time after the commencement of Arbitration, the Arbitral tribunal or the Secretariat may require proof of authority of any representative.

13. EXPEDITED PROCEDURE
13.1 Where the value of all matters in dispute between the parties does not exceed Tanzanian Shillings Five Million (TZS 5,000,000/-) and upon application by the parties;

13.1.1 The TIArb will appoint a single Arbitrator

13.1.2 The arbitrator may determine the dispute at an informal hearing attended by all the parties.

13.1.3 Alternatively, the arbitrator may determine the dispute on the documents submitted to him by the parties voluntarily or on his direction, without any hearing.

14. THE AWARD
14.1 The arbitrator shall make his Award in writing and unless all parties otherwise agree, his reasons shall be set out or referred to in the Award.

14.2 The arbitrator shall send his Award to the TIArb within 14 days after the conclusion of the final hearing. The TIArb, thereafter, shall notify the parties that the Award is ready to be taken-up subject to payment of all outstanding fees and costs of the arbitration.

14.3 Apart from the final award, the arbitrator may make separate awards on different issues at different times, including interim wards, default award and consent award. That such award(s) shall have the same status as any other award made by the arbitrator.

15. DISAGREEMENT OF ARBITRATORS
15.1 Where there is more than one arbitrator and the parties have agreed that there is to be an umpire, decisions, orders and Awards shall be made by the arbitrators unless and until they cannot agree on a matter relating to the arbitration.

15.2 In the event the arbitrators cannot agree, the umpire shall replace them as the Arbitrator with power to make decisions, orders and awards as if he were the sole arbitrator.
16. COSTS AND DEPOSITS

16.1 From the commencements of the arbitration, all the parties shall be jointly and severally liable to the TIArb for these costs until they are paid.

16.2 The TIArb will require all the parties to deposit equal sums of money before the start of the proceedings. The total amount of the deposit will be based on the estimated time required by the arbitrator to arrive at an Award. These Awards will be adjusted accordingly in the cost of the arbitration which will be included in the award.

16.3 The arbitrator’s fees will be paid to the TIArb calculated by reference to the work done by him in connection with the arbitration and will be charged at rates appropriate to the particular circumstance of the case including its complexity and any special qualifications of the arbitrator. The rate shall be established, reviewed and published by the TIArb from time to time. The current rates should be:-

16.3.1 Time for meetings or hearing not less Tshs. 100,000/= per hour;

16.3.2 Other time spent on arbitration outside the time for meeting or hearings-not less than Tshs. 100,000/= per hour.

16.4 The parties shall pay administrative costs in accordance with the Schedule of Fees but do not include expenses as listed in Rule 16.2.

16.5 Specific outgoing expenses incurred by the TIArb or the arbitrator in connection with the arbitration such as travel, subsistence, hire of venue, postage, telex, cable, telephone, copying, recording and transcribing services, reports of experts and advisors and any other items shall be charged at cost.

16.6 The arbitrator will specify the total amount of the costs of the arbitration in his award. Unless all the parties shall agree otherwise, he will determine – in the exercise of his absolute and unfettered discretion – which party shall pay them and whether any party shall pay all or part of any other costs incurred by any other party.

17. PAYMENT AND COLLECTION OF AWARDS

17.1 After notification by the Tanzania Institute of Arbitrators, any party may take up the award upon payment to the TIArb of any costs of the arbitration then still outstanding.

17.2 If the award has not been taken up within one month of the notification, the TIArb may by action recover all outstanding costs of the arbitration from any or all of the parties.

17.3 If the arbitrator has determined that all or any part of the costs of the arbitration shall be paid by any party other than a party which has already
paid them, that party shall have the right to recover the appropriate amount from that other party.

18. ABANDONMENT, SUSPENSION OR CONCLUSION BEFORE FINAL AWARD

18.1 If during the proceedings the parties shall settle the dispute, the arbitrator shall terminate the proceedings and if requested by the parties, shall give an award based on agreed terms. Such an award shall have the same status and effect as any other award on the merits of the case.

18.2 If the arbitration is abandoned, suspended concluded, by agreement or otherwise, before the final award is made, the party shall pay to the TIArb costs of the arbitration incurred up to that time proportions as between them as they shall agree on, failing agreement, as the arbitrator shall determine.

19. EXCLUSION OF LIABILITY.

19.1 Neither the TIArb nor the arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these Rules save that the arbitrator, shall be liable for the consequences of any conscious and deliberate wrong doing in his own part.

19.2 After the Award has been made, any accidental mistake or omission corrected, the arbitrator shall be under no obligation to make any statement to any person about any matter concerning the arbitration, nor shall any party seek to make him a witness in any legal proceeding arising out of the arbitration.