



AIFC ARBITRATION REGULATIONS

RESOLUTION OF THE AIFC MANAGEMENT COUNCIL

Dated 5 December 2017



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SCHEDULE

PART 1: GENERAL

1. **Name**

These Regulations are the *AIFC Arbitration Regulations 2017*.

2. **Legislative authority**

These Regulations are adopted by the Resolution of the Council under Article 14 of the Constitutional Statute to make Regulations in connection to the International Arbitration Centre.

3. **Application of these Regulations**

These Regulations apply in the jurisdiction of the AIFC.

4. **Date of enactment**

These Regulations are enacted on the day they are approved and signed by the Council.

5. **Commencement**

These Regulations come into force on 1 January 2018.

6. **Interpretation**

The Schedule contains definitions of terms referred to in these Regulations.

7. **Exemption from legislation**

The requirements of the Arbitration Law of the Republic of Kazakhstan do not apply to arbitrations conducted under these Regulations.

8. **The objective of these Regulations**

The objective of these Regulations is to make provision for arbitration, mediation, and other forms of alternative dispute resolution, within the AIFC, to include the establishment of an International Arbitration Centre and relevant rules, practice directions and practice guides.

9. **Scope of application**

- (1) Parts 1 to 3 and the Schedule of these Regulations shall apply where the Seat of the Arbitration is the AIFC.
- (2) Articles 17, 18, Part 3, and the Schedule of these Regulations shall apply where the Seat is one other than the AIFC.



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PART 2: ARBITRATION

CHAPTER 1: GENERAL PROVISIONS

10. **General principles**

The provisions of these Regulations are founded on the following principles and shall be construed accordingly:

- (a) the object of arbitration is to obtain the fair resolution of disputes by an impartial tribunal without unnecessary delay or expense;
- (b) the parties should be free to agree how their disputes are resolved, subject only to such safeguards as are necessary in the public interest;
- (c) Regard is to be had to the international origin of arbitration and to the need to promote uniformity in its application and the observance of good faith; and
- (d) Questions concerning matters governed by these Regulations which are not expressly settled in it are to be settled in conformity with the general principles on which these Regulations are based.

11. **Receipt of written communications**

Unless otherwise agreed by the parties:

- (a) any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last known place of business, habitual residence or mailing address by registered letter or any other means which provides a record of the attempt to deliver it;
- (b) the communication is deemed to have been received on the day it is so delivered.

12. **Waiver of right to object**

A party who knows that any provision of these Regulations from which the parties may derogate, or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his objection to such non-compliance without undue delay or, if a time limit is provided therefor, within such period of time, shall be deemed to have waived his right to object.

13. **Extent of court intervention**

In matters governed by these Regulations, the AIFC Court shall not intervene except to the extent provided in these Regulations.

14. **AIFC Court authority to perform certain functions to facilitate arbitration**

The functions referred to in Articles 27(2), 37, 44, 45, 46 and 47 of these Regulations shall be performed by the AIFC Court, while the functions referred to in Articles 18, 20(3), 20(4), 20(5), 20(6), 22(3), 23(1),



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24(2), 26(3), 42(5) of these Regulations shall be performed by the AIFC Court subject to any process agreed between the parties in the arbitration agreement.

CHAPTER 2: ARBITRATION AGREEMENT

15. Definition and form of arbitration agreement

- (1) An “Arbitration Agreement” is an agreement between the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.
- (2) The arbitration agreement shall be in writing.
- (3) An arbitration agreement is in writing if its content is recorded in any form, whether or not the arbitration agreement or contract has been concluded orally, by conduct, or by other means.
- (4) The requirement that an arbitration agreement be in writing is met by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference; “electronic communication” means any communication that the parties make by means of data messages; “data message” means information generated, sent, received or stored by electronic, magnetic, optical or similar means, including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex or telecopy.
- (5) Furthermore, an arbitration agreement is in writing if it is contained in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by the other.
- (6) The reference in a contract to any document containing an arbitration clause constitutes an arbitration agreement in writing, provided that the reference is such as to make that clause part of the contract.

16. Arbitration agreement and substantive claim before a court

- (1) If an action is brought before the AIFC Court in a matter which is the subject of an arbitration agreement, the AIFC Court shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, dismiss or stay such action unless it finds the arbitration agreement is null and void, inoperative or incapable of being performed.
- (2) Where an action referred to in this Article has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the AIFC Court.

17. Arbitration agreement and interim measures by a court

It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a Court an interim measure and for the AIFC Court to grant such measure.

18. Confidentiality



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Unless otherwise agreed by the parties, all information relating to the arbitral proceedings shall be kept confidential, except where disclosure is required by an order of the AIFC Court.

CHAPTER 3: COMPOSITION OF ARBITRAL TRIBUNAL

19. Number of arbitrators

- (1) The parties are free to determine the number of arbitrators provided it is an odd number.
- (2) If there is no such determination, the number of arbitrators shall be one.

20. Appointment of arbitrators

- (1) No person shall be precluded by reason of his nationality from acting as an arbitrator, unless otherwise agreed by the parties.
- (2) The parties are free to agree on a procedure for appointing the arbitrator or arbitrators, subject to the provisions of paragraphs (4) and (5) of this Article.
- (3) If there is no agreement:
 - (a) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators appointed shall appoint the third arbitrator; if a party does not appoint an arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators do not agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the AIFC Court of First Instance; or
 - (b) in an arbitration with a sole arbitrator, if the parties do not agree on the arbitrator within thirty days of one party requesting the other to do so, he shall be appointed by the AIFC Court of First Instance on the request of either party;
- (4) Further, if there is no agreement:
 - (a) where the arbitration agreement entitles each party to nominate an arbitrator, and there are more than 2 parties who have not agreed as to who should be appointed, the AIFC Court of First Instance shall appoint the arbitral tribunal;
 - (b) in such circumstances as set out at paragraph 4(a) of this Article, the arbitration agreement shall be treated for all purposes as a written agreement by the parties for the appointment of the arbitral tribunal by the AIFC Court of First Instance.
- (5) Where, under an appointment procedure agreed by the parties:
 - (a) a party does not comply with such procedure;
 - (b) the parties, or two arbitrators, do not reach an agreement expected of them under such procedure; or
 - (c) a third party, including an arbitral institution, does not perform any function entrusted to it under such procedure;



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any party may request the AIFC Court of First Instance to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

- (6) A decision entrusted on a matter by paragraph (3), (4) or (5) of this Article to the AIFC Court of First Instance shall not be subject to appeal. The AIFC Court of First Instance, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall also consider the advisability of appointing an arbitrator of a nationality other than that of any party.

21. **Grounds for challenge**

- (1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties and arbitral institution administering the arbitration unless they have already been informed of them by him.
- (2) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made.

22. **Challenge procedure**

- (1) The parties are free to agree on a procedure for challenging an arbitrator, subject to the provisions of paragraph (3) of this Article.
- (2) In the absence of such agreement, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstance referred to in Article 21(2), send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.
- (3) If a challenge under any procedure agreed upon by the parties or under the procedure of paragraph (2) of this Article is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, the AIFC Court of First Instance to decide on the challenge, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

23. **Failure or impossibility to act**

- (1) If an arbitrator becomes as a matter of fact or law unable to perform his functions or for other reasons fails to act without undue delay, his mandate shall terminate if he withdraws from his office or if the parties agree on the termination. In the absence of such agreement or if a controversy remains concerning any of these grounds, any party may request the AIFC Court of First Instance to decide on the termination of the mandate, which decision shall be subject to no appeal.



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- (2) If, under this Article or Article 22(2), an arbitrator withdraws from his office or a party agrees to the termination of the mandate of the arbitrator, this does not imply acceptance of the validity of any ground referred to in this Article or Article 21(2).

24. **Appointment of substitute arbitrator**

- (1) Where the mandate of an arbitrator terminates under Articles 22 or 23 or because of his withdrawal from office for any other reason or because of the revocation of his mandate by agreement of the parties or in any other case of termination of his mandate:
- (a) subject to any process agreed between the parties in the arbitration agreement, or thereafter, the parties may agree with the arbitrator as to his liabilities and entitlement (if any) to fees and expenses; and
 - (b) a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced, unless otherwise agreed by the parties.
- (2) If there is no agreement in accordance with Article 24(1)(a) as to the consequences of resignation, an arbitrator who resigns in the circumstances set out in Article 24(1) may, upon written notice to the parties, request the AIFC Court of First Instance to make an order relieving him of any liability incurred by reason of his resignation together with such order as the AIFC Court of First Instance deems appropriate with respect to his entitlement (if any) to fees and expenses, which orders shall be subject to no appeal.

25. **Liability of arbitral tribunal and others**

No arbitrator, employee or agent of an arbitrator, arbitral institution, officer or employee of an arbitral institution or appointing authority shall be liable to any person for any act or omission in connection with an arbitration unless they are shown to have caused damage by conscious and deliberate wrongdoing. This Article does not affect any liability incurred by an arbitrator by reason of his resigning.

CHAPTER 4: JURISDICTION OF ARBITRAL TRIBUNAL

26. **Competence of arbitral tribunal to rule on its jurisdiction**

- (1) The arbitral tribunal may 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 which 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 and void shall not by itself determine the invalidity of the arbitration clause.
- (2) A plea by a respondent or other party that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of his defence or, for another party, his first written statement on the substance of the dispute in the arbitration. A party is not precluded from raising such a plea by the fact that he 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.



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- (3) The arbitral tribunal may rule on a plea referred to in paragraph (2) of this Article either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party may request, subject to any process agreed between the parties, within thirty days after having received notice of that ruling, the AIFC Court of First Instance to decide the matter, which decision shall not be subject to appeal; while such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

27. Power of arbitral tribunal to order interim measures

- (1) The following provisions apply unless the parties have expressly agreed in writing that the arbitral tribunal shall not have power to order interim measures:
- (a) The arbitral tribunal may, at the request of a party, order any party to take such interim measures as the arbitral tribunal may consider necessary in relation to an arbitration. The arbitral tribunal may order any claiming or counterclaiming party to provide appropriate security in connection with such measure, including security for the legal or other costs of any party by way of deposit or bank guarantee or in any other manner and upon such terms as the arbitral tribunal considers appropriate. Any request made to the arbitral tribunal shall be simultaneously copied to all other parties to the arbitration.
- (b) An interim measure is any temporary measure, whether in the form of an award or in another form, by which, at any time prior to the issuance of the award by which the dispute is to be finally decided, the arbitral tribunal orders a party to:
- (i) maintain or restore the status quo pending determination of the dispute;
 - (ii) provide a means of preserving assets out of which a subsequent award may be satisfied or other means for securing or facilitating the enforcement of such an award;
 - (iii) take action that would prevent, or refrain from taking action that is likely to cause, current or imminent harm or prejudice to any party or to the arbitral process itself; or
 - (iv) preserve evidence that may be relevant and material to the resolution of the dispute.
- (c) The party requesting an interim measure under any of paragraphs (b)(i), (ii) and (iii) of this Article shall satisfy the arbitral tribunal that:
- (i) harm which will not be adequately reparable by an award of damages is likely to result if the interim measure is not ordered and that harm will substantially outweigh the harm, if any, that is likely to result to the party opposing the interim measure if the measure is ordered; and
 - (ii) 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.



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- (d) With regards to a request for an interim measure under paragraph (b)(iv) of this Article, the requirements in paragraph (c) of this Article shall apply only to the extent the arbitral tribunal considers appropriate.
 - (e) The arbitral tribunal may require any party to promptly disclose any material change in the circumstances on the basis of which the interim measure was requested or granted.
 - (f) The party requesting an interim measure may be liable for any costs and damages caused by the measure to any other party if the arbitral tribunal later determines that, in the circumstances, the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.
 - (g) 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.
- (2) With the written permission of the arbitral tribunal a party in whose favour an interim measure has been granted may request from the AIFC Court of First Instance an order enforcing the arbitral tribunal's order or any part of it. Any request for permission or enforcement made under this Article shall be simultaneously copied to all other parties. Unless the arbitral tribunal at any time directs otherwise, the party making a request to the AIFC Court of First Instance under this Article shall be entitled to recover in the arbitration any legal costs and AIFC Court of First Instance fees reasonably incurred.
- (3) Recognition or enforcement of an interim measure may be refused only:
- (a) At the request of the party against whom it is invoked if the AIFC Court is satisfied that:
 - (i) such refusal is warranted on the grounds set forth in Article 47;
 - (ii) the arbitral tribunal's decision with respect to the provision of security in connection with the interim measure issued by the arbitral tribunal has not been complied with;
 - (iii) the interim measure has been terminated or suspended under the law of which that interim measure was granted; or
 - (b) If the AIFC Court finds that:
 - (i) the interim measure is incompatible with the powers conferred upon the court unless the court decides to reformulate the interim measure to the extent necessary to adapt it to its own powers and procedures for the purposes of enforcing that interim measure and without modifying its substance; or
 - (ii) any of the grounds set out in Article 47(1)(b)(i) or (ii) apply to the recognition and enforcement of the interim measure.
- (4) Any determination made by the court on any ground in paragraph (3) of this Article shall be effective only for the purposes of the application to recognise and enforce the interim measure. The court where recognition or enforcement is sought shall not, in making that determination, undertake a review of the substance of the interim measure.



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- (5) The AIFC Court shall have the same power of issuing an interim measure in relation to arbitration proceedings, where their seat is in the AIFC, as it has in relation to proceedings in the AIFC Court. The AIFC Court shall exercise such power in accordance with its own procedures.

CHAPTER 5: CONDUCT OF ARBITRAL PROCEEDINGS

28. **Equal treatment of parties**

The parties shall be treated with equality and each party shall be given a full opportunity of presenting his case.

29. **Determination of rules of procedure**

- (1) Subject to the provisions of these Regulations, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.
- (2) In the absence of such agreement, the arbitral tribunal may, subject to the provisions of these Regulations, conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

30. **Seat of the arbitration**

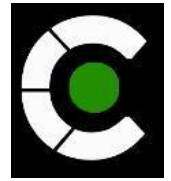
- (1) The parties are free to agree on the seat of the arbitration. In the absence of an agreement on the seat of arbitration:
- (a) where any dispute is governed by AIFC law, the seat of the arbitration shall be the AIFC;
- (b) in all other cases, the seat of the arbitration shall be designated by any arbitral or other institution or person vested by the parties with powers in that regard, or by the arbitral tribunal if so authorised by the parties, having regard to any other agreement of the parties and all the relevant circumstances.
- (2) Notwithstanding the provisions of paragraph (1) of this Article, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place in any country it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

31. **Commencement of arbitral proceedings**

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

32. **Language**

- (1) The parties are free to agree on the language or languages to be used in the arbitral proceedings. In the absence of such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified, shall



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apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

- (2) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

33. **Statements of claim and defence**

- (1) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.
- (2) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it.

34. **Hearings and written proceedings**

- (1) Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearing shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.
- (2) The parties shall be given sufficient advance notice as the arbitral tribunal shall decide of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of goods, other property or documents.
- (3) All statements, documents or other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Any expert report or evidentiary document on which the arbitral tribunal may rely in making its decisions shall be communicated to the parties.

35. **Default of a party**

Unless otherwise agreed by the parties, if, without showing sufficient cause:

- (a) the claimant does not communicate his statement of claim in accordance with Article 33(1), the arbitral tribunal shall terminate the proceedings;
- (b) the respondent does not communicate his statement of defence in accordance with Article 33(1), the arbitral tribunal shall continue the proceedings without treating such lack of communication in itself as an admission of the claimant's allegations; or
- (c) any party does not appear at a hearing or does not produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.



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36. **Expert appointed by arbitral tribunal**

- (1) Unless otherwise agreed by the parties, the arbitral tribunal:
 - (a) may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal; and
 - (b) may require a party to give the expert(s) any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.
- (2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert(s) shall, after delivery of his written or oral report, participate in a hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.
- (3) The expenses and costs of the expert(s) appointed by the arbitral tribunal pursuant to this Article shall be borne by the parties in accordance with any determination made by the arbitral tribunal in that respect, which determination shall be binding and final.

37. **Court assistance in taking evidence**

The arbitral tribunal or a party with the approval of the arbitral tribunal may request from the AIFC Court assistance in taking evidence. The AIFC Court may execute the request within its competence and according to its rules on taking evidence.

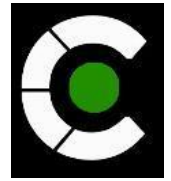
CHAPTER 6: MAKING OF AWARD AND TERMINATION OF PROCEEDINGS

38. **Rules applicable to substance of dispute**

- (1) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of a given State or jurisdiction shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State or jurisdiction and not to its conflict of laws rules.
- (2) In the absence of any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable, provided that the parties shall be free to agree in writing that the arbitral tribunal may apply the law or rules of law which it considers to be most appropriate in the facts and circumstances of the dispute.
- (3) In all cases, the arbitral tribunal shall make determinations in accordance with principles of equity and good conscience only if the parties have expressly authorised it to do so.
- (4) In all cases, the arbitral tribunal shall make determinations in accordance with the terms of the contract and applicable law, and shall consider the usages of the trade applicable to the transaction.

39. **Decision making by panel of arbitrators**

In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if so authorised by the parties or all members of the arbitral tribunal.



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40. **Settlement**

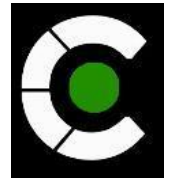
- (1) If during arbitral proceedings the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.
- (2) An award on agreed terms shall be made in accordance with the provisions of Article 41 and shall state that it is an agreed award. Such an award has the same status and effect as any award made on the merits of the case.

41. **Form and contents of award**

- (1) The award shall be made in writing and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reasons for any omitted signature is stated.
- (2) The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under Article 40.
- (3) The award shall state its date and the seat of the arbitration as determined in accordance with Article 30(1). The award shall be deemed to have been made at the seat of the arbitration.
- (4) After the award is made, a copy signed by the arbitrators in accordance with paragraph (1) of this Article shall be delivered to each party.
- (5) The arbitral tribunal shall fix the costs of the arbitration in its award. The term “costs” includes only:
 - (a) the fees of the arbitral tribunal to be stated separately as to each arbitrator;
 - (b) the properly incurred travel and other expenses incurred by the arbitrators;
 - (c) the costs of expert advice and of other assistance required by the arbitral tribunal;
 - (d) the travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;
 - (e) such other costs as are necessary for the conduct of the arbitration, including those for meeting rooms, interpreters and transcription services;
 - (f) the costs for legal representation and assistance of the successful party if such costs were claimed during the arbitration, and only to the extent that the arbitral tribunal determines that the amount of such costs is reasonable; and
 - (g) any fees and expenses of any arbitral institution or appointing authority.

42. **Termination of proceedings**

- (1) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with paragraph (2) of this Article.



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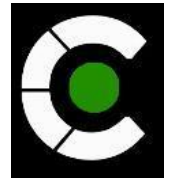
- (2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:
 - (a) the claimant withdraws his claim, unless the respondent objects and the arbitral tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute;
 - (b) the parties agree on the termination of the proceedings; or
 - (c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
- (3) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to the provisions of paragraph (5) of this Article and of Articles 43 and 44(4).
- (4) The arbitral tribunal may refuse to deliver a final award or an order for termination of the arbitral proceedings in accordance with paragraph (2) of this Article to the parties until its fees and expenses are paid in full.
- (5) Subject to any process agreed between the parties in the arbitration agreement, if the arbitral tribunal refuses to deliver an award or order to the parties until its fees and expenses are paid, a party to the arbitral proceedings may apply to the AIFC Court of First Instance which may:
 - (a) order the arbitral tribunal to deliver the award or order on the payment into the AIFC Court of First Instance by the applicant of the fees and expenses demanded, or such lesser sum as the AIFC Court of First Instance may specify;
 - (b) determine, by such means as the AIFC Court of First Instance considers appropriate, the amount of fees and expenses properly payable; and
 - (c) out of the money paid into the AIFC Court of First Instance there shall be paid out such fees and expenses as may be found to be properly payable and the balance of the money (if any) shall be paid out to the applicant.

43. **Correction and interpretation of award; additional award**

- (1) Within thirty days of receipt of the award, unless another period of time has been agreed upon by the parties:
 - (a) a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors or any errors of a similar nature;
 - (b) if agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within thirty days of receipt of the request. The interpretation shall form part of the award.

- (2) The arbitral tribunal may correct any error of the type referred to in paragraph (1)(a) of this Article on its own initiative within thirty days of the date of the award.



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- (3) Unless otherwise agreed by the parties or in respect of an agreed award made under Article 40, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days.
- (4) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, interpretation or an additional award under paragraph (1) or (3) of this Article.
- (5) The provisions of Article 41 shall apply to a correction or interpretation of the award or to an additional award.

CHAPTER 7: RECOURSE AGAINST AWARD

44. Application for setting aside as exclusive recourse against arbitral award

- (1) Recourse to a court against an arbitral award made in the seat of the AIFC may be made only by an application for setting aside in accordance with paragraphs (2) and (3) of this Article.
- (2) Such application may only be made to the AIFC Court. An arbitral award may be set aside by the AIFC Court only if:
 - (a) the party making the application furnishes proof that:
 - (i) a party to the arbitration agreement was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, in the absence of any indication, under the law of the AIFC;
 - (ii) the party making the application was not given proper notice of the appointment of an arbitrator or the arbitral proceedings or was otherwise unable to present his case;
 - (iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside; or
 - (iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of these Regulations from which the parties cannot derogate, or, in the absence of such agreement, was not in accordance with these Regulations; or
 - (b) the AIFC Court finds that:
 - (i) the subject matter of the dispute is not capable of settlement by arbitration under AIFC law; or



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- (ii) the award is in conflict with the public policy of the Republic of Kazakhstan.
- (3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the award, or such longer period as the parties to the arbitration have agreed in writing, or, if a request had been made under Article 43, from the date on which that request had been disposed of by the arbitral tribunal.
- (4) The AIFC Court, when asked to set aside an award, may, where appropriate and requested by a party, suspend the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.



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PART 3: RECOGNITION AND ENFORCEMENT OF AWARDS

45. Recognition and enforcement of awards

- (1) An arbitral award, irrespective of the State or jurisdiction in which it was made, shall be recognised as binding within the AIFC and, upon application in writing to the AIFC Court, shall be enforced within the AIFC subject to the provisions of this Article and of Articles 46 and 47. For the avoidance of doubt, where the Republic of Kazakhstan has entered into an applicable treaty for the mutual enforcement of judgments, orders or awards, the AIFC Court shall comply with the terms of such treaty.
- (2) The party relying on an award or applying for its enforcement shall supply the original award or duly certified copy and the original arbitration agreement referred to in Article 15 or a duly certified copy. If the award or the agreement is not made in English, the AIFC Court may request the party to supply a duly certified translation.
- (3) For the purposes of the recognition or enforcement of any award within the AIFC, an original award or an original arbitration agreement shall be duly certified if it is a copy that is certified in the manner required by the laws of the jurisdiction in the place of the arbitration or elsewhere. A translation shall be duly certified if it has been certified as correct by an official or sworn translator in the place of arbitration or elsewhere.

46. Recognition

- (1) Where, upon the application of a party for recognition of an arbitral award, the AIFC Court decides that the award shall be recognised, it shall issue an order to that effect.
- (2) An order recognising an arbitral award shall be issued in English and Russian or Kazakh, unless the AIFC Court shall determine otherwise. Each language version, in its original or certified copy form, shall constitute sufficient proof of recognition.

47. Grounds for refusing recognition or enforcement

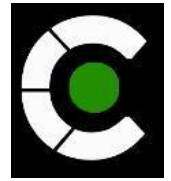
- (1) Recognition or enforcement of an arbitral award, irrespective of the State or jurisdiction in which it was made, may be refused by the AIFC Court only:
 - (a) at the request of the party against whom it is invoked, if that party furnishes to the AIFC Court proof that:
 - (i) a party to the arbitration agreement as defined in Article 15 of these Regulations was under some incapacity; or the arbitration agreement is not valid under the law to which the parties have subjected it or, in the absence of any indication, under the law of the State or jurisdiction where the award was made;
 - (ii) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case;
 - (iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters



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submitted to arbitration can be separated from those not submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognised and enforced;

- (iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, in the absence of such agreement, was not in accordance with the law of the State or jurisdiction where the arbitration took place; or
 - (v) the award has not yet become binding on the parties or has been set aside or suspended by a court of the State or jurisdiction in which, or under the law of which, that award was made; or
- (b) if the AIFC Court finds that:
- (i) the subject matter of the dispute would not have been capable of settlement by arbitration under the laws of the AIFC; or
 - (ii) the enforcement of the award would be contrary to the public policy of the Republic of Kazakhstan.
- (2) If an application for the setting aside or suspension of an award has been made to a court referred to in paragraph (1)(a)(v) of this Article, the AIFC Court may, if it considers it proper, adjourn its decision and may also, on the application of the party seeking recognition or enforcement of the award, order the other party to provide appropriate security.
- (3) Any party seeking recourse against an arbitral award made in the seat of the AIFC shall not be permitted to make an application under paragraph (1)(a) of this Article if it has made or could have made an application under Article 44 of these Regulations.



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PART 4: THE INTERNATIONAL ARBITRATION CENTRE

48. Establishment and purpose

An International Arbitration Centre shall be established as an independent legal entity in the AIFC territory pursuant to the AIFC Constitutional Statute, and shall be called “The International Arbitration Centre”. It shall provide an independent and expeditious alternative to court litigation to resolve civil and commercial disputes in the AIFC.

49. Functions

The International Arbitration Centre shall provide the following services:

- (1) Exclusive administration of arbitrations governed by the International Arbitration Centre Arbitration Rules, subject to the agreement of the parties to a case, and such rules to include procedures for expedited arbitrations, the appointment of emergency arbitrators, and resolution of investment treaty disputes;
- (2) Administered arbitrations governed by UNCITRAL Arbitration Rules and ad hoc arbitration rules subject to the agreement of the parties to a case;
- (3) Mediations governed by the International Arbitration Centre Mediation Rules and ad hoc mediation rules subject to the agreement of the parties to a case;
- (4) Other forms of alternative dispute resolution subject to the agreement of the parties to a case;
- (5) Fundholding, to hold and disburse advances in relation to costs associated with use of the International Arbitration Centre’s services and facilities;
- (6) An appointment authority, to assist with the appointment of arbitrators and mediators to arbitrations and mediations conducted at the International Arbitration Centre or elsewhere; and
- (7) State of the art administrative facilities, including conference, meeting, and hearing rooms, at its premises, to be known as “The International Arbitration Centre Chambers”.

50. Administration

- (1) The International Arbitration Centre shall have a Chairman who shall be appointed by the Governor normally for a term of 5 years that can be renewed.
- (2) The responsibilities of the Chairman may include:
 - (a) the maintenance and appropriate arrangements for the welfare, training and guidance of the Registrar, deputy Registrars, officials and staff;
 - (b) preparing and approving strategies, policies and objectives of the International Arbitration Centre, preparing reports on the implementation of these strategies, policies and objectives, and presenting the same to the Governor;



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- (c) publishing Practice Directions prescribing the fees payable to the International Arbitration Centre in connection to the performance of its functions or the provision of its facilities or the exercise of its powers;
 - (d) the day to day management of the International Arbitration Centre, its activities, the Registrar, deputy Registrars, officials and staff;
 - (e) recommending to the Governor the appointment and removal of the Registrar, deputy Registrars, officials and staff of the International Arbitration Centre, for the Governor to approve the appointment and removal, the terms and conditions of appointment and removal, and remuneration; and
 - (f) all other responsibilities provided in these Regulations, including those with regard to budget and reporting.
- (3) The Chairman and Governor may agree any additional operation support for the International Arbitration Centre by the AIFC Authority.

51. **Budget and financial reporting**

- (1) The International Arbitration Centre shall have its own budget formed from the funds of the Republican budget in the form of a targeted transfer in accordance with the budget legislation of the Republic of Kazakhstan. The target transfer received by the International Arbitration Centre from the budget of the AIFC Authority shall be used for the purposes of maintaining and financing activities of the International Arbitration Centre.
- (2) For each financial year the Chairman shall submit for approval to the AIFC Authority estimates of the income and expenditure required by the International Arbitration Centre. Such estimates shall include figures relating to levels of remuneration and entitlement to expenses of the Chairman, Registrar, deputy Registrars, officials, staff and agents of the International Arbitration Centre.
- (3) The AIFC Authority shall be responsible for processing all payments and procurements of the International Arbitration Centre, and opening, operating and managing bank accounts of the International Arbitration Centre. The AIFC Authority shall also provide any financial reports required by the budget legislation of the Republic of Kazakhstan.
- (4) The Chairman shall make all reasonable efforts to spend the funds received by the AIFC Authority for the International Arbitration Centre budget in the performance of the functions of the International Arbitration Centre.
- (5) The Chairman shall keep accounting records which are sufficient to show and explain any transactions of the International Arbitration Centre's transactions that are reasonably accurate and sufficient to disclose at any time the income and expenditure and assets and liabilities and financial position of the International Arbitration Centre.
- (6) As soon as reasonably practicable after the end of each financial year the Chairman, in consultation with the Governor, shall prepare and review the International Arbitration Centre's accounts for the previous year. Those accounts shall be in the form which accords with internationally accepted accounting principles. They shall be audited by independent auditors, being a firm of chartered accountants with an office in the AIFC or Republic of Kazakhstan.



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- (7) The Chairman shall as soon as reasonably practicable after the end of each financial year send to the Governor and Council an annual report with a copy of the audited accounts of the International Arbitration Centre and a report of its activities for the previous year. The annual report shall give a true and fair view of the state of the operations, cash flows and financial activities of the International Arbitration Centre as at the end of the relevant financial year.

52. **Establishment and functions of the Registry and Registrar of the International Arbitration Centre**

- (1) The Chairman shall establish a Registry.
- (2) The Chairman shall recommend to the Governor a person for appointment as Registrar. The appointment shall normally be for a term of five years that can be renewed. The Registrar shall be the Chief Executive of the Registry. The terms and conditions of the Registrar's appointment and remuneration shall be determined by the Governor in consultation with the Chairman. The Registrar of the International Arbitration Centre and the Registrar of the AIFC Court may be the same person until the Chairman considers it necessary for a separate person to be appointed as Registrar of the International Arbitration Centre.
- (3) The Registrar:
- (a) shall report directly to the Chairman;
 - (b) shall be responsible for assisting the Chairman with the day to day management and administration of the International Arbitration Centre; and
 - (c) shall be responsible for case management of administered cases before the International Arbitration Centre.
- (4) The Registrar shall have power to do all things necessary or convenient for the purpose of assisting the Chairman in the exercise of his powers or duties as imposed on him by or under:
- (a) the AIFC Constitutional Statute;
 - (b) these Regulations; or
 - (c) the AIFC International Arbitration Centre Arbitration and Mediation Rules.
- (5) The Registrar shall have such other powers and duties as may be conferred upon him by or under:
- (a) the AIFC Constitutional Statute;
 - (b) these Regulations;
 - (c) the AIFC International Arbitration Centre Arbitration and Mediation Rules; or
 - (d) a delegation or direction from the Chairman.
- (6) In performing his powers and duties the Registrar shall comply with the directions of the Chairman.
- (7) The Chairman shall recommend to the Governor the suspension or removal of the Registrar from office if during the term of office:



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- (a) he becomes incapable through ill-health of effectively performing the duties of his office;
 - (b) he is convicted of a criminal offence punishable by imprisonment; or
 - (c) he has committed misconduct that makes him unfit to continue in office.
- (8) The Chairman shall establish a procedure under these Regulations which may be used for the investigation and determination of allegations of misconduct by the Registrar. This procedure may include:
- (a) the circumstances in which an investigation must or may be undertaken (on the making of a complaint or otherwise);
 - (b) the steps to be taken by a complainant before a complaint is to be investigated;
 - (c) the conduct of an investigation, including steps to be taken by the Registrar under investigation or by a complainant or other person;
 - (d) the time limits for taking any step and procedures for extending time limits;
 - (e) the persons by whom an investigation or part of an investigation is to be conducted;
 - (f) the matters to be determined by the Chairman, the Council, the judicial office holder under investigation or any other person;
 - (g) the requirements as to records of investigations;
 - (h) the requirements as to confidentiality of communications of proceedings; and
 - (i) the requirements as to the publication of information or its provision to any person.
- (9) When the Chairman considers it desirable to enable the International Arbitration Centre to perform its duties he may recommend to the Governor the appointment of deputy Registrars and officers to whom the Registrar may delegate any of his responsibilities. Deputy Registrars and officers shall report directly to the Registrar and shall be appointed and removed from office on such terms as are determined by the Governor in consultation with the Chairman.
- (10) The Registrar, deputy Registrars, and officers, shall as soon as becoming aware, give written notice to the Chairman of all direct or indirect interests or any conflict of interest that may interfere with the exercise of their duties.
- (11) References in these Regulations to the Registrar include deputy Registrars acting under the delegated authority of the Registrar.

53. **Immunity**

The International Arbitration Centre, the Chairman, any arbitrator, Registrar, deputy Registrar, officer, employee or agent, cannot be held liable for anything done or omitted to be done in the performance or purported performance of the functions, or in the exercise or purported exercise of any powers, under these Regulations, the AIFC Constitutional Statute, AIFC Regulations, the International Arbitration Centre



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Arbitration and Mediation Rules, AIFC Rules, Practice Directions or Practice Guides, except if the act or omission is shown to have been done in bad faith.

54. **Rules, Practice Directions and Practice Guides**

- (1) The Arbitration and Mediation Rules of the International Arbitration Centre are to be called “The International Arbitration Centre Arbitration and Mediation Rules”. They may be made to govern and provide for practice and procedure to be followed in arbitrations and mediations administered at the International Arbitration Centre subject to agreement of the parties to a case.
- (2) The International Arbitration Centre Arbitration and Mediation Rules may provide for any matter of practice or procedure to be made and/or governed by Practice Directions.
- (3) The International Arbitration Centre Arbitration and Mediation Rules, Practice Directions and Practice Guides, may be made, amended, repealed, or revoked, by the Chairman only.
- (4) The Registrar shall publish the International Arbitration Centre Arbitration and Mediation Rules under this Article, which shall come into force on such day as the Chairman directs.

55. **Miscellaneous**

- (1) The International Arbitration Centre may:
 - (a) establish any advisory committee as the Chairman deems necessary to assist with the performance of the International Arbitration Centre’s functions;
 - (b) establish an arbitrator list and arbitrator code of conduct to provide access to arbitrators and the highest standards of arbitrator practice and conduct;
 - (c) promote the International Arbitration Centre as a hub for the alternative settlement of disputes in the AIFC and internationally;
 - (d) host conferences, seminars, lectures, and other events relating to the International Arbitration Centre and alternative dispute resolution;
 - (e) publish books, journals, articles, and papers on alternative dispute resolution and legal issues of interest to the AIFC;
 - (f) provide training programs on arbitration, mediation, negotiation, and other forms of alternative dispute resolution; and
 - (g) enter into cooperation agreements with any professional bodies, training organisations, institutions, or societies, located in the Republic of Kazakhstan or elsewhere.



SCHEDULE

INTERPRETATION

1. Rules of interpretation:

- (1) English is the authoritative language of these Regulations.
- (2) In these Regulations, references to:
 - (a) the masculine includes the feminine or the neuter;
 - (b) the singular includes the plural, and vice versa; and
 - (c) a provision of the AIFC Constitutional Statute, an AIFC Regulation, or AIFC Rules, includes a reference to the provision as amended or re-enacted from time to time.
- (3) The headings in these Regulations shall not affect the interpretation of these Regulations.
- (4) Where a provision of these Regulations, except Article 34, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorise a third party, including an institution, to make that determination.
- (5) Where a provision of these Regulations refers to the fact that the parties have agreed or that they may agree or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules, including those of any institution, referred to in that agreement.
- (6) Where a provision in these Regulations, other than in Articles 35(a) and 42(2)(a), refers to a claim, it also applies to a counter-claim, and where it refers to a defence, it also applies to a defence to such counter-claim.

2. Calculation of periods of time

Time periods specified in these Regulations shall start to run on the day following the day when a notice or communication is received, unless the arbitral tribunal shall specifically provide otherwise. If the last day of any such period is an official holiday or a non-business day at the place where the notice or communication is received, the period shall be extended until the first business day which follows. Official holidays and non-business days occurring during the running of the period of time shall otherwise be included for the purposes of calculating the period.

3. Defined terms

In these Regulations:

AIFC, means the Astana International Financial Centre.

AIFC Constitutional Statute, means the Constitutional Statute on the Astana International Financial Centre 2015.

AIFC Court, means the Court of the Astana International Financial Centre, as established by the AIFC Constitutional Statute 2015 and the AIFC Court Regulations 2017.



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AIFC law, means the law of the AIFC as defined in Article 4 of the AIFC Constitutional Statute 2015.

Arbitration, means the resolution of disputes conducted pursuant to an Arbitration Agreement, as defined at Article 15 of these Regulations.

Arbitral tribunal, means a sole arbitrator or a panel of arbitrators.

Calendar year, means a year of the Gregorian calendar.

Council, means the AIFC Management Council.

Court, means any competent court of any State or jurisdiction, including the AIFC Court where applicable.

Day, means a business day, being a normal working day in the AIFC.

Financial year, means 1 January until 31 December of each year.

Governor, means the Governor of the AIFC.

Person, means any natural person, body corporate or body incorporate, including a company, partnership, unincorporated association, government or state.

Seat, means the juridical seat which indicates the procedural law chosen by the parties to govern their arbitration as designated in Article 30 of these Regulations.