

**ARBITRATION CENTER OF THE AMERICAN CHAMBER OF COMMERCE FOR
BRAZIL – SÃO PAULO
BYLAWS**

1. ARBITRATION CENTER

- 1.1. The Arbitration Center connected with the American Chamber of Commerce for Brazil – São Paulo, hereinafter referred to as Amcham Arbitration Center, is an institutional body, independent from the parties, and impartial in relation to any request.
- 1.2. Amcham Arbitration Center is constituted by a Management Committee, hereinafter referred to as Committee, and a Secretariat.
- 1.3. Members of the Committee may be reassigned to the position pursuant to section 1.6.
- 1.4. The Amcham Arbitration Center Committee is constituted of a minimum of six (6) and a maximum of eight (8) members, with individual term of office of three (3) years.
- 1.5. The replacement of members of the Committee will be made alternately, with appointment and establishment in office of a minimum of two (2) and a maximum of three (3) new members at each year.
- 1.6. The appointment of new members will be made by the executive officer of the American Chamber of Commerce of Brazil – São Paulo then in office, no later than November 15th at each year, and submitted to the approval of the Committee. After that, no later than November 30th of each year, the Committee shall submit the appointment of new members for approval of the Amcham Executive Committee.
- 1.7. In case the Committee or Amcham Executive Committee fails to approve the appointment of any new member, the abovementioned procedure shall start again, and the term for appointment of new members to be replaced until investiture of new members will be postponed.
- 1.8. The majority among the members of the Committee will designate its President and Vice-President for a one- (1) year term, being allowed the reelection for a second consecutive term and any non-consecutive term.

2. ARBITRATION CENTER DUTIES

- 2.1. It is incumbent upon the Arbitration Center, under supervision of its President, to coordinate the arbitral proceeding, ensuring its good development and closing and the practice of all actions necessary or convenient for that purpose. The Arbitration Center has, among others, the following duties and responsibilities:

- (i) ensure the compliance with the law and the Arbitration Center Rules;
- (ii) give administrative support to arbitrators and other people from time to time involved in arbitral proceedings;
- (iii) issue and approve instructions and internal administrative Rules deemed useful and/or necessary in order to settle doubts or omissions and advise on the application of the provisions set forth herein;
- (iv) in case of connection or relation in arbitral proceedings, determine *ex officio* or upon request of any of the parties to bring the procedures together in order to decide on their subjects simultaneously;
- (v) designate an Amcham's employee to carry out the duties of a Secretary in arbitral proceedings, hereinafter referred to as Secretary, such as, among others, receipt and issue of notifications and communications, in addition to coordinate practices in connection with the procedures inherent to arbitration and its phases.

3. RESPONSIBILITIES OF AMCHAM ARBITRATION CENTER COMMITTEE MEMBERS

- 3.1. It is incumbent upon the Committee to supervise the activities of the Arbitration Center itself, as well as the activities of other persons involved in the arbitral proceedings.
- 3.2. It is incumbent upon the Vice-President of the Committee to substitute the President in his/hers absence or disqualification.
- 3.3. It is incumbent upon the other members of the Arbitration Center:
 - (i) Upon disqualification of other members, perform the duties inherent to the President of the Committee, observing the criteria of members with a longer period in office and older age;
 - (ii) assist the President of the Arbitration Center in performing his/hers duties;
 - (iii) perform duties assigned to them by the President of the Arbitration Center.

Members of the Arbitration Center may act as arbitrator or attorney-in-law for any party in arbitral proceedings. In this event, any member of the Committee acting as arbitrator or attorney-in-fact of the party will refrain from participating in the decisions relating to the procedure at issue.

4. DUTIES OF THE SECRETARIAT OF AMCHAM ARBITRATION CENTER

- 4.1. It is incumbent upon the Secretariat of Amcham Arbitration Center to constitute the Arbitral Tribunal, to conduct the communication among the parties and the parties and the Arbitral Tribunal, safeguard documents received, and diligently and promptly practice all acts necessary to carry out the arbitral proceedings, ensuring the secrecy and confidentiality of the documents and information of the arbitral proceedings.

**RULES OF THE ARBITRATION CENTER OF THE AMERICAN CHAMBER OF
COMMERCE FOR BRAZIL -
SÃO PAULO**

I. PRELIMINARY

- 1.1. All controversies relating to available equity rights may be settled by means of arbitration, and the parties involved will be bound on the Rules provided for herein.
- 1.2. The Amcham Arbitration Center shall not render any decision on litigation submitted to it; it shall only manage and ensure the correct development of the arbitral proceedings in accordance with the rules included herein.
- 1.3. The settlement of any controversy submitted to arbitration will be made by observing the provisions of these Rules, as well as legal provisions applicable to the matter at issue, and it shall not be permitted the use of any arbitral proceedings ruled by the Rules of any other institution.
- 1.4. Any amendment to these Rules agreed by the parties, particularly as to terms established therein should only be applicable to that case established therein.
- 1.5. Where these Rules are silent, the Committee will take the decisions necessary to the development of the arbitration, which shall be further reviewed by the Arbitral Tribunal.

**2. COMMUNICATION OF THE CONTROVERSY TO AMCHAM
ARBITRATION CENTER**

- 2.1. The party wishing to have recourse to arbitration under these Rules shall submit a request in writing for that purpose addressed to the Secretariat, to which the following documents will be attached, and by briefly providing the following information:
 - (i) its name in full and description, in addition to the name in full and description of other parties involved;
 - (ii) copy of the integral agreement, as well as any amendment and/or addenda thereto or any additional document including the arbitration clause;
 - (iii) a summary including exclusively the explanation of the controversy and the request with relevant specifications; and
 - (iv) amount in dispute.
- 2.2. In case the arbitration clause fails to expressly establish, the claimant may further suggest the place and the language of the arbitral proceeding.
- 2.3. It is incumbent upon the Secretariat of Amcham Arbitration Center to deliver to the other party the request to constitute the arbitral proceeding with a copy of the documents submitted by claimant.

- 2.4. In case the agreement subject to controversy fails to provide in the arbitration clause the legal authority of Amcham Arbitration Center to carry out the arbitral proceedings, the parties shall agree in writing that the arbitral proceedings will be carried out pursuant to these Rules.

3. ARBITRATORS

- 3.1. The arbitrators may be any qualified person, of good repute and outstanding moral qualities, with recognized technical or legal knowledge, whether resident or not in the country, without any restriction as to nationality and citizenship, enjoying the confidence of the parties, and non disqualified pursuant to these Rules.
- 3.2. The arbitrators chosen as provided herein shall be and remain independent from the parties in controversy, and shall carry out their duties with unquestionable impartiality, independence, competence, diligence, discretion, and confidentiality.

4. DISQUALIFICATION OF ARBITRATORS

- 4.1. It shall be forbidden to act as arbitrators those disqualified or on suspicion of partiality pursuant to the provisions below.
- 4.2. It shall be considered adequate the suspicion of partiality of an arbitrator, inter alias, the following circumstances:
- (i) if he/she is close friend or enemy of any of the parties, or of its managers, assignees, partners, shareholders, or quotaholders;
 - (ii) if he/she is direct creditor or debtor of any of the parties or whose spouse or relative, next of kin or close relative up to third degree, is creditor or debtor of any of the parties;
 - (iii) if he/she is presumptive heir, donee, employer or employee of any of the parties;
 - (iv) if he/she has a mediate or immediate interest in the judgement of the controversy in favor of any of the parties and/or third parties related to them; and/or
 - (v) if he/she acted as mediator or moderator for any of the parties in the pre-controversy, unless the parties expressly establish otherwise.

5. REPLACEMENT OF APPOINTED ARBITRATORS

- 5.1. In case of disqualification or suspicion of partiality, it shall incumbent upon the arbitrator to deny his/hers appointment or waive at any time, in view of the occurrence or knowledge of any fact preventing him/her to continue his/hers duties, by means of a notice addressed to the Secretariat of Amcham Arbitration Center. The arbitrator will be exclusively liable for loss and damage of any kind incurred due to the nonobservance of such duty.
- 5.2. Each party may reasonably request the replacement of the appointed arbitrator subject to disqualification or suspicion of partiality, by means of the express

communication to the Secretariat of Amcham Arbitration Center within thirty (30) days from the date such fact is acknowledged.

- 5.3. It is incumbent upon the Committee to decide upon the replacement of the arbitrator within ten (10) days.
- 5.4. An arbitrator shall be replaced in the course of the arbitral proceedings pursuant to the foregoing provisions upon occurrence of any event of disqualification or suspicion, or his/hers death or incapacity.

6. THE ARBITRAL TRIBUNAL

- 6.1. The parties shall have ten (10) days as of receipt of the communication established in section 2.1 to appoint an arbitrator, by sending a notice in writing to the Secretariat of Amcham Arbitration Center.
- 6.2. The Committee will have ten (10) days as of receipt of the communication to confirm the appointment of the arbitrators appointed by the parties.
- 6.3. In case any of the arbitrators fails to accept the appointment or of failure by the Committee to confirm the appointment, the party who appointed the arbitrator will make a new appointment within ten (10) days. If the party fails to appoint a new arbitrator, or in case of failure to confirm the new appointment, the Committee shall appoint an arbitrator within the following ten (10) days.
- 6.4. Upon acceptance by Amcham Arbitration Center of the appointment of the arbitrators, within five (5) days, the Secretariat will officially notify the arbitrators their respective appointments, with a copy of the request and the documents attached thereto.
- 6.5. The arbitrators confirmed by the Management Committee will certify their participation in the arbitral proceeding by signing the independence statement pursuant to the form attached hereto (designated as Independence Statement) or other instrument with similar terms, within ten (10) days as of the date of receipt of the notification specified in section 6.5.
- 6.6. The arbitrators shall, within ten (10) days as of execution date of the Independence Statement, elect the third arbitrator to act as chairman of the Arbitral Tribunal, by means of express notification to Amcham Arbitration Center. This choice will be subject to the terms and procedures of section 6.2, 6.3 and 6.4 above.
- 6.7. Upon the express request of the parties to the Secretariat of Amcham Arbitration Center or pursuant to the terms of the arbitration clause, a sole arbitrator will hear the procedure. In such event, the parties shall agree with the name of the arbitrator within ten (10) days as of the date of receipt of the notification of the Arbitration Center concerning the constitution of the arbitral proceedings. The appointment of a sole arbitrator is subject to the terms and procedures of sections 6.2, 6.3 and 6.4 above. In the failure of an agreement, the Committee shall appoint the arbitrator.

- 6.8. In case the parties fail to appoint the arbitrator of their choice upon expiration of the relevant time limit, it shall be incumbent upon the Committee to do so within ten (10) days.
- 6.9. In case the arbitrators so appointed fail to appoint the third arbitrator to act as chairman of the Arbitral Tribunal upon expiration of the relevant time limit, it shall be incumbent upon the Committee to do so within ten (10) days.
- 6.10. In the event of more than one Claimant or Respondent and provided that the controversy will not be submitted to a sole arbitrator, the Respondents, jointly, and the Claimants, jointly, will designate their respective arbitrators under penalty of entitling the Committee to appoint all three arbitrators of the Arbitral Tribunal, in addition to the arbitrator who shall act as Chairman.

7. ATTORNEYS OF THE PARTIES

- 7.1. The parties may be represented in the arbitral proceeding by attorneys regularly constituted, and the relevant power-of-attorney shall be submitted to Amcham Arbitration Center and deposited by the Secretary, with express powers, if applicable, to sign the Terms of Arbitration.
- 7.2. All communications, notifications, summons, and other correspondence and notices specified in these Rules will be served to the attorneys appointed by the party, unless the relevant power-of-attorney or the Terms of Arbitration expressly establish otherwise.

8. TERMS OF ARBITRATION

8.1. It shall be incumbent upon the Arbitral Tribunal to prepare the draft of the Terms of Arbitration before being finally approved by the parties. The Terms of Arbitration will include, among other provisions of interest of the parties and the Arbitral Tribunal:

- (i) name and description of the parties and their representatives;
- (ii) name and description of the arbitrators appointed by them, as well as of the arbitrator who shall act as Chairman of the Arbitral Tribunal;
- (iii) brief description of the controversy, claim of the parties, their requests and amounts pled;
- (iv) place where the award will be rendered;
- (v) responsibility for payment of procedural cost, expert and arbitrators fees;
- (vi) law applicable to the arbitration, and, if applicable, authorization to apply equity principles;
- (vii) the time limit to render the award;
- (viii) place of the arbitration;
- (ix) language to be used.

- 8.1. The Terms of Arbitration shall be signed by the parties and arbitrator(s), and two witnesses. The absence of signature of any of the parties in the Terms of Arbitration shall not prevent the ordinary course of the proceedings.

9. ARBITRAL PROCEEDING

- 9.1. It shall be incumbent upon the party requesting the constitution of the arbitral proceeding – hereinafter referred to as Claimant – to submit to the Arbitral Tribunal its complaint within fifteen (15) days from execution date of the Terms of Arbitration, with the facts and considerations of the law for the request, its specifications, and the amount in dispute.
- 9.2. The Respondent will have thirty (30) days as of receipt of a copy of the complaint to submit to the Arbitral Tribunal its answer.
- 9.3. The Claimant will have fifteen (15) days as of receipt of a copy of the answer of the Respondent to submit to the Arbitral Tribunal its reply.
- 9.4. The Respondent will have fifteen (15) days as of receipt of a copy of the reply of the Claimant to submit to the Arbitral Tribunal its rebuttal.
- 9.5. The Arbitral Tribunal shall decide on the taking of evidences requested by the parties or production of evidences it may consider applicable.
- 9.6. In case the production of testimony is necessary, the Arbitral Tribunal will summon the parties, and occasionally, the experts, to attend the preliminary hearing, at a predetermined place, date and time.
- 9.7. The Arbitral Tribunal may determine the conduction of investigation out of the place of the arbitration, and shall communicate the parties the date, time and place in order to allow them, at their exclusive discretion, to monitor or not the investigation. The Arbitral Tribunal will, within ten (10) days after conclusion of the investigation, draw up a statement reporting the occurrences and its conclusion, which shall be attached to the communication to be immediately sent to the parties.
- 9.8. The arbitral proceeding will be carried out in absentia of any of the parties, provided that they have been duly summoned. However, the award shall not be exclusively substantiated in the absence of any of the parties.
- 9.9. Upon conclusion of the discovery phase, the parties may submit briefs to the Arbitral Tribunal within no later than thirty (30) days.

10. PROVISIONAL, BINDING OR PREEMPTIVE MEASURES

- 10.1. Upon request of the parties, or at their exclusive discretion, the Arbitral Tribunal may determine provisional, binding or preemptive measures.
- 10.2. In case of emergency, and in the event the Arbitral Tribunal is not duly convened, the parties may request provisional or binding measure to the applicable judicial authority. In this case, the party shall immediately give

notice of the request to Amcham Arbitration Center. Upon constitution of the Arbitral Tribunal, it may reconsider the measure granted by the judicial authority.

- 10.3. The parties shall observe the measure granted by the Arbitral Tribunal. Otherwise, the Arbitral Tribunal or the interested party may request its enforcement to the relevant judicial court.

11. AWARD

- 11.1. The award may be rendered by majority, and each arbitrator shall be entitled to one vote. If there be no majority, the vote of the chairman of the Arbitral Tribunal shall prevail.
- 11.2. The Chairman of the Arbitral Tribunal, or an arbitrator appointed by him, shall draw up the award. It shall also be certified in writing the incapacity of or refusal by any arbitrator to sign the award.
- 11.3. If the parties reach a settlement bringing the controversy to an end, the Arbitral Tribunal may, upon request of the parties, record it in the form of award.

12. ENFORCEMENT OF THE AWARD

- 12.1. The award rendered is final, and it shall be binding on the parties, who shall comply with its terms within the time limits specified therein as of relevant acknowledgement.
- 12.2. Any of the parties may request to the relevant Court the enforcement of the award in order to compel the other party to comply with its terms.

13. PARTIAL AWARDS

- 13.1. The Arbitral Tribunal may render partial decisions or render decisions about supervening issues, during the proceedings, inherent to the arbitration, by confirming them in the award.
- 13.2. Instructional decisions relating to the arbitral proceedings without decision content may be taken by the Chairman of the Arbitral Tribunal alone.

14. NOTIFICATIONS AND TIME LIMITS

- 14.1. All notifications and communications specified herein shall be in writing and delivered in person to the parties or to its attorneys and arbitrators, or by means of appropriate mail services, prepaid or certified, with acknowledgement of receipt, to the addresses specified by each of them.
- 14.2. All notifications or communications to the Arbitral Tribunal will be filed at the head office of Amcham Arbitration Center and delivered in a number of

counterparts equal to the number of parties and arbitrators of the Arbitral Tribunal; one counterpart will be issued and deposited with the Secretariat.

- 14.3. The time limits established herein will be calculated from the first business day after receipt of the relevant communication or notification. After beginning of the time limit, holidays and non-business days will be included in the calculation. If the last day of the time limit is not a business day, the time limit will expire at the end of the following business day.
- 14.4. All documents, statements and procedural orders filed with the Secretariat of Amcham Arbitration Center will be sent to the addressees within five (5) days.
- 14.5. The time limits set forth in these Rules will not consider blanket vacations periods of Amcham, which shall be informed to interested parties at the beginning of December of each year.

15. CONFIDENTIALITY

- 15.1. The arbitral proceeding is confidential, and it is forbidden to members of Amcham Arbitration Center, arbitrators, the parties, experts, and any other third party involved to disclose any information relating thereto, except upon written authorization of all parties.

16. TERM

- 16.1. These Rules shall enter into force upon approval of the Committee and Amcham Legal Department, by delegation of Amcham Board of Directors, in force as of March 2005.
- 16.2. These Rules may be amended, and it is hereby agreed that the rules to be applicable to the settlement of controversies will be those in force at the time of execution of the Terms of Arbitration, unless the parties expressly establish otherwise in the arbitration clause or in the Terms of Arbitration.

17. CHARGES, RATES AND EXPENSES

- 17.1. The parties shall pay the fees of the arbitrators and the expenses incurred by Amcham Arbitration Center in connection with the arbitral proceedings to which they take part. The Secretariat will communicate from time to time to the parties the amounts they shall advance.
 - 17.1.1. In case any of the parties denies depositing an amount to be borne by it, the other party shall advance the relevant amounts, under penalty of dismissal of the arbitration.
- 17.2. Amcham Arbitration Center makes available to interested parties, the referential list of arbitrators' fees and costs and other expenses of Amcham Arbitration Center, indicating the form and means of payment.

17.3. The abovementioned list will be reviewed from time to time by Amcham Executive Committee upon request of the Management Committee.

FORM OF INDEPENDENCE STATEMENT

I, _____ (name in full and description), represents that I am free and clear to perform the duties of arbitrator in the proceeding _____ (specify), and I am not included in the provisions of disqualification provided for in article 14, *caput*, of Law No. 9,307, of 09.23.1996, and/or section IV, clauses 4.1 and 4.2 of the Rules of the Arbitration Center of the American Chamber of Commerce for Brazil – São Paulo.

I hereby further undertake to perform the duties of arbitrator with impartiality, independence, competence, diligence, and discretion.

I execute this Independence Statement in order to produce the legal effects, aware that in case of prove of misrepresentation or nonobservance, I will be solely held liable for loss and damage of any nature caused by the noncompliance with such duty.

(Place and date)

Arbitrator's Name
ID:

FORM OF ARBITRATION CLAUSE

1. Any controversy arisen out of the construction or enforcement of this agreement or in connection herewith will be finally settled by arbitration managed by the Arbitration Center of the American Chamber of Commerce for Brazil – são Paulo, pursuant to its Rules.
2. The number of arbitrators will be _____(one/three).
3. The arbitration will be held in _____ (specify).
4. The official language of the arbitration will be _____ (specify).
5. The arbitration will be ruled by _____ (specify the law).