

# **The Sri Lanka National Arbitration Centre (SLNAC) EXPEDITED ARBITRATION RULES - 2022**

## **(Based upon UNCITRAL Expedited Arbitration Rules)**

Whereas the Sri Lanka National Arbitration Centre (SLNAC) has adopted as its recommended Rules the UNCITRAL Arbitration Rules.

Accordingly the Expedited UNCITRAL Arbitration Rules as recommended is adopted herein subject to modification as Sri Lanka National Arbitration Centre (SLNAC) Expedited Arbitration Rules.

## **Entry into force of the UNCITRAL Expedited Arbitration Rules**

Whereas the Expedited Arbitration Rules, adopted by the United Nations Commission on International Trade Law (UNCITRAL) on 21 July 2021, entered into force on 19 September 2021. Expedited arbitration has been increasingly used in international commercial practice for parties to reach a final resolution of the dispute in a cost and time-effective manner. The Expedited Arbitration Rules provide rules for parties to agree to a streamlined and simplified procedure with the award expected to be made within a short time frame. At the same time, the Expedited Arbitration Rules balance the efficiency of the arbitral proceedings and the rights of the parties to due process and fair treatment.

### **Scope of application**

#### **Article 1**

Where parties to an Arbitration have agreed that disputes between them in respect of a defined legal relationship, whether contractual or not, shall be referred to Arbitration by consent under the SLNAC Expedited Arbitration Rules (“Expedited Rules”), such disputes shall be administered in accordance with the SLNAC Arbitration Rules and subject to such modification as the parties and/or Arbitrators may agree.<sup>1</sup>

#### **Article 2**

1. At any time during the proceedings, the parties and Arbitrators may agree that the SLNAC Expedited Rules shall no longer apply to the Arbitration.

2. At the request of a party, the arbitral tribunal may, in exceptional circumstances and after inviting the parties to express their views, determine that the SLNAC Expedited Rules shall no longer apply to the arbitration. The arbitral tribunal shall state the reasons upon which that determination is based.
3. When the SLNAC Expedited Rules no longer apply to the arbitration pursuant to paragraph 1 or 2, aforesaid the arbitral tribunal shall remain in place and conduct the Arbitration in accordance with the UNCITRAL Arbitration Rules and/or Arbitration Act No. 11 of 1995 or statutory amendment thereof.

### **Conduct of the parties and the arbitral tribunal**

#### Article 3

1. The parties and Arbitrators shall act expeditiously and without undue delay throughout the proceedings.
2. The arbitral tribunal shall conduct the proceedings expeditiously taking into account the fact that the parties agreed to refer and/or administer their dispute under the time frames determined by the SLNAC Expedited Rules.
3. The arbitral tribunal may, after inviting the parties to express their views and taking into account the circumstances of the case, utilize any technological means as it considers appropriate to conduct the proceedings, including to communicate with the parties and to hold consultations and hearings remotely and/or by digital and electronic means.

### **Notice of arbitration and statement of claim**

#### Article 4

1. A notice of arbitration may also include:
  - (a) A proposal for the appointment of an Arbitrator/s.
  - (b) A proposal for the designation of the SLNAC Board of Governors as appointing authority, unless the parties have previously agreed on an appointing procedure thereon; and
2. When communicating its notice of arbitration to the Respondent, the Claimant may also communicate its Statement of Claim.
3. The claimant shall communicate the notice of arbitration and the Statement of Claim to the arbitral tribunal as soon as it is constituted.

## **Response to the notice of arbitration and statement of defence**

### Article 5

1. Within 30 days of the receipt of the notice of arbitration, the Respondent shall communicate to the claimant a response to the notice of arbitration, which shall also include responses to the information set forth in the notice of arbitration pursuant to article of the Expedited Rules above.
2. The Claimant shall communicate its Statement of Claim to the Respondent and the Arbitral Tribunal within 15 days of the notification of the constitution of the Arbitral Tribunal.
3. The Respondent shall communicate its Statement of Defence to the Claimant and the Arbitral Tribunal within 30 days of the Receipt of the Statement of Claim.
4. Any Statement of Reply if any by Claimant shall be filed with appropriate copies within 15 days of receipt of a Counter Claim by the Respondent.

## **Designating and appointing authority**

### Article 6

1. When making the request under article (4) of the SLNAC Arbitration Rules, a party may request the Registrar of the SLNAC to notify the appointing authority of a request for appointment of Arbitrators.
2. If requested to serve as appointing authority in accordance with paragraph 1 or 2, the Registrar/Chairman will serve as appointing authority unless it determines that in view of the circumstances of the case, it is more appropriate to designate an appointing authority.

## **Number of arbitrators**

### Article 7

Unless otherwise agreed by the parties, there shall be one (Sole) arbitrator.

#### **Appointment of a sole arbitrator**

### Article 8

1. A sole arbitrator shall be appointed jointly by the parties.

2. If the parties have not reached agreement on the appointment of a sole arbitrator 15 days after a proposal has been received by all other parties, a sole arbitrator shall, at the request of a party, be appointed by the appointing authority in accordance with the SLNAC Arbitration Rules.

### **Consultation with the parties**

#### Article 9

Promptly after and within 15 days of its constitution, the arbitral tribunal shall consult the parties, through a case management conference or otherwise, on the procedure in which it will conduct the arbitration.

### **Discretion of the arbitral tribunal with regard to periods of time**

#### Article 10

Subject to the SLNAC Expedited Rules, the arbitral tribunal may at any time, after inviting the parties to express their views, extend or abridge any period of time prescribed under the SLNAC Arbitration Rules and / or agreed by the parties.

### **Hearings**

#### Article 11

The arbitral tribunal may, after inviting the parties to express their views and in the absence of a request to hold physical hearings, decide that physical hearings shall not be held and recommend digital or hybrid hearings.

### **Amendments and supplements to a claim or defence**

#### Article 12

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

## **Further written statements**

### Article 13

The arbitral tribunal may, after inviting the parties to express their views, decide whether any further written statement / submissions, shall be required from the parties or may be presented by them.

## **Evidence**

### Article 14

1. The arbitral tribunal may decide which documents, exhibits or other evidence the parties should produce.
2. Unless otherwise directed by the arbitral tribunal, statements by witnesses, including expert witnesses, shall be presented in writing and signed by them.
3. The arbitral tribunal may decide which witnesses, including expert witnesses, shall testify to the arbitral tribunal if hearings are held.
4. The witness's statements and/or affidavits will be are subject to a cross-examination within a prescribed time period as determined by the Arbitral Tribunal.

## **Period of time for making the award**

### Article 15

1. The Arbitration award shall be made within 12 months from the date of the constitution of the arbitral tribunal unless otherwise agreed to by the parties.
2. The arbitral tribunal may, in exceptional circumstances and after inviting the parties to express their views, extend the period of time established in accordance hereof. The extended period of time shall not exceed a total of 15 months from the date of the constitution of the arbitral tribunal.
3. If the arbitral tribunal concludes that it is at risk of not rendering an award within 15 months from the date of the constitution of the arbitral tribunal, it shall propose a final extended time limit, state the reasons for the proposal, and invite the parties to express their views within a fixed period of time. The extension shall be granted only by the Board of Governors of SLNAC.

4. If there is no agreement to the extension in paragraph 3, any party may make a request that the Expedited Rules no longer apply to the arbitration. After inviting the parties to express their views, the arbitral tribunal may determine to continue to conduct the arbitration in accordance with the UNCITRAL Arbitration rules and/or Arbitration Act or Statutory modification thereof.

### **C. Text of annexures to the SLNAC Expedited Arbitration Rules**

#### **Model arbitration clause for contracts**

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the SLNAC Expedited Arbitration Rules for the time being in force..

*Note: Parties should consider adding:*

- (a) The appointing authority shall be the Chairman/Registrar of the Sri Lanka National Arbitration Centre. . . . [name of institution or person];
- (b) The place of arbitration shall be . . . [town and country];
- (c) The language to be used in the arbitral proceedings shall be ...;

#### **Model statement**

*Note. Parties should consider requesting from the Arbitrators the following addition to the statement of independence pursuant to article 11 of the UNCITRAL Arbitration Rules:*

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

01<sup>st</sup> January 2022