

# DIS-Supplementary Rules for Expedited Proceedings 08 (SREP)

Annex to the DIS-Arbitration Rules 1998

(in force as of April 2008)

## INTRODUCTION AND ARBITRATION CLAUSE FOR THE SUPPLEMENTARY RULES FOR EXPEDITED PROCEEDINGS

The parties may agree on the following Supplementary Rules for Expedited Proceedings ("Supplementary Rules") supplementing the DIS Arbitration Rules. The DIS Arbitration Rules remain applicable to proceedings conducted under the Supplementary Rules to the extent that these Supplementary Rules do not contain more specific provisions.

The German Institution of Arbitration (DIS) advises all parties wishing to make reference to the Supplementary Rules for Expedited Proceedings when concluding the arbitration agreement to use the following arbitration clause:

**"All disputes arising in connection with the contract (... description of the contract ...) or its validity shall be finally settled according to the Arbitration Rules and the Supplementary Rules for Expedited Proceedings of the German Institution of Arbitration e.V. (DIS) without recourse to the ordinary courts of law."**

It is recommended to supplement the arbitration clause by the following provisions:

The place of arbitration is ...

The substantive law of ... is applicable to the dispute.

The language of the arbitral proceedings is ...

## SUPPLEMENTARY RULES FOR EXPEDITED PROCEEDINGS

### Section 1

#### Scope of Application, Duration of Proceedings

1.1: The Supplementary Rules set forth herein shall only apply if the parties have referred to them in their arbitration agreement or if the parties have agreed on their application prior to filing a statement of claim. Unless otherwise agreed by the parties, the DIS Arbitration Rules as well as the Supplementary Rules in effect on the date of commencement of the arbitral proceedings apply to the dispute.

1.2: The duration of arbitral proceedings conducted under these Supplementary Rules should be no longer than six months (in the case of a sole arbitrator) or nine months (in the case of a three member tribunal) after the filing of the statement of claim pursuant to Sec. 1 sub. 3.

1.3: Pursuant to these Supplementary Rules a statement of claim shall be filed with the DIS Main Secretariat in Cologne. If the statement of claim is filed with another DIS Secretariat, the timeframe for the expedited proceedings referred to in Sec. 1 sub. 2 shall commence upon receipt of the statement of claim by the DIS Main Secretariat.

1.4: The arbitral tribunal shall at all times exercise its discretion to determine the procedure (Sec. 24 sub. 1, 2nd sentence DIS Arbitration Rules) in the light of the parties' interest in expediting the proceedings, as reflected by the parties' agreement to apply these Supplementary Rules. This applies in particular to possible extensions of time limits provided for in these Supplementary Rules.

## **Section 2**

### **Costs upon commencement of proceedings**

In deviation from Sec. 7 sub. 1 DIS Arbitration Rules as read with No. 17 of the Appendix to Sec. 40 sub. 5 DIS Arbitration Rules, the advance to be paid by the claimant upon filing the statement of claim shall cover the full amount of the arbitrators' fees.

## **Section 3**

### **Number of Arbitrators, Nomination of Arbitrators**

3.1: In deviation from Sec. 3 DIS Arbitration Rules, the dispute shall be decided by a sole arbitrator, unless the parties have agreed prior to the filing of the statement of claim that the dispute shall be decided by three arbitrators.

3.2: If the parties have agreed on the individual who is to act as sole arbitrator prior to the filing of the statement of claim, the claimant shall nominate the arbitrator in its statement of claim. In the absence of such agreement, the Appointing Committee of DIS shall appoint the sole arbitrator without undue delay upon request by one of the parties. Such request may be made together with the statement of claim. Until such request is received by the DIS Main Secretariat, a joint nomination of the sole arbitrator by the parties shall be permissible.

3.3: If the parties have agreed pursuant to Sec. 3 sub. 1 to have the dispute decided by three arbitrators, Sec. 6 sub. 2 (5) DIS Arbitration Rules apply in respect of the arbitrator nominated by the claimant. In deviation from Sec. 12 sub. 1 DIS Arbitration Rules, the respondent shall nominate an arbitrator within 14 days of the receipt of the statement of claim by the respondent. If the respondent fails to nominate an arbitrator within this time limit, the claimant may request nomination by the Appointing Committee of the DIS. The chairman of the arbitral tribunal shall be appointed pursuant to Sec. 12 sub. 2 DIS Arbitration Rules, subject to a shortening of the time limit mentioned therein to 14 days.

3.4: If a party-nominated arbitrator or the chairman cannot be confirmed within 7 days of

receipt of the request to submit the declaration pursuant to Sec. 16 subs. 1 DIS Arbitration Rules, the Appointing Committee of the DIS shall nominate a substitute arbitrator.

#### **Section 4**

##### **Statement of claim, statement of defence and oral hearing**

4.1: Until the arbitral tribunal is constituted, all written communications of the parties shall be transmitted to the DIS Main Secretariat; thereafter they shall be transmitted to the arbitral tribunal. Copies of written submissions shall at all times also be sent to the other party.

4.2: In deviation from Sec. 9 DIS Arbitration Rules, the statement of defence shall be filed by the respondent within four weeks of receipt of the statement of claim pursuant to Sec. 8 DIS Arbitration Rules. Unless the arbitral tribunal determines otherwise all further written submissions by the parties are to be filed within four weeks of receipt of the other party's submission.

4.3: The oral hearing shall be held at the latest four weeks after receipt of the final written submission. The arbitral award shall be rendered at the latest four weeks after the closing of the oral hearing.

4.4: In proceedings under these Supplementary Rules, counterclaims and set-offs shall only be admissible with the consent of all parties and the arbitral tribunal.

#### **Section 5**

##### **Time Schedule, Procedure**

5.1: At the outset of the proceedings, the arbitral tribunal shall in agreement with the parties establish a time schedule to ensure that the arbitral proceedings can be concluded within the time frame specified in Sec. 1 sub. 2.

5.2: Unless the arbitral tribunal determines otherwise,

- the exchange of written submissions shall be limited to the statement of claim within the meaning of Sec. 6 DIS Arbitration Rules and the statement of defence within the meaning of Sec. 9 DIS Arbitration Rules as well as one further written submission by each party;
- only one oral hearing, including any taking of evidence, shall be held;
- no further written submissions shall be exchanged after the closing of the oral hearing.

5.3: The arbitral tribunal should at the earliest possible stage of the proceedings identify to the parties and as a rule after each round of written submissions, the issues it may regard as relevant and material for the outcome of the case.

#### **Section 6**

##### **Modifications, Noncompliance with the Time Frame**

6.1: The provisions and time-limits contained in these Supplementary Rules may be modified

by agreement between the parties. After the constitution of the arbitral tribunal, any modification shall require the consent of the arbitral tribunal. In the absence of consent of the parties, the arbitral tribunal may only extend a time-limit contained in these Supplementary Rules for good cause. The extension shall be effected by an order in writing, which shall state the reasons for the extension and which shall be transmitted to the parties and DIS Main Secretariat.

6.2: If the arbitral proceeding cannot be concluded within the time frame set forth in Sec. 1 sub. 2, the arbitral tribunal shall inform the DIS Main Secretariat and the parties of the reasons in writing. The competence of the arbitral tribunal shall remain unaffected if the time frame set forth in Sec. 1 sub. 2 is exceeded.

## **Section 7**

### **Arbitral award**

Unless the parties have agreed otherwise, the arbitral tribunal may abstain from stating the facts of the case in the arbitral award.