



NANI PALKHIVALA ARBITRATION CENTRE

Rules to Regulate Arbitration

RULES OF ARBITRATION FOR NANI PALKHIVALA ARBITRATION CENTRE

CHAPTER - I - PRELIMINARY

Rule 1 : The Centre :

The Nani Palkhivala Arbitration Centre is a Centre promoted by the Nani Palkhivala Foundation. The function of the Centre is to provide for resolution of disputes referred to it by the process of arbitration, in accordance with these rules, as also to provide administrative services relating to arbitration.

Rule 2 : Application of Rules :

These rules shall apply where:

- (a) A dispute that has been referred by the Chief Justice of India or his designate for international arbitration, under the Scheme framed by the Chief Justice of India for such purpose whether before or after appointing the Arbitrator(s).
- (b) The Chief Justice of the Madras High Court or any other High Court or their respective designates refers a Dispute for adjudication by arbitration to the Centre whether before or after appointing the arbitrator(s).
- (c) The parties have previously agreed in writing, that any dispute arising between them would

be resolved by arbitration under the Rules of the Centre.

- (d) Where any of the High Courts have referred a case for resolution by arbitration to the Centre, in pursuance of powers conferred on them under Section 89 of the Code of Civil Procedure, 1908.
- (e) Where the City Civil Court, Chennai or any other Court constituting the subordinate judiciary, duly empowered refer a matter for adjudication by arbitration by the Centre in pursuance of powers conferred on them under Section 89 of the Code of Civil Procedure, 1908.
- (f) Where the parties have in writing agreed anytime after the disputes have arisen between them to refer the dispute between themselves to the Centre for dispute resolution by arbitration or
- (g) Where Arbitrators appointed by parties to a dispute, are unable to appoint a Presiding Arbitrator and have approached the Centre for appointment of a Presiding Arbitrator and the Arbitral Tribunal so constituted, agrees to abide by such appointment by the Centre and for the adjudication of disputes in accordance with these Rules.

- (h) Cases referred by Mediation Centres, Lok Adalats etc., for arbitration in accordance with the Rules of the Centre pursuant to a written agreement by parties, to such effect.

These rules however shall not apply when the parties to a dispute have approached the Centre for administrative assistance alone, unless the parties agree or the Arbitral Tribunal rules, that the arbitration will be conducted in accordance with these rules. In such cases, it shall also be open to the Arbitral Tribunal to specify those rules from and out of the rules set out hereunder, that shall apply.

Rule 3 : Definitions :

In these rules, unless the context otherwise requires, the following words shall have the following meaning:-

- (i) “Act” means the Arbitration and Conciliation Act, 1996 and the amendments thereto or any re-enactment thereof;
- (ii) “Appointing Authority” shall mean and include the authority empowered to appoint the Arbitrator/s or the Presiding Arbitrator/s under these rules;
- (iii) “Arbitrator/s” shall mean and include the Arbitrator/s appointed under these rules and where the context so admits, the “Presiding Arbitrator”;

- (iv) “Arbitral Award” means an award passed by the Arbitral Tribunal consisting of an Arbitrator or Panel of Arbitrators of the Centre and where the context so admits, includes an interim award;
- (v) “Arbitral Tribunal” shall mean a sole-Arbitrator or a panel of Arbitrators constituted for resolving disputes under these rules and the term “Tribunal” in these rules shall imply the “Arbitral Tribunal” so appointed for determining a particular dispute;
- (vi) “Board of Directors” shall refer to the Board of Directors of the Nani Palkhivala Arbitration Centre;
- (vii) “Centre” shall mean the “Nani Palkhivala Arbitration Centre” and shall include the District Centres or branches thereof;
- (viii) “Court” means with respect to any matter relating to an arbitration proceeding, the Civil Court within the meaning of Section 2 (e) of the Act.
- (ix) “Dispute” includes all disputes or differences of any kind whatsoever arising out of contractual relationship between the contesting parties which parties have agreed to refer to Arbitration;

- (x) “Executive Director” shall mean and refer to Executive Director of the Centre;
- (xi) “Governing Council for Arbitration” i.e., GCFA, shall refer to the Council constituted under Rule 5 of the Rules.
- (xii) “Guidelines” means the guidelines for assistance of Arbitrators framed by the Centre;
- (xiii) “High Court” shall mean and include the High Court of Madras situated at Chennai and the Bench of the Madras High Court situated at Madurai and at such other places as may be constituted, as also other High Courts throughout India;
- (xiv) “Joint Memorandum” means a memorandum jointly signed by the parties in the format as provided in Schedule-II.
- (xv) “Panel of Arbitrators” means the Panel of Arbitrators constituted in accordance with these Rules.
- (xvi) “Party” means a party to an arbitration agreement that has subjected himself / itself to the jurisdiction of the Centre. He / It shall include any individual, firm, Company, Central or State Government organization or undertaking, Non-Governmental organization, a registered society, public or

private trust and any other person having capacity to sue and be sued and any foreign Government, in the case of international arbitration;

(xvii) “Registrar” shall mean the Registrar General of the Madras High Court or the Madurai Bench of the Madras High Court and shall include, if the context so requires, the Additional or Deputy Registrars and any other officer(s) discharging such duties in any of the High Courts; as also other High Courts in India.

(xviii) “Request” means a written communication to the Centre to initiate the arbitration proceedings in accordance with these Rules.

(xix) “Rules” means these rules framed by the Nani Palkhivala Arbitration Centre to regulate the process of adjudication of disputes by arbitration and shall include amendments thereto;

(xx) “Secretariat” shall mean the Secretariat of the Nani Palkhivala Arbitration Centre.

In these rules, words importing the singular number include, where the context so requires, the plural number and vice versa. Words importing the male gender include, where the context admits or requires the female gender and vice versa.

Rule 4 : Services offered by the Centre :

- (a) Appointment of Arbitrator/s, to constitute the Arbitral Tribunal and consequent conduct of Arbitral proceedings.
- (b) Appointment of Presiding Arbitrator and conduct of arbitral proceedings.
- (c) Advisory services relating to drafting and registering arbitration agreements with the Centre.
- (d) Administrative services including but not limited to
 - 1. Providing arbitration halls,
 - 2. Secretarial and other support staff assistance,
 - 3. Any service/s incidental to the conduct of arbitration proceedings.

CHAPTER – II – ADMINISTRATIVE OFFICES

Rule 5 : Governing Council For Arbitration "GCFA":

- (a) There shall be a “Governing Council for Arbitration” (GCFA), which shall be in charge of enlisting and maintaining a list of persons duly qualified and adequately experienced to function as Arbitrators. The GCFA shall also discharge such other duties as are entrusted to it under these rules.
- (b) The GCFA shall comprise of seven eminent members and the composition of GCFA shall be as follows:- one of them will be an eminent former member of the judiciary who shall be its Chairperson., Of the remaining members, one will be an eminent person representing the Bar and the other five will be outstanding persons of eminence representing the judiciary, bar, trade, industry, commerce or may be drawn from fields of administration, education etc. All seven members duly nominated by the Board, shall be requested and invited to join the GCFA by the Board of Directors. The Governing Council for Arbitration will be assisted in the discharge of its functions by the Secretariat of the Centre. In the discharge of their duties, the GCFA shall function independent of the Board of Directors. The GCFA derives its powers from these rules and shall discharge its duties in

consonance with these rules. The GCFA shall discharge those duties entrusted to it under these rules.

- (c) No action of the GCFA shall be assailed on the grounds of any vacancy or in the composition of the GCFA.
- (d) The GCFA shall prepare and maintain a panel of Arbitrators after securing the consent of such candidates to be so empanelled. The GCFA may avail the assistance of the Board of Directors in empanelling the Arbitrators, but is not bound by any advice tendered by the Board of Directors. The GCFA shall also obtain and maintain adequate and relevant information as to the qualification and experience of each such candidate so empanelled to be an Arbitrator.
- (e) The Chief Justice or his designate, Judges of the Madras High Court and Subordinate Judiciary and parties to a dispute may choose any person/s from the panel maintained by GCFA to act as arbitrator(s) for adjudication of any dispute.
- (f) Any function that is to be discharged by the GCFA under these rules may be discharged by sub-committees thereof. Such sub-committees shall however be composed of the members of the GCFA and no others.

- (g) The honorarium to be paid to the members of the GCFA for any of the duties discharged by them under these rules shall be determined by the Board of Directors.
- (h) The GCFA shall be empowered to remove a person from the Panel if:
 - (i) Any complaint of breach of duty or misconduct is received against him and the GCFA/Arbitration Committee, after giving such person sufficient opportunity for being heard, is of the opinion that it would be in the interest of the Centre not to continue such person on its Panel of arbitrators;

or
 - (ii) He is declared to be of unsound mind or becomes incapacitated or has been found guilty of an offence of moral turpitude;

or
 - (iii) He has incurred any disqualification under the Act.

or
 - (iv) For any other reason deemed appropriate by the GCFA / Arbitration Committee.

Rule 6 : Term of office of members of “GCFA” :

- (a) The term of office of the members of the GCFA shall be five years. Any nomination to the GCFA shall be made by the Board of Directors after having due regard to the qualifications, integrity and efficiency of the proposed appointees. The choice of candidates shall be decided by a majority vote of the Board of Directors of the Centre. A member of the GCFA on expiry of his term of five years will be entitled to one further term of five years if he chooses to offer himself for reappointment. At the end of the initial period of five years, the Board of Directors will seek the concurrence of the retiring member to continue for one further term of five years as member. If the retiring member does not desire a further extension, the Board of Directors will proceed to fill the vacancy.
- (b) If the office of any member of GCFA is vacated for any reason before his term of office expires, the resulting casual vacancy will be filled by the Board of Directors in a meeting of the Board of Directors. Any person so appointed shall hold office only up to the date up to which the member of the GCFA in whose place he is appointed would have held office if it had not been vacated as aforesaid.

Rule 7 : Secretariat for the Centre :

- (a) There shall be a Secretariat for the Centre, which shall be headed by the Executive Director of the Secretariat. The Executive Director shall be appointed by the Board of Directors and shall discharge his functions on the advice and directions of the Board of Directors. The Centre shall appoint as many members to the staff of the Secretariat as are required for the due discharge of the functions of the Centre under these rules.
- (b) All applications for matters relating to arbitration shall be addressed to and received by the Secretariat of the Centre. In matters where any High Court makes the appointment of Arbitrators, such order may be forwarded to the Secretariat for supervising the arbitral proceedings. All communications to the Centre will be sent to the Secretariat of the Centre. The Secretariat acting under the directions of the Board of Directors shall be responsible for the administration of the Centre. The Centre shall render all assistance to ensure smooth conduct of the arbitral proceedings.
- (c) The Secretariat shall maintain a register of all applications to the Centre, arbitrations conducted pursuant thereto and of awards made. The Secretariat shall further maintain

such other books or memoranda and make such other records or returns to carry out directions of the Board of Directors, as also the provision of these rules of the Centre. The Secretariat will take such other steps as may be necessary to assist Arbitral Tribunals in carrying out their functions.

- (d) The Board of Directors may authorise any officer of the Centre, including the Executive Director to discharge such of the functions and administrative duties, as deemed proper and necessary from time to time. The Board of Directors will appoint the officers of the Centre and their service will be governed by the applicable rules framed by the Centre, failing which, by the terms of appointment.
- (e) Duties and Responsibilities of the Executive Director:
 - (1) The Executive Director shall be responsible for the day to day functioning of the Centre
 - (2) Without prejudice to the generality of the provision in clause 1, the Executive Director may undertake the following:
 - (a) Place all the records pertaining to each Request for arbitration of disputes before the GCFA when so called for.

- (b) Initiate action in accordance with the Rules of the Centre.
 - (c) Notify the parties to comply with the requirements of filing of the Request the Reply and any other document and the submission and payment of arbitrators' fees and miscellaneous expenses, within the prescribed time frame.
 - (d) Maintain and update from time to time a profile of all arbitrators on the Panel of the Centre, and make them available to the parties, on request.
 - (e) Maintain a fact sheet of each arbitration case dealt with by the Centre.
 - (f) Carry out directions given by the Arbitration Committee from time to time.
- (3) All correspondence and communications to the Centre shall be addressed to the Executive Director and all correspondence and communications on behalf of the Centre shall be made by the Executive Director / Registrar.
- (4) The Registrar of the Centre may also be authorised by the Centre to function as Executive Director.
- (5) The NPAC shall sue or be sued in the name of the Executive Director or Registrar who shall

be authorised to represent the Centre in all legal proceedings.

(f) PANEL OF ARBITRATORS

- (1) The Board of Directors on the directions of GCFA shall prepare and maintain a Panel of Arbitrators from amongst persons who are eligible and willing to serve as arbitrators.
- (2) The Secretariat shall maintain an up-to-date Panel of Arbitrators together with information as to their qualifications and experience.
- (3) A Curriculum Vitae shall be furnished by the persons interested to be placed on the NPAC Panel of Arbitrators, in the form prescribed by the Centre. Information so submitted by the persons who are finally empanelled may be made available to the parties seeking to appoint an arbitrator from the Panel.
- (4) The decision on the empanelment of Arbitrators shall be made by the GCFA, whose decision shall be final and binding.
- (5) The parties may choose any person from the Panel to be appointed as an arbitrator in respect of their disputes. However, before such persons are appointed as Arbitrators, their consent to act as such shall be obtained.
- (6) If the parties unanimously so desire, the Registrar / Executive Director may appoint an

arbitrator whose name is not in the Panel, but such appointment shall be restricted to the case concerned.

- (7) The Board of Directors in consultation with the GCFA may at any time add new names to the Panel or omit the name of any person(s) from the Panel.

(g) GENERAL PROVISIONS

- (1) The accounts of NPAC shall be maintained as per the Income Tax Act, 1961 as amended from time to time and the Rules and Circulars issued there under and by the Government.
- (2) Amendment of Rules: These Rules may be amended by a simple majority of the Board of Directors of NPAC present and voting and Board shall also be entitled to ratify any amendment made by the Registrar / Executive Director in cases of emergency. Such amendments must however be placed before the Board of Directors for ratification in the succeeding board meeting.
- (3) Residuary Provision: In the absence of any matter in respect of which no specific provision exists under these Rules, the Board of Directors of NPAC shall be entitled to take such decision(s), as they may consider expedient or necessary in the circumstances.

CHAPTER – III - JURISDICTION

Rule 8 : Jurisdiction :

- (a) The Centre shall be entitled to entertain
 - (i) Any dispute relating to any trade or commercial matter including but not limited to shipping, sale, purchase or other matters relating to property, banking, negotiable instruments, insurance, building construction, engineering, technical assistance, know-how, intellectual property including patents and trademarks, joint ventures, foreign and other collaborations, management consultancy, commercial agency, service; valuation as also any matter pertaining to any civil dispute/s including those stated earlier, arising between two or more parties in India or a party or parties in India and a party or parties in a foreign country or between foreign parties who agree or have agreed for adjudication by arbitration by the Centre under these rules;
 - (ii) Any dispute which has been referred by the Chief Justice or his designate and any dispute that has been referred by any High Court or Subordinate Judiciary or any dispute that has been referred by the parties to such dispute to arbitration by the Centre, or where arbitrators appointed by the parties to a dispute are

unable to appoint a Presiding Arbitrator and seek the assistance of the Centre and all cases referred by the Chief Justice of India under the Scheme framed for international arbitration and any dispute referred by mediation Centre for arbitration, pursuant to an agreement to such effect by parties.

- (b) The Centre shall also be competent to administer the conduct of arbitration in any dispute or difference relating to a commercial transaction, a consumer dispute, a matrimonial dispute, a civil dispute between parties as mentioned in sub-section (a) above where the parties have agreed to have such arbitration administered by the Centre provided such dispute is arbitrable in law.
- (c) Wherever the parties have provided or agreed for arbitration by the Centre under these rules and in all cases to which Rules 4 (a) and (b) apply, these rules or any amendments thereof shall apply.

CHAPTER - IV – Commencement of Arbitration

Rule 9 : Appointment of Arbitrators/Presiding Arbitrators :

The Centre may appoint the Arbitrator/s or Presiding Arbitrator or forward names of persons to be appointed as Arbitrators or Presiding Arbitrator, as the case may be under the following circumstances:

- (A) Both parties voluntarily approaching Centre for appointment of Arbitrators;
- (B) Centre is named in the agreement between parties as the appointing authority and on being called to make the appointment;
- (C) High Court, Subordinate Courts or other authority directing the Centre to suggest name of persons for being appointed as Arbitrators or Presiding Arbitrator.
- (D) Arbitrators appointed by the parties approach the Centre for appointment of Presiding Arbitrator.

(A) Parties to the dispute approaching the Centre for appointment of Arbitrator.

Where the parties to a dispute arising out of an agreement or other arrangement (in which the Centre is not named as the appointing authority) or any of them approach the Centre for assistance in the matter

of appointment of Arbitrator/s pursuant to an agreement amongst them, the following procedure shall be applied in the matter of appointment of Arbitrator/s.

- (i) The Centre shall obtain the consent of all parties to the dispute in writing to act as appointing authority.
- (ii) It shall assist the parties, within fifteen days of obtaining the consent of the concerned parties to choose a mutually agreed Arbitrator.
- (iii) If the parties cannot mutually agree to the appointment of an agreed Arbitrator, the Centre shall within a further period of ten days from the period mentioned in clause (ii) above, appoint an Arbitrator from and out of the panel maintained by the Centre and the Arbitrator so appointed shall also be duly intimated in accordance with these rules. The parties will also be accordingly intimated.

(B) Appointment of Arbitrator in cases where the Centre is named as appointing authority in agreement.

Where the Centre is named as the appointing authority in the agreement governing the parties, the following procedure shall be followed in the matter of appointment of Arbitrator/s.

- (i) Within fifteen days of receipt of a request from any party to a dispute arising out of an agreement in which the Centre is named as an appointing authority, the Centre shall appoint an Arbitrator from its panel mutually acceptable to the parties.
- (ii) If within fifteen days from receipt of request from one party to the dispute, a mutually agreed Arbitrator cannot be appointed then the Centre shall proceed to appoint a single Arbitrator within a further period of ten days. The Centre in accordance with these rules shall then convene the first sitting of the Arbitral Tribunal.

(C) High Court, Subordinate courts or other authorities referring matters to Centre for appointment of Arbitrator/s.

Where the High Court or any Court or other authority refers a matter to the Centre for suggesting names of an Arbitrator / Arbitrators or Presiding Arbitrator, the following procedure shall apply:-

- (i) If within fifteen days from receipt of appropriate directions from the High Court, Other Court or other authority, or such other time as the court may have fixed a mutually agreed Arbitrator cannot be suggested then the Centre shall proceed within a further period of ten days or such other time as the

court may have fixed to suggest a single Arbitrator and duly inform the court of such appointment. The Centre in accordance with these rules shall then convene the first sitting of the Arbitral Tribunal within 30 days of receiving appropriate orders from the High Court, Subordinate Courts or other authorities for such appointment, or such other time as the court may have fixed.

(D) Arbitrators appointed by parties approaching Centre for appointment of Presiding Arbitrator.

Where two or more Arbitrators appointed by parties to a dispute approach the Centre for appointment of the Presiding Arbitrator, the following procedure shall be followed:-

- (i) Within fifteen days of receipt of a joint request from Arbitrators appointed to resolve a dispute arising out of an agreement between parties, the Centre shall endeavor to appoint an Arbitrator from its panel mutually acceptable to the Arbitrators appointed by the parties.
- (ii) If within fifteen days from receipt of request from the Arbitrators appointed by parties, a mutually agreed Presiding Arbitrator cannot be appointed then the Centre shall proceed to appoint a Presiding Arbitrator within a further period of ten days. The Centre in accordance

with these rules shall then convene the first sitting of the Arbitral Tribunal.

Rule 10: ARBITRATION PROCEDURE

(A)Reference to Arbitration:

- (1) Where parties to a contract have agreed that any dispute or difference which may arise or has arisen, out of or in relation to a contract, shall be referred to Arbitration in accordance with these Rules, the same shall be referred accordingly.

- (2) Where the parties sign a joint memorandum agreeing that their dispute shall be referred to Arbitration in accordance with these Rules or when the same is so referred through any proceedings in any Court, including:
 - (a) Under Section 89 of the Code of Civil Procedure, 1908;

 - or

 - (b) These Rules shall also apply where the Chief Justice or his designate or any court appoints an Arbitral Tribunal and directs that the arbitration shall be conducted under the aegis of the Centre or in accordance with its rules,

or

- (c) Where parties have entered into an Arbitration agreement in any of the modes specified in Section 7 of the Act agreeing to refer their disputes to arbitration in accordance with the Rules of the Centre.

or

- (d) Where parties to any International contract, have agreed to submit their disputes or differences to Arbitration in accordance with these rules.

(B) Request to Arbitration:

- (1) Any person desirous of initiating arbitration under these rules, shall submit his/its Request to the Secretariat with a copy marked to the opponent / the other party to the dispute.
- (2) The Request shall contain the following information:
 - (a) Name in full, description, contact details and address of each of the parties, complete details including e-mail addresses, if any;
 - (b) A brief description of the nature and circumstances of the dispute giving rise to the claim;

- (c) Statement of the relief sought, including an indication of any amount claimed along with supporting documents, if any;
 - (d) Relevant agreements and, in particular, the Contract in respect of which disputes have arisen an extract of the written arbitration clause or the deed of arbitration agreement, if separately contained.
 - (e) Provisional Terms of Reference and the issues to be adjudicated;
 - (f) All relevant particulars concerning the Arbitrators, their number, qualifications, if any, prescribed in the arbitration agreement on which parties have already agreed in writing;
 - (g) Statements as to the applicable Rules or laws, if any, and the language in which the arbitration is to be conducted, and
 - (h) The order of the Court, if any, passed in proceedings referred to in these Rules.
- (3) On receipt of the Request of the party, the Secretariat shall scrutinize the same and if found in order, shall constitute the Arbitral Tribunal in accordance with the agreement of the parties and the rules of NPAC.

- (4) The Party making the Request shall submit sufficient number of copies of the Request as stipulated by the Centre, being one copy for the Centre, one copy for each Arbitrator (if the number of Arbitrators is mentioned in the arbitration agreement) and one copy for each Respondent.
- (5) The Party shall also make a tentative advance payment of his share of the administrative and miscellaneous expenses and also the Arbitrator's fee, as the Centre may indicate based on the scale of fees and charges fixed under the Rules.
- (6) In the event that the Party fails to comply with any of the aforesaid requirements, the Secretariat may fix a time limit within which the Party shall comply, failing which, the file shall be deemed to be closed. However, it is open for such Party to submit the claim afresh in accordance with law.
- (7) The Centre shall send a copy of the Request, at the earliest to the other Party for his / their Reply to the Request.
- (8) Where a document is sent by post:-
 - 1) Service thereof shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the documents and

- 2) Such service shall be deemed to have been effected at the expiration of forty-eight hours after the letter containing the same is posted and in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (9) The arbitral proceedings in respect of a particular dispute commences on the date on which a Request for that dispute to be referred to arbitration is received by the other Party to the dispute. In the event of there being multiple parties, such commencement shall be deemed to take place on the date when the first of the parties so receives the Request.
 - (10) (a) Any written communication is deemed to have been received if it is delivered to the addressee personally or at his place of business, habitual residence or mailing address, and
 - (b) If none of the places referred to in point 10.(a) above can be found after making a reasonable inquiry, 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 by any other means which provides a record of the attempt to deliver it.

Rule 11 : Norms for appointment of Arbitrator :

In applying the provisions of Rule 9 set out above, the Centre shall ensure that if the parties have not previously agreed on the number of Arbitrators (i.e., one or three) and a request is received for appointment of Arbitrator/s by the Centre, the Centre shall (as a rule) appoint a single Arbitrator in consonance with these rules. If the parties to the dispute, however, jointly request appointment of three Arbitrators or the agreement between the parties so specifies, then each of the parties shall nominate an Arbitrator from the panel maintained by the Centre and the Centre shall appoint the Presiding Arbitrator. In all cases, the Tribunal shall consist of an odd number of Arbitrators.

Rule 12 : Constitution of the Arbitral Tribunal and challenges thereto :

- (a) Within the period and in the manner set out in Rule 9 above, the Centre shall ensure that first sitting of the Arbitral Tribunal is held within 30 days from the date of the constitution of the Arbitral Tribunal.
- (b) The Secretariat of the Centre shall ensure that before the first sitting of the Arbitral Tribunal is held all papers filed by the parties with the Centre are forwarded to the Arbitral Tribunal.
- (c) A challenge to the appointment of the Arbitrator/s whether for alleged lack of independence or otherwise shall be made in

writing specifying the facts and circumstances on which the challenge is based to the Governing Council for Arbitration. The challenge shall be forwarded to the Governing council for Arbitration by the Secretariat of the Centre.

- (d) A party may challenge the Arbitrator appointed by the other party/parties or Arbitrator/s or Presiding Arbitrator appointed by the Centre only for reasons which he becomes aware of after the appointment has been made.
- (e) For a challenge to be admissible, it must be sent within 15 days from receipt of the notice of appointment or confirmation of the Arbitrator/s or Presiding Arbitrator or within 15 days from the date that the party making the challenge was in receipt of information of the facts and circumstances on which the challenge is based, if such latter date is subsequent to the receipt of the aforementioned notification.
- (f) The Governing Council for Arbitration shall decide on the admissibility and at the same time, if need be on the merits of a challenge after the parties and the arbitrator in issue and any other members of the Arbitral Tribunal have been accorded an opportunity to comment in writing within a fixed/suitable

period of time. If the Governing Council for Arbitration finds prima facie merit in the objection, it shall direct the Centre not to hold the first sitting of the Arbitral Tribunal or further sittings till such objection is disposed of.

- (g) When the appointment of an Arbitrator has been challenged by one party on any ground the other party may concede to the challenge, following which the Arbitrator concerned may be removed by the GCFA. The Arbitrator concerned may also after the challenge is made, withdraw from his office and communicate to the GCFA accordingly. In neither case does this imply acceptance of the validity of the grounds for the challenge. The GCFA, if it finds the objection to the appointment to be valid, shall take appropriate steps to replace the Arbitrator/s whose appointment has been challenged.
- (h) If the GCFA finds no merit in the challenge, it will intimate by an order, the parties and Arbitrator/s accordingly and the Secretariat shall then proceed to fix the date of the next sitting of the Arbitral Tribunal.
- (i) An Arbitrator shall be replaced by the GCFA upon death, upon the acceptance by the Governing Council for Arbitration of a challenge in any manner set out in rules

above or upon the acceptance by the Governing Council for Arbitration of the Arbitrator's resignation for any reason whatsoever. Further, in the event the Arbitrator/s fails or is unable to act and a complaint to that effect has been received from any of the parties, the procedure in respect of the challenge and replacement of an Arbitrator/s as provided earlier will apply.

- (j) In the event of any change in the Constitution of the Arbitral Tribunal, the proceedings completed till the date of reconstitution will not be disturbed unless the newly constituted Arbitral Tribunal decides otherwise.
- (k) Decisions of the Governing Council for Arbitration as to the appointment, confirmation, challenge or replacement of an Arbitrator/s shall be final.
- (l) Any time frames stipulated in the rules hereunder, for completion of any of the matters stipulated hereunder shall stand suspended during the period the GCFA decides the issues relating to appointment or continuance of Arbitrators. The Arbitral Tribunal may thereafter set appropriate time frames taking into consideration the provisions of these rules.

CHAPTER - V - PROCEEDINGS BEFORE ARBITRAL TRIBUNAL

Rule 13: Submission of pleadings, documents etc., to the Arbitral Tribunal :

The Centre shall receive the documents set out in Rule 10 (B) and shall forward the same to the Arbitral Tribunal.

Rule 14 : Claim and Defence Statement :

- (a) Once the Arbitral Tribunal has been constituted in the manner set out above, it will hold its first sitting on a day designated by the Centre. The Arbitrator/s at the first sitting of the Arbitral Tribunal shall decide and determine the procedure and time frame for submitting the pleadings, fixing the date for oral hearings etc. At the first sitting of the Arbitral Tribunal, the Tribunal will fix a date when the claimant would serve his claim statement on the defendant which period shall not exceed thirty days from the date of first sitting of the Arbitral Tribunal. This period in exceptional circumstances, for reasons to be recorded in writing, may be extended by another 15 days.
- (b) The defendant/s / respondent/s shall within 30 days from the receipt of documents referred to above, set out his/its defence in a

defence statement with the relevant documents. In exceptional circumstances, the defendants/ respondents may apply in writing to the Tribunal for an extension of time for filing his/its documents and defence statements. Extensions may be granted in exceptional cases but normally no further time beyond 45 days from receipt of claim statement and documents shall be granted in accordance with Rule 14 (d). The Arbitral Tribunal would be empowered to fix a lesser period than that contemplated above.

- (c) A copy of the defence statement and the relevant documents shall be communicated to the claimant, by the defendants /respondents. Thereafter the claimant upon receipt of the defence statement shall be entitled to file their rejoinder. Within 30 days of review of the defence statement a copy of the rejoinder and relevant documents shall be communicated to the respondent and the Centre.
- (d) Any extension beyond the period contemplated in these Rules will be at the discretion of the Arbitral Tribunal which shall levy appropriate costs for such extensions or adjournments as it deems fit.

Rule 15: Counter claim and reply to Counter claim:

Along with the counter statement any counterclaim made by the defendant shall be filed with all the necessary and relevant documents as in the case of the claim under Rule 14 within 30 days of receiving the claim along with the counter statement and the claimant may within 30 days of the receipt of the defence statement with the counter claim, reply to the counterclaim within a further period of 30 days.

Rule 16 : Clubbing of claims / disputes:

When substantially the same dispute or question of law and facts are likely to arise in more than one contract or agreement, the Arbitral Tribunal may invite all parties involved to agree to club all claims / disputes in a single arbitration between such two or more of the parties.

Rule 17 : Pleadings, Copies of statements, Service of notices etc. :

- (a) All pleadings and written statements submitted by any party, as well as all documents annexed thereto shall be supplied in number of copies sufficient to provide one copy for each party, plus one for each Arbitrator and one for the Centre's records.
- (b) All notices, communications etc., by the Centre or the parties or Arbitrators shall be deemed to be validly made, if it is done so in

compliance with these rules. The Arbitral Tribunal may direct any notice to be served by electronic mail or facsimile.

- (c) Any notice required to be served under these rules, if required to be served otherwise than through Court, shall be served in the manner provided under the agreement or if there is no such provision in the agreement, then the service shall be affected in the manner indicated in Rule 10 (B) of these rules.
- (d) Periods of time specified under these Rules or the Notification of the High Court or in provisions hereto, shall be calculated as per specifications regarding non-working days and National holidays as provided in the Limitation Act, 1963.

Rule 18 : Amendment of Pleadings :

Any request for amendment of any pleading will be decided by the Arbitral Tribunal in a manner it deems fit.

Rule 19 : Hearings :

- (a) Subject to these rules, the Arbitral Tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are given equal opportunity to present their case at all stages. Without prejudice to the generality of its powers, the Arbitral

Tribunal shall ensure that except where the arbitral tribunal decides to proceed ex-parte the parties are heard in the presence of each other; that no evidence is received from one party without the knowledge of the other parties; witnesses are examined in the presence of the other party; that oral submissions are made in the presence of each other; that time frames as set out in these rules and as determined by the Arbitral Tribunal are respected.

- (b) If either party so requests, at any stage of the proceedings, the Arbitral Tribunal may hold hearings for the presentation of evidence by witnesses, including expert witnesses or for oral argument. In the absence of such a request, the Arbitral Tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.

Rule 20 : Conduct of Proceedings:

- (a) Once all pleadings as contemplated in the preceding rules have been filed, the Arbitrator/s shall proceed within as short a time as possible, to appreciate the facts of the case by all appropriate means. After studying the written submissions of the parties and all documents relied upon, the Arbitrator/s shall

proceed to fix dates for oral hearings of the case if so requested or deemed fit.

- (b) In addition, the Arbitrator/s may duly summon and hear any other person/witness in the presence of the parties or by commission, for the purpose of taking evidence, the Arbitral Tribunal may have recourse to the provisions of Section 27 of the Arbitration and Conciliation Act, 1996.
- (c) The Arbitral Tribunal shall be empowered to appoint a Commission to investigate and report on any matter in dispute between the parties. The Arbitral Tribunal shall further enjoy such other powers as are entrusted to it by the provisions of the Arbitration and Conciliation Act, 1996.
- (d) The Arbitrator/s may appoint one or more experts to help them in their adjudication after due consultation with the parties to the dispute or on the request of the parties to the dispute after determining the costs to be paid to such experts.
- (e) If the parties duly summoned fail to appear and the Arbitral Tribunal is satisfied that the summons were served and that there is no valid excuse for the absence, the Arbitral Tribunal may go ahead with the proceedings, and decide the matter on merits. Such

proceedings shall then have been deemed to be duly conducted and determination reached on the merits of the matter.

- (f) The Arbitral Tribunal will also be empowered to issue interrogatories.
- (g) The parties to the proceedings may appear in person or through authorized agents or advocates.
- (h) The language of the proceedings shall normally be in English or as stated in Rule 37 determined by the Arbitrator/s and the parties thereto according to the facts and circumstances of the case and the language of the documents. If the parties desire that the proceeding be in any other language, they shall make a request even at the time of forwarding the request for appointment of Arbitrators. If the proceedings are to be in a language other than English, translation of the entire proceedings to English will be made and the cost of such translation shall be borne equally by the parties to the proceedings. The proceedings will be permitted to be in a language other than English only if the agreement provides for the same or all parties to the Arbitration proceedings and the Arbitrator(s) consent to such choice of language and the parties have agreed to the incidental costs.

- (i) If the parties reach a settlement before the adjudication or cessation of the proceedings, then and unless the claims and counter claims are withdrawn it shall be so recorded in the form of an arbitral award made with the consent of the parties on agreed terms.
- (j) The Arbitrators may in every arbitration proceedings that comes up before them, encourage parties to seek resolution of their disputes by mediation or conciliation and for this purpose may refer the matter to Mediation in accordance with the Rules of the Centre. No such reference shall be made unless all the parties or their representatives consent to such reference for mediation. The costs of such mediation or conciliation will be stipulated by the mediation or conciliation Centre to whom the matter is referred. In cases where it is referred to a panel of mediators maintained by the Centre the costs will be intimated to the parties before commencement of the Mediation proceedings.
- (k) The Arbitrators shall so far as may be possible discharge their duties in consonance with the Rules framed by the Centre for such purpose.
- (l) Joinder of Additional Parties
 - (i) The Arbitral Tribunal may implead a party to the arbitral proceedings with the

written consent of all the parties to the arbitration agreement and written consent of the party as it deems fit.

- (ii) The proportionate administrative costs and Arbitral Tribunal's fee prescribed in the respective schedule shall be payable by the newly added party.
- (iii) The Arbitral Tribunal will determine the proportionate share of administrative costs and fee if there are more than two parties.

Rule 20 (A) : EMERGENCY ARBITRATOR

A party in need of emergency interim relief prior to the constitution of the Tribunal may apply for such relief pursuant to the procedures set forth herein below.

- (i) A party in need of emergency relief may, concurrent with or following the filing of a Notice of Arbitration but prior to the constitution of the Tribunal, make an application for emergency interim relief. The party shall notify the Registrar and all other parties in writing of the nature of the relief sought and the reasons why such relief is required on an emergency basis. The application shall also set forth the reasons why the party is entitled to such relief. Such notice must include a statement certifying that all other parties have been notified or an

explanation of the steps taken in good faith to notify other parties. The application shall also be accompanied by payment of any fees set by the Registrar for the proceedings.

- (ii) The Registrar shall, if he determines that NPAC should accept the application, seek to appoint an Emergency Arbitrator within one business day of receipt by the Registrar of such application and payment of any required fee.
- (iii) Prior to accepting appointment, a prospective Emergency Arbitrator shall disclose to the Registrar any circumstance that may give rise to justifiable doubts as to his impartiality or independence. Any challenge to the appointment of the Emergency Arbitrator must be made within one business day of the communication by the Registrar to the parties of the appointment of the Emergency Arbitrator and the circumstances disclosed.
- (iv) An Emergency Arbitrator may not act as an arbitrator in any future arbitration relating to the dispute, unless agreed by the parties.
- (v) The Emergency Arbitrator shall, as soon as possible but in any event within two business days of appointment, establish a schedule for consideration of the application for emergency relief. Such schedule shall provide a

reasonable opportunity to all parties to be heard, but may provide for proceedings by telephone conference or on written submissions as alternatives to a formal hearing. The Emergency Arbitrator shall have the powers vested in the Tribunal pursuant to these Rules, including the authority to rule on his own jurisdiction, and shall resolve any disputes over the application.

- (vi) The Emergency Arbitrator shall have the power to order or award any interim relief that he deems necessary. The Emergency Arbitrator shall give reasons for his decision in writing. The Emergency Arbitrator may modify or vacate the interim award or order for good cause shown.
- (vii) The Emergency Arbitrator shall have no further power to act after the Tribunal is constituted. The Tribunal may reconsider, modify or vacate the interim award or order of emergency relief issued by the Emergency Arbitrator. The Tribunal is not bound by the reasons given by the Emergency Arbitrator. Any order or award issued by the Emergency Arbitrator shall, in any event, cease to be binding if the Tribunal is not constituted within 90 days of such order or award or when the Tribunal makes a final award or if the claim is withdrawn.

- (viii) An order or award pursuant to an application under this rule shall be binding on the parties when rendered. By agreeing to arbitration under these Rules, the parties undertake to comply with such an order or award without delay.
- (ix) The costs associated with any application under this rule shall initially be apportioned by the Emergency Arbitrator, subject to the power of the Tribunal to determine finally the apportionment of such costs.
- (x) These Rules shall apply as appropriate to any proceeding, taking into account the inherent urgency of such a proceeding. The Emergency Arbitrator may decide in what manner these Rules shall apply as appropriate, and his decision as to such matters is final and not subject to appeal.

Rule 21 : Closure of Proceedings :

- (a) The Arbitral Tribunal may inquire from the parties, if they have any further proof to offer or witnesses to be heard or submission to make and if there are none, pass an order to declare the hearings closed.
- (b) The Arbitral Tribunal may if it considers necessary, owing to exceptional circumstances, decide on its own motion or upon application of a party to re-open the

hearings at any time before the award is made.

Rule 22 : Time Limit :

The proceedings under the said rules shall be deemed to commence, for the purposes of determining the duration of the arbitral proceedings, from the time of the first sitting of the Arbitral Tribunal.

- (a) The arbitration proceedings, in entirety (including passing of the award) must be concluded within a period of twelve months from its commencement but every endeavour should be made by the Tribunal to ensure that it is completed before such period.
- (b) The final arbitral award must be rendered by the Arbitrator(s) within a period of 2 months from the date of conclusion of hearing and the Arbitrators are advised to make the award as expeditiously as possible after the close of hearings. Arbitrators may meet as many times as necessary to finalise the award but such meetings shall not be deemed to be sittings of the Tribunal for the purposes of payment of fees to Arbitrators or the Centre. In appropriate cases the Arbitral Tribunal may however direct the parties to pay the expenses incurred for such meetings.
- (c) The Arbitral Tribunal may in exceptional circumstances and for reasons to be recorded

in writing, extend the period set out in Rule 22(a) by a further period not exceeding six months, subject to the inherent discretion of the Arbitral tribunal to extend the period by further twelve months in cases of extreme complexity for reasons to be recorded in writing.

- (d) In construing the periods mentioned in this clause, any duration for which the proceedings have been stayed by a court of law will be excluded.

Rule 23 : Place of Arbitration :

The place of arbitration shall be at Chennai, unless otherwise agreed upon by the parties and duly communicated to the Centre. It will however not be obligatory for the Centre to make arrangements for such hearings at any place outside Chennai and the costs and expenses of such hearings will have to be borne by the parties in such manner as the Arbitral Tribunal decides.

CHAPTER-VI - FEES, COSTS AND EXPENSES

Rule 24 : Fees, Costs and Expenses :

The fees, costs and expenses relating to the arbitration proceedings shall include the following:

- (i) Registration fee
- (ii) Administration fee; and
- (iii) Arbitrator's fee
- (iv) Reading Fees

The parties to the dispute will share all these expenses equally.

Table of Fees, Costs and Expenses

Sum in Dispute (In Rs.)	Registration Fee	Arbitrator Fee	Administration Expenses	Reading Fees
Up to Rs.5,00,000/-	Rs. 1,000/-	Rs. 20,000/-	Rs. 10,000/-	Rs.5,000/-
From Rs.5 Lac One to Rs. 25 Lac (Rs. 5,00,001 to 25,00,000)	Rs. 2500/-	Rs.20,000/- +Rs.2,500/- Per Lac above Rs.5 Lacs Up to a ceiling of Rs. 70,000/-	Rs. 20,000/- + Rs.1,000/- per Lac above Rs.5 Lacs Up to a Ceiling of Rs. 40,000/-	Rs.25,000/-
From Rs. 25 Lac One to Rs. 1 Crore (Rs. 25,00,001 to 10,00,000)	Rs.5,000/-	Rs.70,000/- +Rs.3000/- per Lac above Rs.25 Lacs. Up to a Ceiling of Rs. 2,95,000/-	Rs.40,000/-+Rs. 750/- per Lac above Rs.25 Lacs Up to a Ceiling of Rs. 96,250/-	Rs.50,000/-

From Rs. 1 Crore one to Rs. 5 Crore (10,000,001 to 50,000,000)	Rs.10,000/-	Rs.2,95,000/- +RS.50,000/- Per Crore above Rs.1 Crore Up to a Ceiling of Rs. 4,95,000/-	Rs.96,250/-+Rs.5,000/ per Crore above Rs.1 Crore Up to a Ceiling of Rs. 1,16,250/-	Rs.75,000/-
From Rs. 5 Crore One to Rs. 10 Crore (50,000,001 to 100,000,000)	Rs.12,500/-	Rs.4,95,000/-+ Rs.60,000/- Per Crore above Rs.5 Crores Up to a Ceiling of Rs. 7,95,000/-	Rs. 1,16,250/+Rs.5000/- Per Crore above Rs.5 Crores Up to a Ceiling of Rs. 1,41,250/-	Rs.75,000/-
From 10 Crore and above Rs.100,000,000/-	Rs.15,000/-	Rs. 7,95,000/+ Rs.75,000/- Per crore above Rs.10 Crores.	Rs. 1,41,250+ Rs.5000/- per crore above Rs.10 Crores.	Rs.1,00,000/-

- (a) Reference to Arbitrator's fees in the above provisions refer to fees to be paid to an Arbitrator and will be collected in applicable multiples depending on the number of Arbitrators.
- (b) The Centre shall in addition to the registration charges, collect the Arbitrator's fees, administrative expenses, and reading fees of Arbitrator/s for the first four hearings of the Arbitral Tribunal as advance deposit. The parties to the dispute will pay these equally. The fees and other expenses set out above, will be collected in advance for further hearings of the Tribunal as the Centre may decide.

- (c) It is clarified that the “Sum in Dispute” represents the total of the amounts in the Claim and Counter Claim involved in disputes.
- (d) When one of the parties neglects or refuses to make the deposit whether in relation to a claim or a counterclaim, the Secretariat or the Arbitral Tribunal as the case may be, may call upon the other party at their option to make the required deposits if the other party wishes to continue with the proceedings. Such amounts paid by the other party shall be awarded as costs and the party paying will be entitled to recover the same from the other party / parties to the dispute.
- (e) Should a whole or part of the deposit be not made by the parties or any of them, the Secretariat shall inform the parties or party concerned that the claim or counterclaim as the case may be will not be the subject matter of the reference. The Arbitral Tribunal shall proceed only in respect of those claims or counterclaims for which the deposits have been duly paid to the Centre and the centre may order the suspension or termination of the arbitral proceedings in so far as the rest of the Claims/Counter Claims are concerned.
- (f) The Arbitral Tribunal shall be entitled to allow fees and expenses of witnesses, expenses

connected with the selection of sample and examination of goods, conveyance, hire, cost of legal or technical advice, or proceedings in respect of any matter arising out of arbitration incurred by the Arbitral Tribunal and any other incidental expenses and charges in connection with or arising out of the reference as the Arbitral Tribunal shall in its absolute discretion think fit.

- (g) In determining the claim amount, the principal along with interest till date of filing of claim will be taken into account for computing the fees payable under this rule.
- (h) Where the claim resulting from the dispute is not capable of monetary quantification, the Centre shall at its discretion proceed to fix a value for such claims taking into account all necessary circumstances and the fees shall then be computed accordingly.
- (i) Notwithstanding the foregoing in computing the fees payable by the claimant and defendant/ other side, in cases where there are counterclaims and the counterclaim is higher than the claim, the claimant will pay fifty per cent of the amount towards arbitration fees, administrative charges etc., payable on his claim taking into account the category into which it will fall and the defendant shall pay likewise on his

counterclaim taking into account the category as mentioned in Rule 24 table of fees, costs and expenses in which it will fall. In cases where the counterclaim is lower than the claim, then the fees to the Arbitrator as also the other payments set out in this rule will be calculated on the basis of the quantum of the claim.

- (j) Where it becomes necessary for the Arbitral Tribunal to move a court of law with regard to any of the matters mentioned in these rules, the Arbitral Tribunal may engage such legal assistance as it deems necessary and direct any party or parties to the proceeding to pay the costs incurred on account of such assistance.
- (k) The registration fee for a person / party for registering arbitration agreements with the Centre shall be Rs. 300/-
- (l) The above fees, costs and expenses shall not be applicable to international arbitrations. In such arbitrations, the fees, costs and expenses shall be determined by the Centre in consultation with the Arbitral Tribunal and the same will be fixed at the first sitting of the Arbitral Tribunal.
- (m) The Centre is also entitled to fix different scales of fees, costs and expenses in different

category of cases like banking, insurance, etc., which however shall be done under supplemental rules specifically framed for such purpose.

- (n) The Administrative charges payable to the Centre as mentioned in the illustrative table in Rule 24, for engaging and using halls provided at the office of the Centre. If the halls outside the venue of the Centre are to be engaged, the Administrative charges mentioned in the illustrative table in Rule 24 will be appropriately adjusted.
- (o) If Arbitrator/s who do not ordinarily reside at Chennai are appointed, the to and fro travel charges and the boarding and lodging expenses for such Arbitrator/s will have to be borne by the parties on such basis as the Arbitral Tribunal decides.
- (p) Where a large number of cases relating to similar Arbitration matters are referred to the Centre by a party, then it is open to the Centre to stipulate the Registration fees, Administration fees, Arbitrator's fees, Reading fees and charges for facilities by entering into an appropriate agreement with such party, the contents of which shall be disclosed to the parties to the dispute before the commencement of the arbitration.

(q) **Application for Adjournment:** Any party seeking adjournment or change in the timetable fixed for the arbitration proceedings shall file a written request, supported by sufficient and cogent reasons and necessary documents. Such adjournment request will be required to be accompanied with a Demand Draft in the name of Nani Palkhivala Arbitration Centre for a sum of Rs.3,000/-. The Arbitral Tribunal may accede to such request after recording its reasons in writing.

(r) **Regime for Cost:**

(1) In relation to any arbitration proceeding or any proceeding under any of the provisions of this Act pertaining to such an arbitration, the arbitral tribunal has the discretion as to – determine:

(a) whether costs are payable by one party to another;

(b) the amount of those costs; and

(c) when they are to be paid.

Explanation — For the purpose of clause (a), “costs” means reasonable costs relating to—

(i) the fees and expenses of the arbitrators, Centre and witnesses,;

(ii) legal fees and expenses,;

- (iii) any administration fees of the institution supervising the arbitration,; and
 - (iv) any other expenses incurred in connection with the arbitral proceedings and the arbitral award.
- (2) If the arbitral Tribunal decides to make an order about in payment of costs -
- (a) the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party; but
 - (b) the arbitral tribunal may make a different award for reasons to be recorded in writing.
- (3) In deciding what award, (if any), to make about costs, arbitral tribunal will have regard to all the circumstances, including -
- (a) the conduct of all the parties;
 - (b) whether a party has succeeded in a part of its case, even if that party has not been wholly successful; and
 - (c) whether the party had made a frivolous counter claim leading to delay in the disposal of the arbitral proceedings; and
 - (d) whether any reasonable offer to settle is made by a party and unreasonably refused by the other party.
- (4) The award which the arbitral tribunal may

make under this provision include an award that a party must pay:

- (a) a proportion of another party's costs;
 - (b) a stated amount in respect of another party's costs;
 - (c) costs from or until a certain date only;
 - (d) costs incurred before proceedings have begun;
 - (e) costs relating to particular steps taken in the proceedings;

 - (f) costs relating only to a distinct part of the proceedings; and
 - (g) interest on costs from or until a certain date.
- (5) An agreement which has the effect that a party is to pay the whole or part of the costs of the arbitration in any event is only valid if made after the dispute in question has arisen.

CHAPTER – VII – FAST TRACK ARBITRATION

Rule 25 : Fast Track Arbitration : Schedule IV

The parties may by consensus opt for Fast Track Arbitration and request the Arbitral Tribunal before the commencement of the arbitration proceedings to decide the reference in a fixed time frame of 4 months from the first sitting of the Arbitral Tribunal according to the Fast Track Arbitration procedure as under:

- (a) The Arbitral Tribunal will be authorised to decide the dispute on the written pleadings, documents and written submissions filed by the parties without any oral evidence. The parties may file an undertaking before the Tribunal that they are not disputing the veracity or relevance of documents filed before the Tribunal and that all documents may be deemed to be admissible and proved.
- (b) The Arbitral Tribunal shall have power to call for any further information or clarification from the parties in addition to the pleadings and documents filed by them and such information /clarification may be taken on record.
- (c) To facilitate due application of this rule, the Arbitral Tribunal shall be entitled to fix its own time limits for the filing of pleadings arguments and written submissions and to regulate all proceedings accordingly to the exclusion of any other rule herein as the Arbitral Tribunal may deem fit.

CHAPTER - VIII - PARTICIPATION IN ARBITRATION PROCEEDINGS

Rule 26: Presence of parties before Arbitral Tribunal:

- (a) In cases where one party to a proceeding alone participates in the arbitral proceedings and the other party in spite of due service of notice remains ex-parte, an award shall be passed after hearing such party who is present. In such cases, the entire cost of the arbitration proceedings should be borne by the party who is present. The Arbitral Tribunal may however in all such cases award payment of costs in accordance with Law to the party attending the proceedings to enable them to recover it from the defaulting party.
- (b) In case the proceedings are adjourned on account of absence of both parties, the parties shall pay the fees as stipulated in Rule 24 (q) to the Centre and such further fee for the Arbitration sitting as may be determined by the Arbitrator(s).
- (c) In cases where the hearing is adjourned on account of absence of one or more of the parties to the proceedings, but not all of them. Without prior intimation of at least 48 hours or without a valid reason, the parties so absent shall pay the fees as stipulated in Rule 24 (q) to the Centre and such further fee for the Arbitration sitting as may be determined

by the Arbitrator(s). The fees payable for the adjournment are in addition to the fees payable mentioned in the Table of fees, costs and expenses in Rule 24.

Rule 27 : Parties to aid Arbitral Tribunal :

The parties shall do all acts necessary to enable the Arbitral Tribunal to conclude the proceedings and make an award expeditiously and shall not do or cause or allow to be done, any act which will delay the proceedings or prevent Arbitral Tribunal from making an award expeditiously. If any party does cause or allow to be done any such act, that party shall pay such costs as the Arbitral Tribunal deems reasonable to the other party or to any person directed by the Arbitral Tribunal.

Rule 28: Working hours of Arbitral Tribunal :

An arbitration session of the Arbitral Tribunal will go on as far as possible, for not less than five hours a day with a break for an hour. Once the hearing begins, after completion of all the formalities relating to pleadings, the Arbitral Tribunal shall not ordinarily adjourn a hearing at the request of any party, except where the circumstances are beyond the control of the party and the Arbitral Tribunal is satisfied that the reasons and circumstances for the adjournment are justified. As one of the main purposes of the arbitration proceeding is expeditious disposal of disputes, parties to a proceeding agree that they shall not seek adjournment, except for unavoidable reasons.

CHAPTER IX - ASSISTANCE TO ARBITRAL TRIBUNAL

Rule 29 : Evidence of Experts :

- (a) The Arbitral Tribunal may at its discretion and at any time or times before making the final award, at the expense of the parties concerned, seek the opinion of any person having special knowledge relating to the subject matter of the proceedings, particular industry, commodity, produce or branch of trade concerned in the reference. If the parties agree, the Arbitral Tribunal may, at the expense of the parties, appoint any expert, accountant or lawyers, to assist them to arrive at a decision on any issue factual or legal, taking into account the advice of such assessor. The costs to be paid for assistance shall be decided by the Arbitral Tribunal on a reasonable basis.
- (b) If a party so requests or if the Arbitral Tribunal considers it necessary, the expert shall after delivery of his written or oral report participate in an oral hearing where the parties have the opportunity to present expert witnesses in order to testify to points in issue.
- (c) The expert shall on the request of a party make available to that party for examination, all documents, goods or other property in

possession of the expert, with which he was provided in order to prepare his report.

Rule 30 : Assistance of Court in taking evidence :

- (a) The Arbitral Tribunal or a party with the approval of the Arbitral Tribunal may apply to the Court for assistance in taking evidence:-

The Application shall specify:-

- (i) The names and addresses of the parties and the Arbitrators;
- (ii) General nature of claim and relief sought;
- (iii) The evidence to be obtained in particular;
 - (a) The name and address of any person to be heard as expert witness and a statement of the subject matter of the testimony required.
 - (b) The description of any document to be produced or property to be inspected.
 - (c) For the purposes of this rule, the Arbitral Tribunal may if it deems fit, engage legal assistance and the expenses for the same will be paid by the party/parties in a manner indicated by the Tribunal.

CHAPTER - X - POWERS OF ARBITRAL TRIBUNAL

Rule 31: Contempt of orders of Arbitral Tribunal :

- (a) The Arbitral Tribunal is empowered to represent to any appropriate Court of law and seek penalty or punishment of any party who is in contempt of any order of the Arbitral Tribunal or any proceedings before it.
- (b) The Arbitral Tribunal is further empowered to represent to any Court of Law and seek penalty and punishment, in respect of persons failing to attend in accordance with such process, or making any other default or refusing to give their evidence or are guilty of any contempt to the Arbitral Tribunal in respect of the conduct of the arbitral proceedings and for such purpose, may engage legal assistance on terms to be decided by the Arbitral Tribunal.

Rule 32: Parties to comply with orders/directions of Arbitral Tribunal :

The parties to the dispute and any witness on their behalf, shall be subjects to the provisions of any law for the time being in force:

- (a) Submit to be examined by the Arbitral Tribunal on oath or affirmation, in relation to the matters in dispute.

- (b) Produce before the Arbitral Tribunal all books, deeds, papers, accounts, writings and documents in their possession or power respectively which may be required or called for by the Arbitral Tribunal, at the instance of the other party to the dispute.
- (c) Comply with the requirements of the Arbitral Tribunal as to the production or selection of samples, and
- (d) Generally do all other things which during the pendency of the reference, the Arbitral Tribunal may require for the due and proper conduct of arbitration proceedings.

Rule 33 : Powers of Tribunal while adjudicating disputes :

The Arbitral Tribunal will consider, as far as possible to receive the evidence of witnesses by affidavit, provided that the witness whose affidavit is admitted in evidence, is made available for cross-examination at the request of the opposite party subject to the law applicable.

The Arbitral Tribunal may:-

- (a) Administer oath or affirmation to the parties or witnesses appearing and giving evidence;

- (b) Make any interim order, in accordance with the provisions of the Arbitration and Conciliation Act, 1996;
- (c) Correct in any award, any clerical mistake or error, arising from or incidental to any slip or omission;
- (d) Administer to the parties to the arbitration or other persons, such interrogatories as it may consider necessary;
- (e) Decide all objections to its jurisdiction;
- (f) Decide in accordance with the law governing:
 - (i) the contract or the matter in dispute,
 - (ii) the arbitration agreement, and
 - (iii) the arbitration procedure.
- (g) The power of the Arbitral Tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.
- (h) In matters of procedure the Arbitral Tribunal though not bound shall be guided by the powers as are vested in a Civil Court under Code of Civil Procedure 1908 (5 of 1908) while trying a suit in respect of the following matters namely :-

- (1) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;
 - (2) the discovery and production of any document or other material object producible as evidence;
 - (3) the reception of evidence on affidavits;
 - (4) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
 - (5) issuing of any commission for the examination of any witness, and
 - (6) any other matter which may be prescribed under the Act.
- (i) The Arbitral Tribunal may award interest at such rate as it deems reasonable, on the whole or any part of the money, for the whole or any part of the period between the date on which the cause of action arose and the date on which the award is made as also for the period the award or any part of it remains unsatisfied in accordance with section 31 (7b) of The Arbitration & Conciliation Act 1996.

- (j) Any matter not provided for expressly in these rules will be decided by the Arbitral Tribunal in a manner it deems fit.

Rule 34: Competence of Arbitral Tribunal to rule on its own Jurisdiction :

- (a) The Arbitral Tribunal may rule on its own jurisdiction, including ruling on any objections with respect to the existence or validity of the arbitration agreement and for that purpose,
- (1) an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract; and
 - (2) a decision by the Arbitral Tribunal that the contract is null and void, shall not entail by itself the invalidity of the arbitration clause.
- (b) A plea that the Arbitral Tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence; however a party shall not be precluded from raising such a plea merely because he has appointed or participated in the appointment of an Arbitrator.
- (c) 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.

- (d) The Arbitral Tribunal may in either of the cases referred to in sub-section (b) or sub-section (c) admit a later plea if it considers the delay justified.
- (e) The Arbitral Tribunal shall decide on a plea referred to in sub-section (b) or sub-section (c) and where the Arbitral Tribunal takes a decision rejecting the plea, continue with the arbitral proceedings and make an arbitral award.

Rule 35: Power to dismiss application or claim :

- (a) The Arbitral Tribunal may dismiss the application or claim where, without sufficient cause:
 - (1) the claimant does not prosecute the arbitration proceedings or file the papers within the time granted or extended time.
 - (2) or neglects or refuses to pay the dues or deposits ordered to be paid by the Arbitral Tribunal or the Centre.

Rule 36: Amiable Compositeur :

- (a) The Arbitral Tribunal, if the parties so desire expressly in writing, shall resolve the dispute

submitted to it *ex aequo et bono* or as *amiable compositeur*.

- (b) When the parties agree that the Arbitral Tribunal shall resolve the dispute *ex aequo et bono* or as *amiable compositor*, they vest an authority to decide the matter in dispute according to equity and good conscience, or to take a decision as per trade practice and usage, or to give effect to the intentions of the parties as gathered from surrounding circumstances, in preference to giving literal meaning to the words incorporated in the contract.

CHAPTER – XI – LANGUAGE OF PROCEEDINGS AND APPLICABLE LAW

Rule 37: Language of proceedings :

The language of the arbitration proceedings shall be in English, unless otherwise agreed by the parties. If any documents filed by a party are in a language other than English and if the Arbitral Tribunal so desires, the party filing such documents shall simultaneously furnish an English translation of the documents. The Secretariat may make arrangements for the service of an interpreter or translator, at the request of one or more of the parties and costs thereof, shall be paid to the Secretariat.

Rule 38: Applicable law :

- (a) In international arbitrations, the Arbitral Tribunal shall apply the law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the Arbitral Tribunal shall apply the law determined by the conflict of laws and rules which it considers applicable.
- (b) In all other cases, the Arbitral Tribunal shall decide in accordance with the law applicable to the transaction, the terms of the contract and shall also take into account the usages of the trade applicable to the transaction.

CHAPTER – XII - AWARD

Rule 39: Award to be based on decision of majority:

- (a) Whenever there is more than one Arbitrator, any decision of the Arbitral Tribunal shall be made either unanimously or failing which by a majority of all its members.
- (b) An arbitral award setting out the decision of the Arbitral Tribunal shall be signed by the members of the Arbitral Tribunal.
- (c) In arbitral proceedings with more than one Arbitrator, the signature of the majority of all the members of the Arbitral Tribunal shall be sufficient so long as the reason for any omitted signature is stated.

Rule 40: Award :

- (a) When an Award has been made, the Secretariat shall furnish a signed copy of the award duly certified by the Centre to the parties by registered post, provided the arbitration costs have been fully paid to the Centre by the parties or by one of them.
- (b) The Centre may print, publish or otherwise circulate any award made under its rule or under its auspices, in any arbitration journal, magazine, report etc., for the purpose of creating arbitration jurisprudence or

precedents for the benefit and guidance of future arbitrations.

No party to the arbitration shall have any objection to the publication of awards as above, provided that the names and addresses of any party to the dispute will be omitted from such publication and its identity duly concealed if so desired by such party.

Rule 41: Award to be reasoned Award :

The Arbitral Award shall state the reasons upon which it is based, unless the parties have agreed otherwise or unless the Award is an Arbitral Award on agreed terms.

Rule 42: Date and place of Award :

The Arbitral Award shall state its date and the place of arbitration and the Award shall be deemed to have been made at that place.

Rule 43: Correction of the Award :

- (a) The Arbitral Tribunal may on its own initiative correct any computation errors, any clerical or typographical errors or any other errors of a similar nature occurring in the Award within 30 days from the date of the Arbitral Award.
- (b) Within 30 days after the receipt of the arbitral award, either 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 similar nature. The Arbitral Tribunal may within 30 days on receipt of such request and hearing objections if any, make such corrections if it finds the request to be sustainable.

- (c) All such corrections mentioned in the preceding rules shall be in writing.
- (d) If so 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 which if found admissible will be made within 30 days of receipt of the request.

Rule 44: Additional Award :

- (a) Within 30 days after the receipt of the Award, either party with notice to the other party, may request the Arbitral Tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the Award.
- (b) If the Arbitral Tribunal considers the request for an additional Award to be justified and considers that the omission can be rectified, without any further hearings or evidence it shall deliver its Additional Award within 30 days after the receipt of the request.

Rule 45: Award based on agreement between parties:

Should the parties arrive at a settlement of the dispute by common agreement before the Arbitral Tribunal and the Arbitral Tribunal is satisfied that such agreement is genuine and not to defeat the purpose of any law, the Arbitral Tribunal shall render an Award as per agreement of the parties. Otherwise, the Arbitral Tribunal shall make the Award on the basis of documents, evidence, etc., filed before it by the parties, and the submissions made before it.

CHAPTER - XIII - COSTS THAT MAY BE AWARDED

Rule 46: Costs:

The Arbitral Tribunal shall fix the quantum of costs in consonance with these rules and the party by whom it shall be borne, in its award. The term “costs” includes:

- (a) The fees paid to the Arbitral Tribunal;
- (b) The 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) The costs for legal representation and assistance of the successful party if such costs were claimed during the arbitral proceedings and only to the extent that the Arbitral Tribunal determines that the amount of such costs is reasonable;
- (f) All fees and expenses of the Centre.

The Arbitral Tribunal shall also specify:

- (i) the party entitled to costs
- (ii) the party who shall pay the costs

- (iii) the amount of costs or the method of determining that amount and
- (iv) the manner in which the costs shall be paid.

Rule 47: Apportionment of costs :

- (a) Except as provided in paragraph (b) below, while awarding costs, the Arbitral Tribunal shall ensure that the costs of arbitration shall in principle be borne by the unsuccessful party. However, the Arbitral Tribunal may apportion such costs between the parties, if it determines that apportionment is reasonable taking into account the circumstances of the case.
- (b) With respect to the costs of legal representation and assistance referred to in these rules, the Arbitral Tribunal taking into account the circumstances of the case, shall be free to determine which party shall bear such costs or may apportion such costs between the parties, if it determines that apportionment is reasonable.
- (c) When the Arbitral Tribunal issues an order for the termination of the arbitral proceedings or makes an award on agreed terms, it shall fix the costs of arbitration accordingly.
- (d) In a proceeding where both parties participate, if the entire costs of the

Arbitration is borne by only one party, and the other party fails to pay his share of the cost, then the Arbitrator(s) shall be entitled to provide for costs in the Award including the payment of proportionate costs to the party who has paid such costs as aforesaid.

- (e) Interest on sums Awarded: The Arbitral Award shall also provide the rate of interest to be paid in accordance with the provisions given in Rule 33 (i).

Rule 48: Notification, deposit and enforceability of the Award :

The Arbitrators constituting the Arbitral Tribunal shall sign the award and the Secretariat shall notify to the parties of the making and signing thereof and of the amount of fees and charges payable in respect of the arbitration and the award and remaining unpaid fees. The Centre shall intimate the parties that the award of the Arbitral Tribunal is ready and will invite the parties to collect the award from the Centre. If the same is not collected within ten days of such intimation the Award will then be dispatched by registered post acknowledgement due to the parties.

Rule 49: Payment of stamp duties :

In all cases stamp duties will be paid in accordance with the scale of stamp duties for the time being imposed by law and will be paid in the manner indicated by the Arbitral Tribunal.

CHAPTER – XIV – MISCELLANEOUS

Rule 50: Waiver :

Any party who proceeds with the arbitration with the knowledge that any provision or requirement of these rules has not been complied with and who fails to state his objection thereto in writing, without undue delay or if a time limit is provided for stating the objection, within that period of time to the Centre or the Arbitral Tribunal as the case may be, shall be deemed to have waived his right to object.

Rule 51: Documents filed before Arbitral Tribunal :

Unless there is any specific requirement in law, the Arbitral Tribunal shall have full discretion to retain / or to return all books, documents or papers produced before it and may direct at any time that the books, documents or papers produced before it, or any of them may be returned to the parties producing them, on such terms and conditions that the Arbitral Tribunal may impose.

Rule 52: Copies of documents :

The Secretariat shall upon the written request of a party to the proceedings, furnish to such party at his expense certified facsimile of any document filed in any pending arbitration proceedings.

Rule 53: Withdrawal of claim :

When the party instituting a case desires to withdraw it before the Arbitral Tribunal has been constituted, the Registrar shall return to him any deposits made by him under Rule 24 after deducting such charges as he might have incurred in connection with the cases. The registration fee however shall not be refundable. For the purposes of this clause, the expression “Claim” shall include a counter claim.

Rule 54: Action taken in good faith :

Neither the Secretariat of the Centre nor the Arbitral Tribunal shall be liable for any action or omission in whatever capacity taken in good faith, while acting in connection or in relation to an arbitration under these rules.

Rule 55: Additional copies of Award :

Additional copies of the award, certified true by the Secretariat shall be made available to the parties but to no one else, at the request and on payment as fixed by the Secretariat. A copy of the award shall only be retained with the Centre for a period of two years from the making of the award and no copies will be provided beyond this period.

CHAPTER - XV - AMENDMENT AND INTERPRETATION OF RULES

Rule 56: Amendment of Rules :

The Board of Directors of the Centre in consultation with the Governing Council for Arbitration may revise, amend or alter these rules or the schedule of fees and other amounts. Such amendment shall however not affect existing proceedings unless specifically made applicable.

Rule 57: Interpretation of these Rules :

In case of any doubt regarding the meaning or interpretation of these rules, the same may be referred to the Board of Directors of NPAC by the parties or the Arbitrators appointed by the Centre. The decision of the Board of Directors on any question relating to interpretation of these rules shall be final and binding on the parties and the arbitrators.

SCHEDULE I

HOW TO REFER DISPUTES TO NANI PALKHIVALA ARBITRATION CENTRE (NPAC)

Disputes may be referred to NPAC, Chennai through a procedure administered by the Centre in two ways:

1. By insertion of a clause in a contract providing for the reference of all disputes in relation to or arising out of that contract between the parties.
2. By a separate agreement providing for the reference of an existing dispute to NPAC for arbitration in accordance with its rules.

CLAUSE TO BE INCLUDED IN THE CONTRACTS TO BE ENTERED FOR INSTITUTIONAL ARBITRATION:

Any claim, dispute or difference relating to or arising out of this agreement shall be referred to the arbitration of the Nani Palkhivala Arbitration Centre currently functioning at New No.22, Karpagambal Nagar, Mylapore, Chennai 600 004, which will appoint the Sole Arbitrator and will conduct the Arbitration in accordance with its rules for conduct of Arbitration proceedings then in force and applicable to the proceedings. In the event, if the parties desire to appoint three arbitrators, then while each of the parties shall appoint one Arbitrator, the Centre will appoint the third arbitrator who shall act as the Presiding Arbitrator. Such arbitration shall be the sole and exclusive remedy between the parties with respect to all such disputes. The arbitration shall take place in Chennai, Tamil Nadu and the proceedings shall be in English. The arbitration award shall be final and binding the parties.

SCHEDULE II

JOINT MEMORANDUM

This agreement made on this day of _____ month, _____ (year), between _____ (full address of the party to be given) of ONE PART and _____ (full address of the party to be given) of the OTHER PART.

WHEREAS certain disputes have arisen and are subsisting between the aforesaid parties in relation to _____ (details of contract).

AND WHEREAS the parties agree to submit the aforesaid dispute(s) for being resolved by arbitration in accordance with the Rules of NANI PALKHIVALA ARBITRATION CENTRE (NPAC).

Now the parties hereby agree as follows:

The parties agree to submit their dispute(s) to arbitration in accordance with the Rules of the Nani Palkhivala Arbitration Centre (NPAC).

The arbitrator(s) shall be appointed in accordance with the Rules of the Centre.

The arbitration shall be administered by the Nani Palkhivala Arbitration Centre (NPAC).

The place of arbitration shall be the Nani Palkhivala Arbitration Centre (NPAC), Chennai.

In Witness Whereof, this agreement has been signed on this _____ Day of _____ Month of _____ (year) at _____ by:

1. _____ for and on behalf of

2. _____ for and on behalf of

SCHEDULE III

**ARBITRATOR'S DECLARATION OF ACCEPTANCE
AND STATEMENT OF INDEPENDENCE**

I, the undersigned

Name : _____

First Name : _____

ACCEPTANCE

Hereby declare that I accept to serve as arbitrator under the Rules of the Nani Palkhivala Arbitration Centre (NPAC) in the instant case. In so declaring, I confirm that I have familiarized myself with the requirements of the Rules of the Centre and I am capable and available to serve as an Arbitrator in accordance with all the requirements of the Rules of the Centre and accept to be remunerated in accordance therewith. I accept that the obligation to disclose any facts or circumstances which may call into question my independence or impartiality in the eyes of any of the parties shall remain binding on me till the arbitration proceedings are finally concluded.

Please tick the boxes below as may be applicable:

I am independent of each of the parties and intend to remain so; to the best of my knowledge, there are no facts or circumstances, past or present, that need be disclosed for they might be of such nature as to call

into question my independence or impartiality in the eyes of any of the parties.

OR

I am independent of each of the parties and intend to remain so; however I wish to call your attention to the following facts or circumstances which I hereafter disclose because they might be of such a nature as to call into question my independence or impartiality in the eyes of any of the parties. (Use separate sheet if necessary).

NON – ACCEPTANCE

Hereby declare that I decline to serve as arbitrator in the subject case. (If you wish to state the reasons please do so).

Date: _____ Signature : _____

SCHEDULE IV

MODEL AGREEMENT FOR FAST TRACK

This agreement is between _____ (name and address of the initiating party) and _____ (name and address of the other party or parties).

IN THE MATTER RELATING TO _____.

The parties to this Agreement agree as follows:

WHEREAS the parties desire to resolve their disputes by the Nani Palkhivala Arbitration Centre following its Summary Procedure.

WHEREAS the parties hereby undertake to dispense with the requirement of oral evidence and agree that the Arbitration Proceedings be held on the basis of documents only.

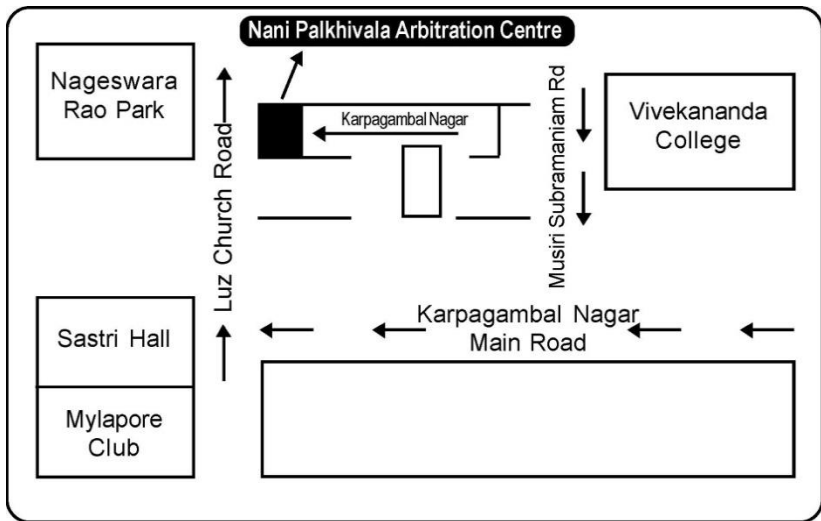
WHEREAS the parties hereby waive their right to present oral evidence and agree that the award made by the Arbitral Tribunal following the Summary Procedure of the Centre shall be final and binding on the parties.

AND WHEREAS the parties hereby undertake to strictly adhere to the time schedule drawn up for hearing under the Summary Procedure.

IN WITNESS WHEREOF, THIS Agreement has been signed on this _____ Day of _____ Month of _____ a _____ by:

1. _____ for and on behalf of

2. _____ for and on behalf of



**Address: New No. 22, Karpagambal Nagar,
Mylapore,
Chennai 600 004.**

**Telephone No.: 044 - 6513 0808,
6565 1329, 2498 6697.**

E-mail ID: nparbitration@gmail.com

Website: www.nparbitration.in