



**NAIROBI CENTRE FOR INTERNATIONAL
ARBITRATION
(NCIA)**

**GUIDELINES FOR NCIA-UNCITRAL RULES ADMINISTERED
ARBITRATION**

March 2018

The UNCITRAL Arbitration Rules provide a comprehensive set of procedural rules upon which parties may agree for the conduct of arbitral proceedings arising out of their commercial relationship and are widely used in ad hoc arbitrations as well as administered arbitrations. The Rules cover all aspects of the arbitral process, providing a model arbitration clause, setting out procedural rules regarding the appointment of arbitrators and the conduct of arbitral proceedings, and establishing rules in relation to the form, effect and interpretation of the award. At present, there exist three different versions of the Arbitration Rules: (i) the 1976 version; (ii) the 2010 revised version; and (iii) the 2013 version which incorporates the UNCITRAL Rules on Transparency for Treaty-based Investor-State Arbitration.

Article 6 of the UNCITRAL Arbitration Rules (2010) provides for the designation of appointing authorities including the Permanent Court of Arbitration (PCA) and other institutions such as the Nairobi Centre for International Arbitration.

The Guidelines shall apply to all disputes administered by the NCIA under the UNCITRAL Arbitration Rules, 2010, where parties have agreed that disputes between them shall be submitted to NCIA for administration in accordance with the UNCITRAL Arbitration Rules.

1.0 Scope of Application:

These guidelines will apply;

- 1.1 Where parties have adopted the UNCITRAL Arbitration Rules and in the arbitration agreement or through a separate agreement subsequent to the dispute arising, have , in accordance with article 6 designated the Registrar, Nairobi Centre for International Arbitration as the appointing authority and administration of the dispute.
- 1.2 Where Parties have adopted the UNCITRAL Arbitration Rules and in the arbitration agreement or a separate agreement subsequent to the dispute arising, designated Registrar, Nairobi Centre for International Arbitration as the appointing authority.
- 1.3 Where in 1.1 or 1.2 above the arbitration agreement or a separate agreement subsequent to the dispute arising has designated the Nairobi Centre for International Arbitration, in which case the Registrar, Nairobi Centre for International Arbitration shall be deemed to be designated for administration of the dispute or appointing authority respectively.

2.0 INTERPRETATION

2.1 These guidelines shall be interpreted by the Registrar, Nairobi Centre for International Arbitration and unless the context otherwise requires:

UNCITRAL Rules means the United Nations Commission on Trade Law (UNCITRAL) Arbitration Rules (2010) as amended from time to time

Arbitral Tribunal means a sole arbitrator or a panel of arbitrators as appointed in accordance with the UNCITRAL Rules

Centre means the Nairobi Centre for International Arbitration

Registrar means the Registrar of the Nairobi Centre for International Arbitration.

3.0 UNCITRAL RULES Administration Services:

The UNCITRAL Rules administration services carried out by the NCIA shall include and not be limited to:

- 3.1 Appointment of Arbitrators (save where parties have agreed on an arbitrator)
- 3.2 Management of the case on behalf of the parties and the tribunal (dispute schedule management, facilities provision, documents handling, and other required service(s))
- 3.3 Financial management of the case; costs of the tribunal (fees and expenses) registration fees of the dispute and administration costs and expenses of the Centre.
- 3.4 Any other function as may be prescribed by the tribunal and the parties to facilitate the effective management of the dispute.
- 3.5 The Registrar will perform the functions of the appointing authority as stipulated in the UNCITRAL rules.

4.0 Request for Arbitration

The claimant shall submit, to the Registrar, the request for Arbitration in accordance with the UNCITRAL Arbitration rules together with the registration fee as prescribed in the First

Schedule of the Nairobi Centre for International Arbitration (Arbitration) Rules, 2015 and a copy of the arbitration agreement.

5.0 Appointment of the Arbitral Tribunal

The Registrar shall appoint the Tribunal in accordance with Articles 8-10 of the UNCITRAL Arbitration Rules (2010).

6.0 Challenge of Arbitrators:

6.1 The Registrar shall present to the Arbitral Court established vide section 21 of the NCIA Act the notice of challenge received under Article 13(4) of the UNCITRAL Arbitration Rules (2010).

6.2 The Arbitral Court shall make its decision on the challenge within 15 days of the receipt of the challenge, unless:

6.2.1 the Arbitrator resigns ,or;

6.2.2 the parties agree to the removal of the Arbitrator

6.3 The decision of the Arbitral Court shall be final and is not subject to appeal.

7.0 Conflict of Interest:

7.1 All nominees for appointment of Arbitrator must make a full declaration of independence and impartiality, and disclose to parties and the Registrar any information, relationship or circumstance that may raise uncertainty over their independence or impartiality.

8.0 SEAT OF ARBITRATION AND PLACE OF HEARING

8.1 Unless otherwise agreed to by parties the seat of Arbitration shall be Kenya, and the Venue shall be Nairobi.

8.2 The arbitral tribunal, may with the consent of the parties meet at any geographical location it considers appropriate to conduct meetings or hearings.

9.0 FEES AND EXPENSES OF ARBITRATORS

9.1 Unless otherwise agreed by the parties and tribunal on the fees payable to the tribunal, the Registrar shall determine the fees payable in accordance with Part 3A and 4A of the first schedule to the Nairobi Centre for International Arbitration (Arbitration) Rules, 2015.

9.2 Parties are jointly and severally liable for the cost and reasonable expenses of the tribunal

10.0 DISCLAIMER

10.1 Nairobi Centre for International Arbitration shall not be liable for any act or omission in the administration a dispute under the UNCITRAL rules, nor shall it be liable for the tribunal's mistake or negligent act or omission in exercising its duties as an appointing authority under UNCITRAL rules.

NOTES:

It is recommended that parties intending to adopt the UNCITRAL Arbitration Rules should adopt either of the following clauses (*with or without modification to suit the requirements of their agreement*):

Model Clause 1: Appointment and administration by Nairobi Centre for International Arbitration

- A. Any dispute, controversy, or claim arising out of or in connection to this contract, or breach, termination, or invalidity thereof shall be resolved through Arbitration in Nairobi in accordance with the UNCITRAL Arbitration Rules currently in force.”
- B. The arbitration shall be administered by the Registrar, Nairobi Centre for International Arbitration in accordance with the NCIA Guidelines on UNCITRAL Rules Administered Arbitration and the appointing authority shall be the Registrar, Nairobi Centre for International Arbitration.
- C. The Tribunal shall be comprised of ----- Member(s)
- D. The Language of the proceedings shall be English/

Model Clause 2: Appointment only by Nairobi Centre for International Arbitration

- A. Any dispute, controversy, or claim arising out of or in connection to this contract, or breach, termination, or invalidity thereof shall be resolved through Arbitration in Nairobi in accordance with the UNCITRAL Arbitration Rules currently in force.”

- B. The appointing authority shall be the Registrar, Nairobi Centre for International Arbitration.
- C. The Tribunal shall be comprised of ----- Member(s)
- D. The Language of the proceedings shall be English/