

## SCC ARBITRATION RULES 1988

### **Recommended Arbitration Clause**

The Stockholm Chamber of Commerce suggests the following arbitration clause:

"Any dispute, controversy or claim arising out of or in connection with this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce."

The parties are advised to make the following additions to the clause, as required:

"The arbitral tribunal shall be composed of \_\_\_\_\_ arbitrators (a sole arbitrator).

The place of arbitration shall be \_\_\_\_\_.

The language(s) to be used in the arbitral proceedings shall be \_\_\_\_\_."

### **Recommended Governing Law Clause**

"This contract shall be governed by the law of ----(insert jurisdiction)."

## **I. Organisation of the Institute**

### Article 1

The Arbitration Institute of the Stockholm Chamber of Commerce ("the Institute") is an organ within the Stockholm Chamber of Commerce ("the Chamber") for dealing with matters of arbitration. Its objects are:

- to assist in the settlement of domestic and international disputes in accordance with the Rules of the Institute set forth in Articles 5-34 hereof,
- to assist in the settlement of disputes in accordance with other rules adopted by the Institute (\*)
- to assist, pursuant to its own decision in each case, in proceedings which take place in a manner that differs wholly or partly from that contemplated by the rules referred to above, and
- to provide information concerning arbitration matters.

### Article 2

The Institute shall have a Board composed of three members who shall be appointed for a period of three years by the Executive Committee of the Chamber. One of the members, who shall act as Chairman, shall be a judge having experience of business disputes, while one of the others shall be a practicing lawyer, and one a person who enjoys the confidence of the business community.

Each member shall have a personal deputy appointed by the Executive Committee for the same three-year period as the member. The deputy shall have the same qualifications as the member for whom he is a deputy.

For special reasons, the Executive Committee may remove a member or a deputy. If a member or a deputy resigns or is removed during his term of office, the Executive Committee will nominate another person to serve as member or deputy during the balance of the term

References below to "the Chairman" or "members" apply equally to a deputy serving in the place of the Chairman or a member.

### Article 3

Two members of the Board shall form a quorum. If no majority is attained, the Chairman shall have a casting vote. Decisions of the Board are final and cannot be reviewed by the Chamber.

### Article 4

The Institute shall have a secretariat composed of one or several persons employed by the Chamber. The secretariat shall be under the direction of a Secretary-General who shall be a lawyer.

## **II. Arbitration Rules of the Institute**

### A. Composition of Arbitral Tribunals

#### Article 5

#### Number of Arbitrators and Manner of Their Appointment

If the parties have not agreed on the number of arbitrators, they shall be three in number.

If the parties have agreed that the dispute is to be decided by a sole arbitrator, then the appointment shall be made by the Institute. In other cases, each party shall appoint an equal number of arbitrators and the Institute one arbitrator, who shall be chairman of the tribunal.

If the parties have so agreed, the Institute shall appoint all members of the tribunal.

If an arbitrator appointed by a party dies, such party shall appoint another arbitrator in his place. If the arbitrator had been appointed by the Institute, the Institute shall appoint another arbitrator in his place.

If an arbitrator resigns or is discharged, the Institute shall appoint another arbitrator. If the arbitrator had been appointed by a party, such party shall be consulted by the Institute.

If a party fails to appoint an arbitrator within the time prescribed by the Institute, then the Institute shall make the appointment.

#### Article 6

##### Duty of an Arbitrator to Disclose Grounds for his Disqualification

A person who is asked whether he wishes to accept appointment as an arbitrator shall disclose to the person approaching him any circumstances which might be deemed to diminish trust in his impartiality or independence (disqualification). If he is nevertheless appointed, he shall at once make the same disclosure to the parties and the other arbitrators.

An arbitrator who becomes aware in the course of the arbitral proceedings of any circumstances which may disqualify him must immediately inform the parties and the other arbitrators thereof.

#### Article 7

##### Challenge of Arbitrators

If a party wishes to challenge an arbitrator he shall do so in writing. Such a challenge shall state the reasons thereof and shall be notified to the Institute, the arbitrators and each other party.

Any challenge by a party of an arbitrator must be made immediately but in any event within thirty days of the date on which the allegedly disqualifying circumstance becomes known to the party.

A party who fails to notify a challenge within the prescribed time is deemed to have waived his right to make such challenge.

Decisions of challenges will be made by the Institute.

#### Article 8

##### Discharge of Arbitrators

If the Institute finds that an arbitrator is disqualified it shall discharge him.

The Institute may also decide to discharge an arbitrator on the ground of any lawful excuse or failure to perform his duties in an adequate manner.

Before a decision on discharge is made the Institute shall solicit the views of the parties and the arbitrators.

## B. Initiation of Proceedings. Procedures of the Institute

### Article 9 Request for Arbitration

Arbitration is initiated by the filing by a party with the Institute of a request for arbitration which shall include:

- a) A statement of the names and addresses of the parties;
- b) An account of the dispute;
- c) A preliminary statement of the relief claimed by the claimant;
- d) A copy of the agreement on which the claim is based and of the arbitration agreement if the latter is not included in the former; and, where applicable,
- e) A statement identifying the arbitrator or arbitrators appointed by the claimant.

### Article 10 Dismissal

If it is obvious that the Institute lacks competence over the dispute, the claimant's request for arbitration shall be dismissed.

### Article 11 The Respondent's Reply, etc.

If it is not obvious that jurisdiction is lacking, the request shall be communicated by the Institute to the respondent. The respondent shall be asked to submit a reply to the Institute which shall include:

- a) A statement commenting on the request made by the claimant; and, where applicable,
- b) A statement identifying the arbitrator or arbitrators appointed by the respondent.

If the respondent desires to raise any objection concerning the validity or applicability of the arbitration agreement, such objection shall be made in the reply together with a statement of the grounds therefor.

If the respondent desires to make a counterclaim or plead a set-off, a statement to that effect shall be made in the reply, including an account of the dispute and a preliminary statement of the relief claimed. A counterclaim or a plea by way of setoff must be comprised by the arbitration agreement.

The respondent's reply shall be communicated to the claimant. The claimant shall be given an opportunity to comment on any objections and pleas advanced by the respondent. Failure by the respondent to submit a reply shall not prevent the proceedings in the case from continuing.

Article 12  
Amplification. Time Limits

The Institute may request a party to amplify any submission to the Institute. If the claimant fails to comply with such a request, the Institute may decide to dismiss the case. If the respondent fails to do so, such failure shall not prevent the proceedings in the case from continuing.

If the respondent should fail to amplify his counterclaim or plea for a set-off, such claim or plea may be dismissed by the Institute.

If the Institute has requested a party to perform any act within a specified time, such time limit may be extended by the Institute.

Article 13  
Security for Costs

The Institute shall fix a sum which shall be paid to the Institute and which, together with accrued interest, shall constitute security for the costs of the proceedings. The amount thereof is fixed in accordance with regulations issued by the Institute. The Institute may fix separate sums for a counterclaim and a plea by way of set-off. After notification by the arbitral tribunal the Institute may in the course of the proceedings decide to increase the sums to be paid.

Each party shall as a rule contribute half of such sums of money as are referred to in the preceding paragraph. One party may, however, pay the entire sum.

If a party fails to make a required payment the Institute shall afford the other party an opportunity to do so. If, this notwithstanding, the required payment is not made, the case shall be wholly or partly dismissed or stayed.

The Institute may, both in the course of the proceedings and thereafter, draw on the security to pay fees to the arbitrators and other costs of the proceedings.

The Institute may decide that the security may partly consist of a bank guarantee or other security.

Article 14  
Decisions of the Institute

When the exchange of written submissions pursuant to Articles 9-12 has been concluded, then, unless it is obvious that jurisdiction is lacking, the Institute shall:

- a) Appoint a chairman of the arbitral tribunal and, if necessary, another arbitrator pursuant to Article 5;
- b) Determine the place of arbitration unless the parties have done so; and
- c) Fix the amount of the security and the time within which each party shall pay his share thereof.

Article 15  
Referral of a Case to the Arbitral Tribunal

As soon as the arbitral tribunal has been appointed and the security been provided, the Institute shall refer the case to the arbitral tribunal.

C. The Proceedings Before the Arbitral Tribunal

Article 16  
The Procedure Before the Arbitral Tribunal

The arbitral tribunal shall determine the manner in which the proceedings will be conducted.

In so doing, the arbitral tribunal shall comply with the stipulations of the parties in the arbitration agreement and these Rules and shall have regard to the wishes of the parties.

The arbitral tribunal shall deal with the case in an impartial, practical and speedy fashion. Each party shall be given a sufficient opportunity to present his case.

If the arbitral tribunal is composed of three or more members, the Chairman may, if the other arbitrators have so authorised him, decide questions of procedure on his own.

Article 17  
Language

Unless the parties have agreed on the language or languages to be used in the proceedings, the arbitral tribunal shall make a determination in such respect.

Article 18  
Statement of Claim and Defence

The claimant shall submit a statement of claim which, unless such information has already been provided in the case, shall include:

- a) The specific relief claimed.
- b) The circumstances which constitute the material facts on which the claimant relies in support of his claim.

The statement of claim in addition ought to include a preliminary statement of the evidence which the claimant desires to adduce.

The respondent shall submit a defence, which, unless such information has previously been provided in the case, shall include:

A statement as to whether and to what extent the respondent accepts or opposes the relief claimed by the claimant;

- a) If the claim is denied in whole or in part, the circumstances which constitute the material facts on which such denial is based and specifying whether the respondent admits or denies the material facts relied upon by the claimant; and, if the respondent so pleads,
- b) A specific plea by way of set-off or counterclaim and the grounds on which it is based.

The defence further ought to include a preliminary statement of the evidence which the respondent desires to adduce.

The arbitral tribunal may decide on the submission by the parties of additional written statements.

#### Article 19 Amendment to Claim or Defence

A party may amend his claim or defence in the course of the proceedings if his case, as amended, is still comprised by the arbitration agreement and unless the arbitral tribunal considers it inappropriate having regard to the point of time at which the request is made, the prejudice that may be caused to the other party or other circumstances.

The provisions of the preceding paragraph shall apply equally to the right of a party to introduce a plea for a set-off or a counterclaim.

#### Article 20 Oral Hearing

An oral hearing shall, as a rule, be arranged. Guided by the wishes of the parties, the arbitral tribunal shall determine the time at which such a hearing shall take place, its duration and how it shall be organised, including the manner in which evidence is to be presented.

If an arbitrator is replaced in the course of the proceedings, the newly composed tribunal shall decide whether and to what extent a prior oral hearing shall be repeated.

#### Article 21 Evidence

At the request of the arbitral tribunal, the parties shall state the evidence on which they wish to rely, specifying what they wish to prove with each piece of evidence, and shall produce the documentary evidence on which they rely.

The arbitral tribunal determines whether written affidavits may be submitted.

The arbitral tribunal may refuse to accept evidence offered to it if it considers that such evidence is not required or is irrelevant or that proof can be established by other means in a considerably simpler fashion or at considerably lesser expense.

After having conscientiously scrutinised and evaluated everything that has occurred in the proceedings, the arbitral tribunal shall determine what has been proved in the case.

Article 22  
Expert

Unless the parties provide otherwise, the arbitral tribunal may appoint an expert to give his opinion on a particular matter.

Article 23  
Failure of a Party to Appear, etc.

If one of the parties, without showing valid cause, fails to appear at a hearing or otherwise to comply with an order of the arbitral tribunal, such failure will not prevent the arbitral tribunal from proceeding with the case and rendering an award.

Article 24  
Waiver of Procedural Irregularities

A party who fails during the proceedings to object within a reasonable time to any deviation from provisions of the arbitration agreement or other rules applicable to the proceedings shall be deemed to have waived his right to invoke such irregularity.

Article 25  
Voting

When a vote is taken, that opinion shall prevail which has received more votes than any other opinion. If such a majority is not attained the opinion of the chairman shall prevail.

D. The Award

Article 26  
Time for Making an Award

An award shall be made not later than one year after the case has been referred to the arbitral tribunal. At the request of the arbitral tribunal, the Institute may, however, if appropriate extend this period.

Article 27  
Separate Award

A separate issue or part of the matter in dispute between the parties may, at the request of a party, be decided by a separate award. If any party objects, such an award may be rendered only if there are special reasons therefor.



Where a party has partially admitted a claim, the arbitral tribunal may give a separate award on the part that has been admitted.

#### Article 28

##### Award

The award shall be rendered at the place of arbitration. The award shall contain an order or declaration and the reasons therefor and shall be signed by all the arbitrators. An award may be rendered even in the absence of the signature of an arbitrator provided that the award has been signed by a majority of the arbitrators and contains a verification by them that the arbitrator whose signature is missing took part in deciding the dispute.

An arbitrator may attach a dissenting opinion to the award.

If a settlement is made the arbitral tribunal may at the request of the parties confirm such settlement in an award.

#### Article 29

##### Costs

The arbitral tribunal shall decide in the award which amounts of compensation are due to the Institute and the arbitrators, respectively. The parties are jointly and severally liable for the payment of such sums.

The losing party shall be ordered to pay such compensation and costs as well as the costs of the other party unless the circumstances call for a different result.

If a case is terminated before an award has been rendered, the arbitral tribunal may decide that the parties shall pay compensation to the Institute and the arbitrators. If a case is terminated before it has been referred to the arbitral tribunal, the Institute will determine the amount of compensation due to it.

An award may be rendered even if it deals only with costs.

#### Article 30

##### Fees of Arbitrators

The fees of arbitrators shall be reasonable in amount and shall be determined taking into account the time spent by the arbitrators, the complexity of the case, the amount in dispute and other circumstances.

#### Article 31

##### Correction of an Award, etc.

Any obvious miscalculation or clerical error in an award shall be corrected by the arbitral tribunal.

If a party so requests within thirty days of receiving the award the tribunal may decide a question which should have been decided in the award but which was not decided therein.

If a party so requests within thirty days of receiving the award the arbitral tribunal may provide an interpretation thereof in writing.

Before the arbitral tribunal takes any action, the parties shall be afforded an opportunity to express their views.

## E. Miscellaneous Provisions

### Article 32

#### Compensation Due to The Institute

The amount of compensation due to the Institute will be determined in accordance with regulations issued by the Institute.

### Article 33

#### Filing of Awards, etc.

An arbitral tribunal must after the close of the proceedings submit to the Institute one copy of each award and written order issued in the case as well as of all recorded minutes therein.

### Article 34

#### Effectiveness

These Rules shall enter into force on 1 January 1988 and will replace the former Rules of the Institute.

If an arbitration agreement has been concluded prior to 1 January 1988, the former Statutes or former Rules of the Institute shall apply unless the parties agree otherwise.

## **Appendix**

Regulations for the Determination of the Amount to be paid as Security for the Costs of the Proceedings and for the Determination of the Amount of Compensation to the Institute

### 1. Amount as Security for the Costs of the Proceedings

The amount constituting security for the costs of the proceedings is intended to cover the anticipated arbitrators fees, the foreseen disbursements of the arbitrators and the compensation due to the Institute. In determining the amount to be required, the Institute makes a preliminary

assessment of the size of the case. The amount in dispute (if this can be ascertained) generally is the principal guideline for the determination, and then the table below serves as a starting-point.

The amount required is not binding with respect to the final determination of fees to be paid to the arbitrators or the arbitration costs.

Amounts paid to the Institute shall be made interest-bearing.

**Guideline Table for Determining the Amount to be paid as Security for the Costs of the Proceedings (Swedish Crowns)**

Amount in Dispute	Amount at the Lower Figure within the Range	Add Percentage Points within the Range
-100,000	15-30 %	
100,000-300,000	15,000-30,000	10-20 %
300,000-1,000,000	35,000-70,000	7-15 %
1,000,000-3,000,000	84,000-175,000	3-6 %
3,000,000-5,000,000	144,000-295,000	1-4 %
5,000,000-10,000,000	164,000-375,000	0.5-2 %
10,000,000-50,000,000	189,000-475,000	0.4-1.2 %
50,000,000-100,000,000	349,000-955,000	0.1-0.6 %
100,000,000-	399,000-1,255,000	0.01-0.06 %

**2. Compensation to the Institute**

Compensation to the Institute shall be due according to the table below. If a case has required substantially more or less work than is normally the case, compensation will be charged which differs from the amounts stated in the table.

**Table for Determining the Amount of Compensation Due to the Institute (Swedish Crowns)**

Amount in Dispute	Administration Fee at the Lower End of the Range	Add Percentage Points within the Range
-100,000	(minimum 2,000)	4 %
100,000-300,000	4,000	2%
300,000-1,000,000	8,000	1.5%

1,000,000- 3,000,000	18,500	1%
3,000,000- 5,000,000	38,500	0.5%
5,000,000- 10,000,000	48,500	0.25%
10,000,000- 50,000,000	61,000	0.05%
50,000,000- 100,000,000	81,000	0.02 %
100,000,000-	91,000	0.01 %

\*) The Arbitration Institute of the Stockholm Chamber of Commerce has adopted Conciliation Rules and Rules for Procedures under the UNCITRAL Arbitration Rules.