



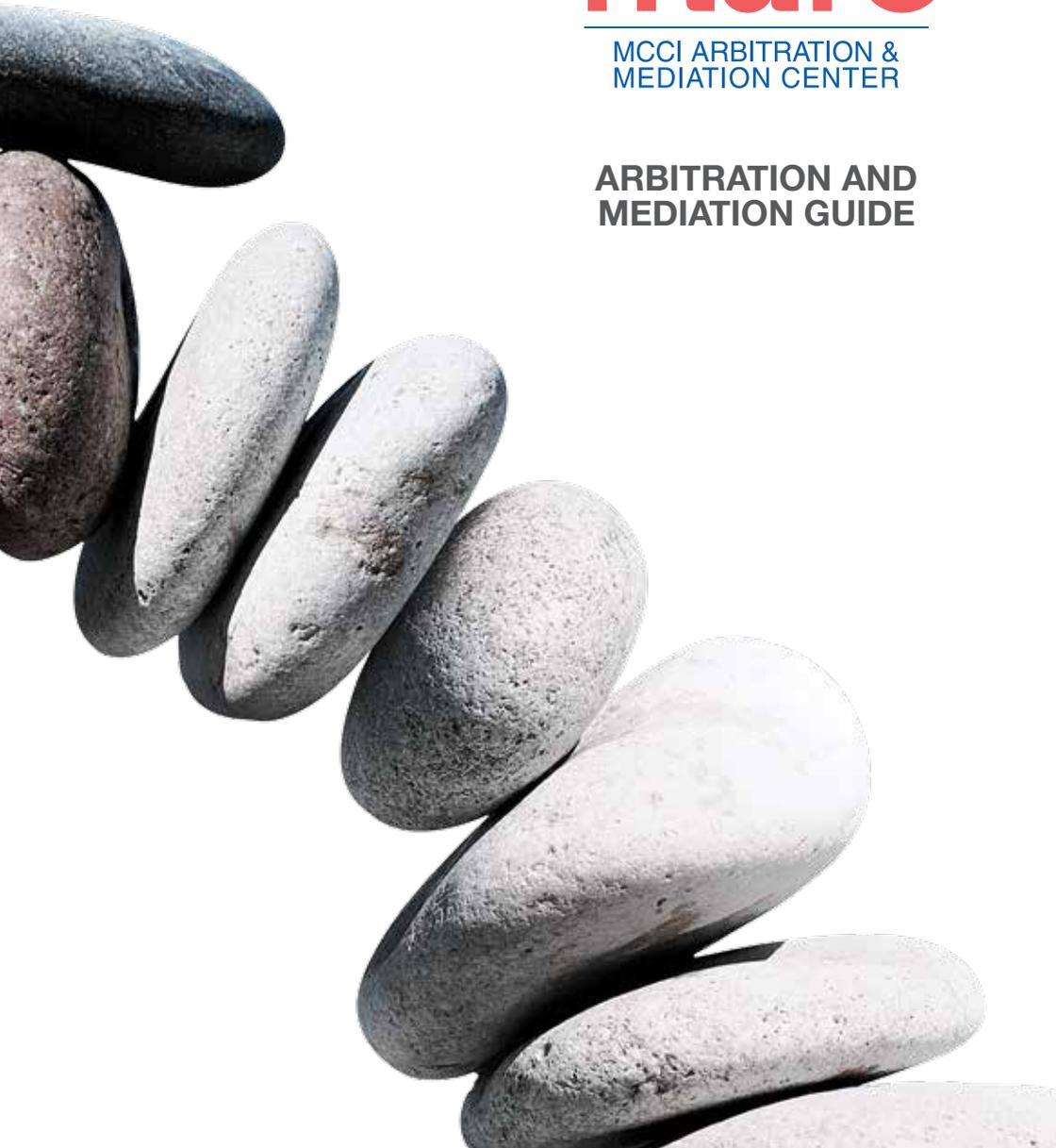
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MCCI ARBITRATION &  
MEDIATION CENTER

**ARBITRATION AND  
MEDIATION GUIDE**



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MEDIATION GUIDE**



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Economic operators need to rely on efficient and flexible methods for managing their commercial conflicts, and Alternative Dispute Resolution (ADR) methods provide appropriate solutions, as alternatives to judicial proceedings.

Any dispute, no matter its nature, weakens an entity and its business relationships. It affects its profitability and performance and, if an outcome is not rapidly reached, it can even affect its future development prospects or continued existence.

When the conflict is between commercial partners of different countries, the problem is coupled with that of finding an appropriate third party to mediate or rule on the dispute.

Today, a company can decide to have recourse to economical, speedy, confidential and flexible Alternative Dispute Resolution (ADR) techniques, outside state courts, for dealing with business disputes. Arbitration and mediation are the two main ADR methods offered by the MCCI Arbitration and Mediation Center (MARC) to settle disputes. This guide is primarily dedicated to these two forms of dispute resolution.

**Arbitration is a contentious and private means of dispute resolution.**

It enables the establishment of judicial proceedings, identical to those conducted before national courts, in a confidential setting. The arbitrators, who are selected for their competence and their availability, ensure rapid access to justice by means of a flexible process.

The award rendered by a sole arbitrator or an arbitral panel is equivalent to a judgement that is binding on the parties, subject to exceptions.

**Mediation is an amicable dispute resolution process.** It provides a shield of confidentiality and trust, which allows entities to negotiate and explore by themselves a mutually acceptable solution to their dispute. The mediator orchestrates these exchanges, without becoming involved in the substance of the dispute, leaving the parties entirely free to decide on the outcome to their dispute.

These two procedures can be complementary and used in succession (e.g. mediation followed by arbitration if the parties did not reach an amicable settlement; or arbitration, which once started may be suspended to try mediation.)

The Mauritius Chamber of Commerce and Industry (MCCI) has used ADR methods since its first years of existence. Indeed, the first arbitrations under the aegis of the MCCI date back to 1850. At this time, arbitration was already considered as a flexible and efficient means of resolving disputes between commercial partners.

It is in the same vein that the MCCI decided in 1996 to create a Permanent Court of Arbitration. Trade globalisation during that year had gained its full momentum and economic exchanges were becoming more and more cross-border, making of arbitration a speedy and efficient means of solving business disputes.

The Permanent Court of Arbitration of the MCCI is thus created, based on the model of the International Court of Arbitration (ICA) of the International Chamber of Commerce, and with arbitration rules inspired from the ICA rules and the UNCITRAL model rules.

Through the years, the MCCI Permanent Court of Arbitration has developed its activities in Mauritius and in the region by prioritising as objectives the use of ADRs as management tools for the resolution of disputes, and as facilitators of commerce and investment. It has placed emphasis on regional and international cooperation for the promotion of ADRs, by establishing partnership agreements with other ADR centers around the world. In 2013, the MCCI has for instance signed a partnership agreement with the *Centre de Médiation et d'Arbitrage de Paris* (CMAP), for the promotion of ADRs in Mauritius and in the region, for the training of professionals in mediation and arbitration, and to build capacity for the MCCI Arbitration and Mediation Center (MARC), the new name of the Permanent Court of Arbitration since 2013.

The Mauritius Chamber of Commerce and Industry (MCCI) is the main non-profit making association of the private sector in Mauritius, and the oldest, having been created in 1850. Over the years, it has acquired a mastery of the dynamics of commerce and industry in Mauritius and the region, and of the major role played by economic operators on a local and international scale. It has acquired a strong expertise in the field of private sector advocacy, and has forged a reputation as a transparent and independent institution, with at heart the mission of defending the interests of the Mauritian private sector, and providing it with support in terms of business facilitation, access to information, networking, training and advocacy.

MARC benefits from all the institutional facilities of the MCCI, and of its expertise in the field of local and international business. It is administered by the rules which follow, and it has as objective to provide operators, individual and corporate, as well as public organisations, with the means to initiate arbitration and mediation procedures in a speedy and efficient way, and in conformity with the constraints and interests of the business community, and international standards.

The objective of this guide, which revisits and explains the entire range of rules provided by the MARC, is to allow operators at any time, whether from the moment that the symptoms of a conflict first appear or after several years of litigation, to engage in an efficient and customised dispute resolution process, with managed deadlines and costs, using MARC's know-how in this field.



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**ARBITRATION**

### INTRODUCTION

Arbitration is a jurisdictional method of resolving conflicts.

It consists in the submission of a dispute, which has occurred or has not yet occurred, between one or more parties, for resolution by a neutral and impartial third party or parties, who will hear and decide on the dispute by applying rules of law or trade usages and customs. The arbitrator gives a decision called an arbitral award, which is binding on the parties, and which in general, puts an end to the conflict.

The objective of MARC is to promote recourse to arbitration by providing economic operators with a flexible, speedy and efficient procedure which enables them to resolve their disputes in a final manner, with the rendering of an award which has the same effects as a judicial decision.

MARC proposes an institutional arbitration framework characterised by:

#### *Dynamic Rules*

Flexibility and speed, the prime advantages of arbitration, find full expression in MARC Arbitration Rules. Once an application for arbitration is made, and even before the constitution of the arbitral tribunal, MARC creates an atmosphere which is conducive to dialogue and encourages the parties to reach a negotiated solution through mediation (article 33).

Parties can also confer upon the arbitrator powers of amiable compositeur (article 21). Furthermore, arbitrators are given a broad discretion to tailor the arbitration to the needs of the disputes submitted to them, by adapting the procedure to the specific issues and difficulties of the case.

Another original feature of the MARC Arbitration Rules is the rapidity of the proceedings: in addition to short time limits, the arbitrators are constantly encouraged to proceed in a timely manner. The intentional absence of formalism in the procedure makes it possible for the preliminary procedures to be hastened.

### *High Quality Arbitral Proceedings*

While the rules governing the proceedings are determined by the arbitral tribunal – subject to the agreement of the parties – this freedom is restricted by the obligation to respect principles inherent to the proper administration of justice, and by the provisions of the MARC Arbitration Rules. While the determination of the rules applicable to the arbitral proceedings – subject to the will of the parties – are within the power of the arbitral tribunal, this freedom is limited by the law, and this provides a guarantee of the stability and regularity of the procedure, and ultimately, the satisfaction of the parties.

### *Independent, impartial and qualified arbitrators*

The arbitrator must be independent of the parties. He must be impartial and respectful of the confidentiality of his task, both during the arbitration and after the award is rendered.

MARC obtains the assistance of arbitrators whose professional qualities are recognised. MARC arbitrators come from diverse professional backgrounds: practitioners in law, business and finance professionals, former judges, etc. Moreover they possess practical and technical knowledge which ensures that they have a perfect understanding of the business sector in which the dispute takes place.

### *A jurisdictional decision which is definitive and binding*

At the end of his mission, the arbitrator gives a decision called an arbitral award, the effects of which are the same as that of a judgement rendered by a judicial authority. It is binding on the parties, in the sense that parties must abide by it. It is subject to compulsory execution once it has been validated by the Judge in Chambers, through the procedure of exequatur.

### *A scale of costs to facilitate access of all economic operators to arbitration*

Arbitration costs include the arbitrator's fees and the administrative expenses. They remain under the control of parties and depend on the amount of the claim, and counterclaim if any. The costs are fixed according to an extremely competitive scale.

## ARBITRATION RULES

### General Provisions

- A Center for Arbitration and Mediation hereinafter referred to as the MCCI Arbitration and Mediation Center or MARC is established under the aegis of the Mauritius Chamber of Commerce and Industry (MCCI), situated at 3, Royal Street, Port-Louis.
- The Permanent Secretariat of MARC (hereinafter referred to as the “Permanent Secretariat” or “MARC”) shall ensure compliance with the present Arbitration Rules and the proper conduct of arbitral proceedings. The Permanent Secretariat shall also be responsible for administrative and financial matters of MARC, and the promotion of Alternative Dispute Resolution methods in general. It is constituted of the Secretary-General of the MCCI and officers of the MCCI.
- All proceedings before MARC shall be strictly confidential. Neither the parties nor their representatives or counsels nor the arbitrators may disclose any matter pertaining to arbitral proceedings.
- MARC including its directors, officers, employees or any arbitrator shall not be liable to any person for any act or omission in connection with any arbitration governed by the present Rules, subject to limitations of responsibility which are prohibited by the applicable law.
- No party shall seek to make any director, employee or arbitrator act as a witness in any legal proceedings in connection with any arbitration governed by the present Rules.

### Article 1: Adherence

- 1.1** The present Arbitration Rules take effect as from 1 March 2014. The Rules provide for a flexible, speedy and efficient procedure for resolving all commercial or economic disputes of a national or international nature.

- 1.2** Parties to a dispute shall be bound by the provisions of the present Rules either by signing an arbitration agreement which contains a clause nominating MARC as the arbitration institution or by voluntary adherence to these Rules after occurrence of the dispute through the signature of a “compromis d’arbitrage” appointing MARC as the arbitration institution.

- 1.3** Model of arbitration clause to be included in commercial contracts:

The adoption of the following clause is recommended:

“Any dispute arising in connection with the present contract shall be finally settled under the Arbitration Rules of the Arbitration and Mediation Center of the Mauritius Chamber of Commerce and Industry (MARC) by... (one or three) arbitrator(s) appointed in accordance with the said rules.”

If the contract is of an international nature, the parties should particularly foresee the applicable law, the venue and the language of arbitration.

## I. COMMENCEMENT OF ARBITRAL PROCEEDINGS

### Article 2: Request for arbitration

- 2.1** Any person wishing to submit a dispute to MARC shall make an application to the Permanent Secretariat, MARC (MCCI Arbitration and Mediation Center), Mauritius Chamber of Commerce and Industry, 3, Royal Street, Port-Louis, Mauritius. The application shall contain the following information and documents:
- (a) the full names, descriptions and addresses of the parties;
  - (b) a summary of the applicant’s contentions;
  - (c) the agreement containing the arbitral clause or an agreement between the parties to submit the dispute through the MARC Arbitration Rules;

- (d) any document or information likely to establish the circumstances in which the dispute arose;
- (e) the designation of the first arbitrator if the dispute is to be submitted to a panel of three arbitrators or of the sole arbitrator if the dispute is to be submitted to a sole arbitrator;
- (f) the designation, if necessary, of the venue and the language of arbitration.

**2.2** The request for arbitration and supporting documents shall be submitted in sufficient number of copies for all parties and arbitrators, in addition to a copy for the Permanent Secretariat. It must be communicated to MARC by registered post with advice of receipt.

**2.3** The request shall not be registered, unless it is accompanied by payment of the filing fee as fixed by the scale of costs in force at the time of filing.

### *Article 3: Answer to the Request*

**3.1** Once the Permanent Secretariat receives the request, it registers and sends a copy of the request and the documents annexed thereto to the respondent by registered post accompanied by a request for advice of delivery.

**3.2** The date on which the respondent received such notice shall be deemed to be the date on which the arbitral proceedings have commenced. The lodging of such an application with MARC shall suspend the application of any contractual limitation period.

**3.3** The respondent shall within 21 days from the date on which notice of the arbitral request is received by him state to the Permanent Secretariat his comments regarding the arbitral request accompanied with the following information and documents:

- (a) his full name, description and address;
- (b) a summary of his defence statement and, if any, his counterclaims; any counterclaim made by the respondent shall provide (i) a description of the nature and circumstances of the dispute giving rise to the counterclaim(s); and (ii) a statement of the relief sought, including, to the extent possible, an indication of any amounts counterclaimed;
- (c) an agreement including the arbitration clause or a specific arbitration agreement;
- (d) any document or information likely to establish the circumstances in which the dispute arose;
- (e) a statement of acceptance or refusal of the proposals made by the applicant regarding the number of arbitrators and their designation; if the dispute is to be submitted to a panel of three arbitrators, the designation of an arbitrator;
- (f) if the dispute is to be submitted to a single arbitrator, a statement as to whether he accepts the applicant's proposal, and, if not, the designation of an alternative arbitrator from MARC's list of arbitrators.

**3.4** The reply of the respondent to the request for arbitration and supporting documents shall be submitted in sufficient number of copies for all parties and arbitrators, in addition to a copy for the Permanent Secretariat. It must be communicated to MARC by registered post with advice of receipt.

**3.5** Once MARC receives the reply, it communicates it to the applicant by registered post with advice of receipt. If the reply contains one or more counterclaims, the applicant shall within 21 days of the date following which the respondent's reply is communicated to him, address a reply with respect to the counterclaim, to the Permanent Secretariat, which will communicate same by registered post with advice of receipt to the parties, and to the arbitral tribunal if the latter has already been constituted.

**Article 4: Failure to reply**

In case of failure to reply and after the time limit defined in article 3.3, the Permanent Secretariat of MARC verifies that the specified notification has been received by the respondent and:

- (a) In the case of an arbitration clause that does not designate MARC as arbitration institution, the Permanent Secretariat informs the applicant and closes the file. The case filing fee paid is non-refundable.
- (b) In the case of an arbitration clause that designates MARC as responsible for organising the arbitral proceedings, the arbitration procedure is initiated in accordance with the provisions outlined below, and each step of the procedure is notified by MARC to the defaulting party.

**Article 5: Additional claims**

Additional claim(s) may be brought before the arbitral tribunal, who will decide if it/they will be considered, taking into account whether or not an adequate link exists between the additional claim(s) and previous claims, and the stage reached in the procedure.

**Article 6: Preliminary examination by the Permanent Secretariat**

If the designation of MARC or the arbitral competence is challenged prior to constitution of the arbitral tribunal, the Permanent Secretariat shall appreciate and decide on whether arbitral proceedings can be initiated or not.

**Article 7: Assistance and Representation of the parties**

- 7.1 Each party may be assisted by any person of its choice.
- 7.2 Each party may arrange to be represented at the arbitral proceedings by a person empowered by it for such purpose.

**Article 8: Communications and notifications**

- 8.1 All documents and submissions and any correspondence, memorandum or evidence submitted by the parties must be addressed to the Permanent Secretariat in sufficient number of copies for all parties, and arbitrators, in addition to a copy for the Permanent Secretariat.

- 8.2 All written statements, correspondence, and supporting documents must be communicated simultaneously, through the Permanent Secretariat to all parties, to their counsel, and to each member of the arbitral tribunal, in sufficient number of copies for all parties and arbitrators, in addition to a copy for the Permanent Secretariat.
- 8.3 Delivery of all written communications by the parties, the arbitral tribunal or the Permanent Secretariat shall be made to the last-known address, as provided by the addressee or, as the case may be, by the other party, or if the parties so request, to their representatives. Any change in address must be communicated to the Permanent Secretariat by registered post with advice of receipt.
- 8.4 All decisions of MARC are communicated to the parties, or upon their request to their representatives, and to the arbitrators.
- 8.5 All notices or communications from the parties to the Permanent Secretariat or the arbitrators shall be valid only if made in writing and receipt thereof is acknowledged, or if they are sent by registered post with advice of receipt to the Permanent Secretariat which shall then despatch same to all concerned at their known addresses.
- 8.6 Delivery of all written communications by the parties, the arbitral tribunal or the Permanent Secretariat shall be made to the last-known address, as provided by the addressee or, as the case may be, by the other party. The notification or communication is validly effected if against advice of receipt, by registered post, post, email or by any other means of communication which can provide a proof of the despatch.
- 8.7 The notification or communication is considered to have been effected when it has been received or if it had been validly made as per the article 8.6, should have been validly received by a party or his or her representative.

**8.8** Any period of time specified in the present Rules begins to run on the day following the date a notification or communication is effected in accordance with this section, unless that day is a non-business day in the country where it is effected, in which case it starts to run on the first subsequent business day following that date. Official holidays and non-business days are otherwise included in all computations of time.

**Article 9:** *Advance on costs and transmission of the file to the arbitral tribunal*

**9.1** As soon as the Permanent Secretariat has received the parties' respective claims and applications, or upon expiry of the time-limit specified in article 3.3 of the current rules, it shall request the parties to pay an advance on administrative costs and arbitrator(s)' fees, calculated in accordance with the scale in force and payable within the time limit fixed by MARC.

**9.2** In case the application is followed by one or more counter-application, the Permanent Secretariat may require separate advance payments for the main application and the counter-application(s).

**9.3** The advance payments required shall be paid in equal proportion by the applicant and the respondent.

**9.4** The Permanent Secretariat shall transmit the file to the arbitral tribunal only once the required advances on costs have been paid in full. Should one of the parties fail to pay its share, another party may pay it instead, or, in lieu thereof, post a bank guarantee acceptable to MARC.

**9.5** Upon failure to pay the costs, after expiry of the time limit and without an offer from a party to meet the costs of the other party, MARC shall have the right to consider the arbitral procedure as having lapsed. It shall inform the parties thereof, the administrative fees remaining non-refundable.

**9.6** Where the share of the advance owed by the defaulting party is paid by another party, the latter may request that the Permanent Secretariat revise and fix the total amount of the advance on the basis of its application alone. In the latter case, the arbitral tribunal is seized only with respect to the application of the party who covers the costs of its opponent, after notifying the defaulting party by registered post with advice of receipt.

**9.7** The defaulting party can seize the arbitral tribunal with a counterclaim only after having effected payment of the costs payable by it.

**9.8** If, in the course of the arbitration, additional claims are put forward by the parties, the Permanent Secretariat may call for an additional advance on costs upon the request of the arbitral tribunal, the payment of which is subject to the rules provided in paragraphs 2, 3 and 4 of the current article. Payment default within the time limit will lead to a rejection of the additional claims.

## II. CONSERVATORY AND INTERIM MEASURES

**Article 10:** *Conservatory and interim measures*

The parties may initiate judicial proceedings to obtain any order which the arbitral tribunal is unable to grant.

Recourse to such proceedings by any party shall not constitute a breach of the agreement to submit to arbitration or be construed as causing any prejudice to the powers of the arbitral tribunal.

The Permanent Secretariat and the arbitral tribunal shall be informed immediately of any recourse to a judicial authority and of any order obtained from the judicial authority.

### III. CONSTITUTION OF ARBITRAL TRIBUNAL

#### Article 11: List of arbitrators

- 11.1** A list of approved arbitrators is established by MARC.
- 11.2** The list shall consist of names of arbitrators who may determine national and international disputes.  
The list shall be regularly updated and communicated to any interested person and shall also be available for consultation on the MCCI website (www.mcci.org).
- 11.3** Any individual person having an experience in arbitration, irrespective of nationality, may be included in the list of arbitrators at the sole discretion of the Permanent Secretariat and the President of the MCCI.  
Parties to any dispute submitted to MARC must appoint the arbitrator(s) from amongst persons whose names appear on the list established under this section.
- 11.4** The approved arbitrators shall comply with the Code of Conduct for International Arbitrators adopted by the International Bar Association and the MARC Rules of Ethics for Arbitrators.

#### Article 12: Number of arbitrators

- 12.1** If parties to a dispute agree to submit the dispute to arbitration by MARC in accordance with the present Arbitration Rules, the dispute may be heard either by a sole arbitrator or by a panel of three arbitrators (in either case hereinafter referred to as the “arbitral tribunal”).
- 12.2** Subject to the first paragraph, in case the parties do not express an agreed preference, the Permanent Secretariat shall after consultation with the parties determine the number of arbitrators, taking into consideration characteristics of the dispute.

#### Article 13: Nomination of arbitrators

- 13.1** If the parties agree on the appointment of a particular sole arbitrator, the latter shall be appointed as sole arbitrator. If the parties agree to submit the dispute to a sole arbitrator but cannot agree on the appointment of any particular arbitrator, the latter shall be appointed by the Permanent Secretariat from amongst persons whose names appear on the list of approved arbitrators.
- 13.2** If the parties agree that a panel of three arbitrators shall be appointed, the arbitral tribunal shall consist of the two arbitrators appointed by the parties, in the application and notice of the respondent respectively, and of a third arbitrator appointed by the first two arbitrators designated by the parties, from amongst the list of persons whose names appear on the list of approved arbitrators, and the third arbitrator shall be Chairman of the arbitral tribunal.
- 13.3** If the arbitration is of an international nature, the sole arbitrator or the chairman of the arbitral tribunal shall, unless otherwise agreed by the parties, be of a nationality other than those of the parties.
- 13.4** Where an arbitrator must be proposed by a party, and the latter does not make any proposal within the time limit set by the MARC, the arbitrator is designated by the Permanent Secretariat.

#### Article 14: Time limit for setting up the arbitral tribunal

- 14.1** The arbitral tribunal shall be appointed within 21 days following lodging of the respondent’s reply.
- 14.2** In the event that the required appointments are not made by the parties or the arbitrators, as the case may be, within 14 days following the lodging of the reply of the respondent with the Permanent Secretariat, the appointment(s) shall be made by the Permanent Secretariat from amongst the list of persons named in the list of approved arbitrators.

- 14.3** The Permanent Secretariat shall transmit the case file to the arbitral tribunal as soon as it has been set up, provided that, at this stage of the procedure, payment of the advance costs, called by the Permanent Secretariat as per article 9 of the present rules, has been effected by the parties.

**Article 15: Independence and impartiality of arbitrators**

- 15.1** The arbitrators must, prior to the acceptance of their mission, reveal to MARC, any circumstance which might affect their independence or their impartiality in the opinion of the parties, by signing a “Declaration of independence and impartiality”. They must also disclose without delay any circumstance of the same nature that may arise after the acceptance of their mission.
- 15.2** They are confirmed or maintained in their mission by the Permanent Secretariat after the latter has consulted the parties.
- 15.3** The arbitrators commit themselves to being available during the whole duration of the procedure, and to act in good faith and with diligence.

**Article 16: Seizure of tribunal**

The arbitral tribunal is seized and starts its mission as from the date provided in accordance with the provisions of article 9.4 of the present Rules.

**Article 17: Challenge of arbitrators**

- 17.1** Any party wishing to challenge an arbitrator, for circumstances occurring or coming to light after the arbitrator’s appointment, shall immediately and within no more than 21 days of the occurrence or revelation of the particular circumstances on which the challenge is based, submit a reasoned application to the Permanent Secretariat.

After affording each party the opportunity to be heard, the Permanent Secretariat shall rule on the application by rendering a decision which is not motivated and which shall not be subject to appeal.

A request for the challenge of an arbitrator will not be received after the award has been given.

- 17.2** The arbitral proceedings are suspended prior to the decision of the Permanent Secretariat.

- 17.3** If after his appointment, the arbitrator discovers a fact likely to affect his independence, he shall disqualify himself spontaneously. In case the arbitrator has any doubt as to whether the situation requires that he disqualifies himself, he may seek the views of the Permanent Secretariat thereon. In case the appointed arbitrator disqualifies himself, he shall inform the Permanent Secretariat by registered post and the Permanent Secretariat shall then inform the other arbitrators concerned, if any, and the parties.

**Article 18: Replacement of arbitrators**

- 18.1** The arbitrator shall undertake to carry out his mission to its completion.
- 18.2** In the event that an arbitrator is to be replaced following the death or incapacity or the successful challenge of an arbitrator, or for any other reason, a new arbitrator shall be appointed by the Permanent Secretariat.
- The arbitration period shall be suspended from the occurrence or revelation of the event constituting the ground for replacement until the new arbitrator accepts his mission.
- 18.3** The arbitral tribunal so constituted shall decide the manner in which the arbitral proceedings are to be resumed.

**Article 19: Competence of arbitral tribunal**

In case the parties raise any objection about the applicability or validity of the arbitral clause, the arbitral tribunal shall determine whether it has jurisdiction in the matter.

**IV. ARBITRAL PROCEDURE**

**Article 20: Place and language of arbitration**

- 20.1** Unless otherwise agreed by the parties after consultation with the Permanent Secretariat, the arbitration shall take place in Mauritius where the award shall be rendered, but this shall not preclude the arbitral tribunal from convening at any other location.

- 20.2** The language of arbitration is chosen by the parties. By default, it is chosen by the arbitral tribunal, taking into consideration the characteristics of the dispute.

**Article 21: Applicable rules**

- 21.1** When the arbitral tribunal has been constituted, the Permanent Secretariat shall send to each of its members a copy of the parties' claims and applications as well as the supporting documents.
- 21.2** The arbitral tribunal shall determine rules applicable to the arbitral proceedings in accordance with the contract between the parties and the provisions of the present Arbitration Rules. In all cases of application of rules of procedure, the arbitrator shall ensure that the parties are treated equally and that they are given the opportunity to make submissions at all stages of the proceedings. The arbitral tribunal may also whenever appropriate refer to the Complementary Rules of Evidence in International Arbitration adopted by the International Bar Association.
- 21.3** The arbitral tribunal shall then organise the proceedings as it considers convenient, according to the nature of the case and taking into account any arrangements agreed to by the parties. The document organising the procedure, duly signed by the arbitral tribunal and the parties and hereafter referred to as the "Terms of Reference", shall be communicated to MARC by the arbitral tribunal within 10 days as from the date it begins its mission in accordance with provisions of article 9.4. This document shall contain the following particulars:
- (a) the full names and descriptions of the parties, addresses and other contact details of each party, and of any person representing a party in the arbitration;
  - (b) the addresses of the parties' legal representatives to which notifications and communications arising in the course of the arbitration may be made;
  - (c) a summary of the parties' respective claims and of the relief sought by each party, with an indication to the extent possible of the amounts claimed or counterclaimed;

- (d) a list of issues to be determined;
  - (e) the full names, descriptions and addresses of the arbitrators;
  - (f) the place of the arbitration;
  - (g) particulars of the applicable procedural rules, and if applicable, a statement of the powers conferred on the arbitral tribunal to sit as "amiable compositeur";
  - (h) a provisional calendar of meetings and hearings;
  - (i) The date on which the signed award shall be communicated to MARC.
- 21.4** The party who, in full knowledge of the facts and without a legitimate cause, does not report in due time and in writing an irregularity before the arbitral tribunal shall be considered as having foregone this right.
- 21.5** Unless the parties otherwise agree, the arbitral proceedings are confidential and hearings are not public.

**Article 22: Rules applicable to the merits of the case**

- 22.1** The arbitral tribunal shall apply the substantive law which the parties have designated as the governing law of their contract or in the absence of such designation, the law which it finds applicable in accordance with the rules of conflict of laws which it deems appropriate. In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of trade applicable to the transaction.
- 22.2** The arbitral tribunal may act as an "amiable compositeur" only with the express agreement of the parties.

**Article 23: Inquiries**

- 23.1** The arbitral tribunal may itself carry out any investigation it considers necessary, including where this may require visiting other locations. It may decide to hear witnesses, experts appointed by the parties, or any other person or persons which one of the parties requests to be heard; or it may decide to hear them of its own initiative.

**23.2** The arbitral tribunal, when it deems this necessary, may appoint one or more experts, define their mission which must afford each party an opportunity to intervene and receive their report. The report shall not be binding on the arbitrator(s) who may subsequently, either at their own initiative or at the request of the parties or of one of them, request an additional report or a counter-report.

The arbitral tribunal shall then determine the conditions and modalities of the expert(s)' mission and the amount of such fees as will have to be paid to obtain the expertise and counter-expertise, if the case may be, by both parties or one of them, and fix the date for payment of such fees.

**23.3** The arbitral tribunal shall make orders to the parties for the submission of further pleadings or further particulars of pleadings, discovery of relevant documents, reports of experts, testimony or appointment of experts by the arbitral tribunal, the filing and exchange of witnesses' statements before hearing and their production of evidence and for the holding of one or more preliminary meetings of the tribunal with the parties.

**23.4** Subject to article 22, the directions given by the arbitral tribunal shall include the fixing of a date for the hearing of any oral testimony and of oral submissions by the parties.

#### **Article 24: Hearings**

**24.1** After examining all pleadings, memoranda and other documents exchanged between the parties and documents filed as part of the records, the arbitral tribunal shall hear oral submissions by the parties.

**24.2** In the event that one of the parties duly summoned fails to appear before the arbitrator(s), the latter may, after ascertaining from MARC that the summon was communicated to the party at his last known address and in the absence of any valid excuse, continue the proceedings which shall be deemed to have taken place in presence of both parties.

**24.3** Subject to the present Rules, the arbitral tribunal, in consultation with the Permanent Secretariat, shall organize the hearings at which all the parties shall be entitled to be present.

#### **Article 25: Procedural orders**

The arbitral tribunal, or its chairman if authorised by the other arbitrators, may make orders to determine all procedural issues. Such orders are not liable to appeal.

#### **Article 26: Time limits and extensions**

**26.1** The arbitral tribunal may extend any time limits set for hearing of witnesses or production of reports or filing of additional pleadings.

**26.2** However the aggregate of such extension should not exceed 60 days except for reports, additional reports or counter-reports for which the arbitral tribunal shall decide to grant such extension as may be required.

**26.3** In any event the arbitral tribunal shall give an award within 6 months from the date the file was transmitted to the arbitral tribunal by the MARC, in accordance with article 9 and article 16 of the present rules. This 6-months period may exceptionally be extended in the two following cases:

- unanimous agreement of the parties or
- express authorisation of the Permanent Secretariat

In the second case, the extension shall be limited to 6 months only.

#### **Article 27: Closure of debates**

When the arbitral tribunal considers that it has had adequate information, it proceeds with the closure of debates and submits the case for deliberation, until communication of the award to MARC.

## V. AWARD

### Article 28: Form and content of the awards

- 28.1** The award shall be given by majority decision of the arbitrators on the arbitral tribunal. If there is no majority, the decision shall be made by the chairman of the arbitral tribunal solely.
- 28.2** The arbitral award shall state the reasons for the decision.
- 28.3** The draft award shall be sent by the arbitral tribunal to the Permanent Secretariat which shall make any observation it deems appropriate. The Permanent Secretariat shall also indicate the amount of the arbitration fees and expenses which shall be charged to the parties in the proportion fixed by the arbitral tribunal in the award. The arbitral tribunal shall state in the award which of the parties shall bear the costs of the arbitral proceedings and in what proportions, if any. The costs shall include the arbitral tribunal's fees, the administrative costs of MARC, as well as any tax applicable. The arbitral tribunal may at its own discretion consider the normal expenses incurred by one or both parties and state in the award the party or parties who shall bear such expenses.
- 28.4** The award, dated and signed by the arbitrators, or where applicable, referring to one of the arbitrator's refusal to sign it, shall be transmitted to the Permanent Secretariat, with one copy for each of the parties, in addition to one original for MARC.

### Article 29: Final award

The award shall be final and shall not be subject to review by any other jurisdiction, save for any review that may be provided by law and which cannot be waived by the parties.

### Article 30: Award by consent

Should the parties reach a settlement agreement during the course of the arbitral proceedings, they can request the arbitral tribunal's consent to record it in an award.

### Article 31: Communication of awards to parties

- 31.1** After full payment of the arbitration fees, the Permanent Secretariat shall notify the parties or their representatives of the award, by registered post with request for advice of receipt. Certified copies can subsequently be sent by MARC but only to the parties or their beneficiaries.
- 31.2** The award is confidential. However, it may be published with the agreement of all the parties to the proceedings and the arbitral tribunal.

### Article 32: Enforcement of the award

By agreeing to submit a dispute to arbitration under the present Rules, the parties undertake to execute the award without delay.

## VI. SETTLEMENT OF DISPUTES BY AGREEMENT

### Article 33: Mediation

- 33.1** Mediation proceedings may be proposed to the parties either by MARC prior to the appointment of the arbitral tribunal or by the tribunal itself once it has been appointed.
- 33.2** If the parties accept that mediation should be initiated, it shall immediately be organised according to the MARC Mediation Rules, in which case the arbitral proceedings will be suspended. No member of the arbitral tribunal shall be designated as mediator.
- 33.3** If the mediation does not result in an agreement which settles the dispute, the arbitration process shall be resumed, upon the request of the most diligent party and in accordance with the provisions of the present Rules. MARC informs the parties and reminds them of the rule of confidentiality provided under article 7 of the Mediation Rules.

## VII. APPLICATION OF THE RULES

### *Article 34: Interpretation and rules in force*

MARC alone shall have jurisdiction to interpret the present Rules.

The arbitration shall be subject to the Rules and the scale in force on the day the Permanent Secretariat receives the application for arbitration.

The present Rules cancels and replaces the Rules of Conciliation and Arbitration of the Permanent Court of Arbitration of the Mauritius Chamber of Commerce and Industry.

MARC reserves the right to modify the present Rules and the scale of costs for arbitration which follows.

## ❖ RULES OF ETHICS FOR ARBITRATORS

Any person likely to be appointed as arbitrator by MARC, or by one of the parties, is requested to read carefully the MARC Arbitration Rules and the following rules of ethics, and to sign and return a copy to the Permanent Secretariat.

By signing these rules, a copy of which is to be kept by its signatory, he undertakes to respect and apply, strictly, the MARC Arbitration Rules and rules of ethics for arbitrators.

Each signatory recognises that he has been informed that the violation of any of the provisions of the arbitration rules will result in his personal liability and furthermore his removal from MARC's list of arbitrators.

### *Article 1: Independence and impartiality*

A MARC arbitrator shall act as an independent and impartial judge.

1. Before agreeing to be appointed, the prospective arbitrator shall :
  - (a) declare to MARC any possible past and present relationship with one or several of the parties, their lawyers or the other arbitrators ;
  - (b) reveal, in writing, to MARC and to all the parties any circumstances which might affect his independence or impartiality.
2. The arbitrator shall, furthermore, reveal in writing, to MARC and to the parties, any of the circumstances referred to in paragraph 1 above that occurs after his appointment.
3. As soon as he is aware that he is a prospective, as well as during the arbitral proceedings, he undertakes not to enter into any form of relationship with the parties, except for the needs of the arbitration, in which case he will always provide all the parties with the opportunity to be heard.

4. When he sits in an arbitral tribunal, the arbitrator who was appointed by one of the parties and whose appointment then received validation by MARC, is prohibited from acting as the representative of the said party.

The arbitrator shall not receive any compensation or benefit from any of the parties or from a person having an interest in the resolution of the dispute.

#### **Article 2: Availability**

Any arbitrator who accepts to act as an arbitrator on a tribunal where the MARC Arbitration Rules apply, shall carry out his mission until the dispute for which he was appointed is finally resolved.

In accepting the mission, the arbitrator commits to respect the arbitration calendar or arbitration proceedings and to render the award on the scheduled date.

He shall undertake, even if acting in the framework of a panel of several arbitrators, to accomplish, in totality, the mission as contemplated personally, the arbitrators having no flexibility to share or delegate their tasks.

#### **Article 3: Ability**

The arbitrator shall accept his mission only if his abilities are sufficient to enable him to perform the task for which he is appointed in accordance with the expectations of the parties, and to fully perform and complete his mission.

#### **Article 4: Confidentiality**

The arbitrator shall not reveal to anyone either the existence of the dispute, or the content of the arbitral proceedings.

Once the award has been rendered, the arbitrator shall respect this same obligation of secrecy and, in the case where he is a member of a tribunal consisting of several arbitrators, he shall respect the absolute secrecy of the deliberations, including with the party who has appointed him.

### INTRODUCTION

The purpose of this guide is to familiarise economic operators and their advisors, lawyers and accountants, as well as other professionals with mediation so that they may appreciate its advantages, understand how it differs from other means of dispute settlement, and thus encourage them to have recourse to this procedure.

MARC Mediation Rules aims at (1) helping economic operators to learn about and understand mediation; (2) creating a climate favourable to mediation by using qualified mediators selected by MARC, and (3) providing professionals with a simple, confidential and affordable method of reconciling their differences in an environment conducive to dialogue and guaranteed by professionalism.

As a preliminary observation, it should be recalled that the fundamental difference between mediation and arbitration is that the purpose of mediation is to bring about reconciliation between parties through the intervention of a third party and not to settle the dispute by imposing a binding decision. Mediation also differs from expertise in that the expert gives a technical or financial advice, while the mediator essentially works on the needs and expectations of the parties, and does not, in principal, give any advice on the merits of the case.

Characteristics of the MARC Mediation are as follows:

#### ***The response to a need:***

Promoting a mediation process for resolving business disputes responds to a need which is increasingly felt. Parties to a business relationship wish to find, even before a conflict develops, a neutral venue in which to examine and discuss their respective interests, in the presence of a third party. Appropriate solutions, which in many cases could not otherwise have been adopted, allow the parties to continue their business relationship.

#### ***A very open access***

The Mauritius Chamber of Commerce and Industry, through MARC is committed to promote recourse to mediation. For this reason, mediation can be initiated not only upon the joint request of the parties, but also in response to a desire expressed by one of the parties, in which case MARC proposes to the other party that the process be set in motion. But, by its very nature, mediation cannot, of course, be imposed on the parties.

#### ***A flexible, rapid and confidential process:***

The mediator's task is to assist the parties to seek, with loyalty and due regard for their respective interests, a conciliatory solution to the dispute between them. The mediator may perform his task as he sees fit. Since no particular restrictions are placed on the mediator or the parties with regard to the conduct of the mediation proceedings, the mediator and the parties do not find themselves in a context constrained by formalities. However, the mediator must complete his task within a two-month time limit, unless an extension is requested by both parties. Lastly, the confidential nature of the mediation process is clearly highlighted in the Rules.

#### ***Impartial and qualified mediators:***

MARC Mediation Rules aim both to respect the parties' freedom, without which the mediation cannot attain its desired object, and to give full latitude to the mediator to assist the parties throughout the process. However, it is necessary to recall that the legitimacy of the mediator relies wholly on the trust placed in him or her by the parties. This is the reason why MARC calls for mediators, who are trained in the technicalities of mediation and whose professional competence and negotiation skills are recognised.

#### ***Mediation costs:***

To provide all companies with an easy access to this amicable means of dispute resolution, MARC offers mediation services at very competitive costs.

## MEDIATION RULES

### General Provisions

- A Center for Arbitration and Mediation hereinafter referred to as the MCCI Arbitration and Mediation Center or MARC is established under the aegis of the Mauritius Chamber of Commerce and Industry (MCCI), situated at 3, Royal Street, Port-Louis.
- The Permanent Secretariat of the MARC (hereinafter referred to as the “Permanent Secretariat” or “MARC”) shall ensure compliance with the present Mediation Rules and the proper conduct of mediation proceedings. The Permanent Secretariat shall also be responsible for administrative and financial matters of MARC and the promotion of Alternative Dispute Resolution methods in general. It is constituted of the Secretary-General and officers of the MCCI.
- All proceedings before MARC shall be strictly confidential. Neither the parties nor their representatives or counsels nor the mediators may disclose any matter pertaining to mediation proceedings.
- MARC including its directors, officers, employees or any mediator shall not be liable to any person for any act or omission in connection with any mediation governed by the present Rules.
- No party shall seek to make any director, employee or mediator act as a witness in any legal proceedings in connection with any mediation governed by the present Rules.

### Article 1: Initiation of mediation proceedings

1. Mediation proceedings are initiated upon the request of the parties, where they have so agreed at the outset of the dispute, or upon the request of one party, where the parties have so agreed under the terms of their contract.
2. Mediation proceedings may also be initiated: (a) at the request of one party who wishes MARC to propose mediation proceedings and where the other party is not opposed to it, (b) or, alternatively, where MARC receives a request for arbitration and considers that mediation may be proposed to the parties, subject to their acceptance of it.

3. Any mediation which is entrusted to MARC entails acceptance by the parties of the present Mediation Rules.

### Article 2: Request for mediation

- 2.1 The MARC is seized with a matter at the request of the parties or one of them, upon receipt of a request for mediation that contains:
  - the legal particulars or company details and the addresses of the parties;
  - a brief description of the nature and circumstances of the dispute;
  - the parties’ respective positions or the position of the party requesting mediation.
  - the amount being claimed
- 2.2 The request for mediation is not registered unless it is accompanied by payment of the case filing fee, as provided by article 8 hereafter. Under no circumstances is this sum refundable.
- 2.3 Where mediation proceedings are suggested by MARC of its own initiative (under article 1.2.b of the MARC Mediation Rules and article 33 of MARC Arbitration Rules), the request for arbitration shall serve as request for mediation. It entails payment of the initial fees in accordance with the preceding paragraph, which will be set off against the sum paid at the time of the registration of the arbitration request.

### Article 3: Informing the other party

- 3.1 Where a mediation clause already exists  
When the MARC is seized by a party who invokes an existing mediation clause in the contract subject of the dispute, it shall inform the other party of the initiation of mediation proceedings. The MARC shall send the present Mediation Rules to the other party and allow it fifteen (15) days from receipt of MARC’s letter to provide its comments.

**3.2** In the absence of a mediation clause

As soon as the request is registered, the MARC shall inform the other party and invite it to participate in mediation proceedings. It shall send the present Mediation Rules to the other party and allow it fifteen (15) days from receipt of MARC's letter to reply to the MARC.

**Article 4: Response to the request**

**4.1** Where a mediation clause already exists:

As soon as the comments of the other party have been received, or once the time limit defined in article 3.1 above has expired, the Permanent Secretariat shall proceed with the designation of a mediator.

**4.2** In the absence of a mediation clause:

If the party so agrees, the Permanent Secretariat proceeds with the designation of a mediator.

If the other party explicitly refuses to participate in mediation proceedings or fails to respond once the time limit defined in article 3.2 above has expired, the MARC shall so advise the party who submitted the request for mediation and close the file, without refunding the case filing fee paid.

**Article 5: Appointment of the mediator**

**5.1** As soon as the parties have agreed to participate in mediation proceedings or when the contract between them contains a clause referring to these Rules, the MARC shall appoint a mediator, who shall be selected according to the nature of the dispute or, as the case may be, based on a suggestion from the parties.

**5.2** MARC may propose to the parties that a trainee mediator attend the mediation sessions. The trainee mediator will then be bound by the same obligation of confidentiality as the appointed mediator.

**Article 6: Independence, neutrality and impartiality of the mediator**

**6.1** The mediator must be impartial, neutral and independent of the parties. In appropriate cases, he must disclose to the parties and to the Permanent Secretariat any circumstances which might affect his independence and/or impartiality. In such case, he may be confirmed or maintained as mediator only after a decision by the Permanent Secretariat and with the written consent of all the parties.

**6.2** The mediator appointed by the Permanent Secretariat shall sign a statement of independence.

**6.3** Should he come to the view, during the course of the mediation process, that there exists any factor liable to raise doubts as to his independence, he shall so inform the parties. The mediator shall continue his task if the parties thereon agree in writing. Otherwise he shall stay the mediation proceedings. The Permanent Secretariat shall then proceed to appoint a replacement mediator.

**Article 7: The mediator's role and the conduct of the mediation proceedings**

**7.1** The mediator helps the parties to find a negotiated outcome to their dispute. He has full discretion as to the methods by which he performs his task, subject to obligations of loyalty and respect of the interests of each of the parties. If he considers it useful, he may hear the parties separately, if they have agreed to this. In this case, he tries to ensure equal balance of treatment between all the parties and the respect of the confidentiality of the procedure (cf. paragraph below).

**7.2** In the case of contractual mediation, at the beginning of mediation proceedings, the mediator requests the parties to sign an agreement apportioning the expenses and fees of the mediation between them.

**7.3** Where a mediation clause exists, if one of the parties refuses to attend a meeting organised by the mediator, an end of mission report is submitted to MARC by the mediator.

- 7.4** Similarly, the mediator also submits an end of mission report to MARC in the event that the mediation ends without the parties having reached an agreement. The Permanent Secretariat then closes the file and so informs the parties.
- 7.5** The mediator and the parties are held to the strictest obligation of confidentiality for all matters relating to the mediation: no finding, statement, or proposal made by or before the mediator may be used subsequently, even in court proceedings, except in cases where all parties have formally agreed to this.
- 7.6** The duration of the mediation shall not exceed two months starting from the appointment of the mediator by MARC. This period may be extended by MARC, with the agreement of the mediator and all the parties, MARC being entitled to terminate the mediation proceedings on the expiry of a period of six months from the date of appointment of the mediator, without refunding the administrative fees.
- 7.7** If it appears to the mediator that the mediation process will not result in an agreement, he may terminate his mission. Equally, and at any time, either party is free to bring the mediation proceedings to end.
- 7.8** Should the mediator consider that he is unable to pursue his mission, he shall stay the mediation proceedings. He shall promptly give notice thereof to MARC. MARC shall then proceed to appoint a replacement mediator as soon as possible, if the parties so request.
- 7.9** In the hypothesis provided for at article 1.2.b, the parties may at any time request that the mediation proceedings be terminated and, where appropriate, that arbitration proceedings be started.
- 7.10** The mediator may not be appointed as an arbitrator or participate in any capacity whatsoever in any ongoing proceedings, except upon the written request of all the parties.
- 7.11** The agreement reached as a result of mediation proceedings shall be set in writing in a document that is signed by the parties.

- 7.12** In the case of an international dispute, the parties may ask the mediator, if he is willing, to be appointed by MARC as an arbitrator in order to deliver an award by consent.
- 7.13** If the mediator so agrees, MARC starts arbitration proceedings. In addition to the fees and expenses of the mediation, half of the arbitration costs that would be applicable to an arbitration are added, in accordance with the minimum fee for the range of the sum in dispute, that would be incurred should an arbitration be commenced, as defined in the scale appended to the Arbitration Rules in effect at the time proceedings were originally initiated with MARC.
- Once any sums due for this arbitration procedure have been paid, the Permanent Secretariat is requested to validate the appointment of the arbitrator.
- 7.14** The award is delivered in accordance with the MARC Arbitration Rules.

**Article 8: Mediation fees and expenses**

- 8.1** The fees and expenses of the mediation shall be set, as appropriate, in accordance with the scale annexed to these Rules that are in effect at the date MARC receives the request for mediation.
- 8.2** During the course of mediation proceedings, the MARC may request an additional upfront advance against final fees and expenses.

**Article 9: Interpretation of rules and applicable rules**

- 9.1** MARC shall have sole jurisdiction to interpret the present Rules.
- 9.2** A request for mediation shall be processed in accordance with the Rules and scale of costs in effect on the date of receipt of the request.
- 9.3** MARC reserves the right to modify the present Rules and the scale of costs for mediation which follows.

## RULES OF ETHICS FOR MEDIATORS

As from his designation and throughout the mediation proceedings, the mediator commits to reveal any circumstance which, for the parties, might be of a nature likely to affect his independence, his neutrality or his impartiality (article 6.1 of the Mediation Rules.)

### *Article 1: Role of the Mediator*

Article 7 of the Mediation Rules provides that: “The mediator helps the parties to find a negotiated outcome to their dispute. He has full discretion as to the methods by which he performs his task, subject to obligations of loyalty and respect of the interests of each of the parties. If he considers it useful, he may hear the parties separately, if they have agreed to this.”

The mediator has no authority other than that arising out of the confidence placed in him by the parties.

The mediator is neither a judge nor an arbitrator. His role is to seek with the parties a negotiated solution by assisting them in exploring and better understanding their points of view.

The mediator undertakes to respect MARC Mediation Rules, in particular with respect to time limits.

### *Article 2: The mediator and the parties*

As soon as possible after accepting his appointment, the mediator contacts the parties in order to organise his mission. He obtains the agreement of the parties; if he considers it appropriate, to meet separately with them. In such a case, the mediator undertakes to respect the principle of equality between the parties. The mediator analyses with each party its position with respect to the dispute and makes sure that each party fully understand the position of the other party or parties.

To accomplish this, he may suggest ideas to resolve the issues, but in no circumstances he may attempt to impose any terms or settlement, particularly on a party which is clearly in a weak position. In his approach, the mediator must not only be guided by principles of fairness but also take into account the parties’ expectations with regard to the agreements entered into by them. If his mission is successful, the mediator invites the parties to formalise their agreement by signing a written settlement agreement. Since the mediator is not a party to that document, he does not sign it.

However, upon the request of the parties, he may affix his signature to the settlement agreement to attest to the agreement reached. In such case, his signature is preceded by the words “in the presence of X, mediator designated by MARC.”

### *Article 3: Secrecy and Confidentiality*

The mediator is bound by a duty of secrecy regarding the dispute entrusted to him, both with regard to its existence and to all other aspects of the mediation.

The mediator’s duty of secrecy is general, absolute, and unlimited in time. The mediator may be released from it only under the conditions prescribed by law.

The mediator is prohibited from having any professional relationship with any of the parties during the year following the end of his mission.

The mediator’s mission ends when a settlement agreement is signed or when the failure of the mediation is recorded. From that date onward, the mediator cannot intervene in any capacity whatsoever in connection with the dispute or its resolution, except upon the request of all the parties and after giving notice thereof to the Permanent Secretariat.



**marc**

MCCI ARBITRATION &  
MEDIATION CENTER

**MODEL ARBITRATION AND  
MEDIATION CLAUSES**

**OPTION 1: Arbitration only**

“Any dispute arising in connection with the present contract shall be finally settled under the Arbitration Rules of the Arbitration and Mediation Center of the Mauritius Chamber of Commerce and Industry (MARC) by... (one or three) arbitrator(s) appointed in accordance with the said rules.”

If the contract is of an international nature, the parties should particularly foresee the applicable law, the venue and the language of arbitration.

**OPTION 2: Mediation only**

“Any dispute arising in connection with the present contract shall be settled under the Mediation Rules of the Arbitration and Mediation Center of the Mauritius Chamber of Commerce and Industry (MARC).”

**OPTION 3: Mediation and Arbitration**

“Any dispute arising in connection with the present contract shall be settled under the Mediation Rules of the Arbitration and Mediation Center of the Mauritius Chamber of Commerce and Industry (MARC). In the event that no settlement is thereby reached within [ ] days of the commencement of the mediation, or such further period as the parties shall agree in writing, the dispute shall be finally settled under the Arbitration Rules of the Arbitration and Mediation Center of the Mauritius Chamber of Commerce and Industry (MARC), by (one or three) arbitrator(s) appointed in accordance with the said rules.”

If the contract is of an international nature, the parties should particularly foresee the applicable law, the venue and the language of arbitration.

## SCALE OF COSTS

Payments may be made by a local cheque payable to “Mauritius Chamber of Commerce and Industry” or by bank transfer to the MCCI bank account. For bank details, please contact us at + 230 208 33 01 or at [secretariat@mcci.org](mailto:secretariat@mcci.org).

All cheques should be sent to:

**The Permanent Secretariat  
MCCI Arbitration and Mediation Center  
Mauritius Chamber of Commerce and Industry  
3, Royal Street, Port Louis  
Mauritius**

(Please indicate party name/case name or case reference number if available at the back of the cheque).



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MCCI ARBITRATION &  
MEDIATION CENTER

## SCALE OF COSTS

## Arbitration costs (Excluding VAT and applicable as from 1 March 2014)

### A ONE ARBITRATOR'S FEES

SUM IN DISPUTE (MRU)		FEES (MRU)	
Up to	1,500,000	90,000	
From	1,500,001 to 3,000,000	90,000 + 2%	of the sum above 1,500,000
From	3,000,001 to 12,000,000	120,000 + 1%	of the sum above 3,000,000
From	12,000,001 to 24,000,000	210,000 + 0,75%	of the sum above 12,000,000
From	24,000,001 to 45,000,000	300,000 + 0,50%	of the sum above 24,000,000
From	45,000,001 to 90,000,000	405,000 + 0,40%	of the sum above 45,000,000
From	90,000,001 to 150,000,000	585,000 + 0,30%	of the sum above 90,000,000
From	150,000,001 to 300,000,000	765,000 + 0,10%	of the sum above 150,000,000
From	300,000,001 to 500,000,000	915,000 + 0,10%	of the sum above 300,000,000

If the sum in dispute is above 500,000,000 million MRU, the Permanent Secretariat shall decide.

\*If a foreign arbitrator is appointed, the fee does not include expenses related to transport and accommodation of the arbitrator in Mauritius; these expenses may be borne by the parties subject to agreement.

### B CASE FILING FEE

Request for arbitration : 45,000 MRU



## C ADMINISTRATIVE COSTS

SUM IN DISPUTE (MRU)		ADMINISTRATIVE COSTS (MRU)	
Up to	1,500,000	75,000	
From	1,500,001 to 3,000,000	75,000 + 1%	of the sum above 1,500,000
From	3,000,001 to 12,000,000	90,000 + 0,50%	of the sum above 3,000,000
From	12,000,001 to 24,000,000	135,000 + 0,40%	of the sum above 12,000,000
From	24,000,001 to 45,000,000	183,000 + 0,30%	of the sum above 24,000,000
From	45,000,001 to 90,000,000	246,000 + 0,20%	of the sum above 45,000,000
From	90,000,001 to 150,000,000	336,000 + 0,10%	of the sum above 90,000,000
From	150,000,001 to 300,000,000	396,000 + 0,05%	of the sum above 150,000,000
From	300,000,001 to 500,000,000	471,000 + 0,05%	of the sum above 300,000,000

If the sum in dispute is above 500,000,000 million MRU, the Permanent Secretariat shall decide.

Administrative fees do not include:

- Costs and expenses incurred by the arbitral tribunal.
- Usage costs of facilities and additional services in relation with the arbitration (ex. rental of meeting/conference room, transcription, translation, interpretation, video conference). These costs are at the charge of the parties and will be charged as advance payment in equal proportion to the parties for provision of these additional services and facilities by MARC.



## Mediation costs (Excluding VAT and applicable as from 1 February 2014)

	NATIONAL	INTERNATIONAL
<b>Sum in dispute of 0 to 1,000 000 MRU</b>		
Case filing fee	10,000 MRU	10,000 MRU
Fixed rate (5 hours maximum)	40,000 MRU	40,000 MRU
Rate per hour after the first 5 hours	10,000 MRU	10,000 MRU
<b>Sum in dispute of 1,000 001 to 10 000 000 MRU</b>		
Case filing fee (1)(2)	10,000 MRU	15,000 MRU
Rate per hour (3)	15,000 MRU	20,000 MRU
Advance on costs(4)	150,000 MRU	200,000 MRU
<b>Sum in dispute of 10 000 001 to 30 000 000 MRU</b>		
Case filing fee (1)(2)	10,000 MRU	15,000 MRU
Rate per hour (3)	20,000 MRU	25,000 MRU
Advance on costs (4)	200,000 MRU	250,000 MRU
<b>Sum in dispute of 30 000 001 to 50 000 000 MRU</b>		
Case filing fee (1)(2)	10,000 MRU	15,000 MRU
Rate per hour (3)	30,000 MRU	35,000 MRU
Advance on costs (4)	300,000 MRU	350,000 MRU
Where the sum in dispute is above 50 000 000 MRU, the Permanent Secretariat shall decide in consultation with the parties.		

\*a 20% night rate increase will apply to the mediator's fees and to administrative expenses in case a mediation would last after 9 PM.

(1) the amount of the filing fee is 5000 MRU per party for national disputes and will, in any case, be withheld by MARC: it is not refundable, whether or not mediation proceedings are initiated.

(2) the claimant advances all the case filing expenses.

(3) payable as soon as mediation proceedings are initiated.

(a) Excluded: (i) costs and expenses for transport and accommodation of the mediator, applicable if a foreign mediator is appointed, and which are borne by the parties on an equal basis. An advance on these expenses will be charged by MARC to the parties in equal proportion for transport and accommodation arrangements.(ii) costs and expenses related to additional services and facilities such as rental costs of meeting room, secretariat services, catering, interpretation, which are borne by the parties on an equal basis. An advance on these expenses will be charged by MARC to the parties in equal proportion for provision of such additional services and facilities.

(b) the mediator's fees include the study of the case, mediation meetings, and exchanges (e.g. by mail, phone, etc) with the parties.

(4) an advance on costs is payable by each party to cover mediator's fees and other related fees, which expenses will not, in any case, be refundable by MARC, regardless of the duration of the proceedings.



## OUR PARTNERS



Résoudre autrement vos conflits  
avec le Centre de Médiation et d'Arbitrage de Paris

un centre de la



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