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## Part III—Section 2

Statutory Notifications and Orders issued by  
Heads of Departments.

NOTIFICATIONS BY HEADS OF DEPARTMENTS, ETC.

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## NOTIFICATIONS BY HEADS OF DEPARTMENTS, ETC.

### JUDICIAL NOTIFICATIONS

THE MADRAS HIGH COURT ARBITRATION CENTRE (MHCAC) (INTERNAL MANAGEMENT) RULES, 2014

(R.O.C. No. 2168-A/2013/F1)

**No. SRO C-11/2015.**

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#### PRELIMINARY

1. **Title** - These rules may be called the Madras High Court Arbitration Centre (Internal Management) Rules, 2014.  
1.1 The Rules shall come into force with effect from the date of notification.

#### **2. Definitions –**

- (i) In these rules, unless the context otherwise requires,-
  - (a) "Act" means the Arbitration and Conciliation Act, 1996 and the amendments thereto or any enactment thereof;
  - (b) "Arbitration Committee" means the Committee constituted under Rule 3 of these Rules;
  - (c) "Arbitrator" means a person appointed as an arbitrator from the MHCAC Panel of Arbitrators or by consent of parties;
  - (d) "Arbitral Award" includes an interim, partial and preliminary award;
  - (e) "Centre" means Madras High Court Arbitration Centre [for short, the MHCAC];
  - (f) "Chairperson" means the person nominated under Rule 3;

(g) "MHCAC Panel of Arbitrators" means the panel of arbitrators prepared in accordance with Rule 8 of these Rules [for short, the Panel];

(h) "Registrar" and "Additional Registrars" mean the persons appointed in terms of Rule 6 of these Rules;

(i) "Dispute" includes differences;

(j) "Party" means a Party(ies) to an arbitration agreement;

(ii) The words and phrases not defined in these Rules shall bear the same meaning as used or defined in the Act.

(iii) The 'Chief Justice' means Chief Justice of High Court of Judicature at Madras, who shall be the Patron-in-Chief of Madras High Court Arbitration Centre and shall have the powers vested under Rules 3, 6, 8,12 and/or any other express or implied or exercisable powers vested under the Rules.

#### PART I- ARBITRATION COMMITTEE

**3. The Arbitration Committee** - (1) There shall be an Arbitration Committee consisting of members as under:

(a) The Chief Justice who shall be Chairperson of the Arbitration Committee;

(b) Two Judges of the High Court to be nominated by the Chief Justice, the senior most amongst them shall preside over the meetings of the Committee in the absence of Chief Justice and shall also exercise such powers and duties as may be assigned by the Chairperson;

(c) Advocates General for the State of Tamil Nadu;

(d) Four members to be nominated by the Chief Justice out of whom at least two shall be designated senior advocates, while the remaining two may be an arbitration expert or advocate having specialization in the field of arbitration laws, as the case may be.

(2) The Registrar shall be the ex-officio member of the Arbitration Committee, without any voting rights, and shall convene the meetings of the Arbitration Committee as may be desired by the Chairperson.

(3) The members of the Arbitration Committee shall meet as and when required for the smooth and efficient functioning of the Centre.

**4. Powers of the Arbitration Committee—**

(1) To take decisions for smooth and effective functioning of the Centre;

(2) To formulate rules for internal functioning of the Arbitration Committee and lay down guidelines for the Secretariat;

(3) To recommend revision/amendment in the Madras High Court Arbitration Centre (Internal Management) Rules, the Madras High Court Arbitration Centre (Arbitration Proceedings) Rules and the Madras High Court Arbitration Centre (Administrative costs and Arbitrators' Fees) Rules and the rules stated in Rule 4(2) of these Rules, as deemed appropriate;

(4) To prepare and update the Panel and to take such decisions as may be required from time to time;

(5) To fix/revise the arbitrators' fees.

(6) To remove a person from the Panel if:

(a) Any complaint of breach of duty or misconduct is received against him and the Arbitration Committee is of the opinion that it would be expedient in the interest of the Centre not to continue such person on its Panel of arbitrators; or

(b) He is declared to be of unsound mind or becomes incapacitated; or

(c) He has incurred any disqualification under the Act.

(d) For any other reason deemed appropriate by the Committee.

**5. Functions of the Arbitration Committee –**

(1) To monitor and oversee administration of the Centre.

(2) To appoint members on the Panel.

(3) To organize events or seminars in the field of Law of Arbitration and to promote the use of the Centre for resolution of disputes.

(4) To promote the cause of Arbitration in the manner as may be expedient from time to time.

## PART II- SECRETARIAT

**6. The Secretariat** – (1) There shall be a secretariat to supervise and manage the Madras High Court Arbitration centre and shall consist of :

(a) A member of Tamil Nadu Higher Judicial Service to be appointed by the Chief Justice as Registrar who will be in-charge of the Centre and act under the supervision of Chairperson and the Arbitration Committee.

(b) Two Members of Tamil Nadu Judicial Service to be appointed by the Chief Justice as Additional Registrars to assist the Registrar.

(c) Notwithstanding anything contained in Clause (a) and (b), the Chief Justice may appoint a person, who, in the opinion of the Chief Justice, is well qualified and suitable to be appointed as a Registrar.

(d) Such staff as may be appointed/deputed by the Chief Justice.

(2) The duties and responsibilities of the Secretariat shall be as under:

(a) To process the records pertaining to each Request for arbitration, received by the Centre and recommend to the Registrar to initiate action in accordance with the rules of the Centre.

(b) To call upon the parties through the Registrar to file their Statement(s) of claim, Reply(ies) thereto; Counter-claim(s) etc.

(c) To compile all documents received pursuant to filing of a Request, divide them into separate volumes, forward a copy to each member of the Arbitral Tribunal and maintain a copy for the record of the Centre in accordance with the Madras High Court Arbitration Centre (Arbitration Proceedings) Rules.

(d) To call upon the parties through the Registrar to deposit the assessed miscellaneous expenses of the Centre and the fees for the arbitrator(s).

(e) To render assistance by way of legal research, if called upon or requested to by the Arbitral Tribunal.

(f) To assist the Arbitral Tribunal in rectifying clerical errors, if any, in the award.

(g) To assess the costs to be awarded by the Arbitral Tribunal in all arbitration proceedings.

(3) To take steps as may be necessary for timely completion of arbitration proceedings.

**7. Duties and responsibilities of the Registrar –**

(1) The Registrar shall be responsible for the day to day functioning of the Centre.

(2) Without prejudice to the generality of the provision (1) above, the Registrar shall undertake the following:

(a) Place all the records pertaining to each request for arbitration of disputes before the Secretariat.

(b) Initiate action in accordance with the Rules of the Centre.

(c) Notify the parties to comply with the requirements of filing of the 'Request and Reply' and the submission and payment of arbitrators' fees and miscellaneous expenses, within the prescribed time frame.

(d) Maintain and update from time to time a profile of each arbitrator on the Panel of the Centre, and make it available to the parties, on request.

(e) Maintain a fact sheet of each arbitration case dealt with by the Centre.

(f) Carry out directions given by the Arbitration Committee from time to time.

(3) All correspondence and communications to the Centre shall be addressed to the Registrar and all correspondence and communications on behalf of the Centre shall be made by the Registrar.

## PART III- PANEL OF ARBITRATORS

**8. Panel of Arbitrators** – (1) The Arbitration Committee shall prepare and maintain a Panel of Arbitrators from amongst persons who are eligible and willing to serve as arbitrators.

(2) The Secretariat shall maintain an up-to-date Panel of Arbitrators together with information as to their qualifications and experience.

(3) A Curriculum Vitae shall be furnished by the persons interested to be placed on the MHCAC Panel of Arbitrators, in the form prescribed in Schedule V of the Madras High Court Arbitration Centre (Arbitration Proceedings) Rules. Information so submitted by the persons who are finally empanelled may be made available to the parties seeking to appoint an arbitrator from the Panel.

(4) The Arbitrators shall be classified into three categories on the basis of their fees - Tier 1, Tier 2 and Tier 3 Arbitrators.

(5) The parties may choose any person from the Panel to be appointed as an arbitrator in respect of the value of the disputes, subject to their work-load and availability.

(6) The Arbitration Committee may at any time add new names to the Panel or omit the name of any person from the Panel.

#### PART IV- CONDUCT OF ARBITRATORS

##### 9. Conduct of an Arbitrator –

(1) An Arbitrator should uphold the integrity and fairness of the arbitration process.

(2) An Arbitrator should disclose any interest or relationship likely to affect impartiality or which might create an appearance of partiality. Specifically, the Arbitrator shall disclose any circumstances covered by Schedule I and Schedule II to these Rules and shall be ineligible to act as an arbitrator if the circumstances covered by Schedule II exist.

(3) An Arbitrator should avoid impropriety or the appearance of impropriety in communicating with parties.

(4) An Arbitrator should conduct the proceedings fairly and diligently.

(5) An Arbitrator should make decisions in a just, independent and dispassionate manner.

(6) An Arbitrator should be faithful to the relationship of trust and confidentiality inherent in that office.

(7) An Arbitrator should adhere to standards of integrity and fairness when making arrangements for compensation and reimbursement of expenses.

(8) An Arbitrator may engage in advertising or promotion of arbitral services which is truthful and accurate.

(9) Arbitrators appointed by one party have a duty to determine and disclose their status and to comply with this code.

(10) An Arbitrator shall, abide by the fee structure, norms of expenditure and other terms and conditions of availing his services, as are prescribed from time to time.

#### PART V- GENERAL PROVISIONS

**10.** The accounts of the Madras High Court Arbitration Centre shall be maintained as per the Income Tax Act, 1961, as amended from time to time and the Rules and Circulars issued thereunder and by the Government.

**11. Amendment of Rules** - These Rules may be amended by the Chief Justice in consultation with the Arbitration Committee.

**12. Residuary Provision** - In the absence of any specific norm made under these Rules, the Arbitration Committee shall take appropriate decision(s), as may be necessary from time to time.

#### SCHEDULE - I

(See Rule 9)

The following grounds give rise to justifiable doubts as to the independence or impartiality of arbitrators:

##### **Arbitrator's relationship with the parties or counsel**

1. The arbitrator is an employee, consultant, advisor or has any other past or present business relationship with a party.
2. The arbitrator currently represents or advises one of the parties or an affiliate of one of the parties.
3. The arbitrator currently represents the lawyer or law firm acting as counsel for one of the parties.
4. The arbitrator is a lawyer in the same law firm, which is representing one of the parties.
5. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties, if the affiliate is directly involved in the matters in dispute in the arbitration.

6. The arbitrator's law firm had a previous, but terminated involvement in the case without the arbitrator being involved himself or herself.
7. The arbitrator's law firm currently has a significant commercial relationship with one of the parties or an affiliate of one of the parties.
8. The arbitrator regularly advises the appointing party or an affiliate of the appointing party, even though neither the arbitrator nor his or her firm derives a significant financial income therefrom.
9. The arbitrator has a close family relationship with one of the parties and in the case of companies with the persons in the management and controlling the company.
10. A close family member of the arbitrator has a significant financial interest in one of the parties or an affiliate of one of the parties.
11. The arbitrator is a legal representative of an entity, that is a party in the arbitration.
12. The arbitrator is a manager, director or part of the management, or has a similar controlling influence in one of the parties.
13. The arbitrator has a significant financial interest in one of the parties or the outcome of the case.
14. The arbitrator regularly advises the appointing party or an affiliate of the appointing party, and the arbitrator or his or her firm derives a significant financial income therefrom.

**Relationship of the arbitrator to the dispute**

15. The arbitrator has given legal advice or provided an expert opinion on the dispute to a party or an affiliate of one of the parties.
16. The arbitrator has previous involvement in the case.

**Arbitrator's direct or indirect interest in the dispute**

17. The arbitrator holds shares, either directly or indirectly, in one of the parties or an affiliate of one of the parties, that is privately held.
18. A close family member of the arbitrator has a significant financial interest in the outcome of the dispute.
19. The arbitrator or a close family member of the arbitrator has a close relationship with a third party, who may be liable to recourse on the part of the unsuccessful party in the dispute.

**Previous services for one of the parties or other involvement in the case**

20. The arbitrator has within the past three years served as counsel for one of the parties or an affiliate of one of the parties or has previously advised or been consulted by the party or an affiliate of the party making the appointment in an unrelated matter, but the arbitrator and the party or the affiliate of the party have no ongoing relationship.
21. The arbitrator has within the past three years served as counsel against one of the parties or an affiliate of one of the parties in an unrelated matter.
22. The arbitrator has within the past three years been appointed as arbitrator on two or more occasions by one of the parties or an affiliate of one of the parties.
23. The arbitrator's law firm has within the past three years acted for one of the parties or an affiliate of one of the parties in an unrelated matter without the involvement of the arbitrator.
24. The arbitrator currently serves, or has served within the past three years, as arbitrator in another arbitration on a related issue involving one of the parties or an affiliate of one of the parties.

**Relationship between an arbitrator and another arbitrator or counsel.**

25. The arbitrator and another arbitrator are lawyers in the same law firm.
26. The arbitrator was within the past three years a partner of, or otherwise affiliated with, another arbitrator or any of the counsel in the same arbitration.
27. A lawyer in the arbitrator's law firm is an arbitrator in another dispute involving the same party or parties or an affiliate of one of the parties.
28. A close family member of the arbitrator is a partner or employee of the law firm representing one of the parties, but is not assisting with the dispute.

29. The arbitrator has within the past three years received more than three appointments by the same counsel or the same law firm.

**Relationship between arbitrator and party and others involved in the arbitration**

30. The arbitrator's law firm is currently acting adverse to one of the parties or an affiliate of one of the parties.

31. The arbitrator had been associated within the past three years with a party or an affiliate of one of the parties in a professional capacity, such as a former employee or partner.

**Other circumstances**

32. The arbitrator holds shares, either directly or indirectly, which by reason of number or de-nomination constitute a material holding in one of the parties or an affiliate of one of the parties that is publicly listed.

33. The arbitrator holds a position in an arbitration institution with appointing authority over the dispute.

34. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties, where the affiliate is not directly involved in the matters in dispute in the arbitration.

Explanation: (1) The term 'close family member' refers to a spouse, sibling, child, parent or life partner.

(2) The term 'affiliate' encompasses all companies in one group of companies including the parent company.

(3) It may be the practice in certain specific kinds of arbitration, such as maritime or commodities arbitration, to draw arbitrators from a small, specialized pool. If in such fields it is the custom and practice for parties frequently to appoint the same arbitrator in different cases, this is a relevant fact to be taken into account, while applying the rules set out above.

**SCHEDULE - II**

(See Rule 9)

**Arbitrator's relationship with the parties or counsel**

1. The arbitrator is an employee, consultant, advisor or has any other past or present business relationship with a party.
2. The arbitrator currently represents or advises one of the parties or an affiliate of one of the parties.
3. The arbitrator currently represents the lawyer or law firm acting as counsel for one of the parties.
4. The arbitrator is a lawyer in the same law firm, which is representing one of the parties.
5. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties, if the affiliate is directly involved in the matters in dispute in the arbitration.
6. The arbitrator's law firm had a previous but terminated involvement in the case without the arbitrator being involved himself or herself.
7. The arbitrator's law firm currently has a significant commercial relationship with one of the parties or an affiliate of one of the parties.
8. The arbitrator regularly advises the appointing party or an affiliate of the appointing party even though neither the arbitrator nor his or her firm derives a significant financial income therefrom.
9. The arbitrator has a close family relationship with one of the parties and in the case of companies with the persons in the management and controlling the company.
10. A close family member of the arbitrator has a significant financial interest in one of the parties or an affiliate of one of the parties.
11. The arbitrator is a legal representative of an entity that is a party in the arbitration.
12. The arbitrator is a manager, director or part of the management, or has a similar controlling influence in one of the parties.
13. The arbitrator has a significant financial interest in one of the parties or the outcome of the case.
14. The arbitrator regularly advises the appointing party or an affiliate of the appointing party, and the arbitrator or his or her firm derives a significant financial income there from.

**Relationship of the arbitrator to the dispute**

15. The arbitrator has given legal advice or provided an expert opinion on the dispute to a party or an affiliate of one of the parties.

16. The arbitrator has previous involvement in the case.

**Arbitrator's direct or indirect interest in the dispute**

17. The arbitrator holds shares, either directly or indirectly, in one of the parties or an affiliate of one of the parties that is privately held.

18. A close family member of the arbitrator has a significant financial interest in the outcome of the dispute.

19. The arbitrator or a close family member of the arbitrator has a close relationship with a third party who may be liable to recourse on the part of the unsuccessful party in the dispute.

Explanation: (1)The term 'close family member' refers to a spouse, sibling, child, parent or life partner.

(2) The term 'affiliate' encompasses all companies in one group of companies including the parent company.

(3) It may be the practice in certain specific kinds of arbitration, such as maritime or commodities arbitration, to draw arbitrators from a small, specialized pool. If in such fields it is the custom and practice for parties frequently to appoint the same arbitrator in different cases, this is a relevant fact to be taken into account while applying the rules set out above.

High Court, Madras,  
18th March 2015.

P. KALAIYARASAN,  
*Registrar-General.*

THE MADRAS HIGH COURT ARBITRATION CENTRE (MHCAC) (ARBITRATION PROCEEDINGS) RULES, 2014

(R.O.C. No. 2168-A/2013/F1)

No. SRO C-12/2015.

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PRELIMINARY

**1. Title and scope** – (1) These rules may be called Madras High Court Arbitration Centre(Arbitration Proceedings) Rules, 2014 [for short, MHCAC (Arbitration) Rules].

(2) These rules shall apply where the parties have agreed in writing, that any dispute(s), which has arisen or which may arise between them, in respect of a defined legal relationship, whether contractual or otherwise, shall be arbitrated under the MHCAC (Arbitration) Rules.

(3) These rules shall also apply where the parties sign a joint memorandum agreeing to their dispute(s) being resolved by arbitration in accordance with the MHCAC (Arbitration) Rules, in any proceedings in any Court, including:

(a) under section 89 of the Code of Civil Procedure, 1908; or

(b) under (sections 11, 8, 9, 45 or 54 or 9) provisions of the Arbitration and Conciliation Act, 1996 or any other related statute, as the case may be.

(2) **Definitions** – (1) In these rules, unless the context otherwise requires,-

(a) “Act” means the Arbitration and Conciliation Act, 1996 and the amendments thereto or any re-enactment or modification thereof;

(b) “Secretariat” means the council constituted under Rule 8 of the Madras High Court Arbitration Centre (Internal Management) Rules, 2014;

(c) “Arbitral Award” includes an interim, partial and preliminary award;

(d) “Arbitral Tribunal” means a Tribunal constituted under Part II of these Rules;

(e) “Arbitrator” means a person appointed as an arbitrator from the MHCAC Panel of Arbitrators and includes an arbitrator appointed in terms of Rule 10(5) of the Madras High Court Arbitration Centre (Internal Management) Rules;

(f) “Arbitration Committee” means the Arbitration Committee of the Madras High Court Arbitration Centre (MHCAC);

(g) “Centre” means Madras High Court Arbitration Centre;

(h) “Chairperson” means the Chief Justice of the Madras High Court or his nominee, in accordance with Rule 3 of the Madras High Court Arbitration Centre (Internal Management) Rules;

(i) “Claimant” means the applicant who requests for arbitration or files Statement of Claim under Rule of these Rules;

(j) “Confirming Party” means a party to an arbitration agreement and who has signed the List of disputes;

(k) “MHCAC Panel of Arbitrators” means the Panel of Arbitrators (for short, the Panel) prepared by Arbitration Committee in accordance with Rule 10 of the Madras High Court Arbitration Centre (Internal Management) Rules;

(l) “Dispute” includes differences;

(m) “Joint Memorandum” means a memorandum jointly signed by the parties as contemplated in Rule 1(3) and in the form as prescribed in Schedule II of these Rules;

(n) “Party” means a party to an arbitration agreement;

(o) “Registrar” means the persons appointed in terms of Rule 6 of Madras High Court Arbitration Centre (Internal Management) Rules, 2014;

(p) “Request” means a written communication to the Centre to commence the arbitration in accordance with these Rules;

(q) “Rules” mean the MHCAC (Arbitration) Rules, 2014;

(2) The words and phrases not defined here shall bear the same meaning as used or defined in the Act, or the Madras High Court Arbitration Centre (Internal Management) Rules and the Madras High Court Arbitration Centre (Administrative costs and Arbitrators’ Fees) Rules.

#### PART I- ARBITRATION PROCEDURE

**(3) Request for arbitration** – (1) Any person desirous to commence an arbitration under these Rules shall submit his Request in writing for Arbitration (the “Request”) to the Secretariat, addressed to the Registrar, with a simultaneous copy to the Respondent(s).

(2) The Request shall, *inter- alia*, contain the following information:

(a) name in full, description, contact details and address of each of the parties;

(b) description of the nature and circumstances of the dispute giving rise to the claim(s);

(c) statement of the relief sought, including, to the extent possible, an indication of any amount(s) claimed and all supporting documents;

- (d) relevant agreements and, in particular, a copy of written arbitration clause or written arbitration agreement;
- (e) the issues to be adjudicated;
- (f) all relevant particulars concerning the arbitrators, their number, qualifications, if any, prescribed in the arbitration agreement on which parties have already agreed in writing;
- (g) statements as to the applicable rules of law, if any, and the language of the arbitration; and
- (h) order of Court, if any, passed in proceedings referred to in Rule 1(3) of these Rules, along with the signed joint memorandum.

(3) The date of receipt of the complete Request by the Registrar shall be deemed the date of commencement of the arbitration. For the avoidance of doubt, the Request is deemed to be complete when all the requirements of Rule 3 (2) are fulfilled or when the Registrar determines that there has been substantial compliance with such requirements. MHCAC shall notify the parties on the commencement of arbitration.

(4) The Claimant shall submit sufficient number of copies of the Request being one copy for the Centre, one copy for each arbitrator(s) (if the number of arbitrators is mentioned in the arbitration agreement) and one copy for each of the Respondent(s).

(5) The Claimant shall also make an advance payment of his share of miscellaneous expenses and arbitrators' fees, as the Registrar may require in terms of Rule 25 of these Rules, determined in accordance with the Madras High Court Arbitration Centre (Administrative costs and Arbitrators' Fees) Rules in force on the date the Request is submitted. In the event, the Claimant(s) fail(s) to comply with any of the aforesaid requirements, the Registrar may fix a time limit within which the Claimant must comply, failing which, the file shall be closed without prejudice to the right of the Claimant to submit the claims at a later date by way of a fresh Request.

(6) The Registrar shall send a copy of the Request and the documents annexed thereto, at the earliest to the Respondent(s) for his Reply to the Request.

**4. Reply to Request** - (1) Within thirty days from the date of receipt of the Request from the Secretariat, the Respondent shall send his written response (the "Reply") to the Secretariat addressed to the Registrar, which shall, *inter- alia*, contain the following information and be accompanied by:-

- (a) his name in full, description, contact details and address;
- (b) confirmation or denial of all or part of the Claim(s) made by the Claimant in the Request;
- (c) comments in response to the nature and circumstances of the dispute giving rise to the Claim(s) contained in the Request;
- (d) response to the relief sought in the Request;
- (e) statement describing the nature and circumstances giving rise to any Counter-claim(s), if any, including all relevant or supporting documents;
- (f) the issues to be adjudicated;
- (g) comments, if any, concerning the number of arbitrators and their choice in light of the Claimant's proposals; and
- (h) statements, if any, as to the applicable rules of law and the language of the arbitration.
- (i) to deposit with the Centre in advance 50% share of Arbitrator's fee, on the Claim amount and the Miscellaneous Expenses within 30 days.

#### **5. Submission by the Parties –**

(1) The Claimant shall, within a period of time to be determined by the Arbitral Tribunal, send to the Respondent and the Arbitral Tribunal a Statement of Claim setting out in full detail:

- (a) a statement of facts supporting the claim;
- (b) the legal grounds or arguments supporting the claim; and
- (c) the relief claimed together with the amount of all quantifiable claims.

(2) The Respondent shall, within a period of time to be determined by the Arbitral Tribunal, send to the Claimant a Statement of Defence setting out its full defence to the Statement of Claim, including without limitation, the facts and contentions of law on which it relies. The Statement of Defence shall also state any counterclaim, which shall comply with the requirements of Rule 5 (2).

(3) If a counterclaim is made, the Claimant shall, within a period of time to be determined by the Arbitral Tribunal, send to the Respondent a Statement of Defence to the Counterclaim stating in full detail which of the facts and contentions of law in the Statement of Counterclaim it admits or denies, on what grounds it denies the claims or contentions, and on what other facts and contentions of law it relies.

(4) The Arbitral Tribunal, may, upon request by either of the parties grant permission to file a Rejoinder to the Statement of Defence to the Claim and the Statement of Defence to the Counterclaim and the Arbitral Tribunal shall set a timeline for filing the same.

(5) A party may amend its claim, counterclaim or other submissions unless the Arbitral Tribunal considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim or counterclaim may not be amended in such a manner that the amended claim or counterclaim falls outside the scope of the arbitration agreement.

(6) The Arbitral Tribunal shall decide which further submissions shall be required from the parties or may be presented by them. The Arbitral Tribunal shall fix the periods of time for communicating such submissions.

(7) All submissions referred to in this Rule shall be accompanied by copies of all supporting documents which have not previously been submitted by any party.

(8) If the Claimant fails within the time specified to submit its Statement of Claim, the Arbitral Tribunal may issue an order for the termination of the arbitral proceedings or give such other directions as may be appropriate.

(9) If the Respondent fails to submit a Statement of Defence, or if at any point, any party fails to avail itself of the opportunity to present its case in the manner directed by the Arbitral Tribunal, the Arbitral Tribunal may proceed with the arbitration.

#### **6. Representation and assistance –**

(1) Each party shall advise, in writing, the other party and the Registrar of-

- (a) the names and addresses of persons who will represent or assist him or her, and
- (b) the capacity in which those persons will act.

2) Once the Arbitral Tribunal has been established, the parties or their representatives may communicate in writing directly to the Arbitral Tribunal, with a copy of the communication addressed to the Registrar.

#### **7. Written Notices or Communications –**

(1) All notices or communications from the Registrar and the Arbitral Tribunal shall be in writing and deemed to have been duly delivered when sent at the last known address of the party or its duly notified representative. Such notice or communication may be made by delivery against receipt, registered post, courier, facsimile transmission, telex, telegram or any other means of tele-communication that provides a record of the sending thereof.

(2) The parties shall file with the Registrar a copy of any notice, communication or proposal concerning the arbitration proceedings. Any such notice or communication may be sent by such party to all the other parties to the proceedings as well as to the Arbitral Tribunal and the Registrar by registered post, courier, electronic mail, facsimile or any other means of tele-communication that provides a record of the sending thereof.

#### **8. List of disputes, Statement of admission and denial of documents and Arbitration Schedule –**

(1) The Arbitral Tribunal shall within fifteen days of receipt of pleadings frame a list a disputes to be adjudicated upon. Within the same period of 15 days, the parties shall also submit Affidavits admitting/denying documents filed by the other party. Further, within the same time frame, the parties shall notify the Arbitral Tribunal and the Registrar as to whether they intend leading oral evidence in the matter.

(2) If any party refuses to take part in the drawing up of the list of disputes and to sign the same, the arbitral proceedings shall continue in respect of the claims or counter-claims of parties who have signed the list of disputes and any claims or Counter- claims made by the party who so refuses to participate or sign shall not be considered but shall be bound by the orders and award of the Arbitral Tribunal.

(3) Soon after the list of disputes have been drawn up by the Arbitral Tribunal, the Secretariat shall prepare, in consultation with the Arbitral Tribunal and the parties, a timetable for the conduct of the arbitration and shall communicate it to each of them. The time-table shall specify:-

(a) the period within which the parties would file statement of witnesses by way of affidavit to be treated as their statements made in examination-in-chief;

(b) the dates when the Arbitral Tribunal shall record oral evidence to be adduced by the parties by way of cross-examination of the witnesses who tendered their affidavit evidence (treated as their statement in examination-in-chief deposition) and such other oral depositions as the Arbitral Tribunal may permit.

(c) the dates when the parties would address their arguments before the Arbitral Tribunal.

(4) The time-table so fixed shall remain firm and binding on all concerned.

(5) The Arbitral Tribunal shall communicate the time-table to the Registrar and also the time period for publication of the award.

(6) The Arbitral Tribunal shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) or the Indian Evidence Act, 1872 (1 of 1872).

(7) The parties are free to agree on the procedure to be followed by the Arbitral Tribunal in conducting its proceedings.

(8) Failing any agreement referred to in sub-rule (8), the Arbitral Tribunal may conduct the proceedings in the manner it considers appropriate.

(9) The power of the Arbitral Tribunal under sub-rule (9) includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

(10) The Arbitral Tribunal may, where necessary, secure agreement of parties to dispense with formal proof of documents, except in case of questioned documents.

**9. Consolidation of proceedings** – The Registrar shall have the power to order consolidation of an arbitration with one or more other arbitrations subject to the MHCAC Rules commenced under the same arbitration agreement or any compatible arbitration agreement(s) between the same disputing parties, provided that no Arbitral Tribunal has yet been formed by the MHCAC for such other arbitration(s) or, if already formed, that such Arbitral Tribunal(s) is(are) composed of the same arbitrators;

#### **10. Joinder of Additional Parties**

Arbitral Tribunal may implead a party to the arbitral proceedings with the written consent of all the parties to the arbitration agreement and written consent of the party to be impleaded.

The proportionate Administrative Costs and Arbitral Tribunal's fee prescribed in the respective schedule shall be payable by the newly added party unless otherwise agreed by the parties.

The Arbitral Tribunal will determine the proportionate share of Administrative Costs and fee.

**11. Additional Claims or Counter-claims** - After the list of disputes have been signed or approved by the Arbitral Tribunal, no party shall make any Additional Claims or Counter-claims which fall outside the limits of the list of disputes unless it has obtained authority to do so from the Arbitral Tribunal, which shall consider the nature of such new Claims or Counter-claims, the stage of the arbitration and other relevant circumstances and thereafter issue necessary orders.

**12. Hearing Procedure** – (1) Unless agreed between the parties in writing, the Arbitral Tribunal shall hold oral hearings.

(2) Unless the Arbitral Tribunal decides to undertake site inspection or for any reason as it may deem necessary suggest another venue for any hearing, all hearings shall take place in the Centre at Madras.

(3) If the Arbitral Tribunal fixes the date, time and place of hearing other than in the Centre at Madras, it shall give the parties reasonable notice of such hearings and communicate its decision to the Registrar.

(4) All meetings and hearings shall be in private unless the parties agree otherwise or the Arbitral Tribunal directs otherwise.

(5) The Centre shall provide a translator, if necessary, subject to costs being borne by the parties. The centre shall strive to provide the parties with an option of instant transcribing of provisions at an extra cost per session to be specified by the Registrar.

(6) After the conclusion of evidence and hearing the Arbitral Tribunal shall fix a date in the presence of the parties, for pronouncement of the award.

**13. Decision making by Arbitral Tribunal** – (1) In arbitral proceedings with more than one arbitrator, any decision of the Arbitral Tribunal shall be made by a majority of all its members.

(2) Notwithstanding sub-rule (1), if authorized by the parties or all the members of the Arbitral Tribunal, questions of procedure may be decided by the Chairperson of the Arbitral Tribunal.

**14. Settlement of dispute –** (1) The Arbitral Tribunal may encourage settlement of the dispute with the agreement of the parties.

(2) The parties are free to opt for either mediation or conciliation even during the pendency of the proceedings before the Arbitral Tribunal. In such an event, the matter, with consent of the parties, may be referred to the Mediation and Conciliation Centre, High Court, Madras.

(3) If during the arbitration proceedings, the parties settle the dispute, the Arbitral Tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the Arbitral Tribunal, record the settlement in the form of an Arbitral Award on agreed terms.

#### PART II- FORMATION OF ARBITRAL TRIBUNAL

##### **15. Appointment of Arbitrators –**

(1). The parties to a dispute are free to determine the number of arbitrators, provided that such number shall not be an even number and in case there are only two parties to a dispute such number shall not exceed three. In case of more than two parties to a dispute, the number of arbitrators may be more than three, but in no case it shall exceed five.

(2). Failing the determination referred to in sub-rule (1), the Arbitral Tribunal shall consist of a sole arbitrator.

##### **16. Where the number of arbitrators is specified in the agreement –**

(1) Where the agreement provides for the appointment of a sole arbitrator the parties shall appoint such arbitrator from amongst the members on the MHCAC panel of arbitrators, within thirty days of intimation of filing of the Request. Where the parties fail to agree upon the sole arbitrator from the MHCAC panel within the said period, the Registrar shall appoint a sole arbitrator.

(2) Where the agreement provides for appointment of three arbitrators the Claimant and Respondent shall appoint their individual arbitrators within thirty days of intimation of filing of the Request and the third arbitrator shall be appointed by the Registrar and such third arbitrator shall chair the Arbitral Tribunal.

##### **17. Appointment in case of multiparty arbitration –**

(1) Where the Arbitration Agreement entitles each party howsoever to nominate an arbitrator, the parties to the dispute number more than two and such parties have not at all agreed in writing that the disputant parties represent collectively two separate "sides" for the formation of the Arbitral Tribunal (as Claimant on one side and Respondents on the other side, each side nominating a single arbitrator), the Registrar will appoint the Arbitral Tribunal without regard to any party's entitlement or nomination.

(2) In such circumstances, the Arbitration Agreement shall be treated for all purposes as a written agreement by the parties for the nomination and appointment of the Arbitral Tribunal by the MHCAC alone.

##### **18. Confirmation of Arbitrators –**

(1) Soon after the arbitrator(s) has been appointed, the Registrar shall send an official communication to that effect to the parties and to the arbitrator(s).

(2) The arbitrator(s) so appointed shall give a declaration in the format prescribed in Schedule IV of these Rules.

#### PART III- SUMMARY PROCEDURE

##### **19. Summary Procedure –**

(1) Notwithstanding anything contained hereinbefore, the parties may mutually agree, in writing, adopting the summary procedure for resolution of their disputes or differences.

(2) In adopting the summary procedure the parties shall sign an undertaking (Schedule III) in writing to the effect that they shall dispense with the necessity of oral evidence.

(3) The Claimant shall submit documents in support alongwith the Request, in terms of Rule 3 of these Rules, to the Secretariat addressed to the Registrar and supply a simultaneous copy to the other party.

(4) The other party shall, within fifteen days of the receipt of the documents referred to in sub-rule (3), submit its Reply, in terms of Rule 4 of these Rules, to the Secretariat addressed to the Registrar, together with documents in support of the Reply.

(5) The parties may appoint a sole arbitrator from the MHCAC panel of arbitrators within a period of fifteen days after the expiry of the date specified in sub-rule (4) and communicate the same to the Registrar. If parties fail to reach an agreement, the Registrar shall make such appointment within one week after the expiry of said period of fifteen days.



(6) The parties shall notify the Registrar their estimate of time required to be spent by the Arbitral Tribunal to hear oral address by the parties. Based on such estimate, the Secretariat shall determine the time-table, in consultation with the arbitrator(s) and notify the parties.

(7) Any relevant document that could not be filed at the stage as provided under sub-rules (3) and (4), for the reason that either the party was not aware of its existence or was unable to locate the same despite reasonable efforts, may be filed at a later stage, if permitted by a written order of the Arbitral Tribunal subject to payment of costs, as may be determined. The Arbitral Tribunal before taking the documents on record must satisfy itself that the document is relevant, material and necessary for the resolution of the dispute(s) before it;

Provided, that no such document may be filed after the list of disputes have been drawn up by the Arbitral Tribunal.

(8) Soon after appointment of the sole arbitrator, the Secretariat, in consultation with the Arbitral Tribunal, shall notify the parties, the date of hearing which should not be later than fifteen days.

(9) On the date of hearing, the Arbitral Tribunal shall settle list of disputes in consultation with parties and same shall be signed by parties as well as by the Arbitral Tribunal. The parties shall thereafter proceed to address oral argument based on records of the case.

(10) The Arbitral Tribunal is expected to make its Award within thirty days after conclusion of oral address by the parties. Further, the Arbitral Tribunal shall strive to conclude the entire proceedings within 18 months of the Arbitral Tribunal being constituted.

(11)(1) The sole arbitrator's fee shall be as prescribed in Schedule 'B', 'C' & 'D' of the Madras High Court Arbitration Centre (Administrative costs and Arbitrators' Fees) Rules.

(2) The emergency Arbitrator's fee shall be as prescribed in schedule 'E' of Madras High Court Arbitration Centre (Administrative costs and Arbitrators' Fees) Rules.

#### PART IV- EMERGENCY ARBITRATION

### 20. Emergency Arbitrator

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

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

(b) The Registrar shall, if he determines that MHCAC should accept the application, seek to appoint an Emergency Arbitrator within one business day of receipt by the Registrar of such application and payment of any required fee.

(c) Prior to accepting appointment, a prospective Emergency Arbitrator shall disclose to the Registrar any circumstance that may give rise to justifiable doubts as to his impartiality or independence. Any challenge to the appointment of the Emergency Arbitrator must be made within one business day of the communication by the Registrar to the parties of the appointment of the Emergency Arbitrator and the circumstances disclosed.

(d) An Emergency Arbitrator may not act as an arbitrator in any future arbitration relating to the dispute, unless agreed by the parties.

(e) The Emergency Arbitrator shall, as soon as possible but in any event within two business days of appointment, establish a schedule for consideration of the application for emergency relief. Such schedule shall provide a reasonable opportunity to all parties to be heard, but may provide for proceedings by telephone conference or on written submissions as alternatives to a formal hearing. The Emergency Arbitrator shall have the powers vested in the Arbitral Tribunal pursuant to these Rules, including the authority to rule on his own jurisdiction, and shall resolve any disputes over the application.

(f) The Emergency Arbitrator shall have the power to order or award any interim relief that he deems necessary. The Emergency Arbitrator shall give reasons for his decision in writing. The Emergency Arbitrator may modify or vacate the interim award or order for good cause shown.

(g) The Emergency Arbitrator shall have no further power to act after the Arbitral Tribunal is constituted. The Arbitral Tribunal may reconsider, modify or vacate the interim award or order of emergency relief issued by the Emergency

Arbitrator. The Arbitral Tribunal is not bound by the reasons given by the Emergency Arbitrator. Any order or award issued by the Emergency Arbitrator shall, in any event, cease to be binding if the Arbitral Tribunal is not constituted within 90 days of such order or award or when the Arbitral Tribunal makes a final award or if the claim is withdrawn.

(h) Any interim award or order of emergency relief may be conditioned on provision by the party seeking such relief of appropriate security.

(i) An order or award pursuant to an application under this rule shall be binding on the parties when rendered. By agreeing to arbitration under these Rules, the parties undertake to comply with such an order or award without delay.

(j) The costs associated with any application under this rule shall initially be apportioned by the Emergency Arbitrator, subject to the power of the Arbitral Tribunal to determine finally the apportionment of such costs.

(k) These Rules shall apply as appropriate to any proceeding, taking into account the inherent urgency of such a proceeding. The Emergency Arbitrator may decide in what manner these Rules shall apply as appropriate, and his decision as to such matters is final and not subject to appeal.

#### PART V – ASSISTANCE TO ARBITRAL TRIBUNAL

##### 21. Assistance to Arbitral Tribunal-

1. The Arbitral Tribunal may at its discretion and at any time or times before making the final award, at the expense of the parties concerned, seek the opinion of any person having special knowledge relating to the subject matter of the proceedings, particular industry, commodity, produce or branch of trade concerned in the reference. If the parties agree, the Arbitral Tribunal may, at the expense of the parties, appoint any expert, accountant, or lawyers, to assist them to arrive at a decision on any issue factual or legal, taking into account the advice of such assessor. The costs to be paid for assistance shall be decided by the Arbitral Tribunal on a reasonable basis

2. If a party so requests, or if the Arbitral Tribunal considers it necessary, the expert shall, after delivery of his written or oral report participate in an oral hearing where the parties have the opportunity to present expert witnesses in order to testify to points in issue.

3. The expert shall on the request of a party, make available to that party for examination, all documents, goods or other property in possession of the expert, with which he was provided in order to prepare his report.

##### 22. Assistance of Court in Taking Evidence-

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

The Application shall specify:-

- (a) the names and addresses of the parties and the Arbitrators;
- (b) general nature of claim and relief sought;
- (c) the evidence to be obtained in particular;
- (d) the name and address of any person to be heard as expert witness and a statement of the subject matter of the testimony required.
- (e) The description of any document to be produced or property to be inspected.

(2) For the purposes of this rule, the Arbitral Tribunal may if it deems fit, engage legal assistance and the expenses for the same will be paid by the party/parties in a manner indicated by the Arbitral Tribunal.

#### PART VI – MED ARB

##### 23. Reference to Med-Arb.

(1) Parties to an arbitration agreement may, at any time before the commencement of the arbitration proceedings or while the arbitration proceedings are in progress, opt for mediation, and request the Arbitral Tribunal to put the arbitration proceedings on hold to enable the parties to resolve their disputes amicably.

(2) The parties should convey their request to the Arbitral Tribunal, or if the Arbitral Tribunal is not in session, to the Registrar.

(3) The Arbitral Tribunal shall accept the request of the parties and keep in abeyance the arbitration proceedings, relegating the parties to Med-Arb.



(4) The Mediators on the panel of the Madras High Court Mediation Centre shall be deemed to be the mediators for the purpose of the reference to Med-Arb. The parties shall have liberty to appoint the mediator of their choice and proceed with the mediation proceedings expeditiously.

(5) The mediation proceedings shall be conducted in accordance with the mediation rules of the Madras High Court Mediation Centre, which shall be deemed to have been incorporated herein and as an integral part of these rules. The proceedings before the mediators shall remain confidential and shall not be brought on record in the arbitration proceedings, should the mediation fail.

#### PART VII- GENERAL PROVISIONS

##### 24. Interim measures ordered by Arbitral Tribunal –

(1) The Arbitral Tribunal may, at the request of a party, order a party to take any interim measure of protection in respect of the subject-matter of the dispute, as it may consider necessary.

(2) The Arbitral Tribunal may require a party to provide appropriate security in connection with a measure ordered under sub-rule (1).

(3) The Arbitral Tribunal may modify, suspend or terminate an interim measure granted by it, upon an application by a party if the circumstances so warrant.

##### 25. Default of parties –

(1) If any party to an arbitration agreement fails to participate at any stage before the signing of list of disputes, then such party shall be proceeded ex-parte and a notice to this effect shall be sent to the defaulting party along with a copy to the other Party(s).

(2) If any confirming party refuses or fails to take part in the arbitration proceedings, the Arbitral Tribunal shall proceed ex- parte, after a written notice is served on the defaulting party.

(3) If a confirming party is proceeded ex-parte, the Registrar shall send an intimation in writing to this effect to the defaulting party as well as the other confirming party(s). However, this shall not preclude such party from participating in any subsequent stage of the arbitration proceedings.

**26. Default of arbitrators** - When after the constitution of the Arbitral Tribunal, an arbitrator fails to participate in two hearings, without sufficient cause, his mandate to act as an arbitrator shall stand terminated and the Chairperson shall appoint another arbitrator.

**27. Place of arbitration** - Ordinarily the place of arbitration shall be Madras and the venue shall be Madras High Court Arbitration Centre, unless otherwise agreed upon by the parties.

##### 28. Application for adjournment –

(1) Any party seeking adjournment or change in the time-table fixed for the arbitration proceedings shall file a written request, supported by sufficient and cogent reasons and necessary documents, if any, at least thirty days prior to the date for which such adjournment is sought alongwith costs by way of Demand Draft in the name of Madras High Court Arbitration Centre for a sum of Rs. 25,000/-. The Arbitral Tribunal may accede to such request after recording its reasons in writing.

(2) If a request for adjournment could not be made at least thirty days prior to the date for which it is sought, then the same may be entertained only if it is made in writing and supported by sufficient and cogent reasons and necessary documents, subject to payment of costs as given below:

Time	Cost
30 to 26 days (both inclusive) prior to fixed date.	Rs. 25,000/- plus 10% i.e. Rs. 27,500/-
25 to 21 days (both inclusive) prior to fixed date.	Rs. 25,000/- plus 20% i.e. Rs. 30,000/-
20 to 16 days (both inclusive) prior to fixed date.	Rs. 25,000/- plus 30% i.e. Rs. 32,500/-
15 to 11 days (both inclusive) prior to fixed date.	Rs. 25,000/- plus 40% i.e. Rs. 35,000/-

Provided, that no request for adjournment shall be entertained ten days before the scheduled date, unless supported by special or exceptional reasons or in cases of emergency. The percentage of additional costs may be decided by the Chairperson in such cases, including the power to exempt the imposition of additional costs, original costs to remain unaffected. In all such cases the Chairperson shall record special reasons in writing.

(3) The Chairperson may, for reasons to be recorded in writing, exempt a party from depositing costs for seeking adjournment or may reduce the amount of costs.

(4) For removal of doubts, it is clarified that the Arbitral Tribunal may, in addition to the above costs payable to the Centre, determine costs, if any, payable by the party seeking adjournment to the opposite party(s).

### 29. Deposits –

(1) The Registrar may require the parties, before referring the case to the Arbitral Tribunal, to deposit in advance in one or more instalments, such sums of money as he deems necessary to defray miscellaneous expenses and arbitrator's fee.

(2) The deposits shall be called for in equal shares from the Claimant(s) and the Respondent(s). The Registrar may during the course of the arbitration proceedings, require further sums to be deposited by the Parties or anyone of them to meet the costs of the arbitration.

(3) When one of the parties neglects or refuses to make the deposit, the Registrar may require such deposit, whether in relation to a Claim or a Counter-claim, to be made by the other Party to the dispute (Claimant or Respondent as the case may be). Should the whole or part of the deposit be not made by the Parties or any one of them, the Registrar shall inform the Parties or the Party concerned that the Claim or Counter-claim, as the case may be, will not be the subject matter of the reference.

(4) The Arbitral Tribunal shall proceed only in respect of those Claims or Counter-claims for which the deposits have been duly paid to the Centre and otherwise may order the suspension or termination of the arbitral proceedings.

(5) All deposits towards miscellaneous expenses and fees shall be made with the Centre and no payment shall be released to the arbitrators directly by the parties. The deposit made by the parties shall be taken into account by the Arbitral Tribunal in apportioning the costs while making the Arbitral Award. Any deposit made in excess shall be refunded to such party(s) as the Arbitral Tribunal may direct.

(6) The Centre shall have a lien on the Arbitral Award for any unpaid costs of the Arbitration including adjournment cost, miscellaneous expenses and the fees of the Arbitrator and the Award will not be notified to the parties unless all such costs have been fully paid to the centre by the parties or by one of them.

**30. Additional Fees and Expenses** - The Arbitral Tribunal shall be entitled to allow fees and expenses of witnesses, expenses connected with the selection and carriage of sample and examination of goods, if required, conveyance, hire, cost of legal or technical advice or proceedings in respect of any matter arising out of the arbitration incurred by the Arbitral Tribunal, and any other incidental expenses and charges in connection with or arising out of the reference or award as the Arbitral Tribunal shall, in its absolute discretion, think fit.

### 31. Form and contents of Arbitral Award –

(1) An arbitral award shall be made in writing and shall be signed by the members of the Arbitral Tribunal.

(2) For the purposes of sub-rule (1), in arbitral proceeding with more than one arbitrator, the signatures of the majority of all the members of the Arbitral Tribunal shall be sufficient so long as the reason for any omitted signature is stated.

(3) The arbitral award shall state the reasons upon which it is based, unless-

(a) The parties have agreed that no reasons are to be given, or

(b) The award is an arbitral award on agreed terms under Rule 13 of these Rules.

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

(5) After the Arbitral Award is made, a signed copy shall be delivered to each party.

(6) The Arbitral Tribunal may, at any time during the arbitral proceedings, make an interim Arbitral Award on any matter with respect to which it may make a final Arbitral Award.

(7) In case of monetary claims the award shall specify the amount awarded.

(8) (1) In relation to any arbitration proceeding the Arbitral Tribunal has the discretion to determine:

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

(b) The amount of those costs; and

(c) When they are to be paid.

**Explanation.-** For the purpose of clause (a), "costs" means reasonable costs relating to-

(i) The fees and expenses of the arbitrators/ courts and witnesses;

- (ii) Legal fees and expenses
- (iii) Any administration fees of the institution supervising the arbitration; and
- (iv) Any other expenses incurred in connection with the arbitral/ court proceedings and the arbitral award.

(2) If the Arbitral Tribunal decides to make an order in payment of costs-

- (a) the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party; but
- (b) the Arbitral Tribunal may make a different order for reasons to be recorded in writing.

(3) In deciding what order if any, to make about costs, the court/ Arbitral Tribunal will have regard to all the circumstances, including-

- a. the conduct of all the parties;
- b. whether a party has succeeded on part of its case, even if that party has not been wholly successful;
- c. whether the party had made a frivolous counter claim leading to delay in the disposal of the arbitral proceedings; and
- d. whether any reasonable offer to settle was made by a party and unreasonably refused by the other party.

(4) The orders which the court/ Arbitral Tribunal may make under this provision include an order that a party must pay:

- a. a proportion of another party's costs;
- b. a stated amount in respect of another party's costs;
- c. costs from or until a certain date only;
- d. costs incurred before proceedings have begun;
- e. costs relating to particular steps taken in the proceedings;
- f. costs relating only to a distinct part of the proceedings; and
- g. interest on costs from or until a certain date.

(5) An agreement which has the effect that a party is to pay the whole or part of the costs of the arbitration in any event is only valid if made after the dispute in question has arisen."

(9) On termination of the proceedings, the Arbitral Tribunal may pass a direction and hand over the original record alongwith the proceedings, to either of the parties, as he may deem fit and proper, subject to submission of digitized version of the entire record and proceedings by the concerned party, one copy each, for the Arbitrator, for the MHCAC and for the other party(ies). Such copies shall be signed digitally.

**Explanation** - For the purpose of clause (8), "costs" means reasonable costs relating to-

- (1) The fees and costs of the arbitrators and witnesses,
- (2) Legal fees and expenses,
- (3) The Miscellaneous Expenses
- (4) Any other expenses incurred in connection with the arbitral proceeding and the arbitral award.

### 32. Interest on sums awarded –

(1) Unless otherwise agreed to by the parties, where and in so far as a Arbitral Award is for the payment of money, the Arbitral Tribunal may include in the sum for which the award is made interest, at such rate as it deems reasonable, on the whole or any part of the money, for the whole or any part of the period between the date on which the cause of action arose and the date on which the Arbitral Award is made. The Arbitral Award shall also provide the rate of interest to be paid from the date of the award to the date of payment.

(2) The Arbitral Tribunal shall have the power to award compound interest if it deems fit subject to a contract to the contrary.

**33. Confidentiality-** (1) The parties and the Arbitral Tribunal shall at all times treat all matters relating to the proceedings and the award as confidential.

(2) A party or any arbitrator shall not, without the prior written consent of all the parties, disclose to a third party any such matter except:

- a. for the purpose of making an application to any competent court of any State to enforce or challenge the award;
- b. pursuant to the order of or a subpoena issued by a court of competent jurisdiction;
- c. for the purpose of pursuing or enforcing a legal right or claim;
- d. in compliance with the provisions of the laws of any State which are binding on the party making the disclosure;
- e. in compliance with the request or requirement of any regulatory body or other authority; or
- f. pursuant to an order by the Arbitral Tribunal on application by a party with proper notice to the other parties.

(3) In this Rule, "matters relating to the proceedings" means the existence of the proceedings, and the pleadings, evidence and other materials in the arbitration proceedings and all other documents produced by another party in the proceedings or the award arising from the proceedings, but excludes any matter that is otherwise in the public domain.

(4) The Arbitral Tribunal has the power to take appropriate measures, including issuing an order or award for sanctions or costs, if a party breaches the provisions of this Rule.

#### **34. Termination of proceedings –**

(1) The arbitral proceeding shall be terminated by the final Arbitral Award or by order of the Arbitral Tribunal under sub- rule (2).

(2) The Arbitral Tribunal shall issue an order for the termination of the arbitral proceedings where-

(a) The Claimant withdraws his claim, unless the Respondent objects to the order and the Arbitral Tribunal recognizes a legitimate interest on his part in obtaining a final settlement of the dispute,

(b) The parties agree on the termination of the proceedings, or

(c) The Arbitral Tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(3) Subject to Rule 30 of these Rules and sub-section (4) of section 34 of the Act, the mandate of the Arbitral Tribunal shall terminate with the termination of the arbitral proceedings.

#### **35. Correction and interpretation of award; additional award–**

(1) Within thirty days from the receipt of the Arbitral Award, unless another period of time has been agreed upon by the parties-

(a) A party, with notice to the other party, may request the Arbitral Tribunal to correct any computation errors, any clerical or typographical errors or any other errors of a similar nature occurring in the award;

(b) If so agreed by the parties, a party, with notice to the other party, may request the Arbitral Tribunal to give an interpretation of a specific point or part of the award.

(2) If the Arbitral Tribunal considers the request made under sub-rule (1) to be justified, it shall make the correction or give the interpretation within thirty days from the receipt of the request and the interpretation shall form part of the arbitral award.

(3) The Arbitral Tribunal may correct any error of the type referred to in sub-rule (1) clause (a) on its own initiative, within thirty days from the date of the Arbitral Award.

(4) Unless otherwise agreed to by the parties, a party with notice to the other party, may request, within thirty days from the receipt of the Arbitral Award, the Arbitral Tribunal to make an additional Arbitral Award as to claims presented in the arbitral proceedings but omitted from the Arbitral Award.

(5) If the Arbitral Tribunal considers the request made under sub-rule (4) to be justified, it shall make the additional Arbitral Award within sixty days from the receipt of such request.

(6) The Arbitral Tribunal may extend, if necessary, the period of time within which it shall make a correction, give an interpretation or make an additional Arbitral Award under sub-rules (2) or (5).

(7) Rules 27 and 28 of these Rules shall apply to a correction or interpretation of the Arbitral Award or to an additional Arbitral Award made under this Rule.

**36. Waiver** - A party which proceeds with the arbitration without raising its objection to a failure to comply with any of provision of these Rules, or of any other rules applicable to the proceedings, any direction given by the Arbitral Tribunal, or any requirements under the arbitration agreement relating to the constitution of the Arbitral Tribunal, or to the conduct of the proceedings, shall be deemed to have waived its right to object.

**37. Amendment of Rules** - These Rules may be amended by the Chief Justice of the Madras High Court in consultation with the Madras High Court Arbitration Committee.

**38. Residuary Provision** - The Arbitration Committee may take appropriate decisions, as it considers necessary in respect of all matters, which are not specifically provided in these Rules.

#### SCHEDULE- I

### 1. HOW TO REFER DISPUTES TO MADRAS HIGH COURT ARBITRATION CENTRE

Disputes may be referred to the Madras High Court Arbitration Centre through a procedure administered by the Centre in two ways:

I. By insertion of a clause in a contract providing for the reference of all disputes in relation to or arising out of that contract between the parties, or

II. By a separate agreement providing for the reference of an existing dispute to MHCAC for arbitration in accordance with its rules.

**A Model Arbitration Clause and a Model Arbitration Agreement are given below:**

#### A. MODEL ARBITRATION CLAUSE

##### For Arbitration of Contractual Disputes:

Parties to an agreement who agree to resolve their disputes and differences in accordance with the Madras High Court Arbitration Centre (Arbitration Proceedings) Rules, and to have the Centre as appointing authority and/or provide administrative services, may use the following provisions in their contract;

All dispute and differences arising out of or in connection with or relating to the present agreement shall be settled under the Rules of Madras High Court Arbitration Centre by one or more arbitrators appointed in accordance with its Rules.

**Note** : Parties may consider adding the following:

- (a) The number of arbitrator(s) shall be\_\_\_\_\_ .
- (b) The language of the arbitration proceedings shall be\_\_\_\_\_ .
- (c) Specific qualifications of the arbitrator(s) including language, technical qualifications and experience, if any.
- (d) The place of arbitration shall be the Madras High Court Arbitration Centre at Madras.

#### B. MODEL ARBITRATION AGREEMENT

This agreement made on the day of \_\_\_\_\_month, \_\_\_\_\_ (year), between\_\_\_\_\_ (full description and address of the Party to be given) of ONE PART and\_\_\_\_\_ (full description and address of the Party to be given) of the OTHER PART.

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

AND WHEREAS the Parties agree to submit their dispute(s) for being resolved in accordance with the Rules of \_\_\_\_\_ Arbitration Centre (\_\_\_\_\_).

Now the parties hereby agree as follows:

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

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

The arbitration shall be administered by the \_\_\_\_\_ Arbitration Centre.

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

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

1 \_\_\_\_\_ for and on behalf of \_\_\_\_\_.

2 \_\_\_\_\_ for and on behalf of \_\_\_\_\_.

**Note:** The parties may:-

- (a) provide for qualification(s) of the arbitrator(s) including, language, technical experience, and legal experience, if any;
- (b) specify the language for the conduct of arbitration proceedings.

#### SCHEDULE- II

#### JOINT MEMORANDUM TO BE SIGNED BY PARTIES

We hereby agree that disputes or differences, which have arisen between us in respect of our contract (give details) dated and which are subject matter of the proceedings (specify the nature and particulars of proceedings with cause title) (use separate sheet if necessary) to be resolved by arbitration in accordance with the Rules of \_\_\_\_\_

Arbitration Centre (\_\_\_\_\_).

In Witness Whereof, this Agreement has been signed on this \_\_\_\_\_ Day of \_\_\_\_\_

Month of (year) at by:

1. \_\_\_\_\_ for and on behalf of \_\_\_\_\_.

2. \_\_\_\_\_ for and on behalf of \_\_\_\_\_.

#### SCHEDULE III

#### MODEL AGREEMENT FOR SUMMARY PROCEDURE

This agreement is between (name and address of the initiating party)

and \_\_\_\_\_ (name and address of the other party or parties).

IN THE MATTER RELATING TO \_\_\_\_\_ The parties to this Agreement agree as follows:

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

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

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

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

IN WITNESS WHEREOF, THIS Agreement has been signed on this \_\_\_\_\_ Day of \_\_\_\_\_ Month of \_\_\_\_\_ (year) at \_\_\_\_\_ by:

1. \_\_\_\_\_ for and on behalf of \_\_\_\_\_.

2. \_\_\_\_\_ for and on behalf of \_\_\_\_\_.

#### SCHEDULE – IV

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

I, the undersigned

Name : \_\_\_\_\_

First Name : \_\_\_\_\_

## ACCEPTANCE

hereby declare that I accept to serve as arbitrator under the Rules of the

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

Please tick the boxes below as may be applicable:

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

Include statement on availability of time and ability to conclude proceedings within 2½ years.

OR

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

**NON-ACCEPTANCE** hereby declare that I decline to serve as arbitrator in the subject case. (If you wish to state the reasons please do so.)

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

## SCHEDULE- V

## CURRICULUM VITAE

For use of \_\_\_\_\_ (\_\_\_\_\_) and communication to the parties. To be completed in English.

Mr. Mrs. Miss Ms.

Last Name : \_\_\_\_\_

First Name : \_\_\_\_\_

Date of birth: \_\_\_\_\_

Personal Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Telefax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Business Address (including company or firm name where applicable):

Telephone: \_\_\_\_\_

Telefax : \_\_\_\_\_

E-mail : \_\_\_\_\_

Website : \_\_\_\_\_

Please indicate which address you wish to be used for correspondence:

Personal

Business

Academic degrees or Qualifications:

Current professional activity (ies) and position(s):

Professional Experience:



Additional information (Use separate sheet if necessary)

Please indicate any language(s) in which you consider yourself able to conduct arbitration and to draft an award without the assistance of an interpreter or translator

**Fields of expertise:**

**Arbitration Experience:**

Number of arbitration cases in which you have acted as:

	Chairman of Arbitral Tribunal	Sole Arbitrator	Co Arbitrator	Party's Counsel	Other
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Institutional

Domestic  
Arbitration

Ad-hoc

Domestic  
Arbitration

Other alternative dispute resolution (ADR) experience including Mediation/Conciliation, etc:

Date: \_\_\_\_\_

Signature : \_\_\_\_\_

High Court, Madras,  
18th March 2015.

P. KALAIYARASAN,  
*Registrar-General.*

THE MADRAS HIGH COURT ARBITRATION CENTRE (MHCAC)  
(ADMINISTRATIVE COST AND ARBITRATORS' FEES) RULES, 2014

(R.O.C. No. 2168-A/2013/F1)

No. SRO C-13/2015.

1. Title
2. Administrative Cost
3. Arbitrators' Fees
4. Parties to share equally Administrative Cost and fees of the Arbitrator
5. Miscellaneous Expenses
6. Chief Cashier to maintain accounts under the supervision/ direct control of the Registrar.
7. Administrative Cost Miscellaneous Expenses and Arbitrators' Fees when proceedings terminate.
8. Amendment of Rules.
9. Residuary Provision

SCHEDULE 'A' - Administrative Costs

SCHEDULE 'B' - Arbitrators' Fees

SCHEDULE 'C'- Arbitrators' Fees in Summary Arbitration

SCHEDULE 'D'- Arbitrators' Fees in Emergency Arbitration



THE MADRAS HIGH COURT ARBITRATION CENTRE (MHCAC) (ADMINISTRATIVE COST AND  
ARBITRATORS' FEES) RULES, 2014

(1) Title - These rules may be called Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrators' Fees) Rules [for short, the MHCAC (Fees) Rules]

(2) Arbitrators' Fees - The fees payable to the Arbitrators shall be determined in accordance with the scales specified in Schedules 'B,C and D' to these rules.

a) In cases where the Arbitral Tribunal consists of three or more members, the Registrar shall, in consultation with the Chairperson, decide the fees payable to each of the Arbitrators.

b) The fees of the Arbitrators in each of the Tiers is set out in Schedule B. The Arbitrators at the stage of empanelment can choose under which Tier they want to be placed.

c) Each party shall, subject to a final determination of costs, bear the fees payable to the arbitrator appointed by them and 50% of the fees of the Presiding Arbitrator.

d) Arbitrators falling under Tier 3 cannot be appointed as a presiding arbitrator unless the subject matter of the dispute is over Rs. 5 crores.

(3) Parties to share equally Administrative Cost and the Fees - The Administrative Cost and the Arbitrators' fees set forth in these Rules shall be initially shared equally by the parties subject to the cost of arbitration as may be finally determined by the Arbitral Tribunal.

(4) Miscellaneous expenses likely to be incurred during arbitration shall be determined by the Registrar and shall be paid equally by the parties.

(5) The Registrar may maintain an account of the Administrative Cost and miscellaneous expenses and for which the Registrar shall be entitled to open and operate a bank account with a scheduled nationalized bank.

(6) Administrative Cost, Miscellaneous Expenses and Arbitrators' Fees payable when proceedings are terminated, withdrawn or settled –

A In the event of the arbitration being terminated, withdrawn or settled, the Registrar, in consultation with the Chairperson shall fix the quantum of fees payable to the arbitrator(s). The Registrar shall take into account the stage at which the arbitration proceedings stood terminated, and the extent of work done or time spent by the Arbitrators on the matter.

B The Administrative Cost and miscellaneous expenses paid by the parties shall not be refundable, under any of the aforesaid eventualities.

(7) **Amendment of Rules** - These Rules may be amended by the Chief Justice of the Madras High Court in consultation with the Arbitration Committee.

(8) **Residuary Provision** - The Arbitration Committee may take appropriate decisions, as it considers necessary in respect of all matters which are not specifically provided in these Rules.

**Schedule A – Administrative Cost**

**Domestic Arbitration**

As may be determined by the Chairperson of the Arbitration Committee from time to time.

**International Arbitration**

Normal Expense	Rs. 25,000/- (To be paid along with the request for arbitration).
<b>SUM IN DISPUTE</b>	<b>FEES</b>
From Rs. 10,00,000/- to Rs. 50,00,000/-	Rs. 25,000/- + 1% of the claim amount over and above Rs. 10,00,000/-.
From Rs. 50,00,000/- to Rs. 1,00,00,000/-	Rs. 65,000/- + 0.5% of the claim amount over and above Rs. 50,00,000/-
From Rs. 1,00,00,000/- to Rs. 10,00,00,000/-	Rs. 90,000/- + 0.25% of the claim amount over And above Rs. 1,00,00,000/-.
Over Rs. 10,00,00,000/-	Rs. 3,15,000/- + 0.15% of the claim amount over And above Rs. 10,00,00,000/-.

Note: Air fare and cost of stay in hotel of the member (s) of the Arbitral Tribunal are excluded, which are to be equally borne by the parties.

## Emergency Arbitration

Fixed Fee

Rs. 25,000/-

In addition to the foregoing, the parties shall be required to pay a sum of Rs. 3,000/- per day for use of facilities of the MHCAC on the days the Arbitral Tribunal holds its sittings. (International and Emergency Arbitration).

## Schedule B – Arbitrators' fees\*

Sum in Dispute (In Rs. )	Tier 1	Tier 2	Tier 3
Upto Rs. 5 Lakh (Rs. 5,00,000)	Rs. 35,000/-		
Above Rs. 5 Lakh and upto Rs. 20 Lakh (Rs. 5,00,001 to Rs. 20,00,000)	Rs. 35,000/- + 1% of the claim amount over and above Rs. 5,00,000/-.		
Above Rs. 20 Lakh and upto Rs. 1 Cr. (Rs. 20,00,001 to Rs. 1,00,00,000)	Rs. 43,750/- + 3% of the claim amount over and above Rs. 20,00,000/-.	Rs. 87,500/- + 3% of the claim amount over and above Rs. 20,00,000/-.	
Above Rs. 1 Cr. and upto Rs. 5 Cr. Rs. 1,00,00,001 to Rs. 5,00,00,000)	Rs. 1,63,750/- + 0.75% of the claim amount over and above Rs. 1,00,00,000/-.	Rs. 3,27,500/- + 0.75% of the claim amount over and above Rs. 1,00,00,000/-.	
Above Rs. 5 Cr. and upto Rs. 10 Cr. Rs. 5,00,00,001 to Rs. 10,00,00,000)	Rs. 2,50,625/- + 0.25% of the claim amount over and above Rs. 5,00,00,000/-.	Rs. 5,01,250/- + 0.25% of the claim amount over and above Rs. 5,00,00,000/-.	Rs. 10,02,500/- + 0.25% of the claim amount over and above Rs. 5,00,00,000/-.
Above Rs. 10 Cr. and upto Rs. 20 Cr. (Rs. 10,00,00,001 to Rs. 20,00,00,000)	Rs. 5,01,250/- + 0.5% of the claim amount over and above Rs. 10,00,00,000/-.	Rs. 10,02,500/- + 0.5% of the claim amount over and above Rs. 10,00,00,000/-.	Rs. 20,05,000/- + 0.5% of the claim amount over and above Rs. 10,00,00,000/-.
Above Rs. 20 Cr. (Rs. 20,00,00,001)	Rs. 7,51,250/- + 0.25% of the claim amount over and above Rs. 20 Cr., with an overall ceiling of Rs. 11,25,000/-	Rs. 15,02,500/- + 0.25% of the claim amount over and above Rs. 20 Cr., with an overall ceiling of Rs. 22,50,000/-	Rs. 30,04,000/- + 0.25% of the claim amount over and above Rs. 20 Cr., with an overall ceiling of Rs. 45,00,000/-

## Schedule C – Arbitrator's fees in summary arbitration

Upto Rs. 10,00,000/-

Rs. 25,000/-

Above Rs. 10,00,000/-

As per Schedule B

\* Sums in dispute mentioned in the Schedule B and C above shall include any counter-claim made by a party.

**Note:** Fees in respect of claims / counter claims, either wholly or partially, monetary value whereof cannot be ascertained will be fixed by the Chairperson, having regard to, effective and substantial relief sought, and complexity of subject matter.

## Schedule D - Arbitrators' fees in Emergency Arbitration

Fixed Fee

Additional 15% of the fees payable to the Arbitrator in accordance with the fee structure in Schedule B or D as the case may be

The Madras High Court (Arbitrator's Panel and Fee) Rules 2011, as contained in Chapter 4 Part-D of Rules and Orders of Madras High Court, Volume-1 stand repealed.

High Court, Madras,  
18th March 2015.

P. KALAIYARASAN,  
Registrar-General.