

Arbitralia

Private Arbitration Tribunal

RULES OF PROCEDURE

MADRID 2006

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Private Arbitration Tribunal

**CORTE ARBITRALIA
RULES OF PROCEDURE**

TABLE OF CONTENTS

CHAPTER I – General Provisions.....7

CHAPTER II – Arbitrators.....15

**CHAPTER III – Arbitrators’ Sphere of Competence and
Cautionary Measures.....20**

CHAPTER IV – The Arbitration Proceedings22

CHAPTER V – Pronouncement of the Arbitral Award.....31

CHAPTER VI – End of the Arbitration Proceedings35

Chapter I – GENERAL PROVISIONS

Article 1. SCOPE OF APPLICATION

1. All internal as well as international Arbitration Proceedings, whether these be in Law or in Equity, which are brought before CORTE ARBITRALIA (hereinafter CORTE) are hereby regulated by the present Rules of Procedure, pursuant to the stipulations of Spanish Act 60/2003, of December 23, regarding Arbitration (hereinafter A.A.).

2. These Rules of Procedure shall apply exclusively to all those Arbitration Proceedings which are heard by CORTE. All cases or situations not provided for in the Rules of Procedure shall be regulated by the Arbitrators in lieu thereof, except in the case of express proposal made in this regard by the parties, which shall be required to be accepted by the Arbitrators. In the event that the Arbitrators should reject the proposal made by the parties, the decision shall correspond to the Secretary of CORTE, who shall resolve the matter definitively, and whose decision shall be binding for the parties and for the Arbitrators.

Article 2. COMMITMENT TO ARBITRATION

1. In order for arbitration to be deemed as having being submitted to CORTE, an Arbitral Agreement must first be made stating the intention of the parties to submit to Arbitration all or part of the litigation which has arisen or may arise among them in a given legal relation with or without a contractual basis.

2. In the absence of an Arbitral Agreement or express clause of commitment, said submittal may take place by mutual accord of the parties ratified in advance and in writing by said parties before CORTE, prior to the commencement of the arbitral proceedings.

3. The CORTE general Standard Arbitral Agreement is reproduced at the end of these Rules of Procedure.

4. CORTE likewise has available samples of special Arbitral Agreements classified according to the litigation subject matter (disputes among companies, successions, etc.), which can be obtained by the interested parties from the CORTE Secretariat.

Article 3. SUBMITTAL TO CORTE

1. The existence of an Arbitral Agreement of submittal to CORTE presupposes the obligation of the parties to comply with the stipulations of CORTE and to proceed to submit themselves to Arbitration by CORTE.

2. CORTE shall reject the commencement of actions in the event that it verifies the inexistence of the will to submit to Arbitration by the parties, or if the Arbitration should fail to be attributed to CORTE. In said case, the Secretary of CORTE shall inform the complainant that the Arbitration cannot take place.

3. The parties shall make available to CORTE everything which is deemed necessary by the Organs thereof and by the appointed Arbitrators for the exercise of their functions.

Article 4. MODALITIES OF ARBITRATION

1. Arbitration may be in Law or in equity.

2. Unless the parties expressly agree otherwise in advance, the controversies submitted to CORTE shall be resolved in Law.

3. In the various modalities of arbitration, the following rules shall be followed:

A) In internal Arbitration Proceedings:

- Arbitration in Law, Spanish Law shall be applied.

- Arbitration in equity, the arbitral decision shall be made “ex aequo et bono”; however, the Spanish legal framework shall be taken into consideration.

B) In international Arbitration Proceedings, whether these be in Law or in equity, the Arbitrators shall resolve the dispute in accordance with the legal norms chosen by the parties. It shall be understood that any indication of the Law of a given State shall refer to the substantive or material Law of that State, excluding conflicting norms or conflict of Laws.

In the event that the parties should fail to indicate the applicable legal norms, the Arbitrators shall determine as such those norms which they deem most appropriate.

C) As a common rule, for both internal as well as international Arbitration Proceedings, and in regard to both Arbitration in Law and in equity, the Arbitrators shall at all times choose in accordance with the contract stipulations and shall take applicable uses into account, and, in the case of contractual relations, shall decide in accordance with the contract stipulations, provided that these do not violate imperative law regulations.

Article 5. ARBITRATION SEAT

1. The seat of Arbitration shall be that of CORTE, located at the registered office of the Arbitralia Association, at Calle Alfonso XII, 22, 1^o, Madrid -28014, Spain, or that of any of the sub-seats which CORTE may have at any given time, as agreed upon by the parties in each case.

2. Notwithstanding the above, the Secretariat of CORTE may decide that the Arbitration be administered in a different location from those indicated, in view of certain criteria based on the Arbitration circumstances and on the convenience of the

parties, in all cases when this is requested by both parties or with the consent of said parties.

Article 6. LANGUAGE OF THE ARBITRATION

1. The language in which the Arbitration is to take place shall be Spanish; notwithstanding, the parties may address CORTE in any official language of the European Union, provided that this is done in conjunction with a sworn translation thereof into Spanish.

2. For those cases in which the language employed is not Spanish, the translations are to be submitted at the same time as the statements which they accompany; translation and interpretation fees shall be at the expense of the communicant.

Article 7. TIME PERIODS

1. For the purpose of calculating all types of procedural time periods as well as periods for carrying out any type of action, the following shall not be calculated: the month of August, all Saturdays and Sundays of the year, and official holidays in the location of the seat of Arbitration, whether these be municipal, autonomous community or state holidays.

2. Likewise, the month of August shall not be calculated in determining the time period for pronouncement of the Arbitral Award.

3. Except in regard to the time period for the pronouncement of the Arbitral Award, which shall be regulated by the stipulations of Article 38, the Arbitrators may upon justification change the time periods contained in the present Rules of Procedure.

4. The time periods stipulated in these Rules of Procedure shall be calculated from the day after the day on which the act in question takes place, or the day after the day when the notice or communication in question is received. In the event that the last

day of the time period should be a holiday in the location of the activity scheduled to take place or the location where the notification is to be received, said time period shall be extended until the next working day. When a written communication is required to be submitted within a given time period, said period shall be understood as having been complied with, even though the written communication may be received after the period has lapsed, provided that said communication has been sent within the period and that due record is made of the date of remittance.

Article 8. NOTIFICATIONS AND COMMUNICATIONS

1. All notices and communications shall be understood as having been received on the day in which they have been delivered personally to the addressee, or the day in which they have been delivered to the addressee's domicile, habitual residence, establishment or address designated in the contract or arbitral agreement giving rise to the dispute submitted to CORTE.

2- Likewise deemed valid shall be any notification or communication made via telex, fax, bureau fax, e-mail or any other means of electronic, telematic or similar means of telecommunication permitting written communications and documents to be sent and received, recording remittance and receipt, and which have been designated by the interested party.

3. In the event that in the term of three days after receipt of the notice or communication, the receiver should fail to acknowledge receipt thereof by any written means and thereby accept that said notice or communication corresponds exactly with the original filed with CORTE, the communication shall be deemed as having not been made, and shall once again be sent; notwithstanding, that and all subsequent communications with said party shall be made by telegram, bureau fax or through notarial channels at the expense of the receiver.

4. In the event that after reasonable inquiry has been made none of the indicated locations have been identified, the notification or communication shall be deemed as having been received on the day in which it was delivered or the delivery thereof was

attempted, by certified mail or any other means of recorded delivery, at the last known domicile, habitual residence, address or establishment of the addressee.

Article 9. COMMUNICATIONS TO AND FROM CORTE

1. Any communications which the parties and the Arbitrators are required to make to CORTE and CORTE to them shall be made through the CORTE Secretariat. Said communications shall be made in accordance with the stipulations of the preceding Article.

2. The parties may appoint an Attorney authorized to act in the place where the arbitration is to be conducted in order that all communications and notifications take place through said individual.

3. In the event that an Attorney has been appointed, all communications and notifications shall be sent to the professional address of said individual, with the stipulations of the preceding article being applicable.

Article 10. DOCUMENTATION

1. The documentation forming part of the proceedings shall be presented by the parties to the CORTE Secretariat in as many copies as there are parties, in addition to one copy for each Arbitrator of the proceedings, and an additional copy for his file at the CORTE Secretariat.

2. The documents are to be submitted by means of a perfectly legible copy. Should one of the parties challenge the authenticity of the document of the other party, the latter shall be obliged to submit the original document in order for it to be compared with the copy furnished by the Secretariat of CORTE. Once the two have been compared, the original document shall be returned to the party submitting it. The fee for the comparison shall be paid by the party challenging the authenticity of the document,

unless said comparison should reveal that the document is not authentic, in which case the party submitting the document shall be required to pay said fee.

3. CORTE shall keep the documentation of the proceedings on file for a maximum term of four years.

Article 11. INTERPRETATION AND APPLICATION OF THE RULES OF PROCEDURE

1. Based on the principles of hearing, contradiction and equality, CORTE, through its Secretariat, shall be required to resolve any doubt which may arise in relation to the interpretation and application of the present Rules of Procedure.

Article 12. ARBITRATION COSTS

1. The Arbitration costs shall be comprised of the following:

- Admission expenses
- Arbitrators fees
- Administration expenses
- Expenses related to the examination of evidence

2. The amounts corresponding to the first three items indicated above shall be calculated in relation to the fees and rates stipulated in the annex to the present Rules of Procedure.

3. The aforesaid rates and fees may be subject to periodical revision and updating by CORTE.

Article 13. PROVISION OF FUNDS – EXPENSES

1. Regardless of the amount of the dispute, anyone seeking to file a claim for Arbitration shall be required to submit together with said claim a receipt justifying payment of 450 Euros to CORTE, as minimum administration expenses.

2. In order to pay the Arbitrators' fees and the Administration expenses, once the claim has been filed the parties shall be required to set up an initial Provision of Funds in the term of ten days after being called upon to do so by the CORTE Secretariat, which shall establish the amount of said Provision.

3. In the absence of an initial Provision of Funds by the parties, the Arbitrators may suspend the arbitral proceedings or deem these as having concluded. In the event that within the indicated time period any of the parties should fail to make its Provision, the Arbitrators, before agreeing to conclude or suspend the proceedings, shall notify the remaining parties of said circumstance, in case they should they be interested in making said Provision within the term to be established.

4. Expenses related to the examination of evidence shall be paid by the party making the proposal, either prior to or during the examination thereof or at the end of the arbitral proceedings, in which case the amount thereof shall be required to be guaranteed in the manner deemed prudent by CORTE.

5. In the event of withdrawal of action or settlement by the parties, CORTE shall prudentially moderate the administration expenses and Arbitrators' fees.

Chapter II – ARBITRATORS

Article 14. NUMBER – APPOINTMENT

REQUISITES

1. The number of Arbitrators conducting the Arbitration may be freely established by the parties provided that the number thereof is an odd number. In the absence of agreement, CORTE shall be in charge of appointing a sole Arbitrator, unless it deems that the matter in question requires a greater number.

2. In the event that the parties agree that the dispute be settled by a sole arbitrator, said arbitrator shall be appointed by CORTE.

3. The Arbitrators shall be appointed by CORTE as stipulated in paragraphs 1 and 2 above within fifteen days following the Preliminary Appearance provided for in Article 25 of these Rules of Procedure.

4. If the parties decide that the Arbitration should be conducted by three or more Arbitrators, each party shall appoint one Arbitrator on the basis of the short list proposed to it by CORTE, or in absence thereof, the Arbitrator which said party deems suitable. In either case, the appointment shall be made in the term of fifteen days following receipt of the proposal of Arbitrators made by CORTE. In the fifteen days following the appointment of the Arbitrators by the parties, CORTE shall appoint the remainder of the Arbitrators.

In the event that one or both parties should fail to appoint the corresponding Arbitrator within the indicated term, CORTE shall appoint the Arbitrator or Arbitrators in question as well as the remainder of the Arbitrators, within the same term of fifteen days after the term for appointment by the parties has lapsed.

5. If there should be a plurality of complainants or defendants in the arbitration proceedings, the former shall appoint one Arbitrator and the latter another Arbitrator, which is to be done unanimously by each party in the term of fifteen days following the Preliminary Appearance regulated in Article 25 of these Rules of Procedure.

The remainder of the Arbitrators who are to comprise the Panel of Arbitrators shall be appointed by CORTE in the same term of fifteen days following the appointment of Arbitrators by the parties.

In the absence of the appointment of Arbitrators by one or both parties, said appointment shall be made by CORTE under the terms stipulated in paragraph two of this Article.

6. In all cases where there is a plurality of Arbitrators, the President of the Arbitral Panel shall be appointed by CORTE.

7. In order to be chosen as an Arbitrator in any given proceedings, it shall be necessary to be an Associate of Arbitralia. Nevertheless, said requirement may be dispensed with, in terms of the criteria of specialization of the professional of recognized prestige proposed by the parties or, in lieu thereof, by the CORTE Secretariat, and accepted discretionally by the latter.

8. If the Arbitration is in Law and Corte should appoint one or more Arbitrators who, despite being jurists, are not practicing Attorneys, it shall be understood that the parties, through their submittal to these Rules of Procedure, dispense with said condition in the appointed Arbitrators.

9. In appointing the Arbitrators, Corte, through its Secretariat, shall comply with the requisites required of Arbitrators and shall act in favor of their impartiality, under all circumstances complying with the criteria of independence with respect to the parties, specialization in the matter in question, suitability for the case and rotation among the Arbitrators who are Associates.

Article 15. ACCEPTANCE OF THE ARBITRATORS

1. It shall be understood that an Arbitrator does not accept his appointment if within ten days following the notification thereof said Arbitrator fails to give notification of his acceptance to whomever appointed him, and likewise does not inform the Secretariat of CORTE of his acceptance.

2. CORTE shall notify the parties of the acceptance of any Arbitrator.

Article 16. ADOPTION OF COLLEGIATE DECISIONS

1. In the case where there is a plurality of Arbitrators all decisions shall be adopted by a majority.

2. Unless otherwise agreed to by the parties or the Arbitrators, the President may decide by himself on matters regarding the regulation, handling and impulse of the proceedings, being authorized to request at any time from the CORTE Secretariat information required to interpret these matters.

Article 17. RELATION OF ARBITRATORS WITH THE PARTIES

1. The Arbitrators may not have any type of personal, professional or commercial relation with the parties, and are required to maintain an independent and impartial attitude during the Arbitration proceedings.

2. All Arbitrators proposed or appointed to conduct the Arbitration shall be obliged to inform CORTE of any circumstances which may cast doubt on their independence or impartiality with regard to the parties or the case being debated.

3. Once the Arbitrator has been appointed, as soon as possible said individual shall notify both the parties as well as CORTE of any circumstance which has occurred and which may have a bearing on the effects indicated in the preceding paragraphs.

4. At any time during the Arbitration, each of the parties may request that the Arbitrators clarify their relations with the other parties.

Article 18. OBJECTION TO THE ARBITRATORS

1. If a series of circumstances in connection with an Arbitrator give rise to justifiable doubts as to his impartiality and independence, or if the Arbitrator does not have the required qualifications, said Arbitrator may be objected to. Each party may only object to the Arbitrator appointed by it, or in whose appointment it has participated, owing to causes which said party has learned of after said appointment was made.

2. In order to proceed with the objection of the Arbitrator, the party so requesting shall be required to explain the reasons for its petition in the term of ten days following the day on which it learned of the acceptance or of any circumstance which casts justifiable doubt on said Arbitrator's impartiality or independence.

3. The decision regarding said objection shall correspond to the other Arbitrators or otherwise to CORTE, unless prior to this the Arbitrator objected to should renounce his post or the other party should accept the objection.

4. If the objection petitioned for by the party is not allowed, said party may have recourse to said objection when challenging the Arbitral Award.

Article 19. RENUNCIATION OR DISMISSAL OF ARBITRATORS

When an Arbitrator is prevented de facto or de jure from exercising his functions, or for any other reason fails to exercise them within a reasonable period of time, he shall be removed from his post if he renounces said post or if the parties agree to his dismissal. In the event that the parties should disagree, the final decision shall be made by the remaining Arbitrators or otherwise by CORTE.

Article 20. APPOINTMENT OF A SUBSTITUTE ARBITRATOR

1. When it becomes necessary to appoint a substitute arbitrator, for whatever reason, said appointment shall be carried out in accordance with the regulations governing the procedure for appointment of the substituted arbitrator.

2. After hearing the parties, and after the appointment of the substitute or substitutes, the Arbitrators shall decide on whether or not it is necessary to repeat any or all of the actions already carried out.

Chapter III. ARBITRATORS' SPHERE OF COMPETENCE AND CAUTIONARY MEASURES

Article 21. ARBITRATORS' POWERS

1. Arbitrators shall be empowered to decide in regard to their sphere of competence, including any allegations with respect to the existence or validity of the Arbitral Agreement or any other allegations the estimation of which hinders entering into the merits of the case .

2. In this regard, any Arbitral Agreement which forms part of a contract shall be deemed to be a business agreement independent from the remaining clauses of said contract.

3. Any demurrers made shall be presented at the latest when the principal statement of defense or counterclaim is filed, with the circumstance of having appointed Arbitrators or having participated in their appointment not being an impediment to the presentation thereof. Demurrers presented subsequent thereto shall only be admitted if the delay is justified. If the demurrer consists of the Arbitrators' exceeding their sphere of competence, it should be presented, during the arbitral proceedings, as soon as the matter which is considered to surpass said sphere is posed.

4. The Arbitrators may decide on the demurrers referred to in this article prior to or together with any other questions regarding the merits of the case. The Arbitrators' decision may only be challenged by means of the exercise of action for annulment of the Arbitral Award in which said decision was adopted. In the event that the decision should not allow the demurrers and is adopted prior to the merits of the case, the exercise of action for annulment shall not suspend the arbitral proceedings.

Article 22. CAUTIONARY MEASURES

1. At the petition of any of the parties, the Arbitrators may take any cautionary measures which they deem necessary in regard to the object of the litigation, unless expressly agreed otherwise in advance by the parties. The Arbitrators may require sufficient security from the petitioner. On an exceptional basis and out of proven urgency, the Arbitrators may take the pertinent cautionary measure even without a preliminary hearing.

2. The legal regulations concerning annulment and mandatory enforcement of arbitral Awards shall be applicable to the Arbitral decisions regarding cautionary measures whatever their nature may be.

3. In the event that it is agreed to that a caveat in regard to a given circumstance be made with a public registry as a cautionary measure, the CORTE Secretariat shall issue the pertinent Certification of the decision taken by the Arbitrators, in order that the interested party may request the entry of the measure taken. Said party may likewise, for the same purpose, call upon the Arbitrators to have the aforesaid certification accrediting the cautionary measure in question drawn up as a public deed. Should the intervention of one of the parties be required in order to render effective the cautionary measure agreed to, and said party should fail to verify it, the regulations governing mandatory enforcement of Arbitral Awards shall be abided by.

Chapter IV – THE ARBITRATION PROCEEDINGS

Article 23. FREEDOM OF ARBITRATORS WITH RESPECT TO TIME PERIODS AND PRELIMINARY MEASURES

Except for the time period stipulated by Law for the pronouncement of the Arbitral Award, in regard to which the stipulations of article 38 shall be abided by, the Arbitrators are authorized to be flexible in observing the time periods and preliminary measures stipulated for the carrying out of the arbitral proceedings.

Article 24. COMMENCEMENT

The arbitration proceedings shall be deemed as having commenced from the date on which the defendant is summoned to Arbitration through CORTE.

Article 25. PRELIMINARY APPEARANCE

1. Whether or not the defendant answers the summons to Arbitration, the CORTE Secretariat shall call the parties to a Preliminary Appearance, in order to verify the existence of the Arbitral Agreement as well as the representations made by the parties.

2. Likewise, the act of the Preliminary Appearance will deal with the type or modality of Arbitration agreed to by the parties, the number of Arbitrators in the proceedings, and, if warranted, the existence of a time period agreed to by the parties for the pronouncement of the Arbitral Award of less than the six months stipulated by Law, as well as with the cases where it is necessary to establish the domiciles of the parties for the purposes of the Arbitration.

3. Any defects in representation which may arise may be rectified by the parties in the non-extendible term of ten days following the date of the Preliminary Appearance.

4. CORTE, through a resolution of its Secretariat, shall be empowered to reject the Arbitration sought owing to absence of the complainant or of both parties at the Preliminary Appearance, to the absence of an Arbitral Agreement or given that the time period agreed to by the parties for the pronouncement of the Arbitral Award is too short. Otherwise, the Arbitration shall be understood as having been accepted by CORTE.

5. The Secretariat of CORTE shall issue the pertinent Certification of the content and development of the Preliminary Appearance held, which shall be signed by the appearing parties.

Article 26. COMPLAINT

1. The complainant is required to formalize its complaint before the Secretariat of CORTE, in accordance with the stipulations of paragraph 2 of this Article.

2. Once the Preliminary Appearance has taken place, and the Arbitration has been accepted by CORTE, with any defects in representation having been rectified and the Arbitrator or Arbitrators having accepted their corresponding appointments, CORTE, through its Secretariat, shall give notice to the complainant to file its complaint in the term stipulated in regard thereto in Article 30 of these Rules of Procedure.

3. If a demurrer should be filed before the complaint, the term for filing said complaint shall be interrupted during the time in which the demurrer is resolved, a substitute Arbitrator is appointed, if warranted, and said substitute accepts his appointment.

4. The contract and/or the Arbitral Agreement, if this does not form part of the contract, is to be submitted together with the complaint, along with any other documents which the complainant deems suitable.

5. The following are the minimum requirements in regard to the contents of the claim:

- First and last name, or company name, Tax ID or Company Tax ID, address for notifications and, if applicable, the representation held by the undersigned.

- Designation of the defendant and the address to which notifications are to be sent.

- Statement of claims, facts and legal grounds and, if applicable, indication of the amount of the claim for procedural purposes.

- Nature and circumstances of the dispute.

- Any indication deemed pertinent in relation to the type of Arbitration, language, and other matters concerning the Arbitration not dealt with at the Preliminary Appearance.

6. Pursuant to the stipulations of article 13, paragraph 1 of these Rules of Procedure, a receipt for payment to CORTE of minimum administration expenses is to be submitted together with the statement of claims.

7. Once the complaint has been received, the CORTE Secretariat shall notify the defendant, furnishing a copy of said complaint together with all annexed documents.

8. In accordance with article 13, paragraph 2, of these Rules of Procedure, CORTE, through the Secretariat, shall call for an initial provision of funds from the parties.

Article 27. STATEMENT OF DEFENSE

1. Once the defendant has received notification of the complaint, it shall be required to file an answer to said complaint as from the time notification was made and within the term stipulated in article 30 of these Rules of Procedure, making the allegations which said defendant deems necessary for the defense of its interests, notwithstanding the stipulations of article 29 regarding possible counterclaim.

2. In accordance with the stipulations of article 10 of the present Rules of Procedure, a copy of the statement of defense and any documents annexed thereto shall be served to the complainant.

3. The amount stipulated by CORTE to be paid by the defendant to the initial Provision of Funds required to meet the Administration Expenses and Arbitrators' Fees is to be submitted together with the statement of defense.

4. Neither the arbitration proceedings nor the putting of the litigation before the Arbitrators shall be suspended owing to the absence of a statement of defense.

Article 28. JOINDER OF ACTION

1. Joinder of action is not permitted after a statement of defense has been filed.

2. Before the statement of defense is filed, the complaint may be extended for the joinder of new causes of action to those already exercised, or in order to lodge them against new defendants. In said case, the term for filing a statement of defense shall begin to be computed again from the service of the extension of the complaint.

Article 29. COUNTERCLAIM AND ANSWER TO COUNTERCLAIM

If the defendant wishes to file a counterclaim, it must do so at the same time as it files its statement of defense. The initial complainant shall be served with the counterclaim. The eventual answer to the counterclaim must be filed within the term stipulated in article 30 of these Rules of Procedure.

Article 30. TERM FOR FILING THE STATEMENT OF CLAIMS, STATEMENT OF DEFENSE, AND ANSWER TO THE COUNTERCLAIM

The term for filing the statement of claims, statement of defense and answer to the counterclaim shall be twenty days in each case, to be calculated as follows: in the case of the statement of claims, from the time of notice; in the case of the statement of defense, from the notification of the complaint; and in the case of the counterclaim, from the time the counterclaim is served.

Article 31. PROVISIONS OF FUNDS IN CASES OF COUNTERCLAIM

1. In the event that, apart from the principal claim, one or more counterclaims are filed, CORTE is authorized to establish separate provisions for the principal claim and for the counterclaim or counterclaims, all of this notwithstanding the stipulations of article 13 of the present Rules of Procedure.

2. Payment of the aforesaid provisions shall be made by the complainant or complainants and by the defendant or defendants in equal amounts.

3. In the event that one of the parties should fail to make the corresponding provision within the specified term, the CORTE Secretariat shall so notify the Arbitrators, who shall so notify the other party, in order to ascertain whether or not said party would be interested in making said provision within the term to be determined so as to prevent the counterclaim proceedings from being suspended or concluded.

4. In those situations where it is deemed necessary, CORTE may request additional provisions of funds from the parties during the arbitral proceedings.

5. Financial settlement in regard to the arbitral proceedings shall be made by the CORTE Secretariat, once the Arbitral Award has been pronounced. Should there be any amount left over, said amount shall be reimbursed to the corresponding party or parties.

Article 32. FAILURE OF THE PARTIES TO ACT OR TO APPEAR

In the absence of justifiable cause, in the judgment of the Arbitrators:

- Should the complainant fail to file its complaint within the stipulated term, the Arbitrators shall deem the proceedings as terminated, unless, after hearing the defendant, the latter should express its wish to file claim.

- Should the defendant fail to file its statement of defense within the stipulated term, the Arbitrators shall continue with the proceedings, not deeming this omission to be acceptance of the claim or admission of the facts alleged by the complainant.

- Should one of the parties fail to appear at a hearing or fail to submit evidence, the Arbitrators may continue the proceedings and pronounce the Arbitral Award based on the evidence in their possession.

Article 33. EVIDENCE

1. Each party is entitled to propose any type of evidence which it deems suitable, and, in turn, must prove the facts serving as grounds for its actions or its defense.

2. At any time of the proceedings prior to the pronouncement of the Arbitral Award, the Arbitrators may examine any evidence they deem suitable in order to resolve the dispute properly.

3. The Arbitrators shall establish the periods they deem most suitable, whether differentiated or not, for the proposal and examination of evidence, taking care when examining the evidence not to exceed the time stipulated for said purpose, unless the Arbitrators should agree, at the petition of the interested party and for justifiable reasons, to extend said period on an exceptional basis for a single additional term which under no circumstances can exceed fifteen days. Any evidence not examined during the initial term or the term extended as stipulated, shall be deemed as void attempted evidence and may not be taken into account by the Arbitrators when pronouncing their Arbitral Award.

4. The Arbitrators shall examine the evidence in the manner which they deem most suitable, taking into account the nature of the evidence; they shall likewise call the parties sufficiently in advance.

Article 34. JUDICIAL ASSISTANCE FOR EXAMINATION OF EVIDENCE

1. The Arbitrators, or any of the parties with their approval, may request assistance from the competent judicial organ for the examination of evidence, in accordance with the regulations applicable to them regarding the examination of evidence. This assistance may consist of the examination of evidence before the competent Court or Tribunal or in the adoption by the Court of the specific measures required in order that the evidence may be examined before the Arbitrators.

2. If the Court or Tribunal is so requested, it shall examine the evidence under its exclusive management. Otherwise, the Court or Tribunal shall limit itself to ordering the pertinent measures. In either case the Court or Tribunal shall provide the petitioner with testimony of the action taken.

Article 35. WITNESSES

1. Each party is to inform the Arbitrators and the other party of the name and address of any witnesses it intends to present.

2. The Arbitrators are absolutely free to decide in regard to the manner in which the witnesses are to be questioned and whether or not the witnesses can submit their testimony in writing and duly signed.

Article 36. EXPERTS

1. The Arbitrators may, either ex officio or at the petition of one of the parties, appoint one or more experts and define their function as well as receive their reports and hear their testimony in the presence of the parties.

2. In order to facilitate insofar as possible the work of the experts, the parties shall be obliged to provide all pertinent information requested by the expert, and to allow said expert access to any documentation which may prove relevant for the matter subject to Arbitration.

3. Once the expert's opinion is presented, should one of the parties so request or should the Arbitrators deem it necessary, the expert is to participate in a hearing at which he may be questioned by the Arbitrators and the parties, which may, in turn, attend assisted by other experts appointed by them, provided that notification of said appointment is given in advance to the Arbitrators and to the parties.

4. All of the above is to be understood notwithstanding the power of the parties to submit expert opinions drafted by experts freely appointed by them.

Article 37. CONCLUSIONS OF THE PARTIES AND CLOSING OF THE PROCEEDINGS

1. Once the evidence has been examined, the Arbitrators shall establish a time period for the parties to examine and evaluate said evidence and present their conclusions in writing.

2. Once the conclusions have been presented, the Arbitrators shall declare the proceedings to be closed.

Chapter V – PRONOUNCEMENT OF THE ARBITRAL AWARD

Article 38. TERM, FORM, CONTENT AND NOTIFICATION OF THE ARBITRAL AWARD

1. For the purpose of resolving the dispute, the Arbitrators may pronounce a single Arbitral Award or as many partial Arbitral Awards as they deem necessary.

2. The Arbitrators shall make a decision on the dispute within the term stipulated by the parties, if applicable, or in lieu thereof, in the term of six months, in both cases to be calculated as from the date of presentation of the statement of defense of the defendant or the date of expiry of the term for filing said statement, or, in the case of counterclaim, from the date of presentation of the answer to the counterclaim or the date of expiry of the term for filing said answer, in accordance with article 30 of these Rules of Procedure. The Arbitrators may extend said term up to eight months, through a grounded decision. The Arbitrators' decisions regarding any extension shall be binding and may not be appealed.

3. In order for the Arbitral Award to be valid, it must be grounded, be made in writing and signed by the Arbitrators. In the event that there is more than one Arbitrator, the signature of the majority of the Panel of Arbitrators, or the signature of the President of the Panel of Arbitrators alone, shall suffice, provided that the reasons for the absence of one or more signatures are stated.

4. If there are several Arbitrators, and the Arbitral Award is not unanimous, those in disagreement may express their minority opinion in writing therein.

5. The Arbitral Award is to contain the date on which it was pronounced and the seat of Arbitration.

6. In the Arbitral Award the Arbitrators shall likewise pronounce themselves in regard to the Arbitration costs, which shall include the Arbitrators' Fees and, if applicable, the fees and expenses corresponding to the Attorneys or legal representatives

of the parties, the Arbitration Administration Expenses, and any other expenses incurred in the arbitral proceedings.

7. Notice of the Arbitral Award shall be given to the parties by the CORTE Secretariat or, if applicable, by the Notary legalizing its conversion into a public deed, in the term agreed to by the parties, or in lieu thereof, in the term of six months as stated in paragraph 2 of this Article, by means of a signed copy handed or sent to each of the parties.

On an exceptional basis, owing to the urgency of compliance with the term of the pronouncement of the Arbitral Award, notice of said Award may be given directly to the parties by the Arbitrator or Arbitrators, prior to or at the same time as notification is given to the CORTE Secretariat.

8. Any of the parties, may, at their own expense, call upon the Arbitrators, through the CORTE Secretariat, to have the Arbitral Award drafted as a public deed.

Article 39. ARBITRAL AWARD BY AGREEMENT OF THE PARTIES

In the event that an agreement is reached putting an end to the dispute, either totally or partially, prior to the finalization of the Arbitration, the Arbitrators shall deem the proceedings to be terminated in regard to those aspects agreed to. If the parties so request and the Arbitrators understand that there is no reason for them to oppose the agreement, said agreement shall take the form of an Arbitral Award.

Article 40. CORRECTION, CLARIFICATION AND ADDITION TO THE ARBITRAL AWARD

1. Within the period of ten days following notification of the Arbitral Award any of the parties, notifying the other party, may request that the Arbitrators do the following:

- Correct any material error in calculation, error in copy, typographical or other error found in the Arbitral Award.
- Clarify a specific point or part of the Arbitral Award.
- Make addition to the Arbitral Award with respect to petitions made and not resolved therein.

2. With regard to the request for the correction of errors or the clarification of a specific point, the Arbitrators shall resolve in the term of 10 days; in regard to addition to the Arbitral Award, in the term of 20 days, and, in all cases, after hearing the other parties.

3. The Arbitrators may proceed ex officio to correct the errors referred to in letter a) of paragraph 1 of the present Article, within the indicated term of 10 days following the date of the Arbitral Award.

4. The stipulations of Article 38 of the present Rules of Procedure shall be applied to the arbitral resolutions regarding these points.

5. When the Arbitration is international, the terms of 10 and 20 days stipulated in the preceding paragraphs shall be terms of one and two months, respectively.

6. The terms stipulated in the present article shall not be calculated for the purposes stipulated in article 38, paragraph 2 of these Rules of Procedure.

Article 41. EFFECTIVENESS OF THE FIRM ARBITRAL AWARD AND REVIEW

1. The Arbitral Award is final for the parties, and may only be annulled on the grounds stipulated in the Spanish Arbitration Act.

2. The firm Arbitral Award has the effect of *res judicata* and its review may only be filed for before the Courts of Justice, under the terms stipulated in the Spanish Civil Code for firm judgments.

Chapter VI – END OF THE ARBITRATION PROCEEDINGS

Article 42. TERMINATION OF THE ARBITRAL PROCEEDINGS

1. The Arbitral Proceedings shall terminate and the Arbitrators shall cease to perform their functions with the pronouncement of the final Arbitral Award or, if warranted, with the correction or clarification thereof or addition thereto.

2. The Arbitrators shall likewise order the termination of the proceedings under the following circumstances:

- When the complainant withdraws its complaint, unless the defendant so opposes, and the Arbitrators recognize the legitimate interest of the defendant to obtain a definitive solution to the litigation.

- When the parties agree to deem the proceedings to be concluded.

- When the Arbitrators come to the realization that it has become unnecessary or impossible to continue with the proceedings.

3. In any of the above cases of termination, the CORTE Secretariat shall establish the costs to be paid by each party for the arbitral proceedings carried out up until said time.

4. Once the term of three months has lapsed from the termination of the proceedings, the Arbitrators and CORTE shall no longer have the obligation to keep the documentation related to the proceedings. Within said term, either of the parties may request that the Arbitrators send it the documents furnished by said party. The Arbitrators shall comply with the request, provided that it does not violate the secrecy of the arbitral deliberations and that the party so requesting pay for any shipping expenses, and likewise provided that the interested party has paid the costs corresponding to it resulting from the interrupted arbitral activity.

Arbitralia

Private Arbitration Tribunal

STANDARD ARBITRATION AGREEMENT

Any litigation or dispute resulting from the present contract or agreement shall be definitively resolved through Arbitration by CORTE ARBITRALIA which shall act in compliance with its Bylaws and Rules of Procedure, which the parties state they are familiarized with and accept, submitting themselves to the entire contents and to any future modifications thereof, and commissioning CORTE to conduct the Arbitration as well as to propose and, if warranted, appoint the Arbitrator or Arbitrators.

For the purpose of any notifications which need to be made by CORTE to the parties, said parties expressly designate the following addresses: (-indicate the address of each of the parties-). The parties undertake to notify CORTE of any change in their address made after the present agreement is signed and before the Arbitration finalizes.