

EDNA SUSSMAN'S FOR AD HOC ARBITRATION SAMPLE

TERMS OF APPOINTMENT

Arbitration Concerning _____

Claimants

v.

Respondent

I. Appointment of the Arbitral Tribunal

1. The Parties confirm their acceptance that the Arbitral Tribunal comprising _____ (appointed by Claimants), _____ (appointed by Respondent), and _____ (appointed as Presiding Arbitrator on the nomination of the co-arbitrators), has been validly established in accordance with the terms of the relevant Arbitration Agreements.
2. Each Arbitrator confirms that he or she is and shall remain impartial and independent of the Parties.
3. The Parties waive any objection to the appointment of the Arbitrators on the ground of any conflict of interest, lack of independence or impartiality in respect of matters known to them at the date of signature of these Terms of Appointment.
4. There shall be no ex parte communication between any Party and any Arbitrator regarding any matter in these proceedings. All written communications by any Party to the Arbitral Tribunal shall be copied simultaneously to the other Parties.

II. Remuneration and Expenses of the Arbitrators

5. Each Arbitrator's remuneration for time spent on the arbitration, including study of submissions, correspondence, hearings, deliberations, travel (at 50% rate) and drafting the award shall be calculated on the basis of US\$ _____ per hour for arbitrator _____, _____ per hour for arbitrator _____ and _____ per hour for arbitrator _____.
6. If the Parties cancel or postpone all or part of any hearing dates with less than 20 days notice the Arbitral Tribunal is entitled to payment at fifty per cent (50 %) of the Arbitrators' hourly rate for the time reserved but not used.

7. The Arbitrators shall be reimbursed in respect of all disbursements and charges incurred in connection with the arbitration, including but not limited to travel, hotel, courier delivery, telephone, facsimile and copying.

III. Advance on Costs

8. The Parties shall establish an initial deposit of \$_____ from each side, for a total of \$_____ covering both of the above-captioned cases. Each Arbitrator may draw against such deposit on a monthly basis for fees and expenses. The Presiding Arbitrator may from time to time require the Parties to replenish such deposit in order to maintain an appropriate balance.
9. [Interest shall accrue on the account for the benefit of the Parties.]
10. [Funds should be deposited as follows: :

Account Name:

IV. Confidentiality

11. The arbitral proceedings and any rulings or award shall be kept confidential by the Parties and members of the Arbitral Tribunal except (i) as necessary for enforcement or recognition of the award, (ii) with the consent of all Parties and (iii) as required by law or as necessary to protect legitimate interests of a Party or Arbitrator. For the avoidance of any doubt, it is agreed that in preparing and presenting its case no Party shall be precluded from communicating with prospective witnesses, experts or other sources of information or materials.

V. Immunity from Suit

12. No Arbitrator shall be required by either Party to be a party or witness in any judicial or other proceedings arising out of this arbitration; and
13. No Arbitrator shall be liable to any Party in respect of any act or omission in connections with any matter related to this arbitration, save where that Arbitrator is shown to have been guilty of conscious and deliberate wrongdoing.

VI. Notices

14. All written communications shall be sent to the following addresses.

(1) Claimants

(2) Respondent

(3) Arbitrators

For the Parties:

Claimants

Respondent

For the Arbitral Tribunal:

Dated: