ASEAC

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ARBITRATION RULES
OF THE
ASIAN EUROPEAN ARBITRATION CENTRE (ASEAC)
IN HAMBURG, GERMANY

Effective as of 1 July 2023

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PREAMBLE

A. The *ASEAC Arbitration Rules* ("**ASEAC Rules**") govern the arbitration procedure. In addition to these ASEAC Rules, the *Statutes for the Asian European Arbitration Centre* ("**Statutes**") govern the organization and structure of the Asian European Arbitration Centre ("**ASEAC**") formerly known as the Chinese European Arbitration Centre ("**CEAC**").

B. Where international trade takes place, disputes may arise. ASEAC offers a possibility to settle such disputes in an international spirit through institutional arbitration. In this context, it is important to note that presently the recognition and enforcement of foreign judgements in certain Asian jurisdictions and vice versa is often difficult or even impossible. As a result, recourse to international arbitration is an important tool to protect rights of participants in international trade.

C. The original *CEAC Hamburg Arbitration Rules* ("**CEAC Rules**") were based on the 1976 UNCITRAL Arbitration Rules and were adopted by the General Assembly at the founding meeting of CEAC in September 2008. The CEAC Rules were developed in consultation with experts from numerous jurisdictions from around the globe in a truly international spirit and with special regard to the needs of intercultural arbitrations, in particular in cases in which one party comes from China. However, if the parties so desired, arbitration under the CEAC Rules was intended to be open also to other international arbitrations without a nexus to China.

D. In 2023, the members of ASEAC's shareholder, the Chinese European Arbitration Association e.V. ("**CEAA**") formally approved the transition and conversion of CEAA into the Asian European Arbitration Association e.V. ("**ASEAA**"). Likewise, they approved the formal rebranding of CEAC into the Asian European Arbitration Centre GmbH. In this context, the CEAC Rules were amended and adapted to these ASEAC Rules.

E. The UNCITRAL Arbitration Rules (as revised in 2010, "**UNCITRAL Arbitration Rules 2010**") are still the core basis of the ASEAC Rules. Beyond that, the ASEAC Rules also reflect necessary amendments to the UNCITRAL Arbitration Rules 2010, as identified by the Advisory Board and management.

F. In order to best tailor the ASEAC Rules to the needs of intercultural arbitration, they are embedded in an international environment:

- The ASEAC Rules refer the parties, on a voluntary basis, to the possibility to choose a neutral law or neutral rules of law which are known, to different degrees, worldwide and in particular in certain Asian jurisdictions.
- The ASEAC Rules also contain a number of provisions, e.g., Article 3, paragraph 1, which take into account the particular legal environment for enforceability of arbitral awards in China and other foreign jurisdictions.

SECTION I.
INTRODUCTORY RULES

SCOPE OF APPLICATION

ARTICLE 1

1. Where parties have agreed that disputes between them in respect of a defined legal relationship, whether contractual or not, shall be referred to arbitration under the ASEAC Rules, then such disputes shall be settled in accordance with these Rules subject to such modifications as the parties may agree

(see option (g) in the Model Arbitration Clause in the annex to these Rules).

(a) This version of the Rules, in force as from 1 July 2023 ("**Effective Date**"), shall apply to all arbitration proceedings in which the Notice of Arbitration is submitted on or after that date, unless the parties have agreed otherwise.

(b) Where the parties agree to refer or submit their disputes to arbitration under the "ASEAC Hamburg Arbitration Rules", the "ASEAC Arbitration Rules", the "ASEAC Rules" or the "Rules of the Asian European Arbitration Centre" or if the parties agree on "ASEAC", they shall be deemed to have agreed to refer the dispute to institutional arbitration administered by the Asian European Arbitration Centre in Hamburg (Germany). Any reference to another city in combination with a reference to ASEAC shall be deemed to be a choice of the place where oral hearings shall be held. Any reference to ASEAC in combination with a reference to the UNCITRAL Arbitration Rules or any other set of arbitration rules shall be deemed to be a reference to the C

(c) Any reference to the "CEAC", the "CEAC Hamburg Arbitration Rules", the "CEAC Arbitration Rules", the "CEAC Rules" or the "Rules of the Chinese European Arbitration Centre" in any written law or in any instrument, deed, title, document, bond, agreement or working arrangement shall, on and after the Effective Date and unless otherwise agreed to by the Parties, be deemed to be a reference to the ASEAC Rules. Any such reference made before Effective Date, however, shall continue to remain in full force and effect, until amended, replaced, rescinded or revoked. As such, it will be recognized and applied by the Asian European Arbitration Centre (ASEAC). In case of sentence 2 any reference to CEAC in combination with a reference to the UNCITRAL Arbitration Rules or any other set of arbitration rules shall be deemed to be a reference to the ASEAC Rules.

2. These Rules shall govern the arbitration except that where any of these Rules is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail to the extent that such conflict exists.

Notice and calculation of periods of time
ARTICLE 2

1. A notice, including a notification, communication or proposal, may be transmitted by any means of communication that provides or allows for a record of its transmission.
2. If an address has been designated by a party specifically for this purpose or authorized by the arbitral tribunal, any notice shall be delivered to that party at that address, and if so delivered shall be deemed to have been received. Delivery by electronic means such as facsimile or e-mail may only be made to an address so designated or authorized.
3. In the absence of such designation or authorization, a notice is:

   (a) Received if it is physically delivered to the addressee; or

   (b) Deemed to have been received if it is delivered at the place of business, habitual residence or mailing address of the addressee.
4. If, after reasonable efforts, delivery cannot be effected in accordance with paragraphs 2 or 3, a notice is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means that provides a record of delivery or of attempted delivery.

5. A notice shall be deemed to have been received on the day it is delivered in accordance with paragraphs 2, 3 or 4, or attempted to be delivered in accordance with paragraph 4. A notice transmitted by electronic means is deemed to have been received on the day it is sent, except that a notice of arbitration so transmitted is only deemed to have been received on the day when it reaches the addressee's electronic address.
6. For the purpose of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

Notice of arbitration
ARTICLE 3

1. The claimant shall initiate the arbitration proceeding by sending a notice of arbitration to the Asian European Arbitration Centre (ASEAC) in Hamburg together with a copy of the contract out of or in relation to which the dispute has arisen and a copy of the arbitration agreement if it is not contained in the contract. Parties may use the letter box of the Hamburg Regional Court of First Instance (*Landgericht Hamburg)* which is accessible 24 hours per day. Claimant shall submit the notice of arbitration and supporting documents in five copies, in case of a sole arbitrator in three copies. Further copies may be requested by ASEAC in case of multi-party-arbitration.
2. Upon filing of the notice of arbitration, the claimant shall pay the administration fee determined in accordance with the applicable Schedule of Costs of ASEAC. If the administration fee is not paid upon filing of the notice of arbitration, ASEAC management shall issue an invoice and set a time period within which the claimant is required to pay the administration fee. Further, ASEAC management shall request payment of an advance of costs according to Article 40-43 of these ASEAC Rules. If the administration fee and / or the first advance on costs requested by ASEAC management from the claimant is not paid within the time period set, the claim shall be deemed to have been withdrawn. After payment of its administration fees ASEAC shall serve the notice of arbitration to the defendant or the defendants, as the case may be. The arbitral tribunal shall not proceed with the arbitral proceeding without ascertaining at all times with ASEAC management that ASEAC has received the requested payments.
3. The notice of arbitration shall include the following:
   (a) A demand that the dispute be referred to arbitration;
   (b) The names and contact details of the parties and, if applicable, its statutory representative;
   (c) Identification of the arbitration agreement that is invoked;
   (d) Identification of any contract or other legal instrument out of or in relation to which the dispute arises or, in the absence of such contract or instrument, a brief description of the relevant relationship;
   (e) A brief description of the claim and an indication of the amount involved, if any;
   (f) The relief or remedy sought;
   (g) A proposal as to the number of arbitrators, language and place of arbitration, if the parties have not previously agreed thereon.
4. The notice of arbitration may also include:

(a) A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;

(b) Notification of the appointment of an arbitrator referred to in article 9 or 10.

5. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the sufficiency of the notice of arbitration, which shall be finally resolved by the arbitral tribunal.

Response to the notice of arbitration
ARTICLE 4

1. Within 30 days of the receipt of the notice of arbitration, the respondent shall communicate to the claimant a response to the notice of arbitration, which shall include:

(a) The name and contact details of each respondent;

(b) A response to the information set forth in the notice of arbitration, pursuant to article 3, paragraphs 3 (c) to (g).

2. The response to the notice of arbitration may also include:

(a) Any plea that an arbitral tribunal to be constituted under these Rules lacks jurisdiction;

(b) A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;

(c) Notification of the appointment of an arbitrator referred to in article 9 or 10;

(d) A brief description of counterclaims or claims for the purpose of a set-off, if any, including where relevant, an indication of the amounts involved, and the relief or remedy sought;

(e) A notice of arbitration in accordance with article 3 in case the respondent formulates a claim against a party to the arbitration agreement other than the claimant.

3. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the respondent's failure to communicate a response to the notice of arbitration, or an incomplete or late response to the notice of arbitration, which shall be finally resolved by the arbitral tribunal.

Representation and assistance
ARTICLE 5

Each party may be represented or assisted by persons chosen by it. The names and addresses of such persons must be communicated to all parties and to the arbitral tribunal. Such communication must specify whether the appointment is being made for purposes of representation or assistance. Where a person is to act as a representative of a party, the arbitral tribunal, on its own initiative or at the request of any party, may at any time require proof of authority granted to the representative in such a form as the arbitral tribunal may determine.

Appointing Authority
ARTICLE 6

The ASEAC Appointing Authority[1] shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and shall take into account the advisability of appointing an arbitrator of a nationality other than the nationalities of the parties.

[1] Art. 2 of the ASEAC statutes which are available at the ASEAC download centre (www.aseac-arbitration.com).

SECTION II.
COMPOSITION OF THE ARBITRAL TRIBUNAL

Number of arbitrators
ARTICLE 7

1. If the parties have not previously agreed on the number of arbitrators, and if within 30 days after the receipt by the respondent of the notice of arbitration the parties have not agreed that there shall be only one arbitrator, three arbitrators shall be appointed.
2. Notwithstanding paragraph 1, if no other parties have responded to a party's proposal to appoint a sole arbitrator within the time limit provided for in paragraph 1 and the party or parties concerned have failed to appoint a second arbitrator in accordance with article 9 or 10, the ASEAC Appointing Authority may, at the request of a party, appoint a sole arbitrator if it determines that, in view of the circumstances of the case, this is more appropriate.

Appointment of arbitrators (articles 8 to 10)
ARTICLE 8

If the parties have agreed that a sole arbitrator is to be appointed and if within 30 days after receipt by all other parties of a proposal for the appointment of a sole arbitrator the parties have not reached agreement thereon, a sole arbitrator shall, at the request of a party, be appointed by the ASEAC Appointing Authority.

ARTICLE 9

1. If three arbitrators are to be appointed, each party shall appoint one arbitrator. The two arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator of the arbitral tribunal.
2. If within 30 days after the receipt of a party's notification of the appointment of an arbitrator the other party has not notified the first party of the arbitrator it has appointed, the first party may request the ASEAC Appointing Authority to appoint the second arbitrator.
3. If within 30 days after the appointment of the second arbitrator and the communication of such appointment by ASEAC to the party which has first nominated an arbitrator, the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the ASEAC Appointing Authority in the same way as a sole arbitrator would be appointed under article 8. In exceptional circumstances, such time period may be extended by ASEAC management.

ARTICLE 10

1. For the purposes of article 9, paragraph 1, where three arbitrators are to be appointed and there are multiple parties as claimant or as respondent, unless the parties have agreed to another method of appointment of arbitrators, the multiple parties jointly, whether as claimant or as respondent, shall appoint an arbitrator.
2. If the parties have agreed that the arbitral tribunal is to be composed of a number of arbitrators other than one or three, the arbitrators shall be appointed according to the method agreed upon by the parties. The number of arbitrators shall not be an even number.
3. In the event of any failure to constitute the arbitral tribunal under these Rules, the ASEAC Appointing Authority shall, at the request of any party, constitute the arbitral tribunal and, in doing so, may revoke any appointment already made and appoint or reappoint each of the arbitrators and designate one of them as the presiding arbitrator.

Disclosures by and challenge of arbitrators (articles 11 to 13)
ARTICLE 11

When a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. An arbitrator, from the time of his or her appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties and the other arbitrators unless they have already been informed by him or her of these circumstances.

ARTICLE 12

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
2. A party may challenge the arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made.
3. In the event that an arbitrator fails to act or in the event of the de jure or de facto impossibility of his or her performing his or her functions, the procedure in respect of the challenge of an arbitrator as provided in article 13 shall apply.

ARTICLE 13

1. A party that intends to challenge an arbitrator shall send notice of its challenge within 15 days after it has been notified of the appointment of the challenged arbitrator, or within 15 days after the circumstances mentioned in articles 11 and 12 became known to that party.
2. The notice of challenge shall be communicated to all other parties, to the arbitrator who is challenged and to the other arbitrators. The notice of challenge shall state the reasons for the challenge.
3. When an arbitrator has been challenged by a party, all parties may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his or her office. In neither case does this imply acceptance of the validity of the grounds for the challenge.
4. If, within 15 days from the date of the notice of challenge, all parties do not agree to the challenge or the challenged arbitrator does not withdraw, the party making the challenge may elect to pursue it. In that case, within 30 days from the date of the notice of challenge, it shall seek a decision on the challenge by the ASEAC Appointing Authority.

Replacement of an arbitrator
ARTICLE 14

1. Subject to paragraph 2, in any event where an arbitrator has to be replaced during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in articles 8 to 11 that was applicable to the appointment or choice of the arbitrator being replaced. This procedure shall apply even if during the process of appointing the arbitrator to be replaced, a party had failed to exercise its right to appoint or to participate in the appointment.
2. If, at the request of a party, the ASEAC Appointing Authority determines that, in view of the exceptional circumstances of the case, it would be justified for a party to be deprived of its right to appoint a substitute arbitrator, the ASEAC Appointing Authority may, after giving an opportunity to the parties and the remaining arbitrators to express their views: (a) appoint the substitute arbitrator; or (b) after

the closure of the hearings, authorize the other arbitrators to proceed with the arbitration and make any decision or award.

Repetition of hearings in the event of the replacement of an arbitrator
ARTICLE 15

If an arbitrator is replaced, the proceedings shall resume at the stage where the arbitrator who was replaced ceased to perform his or her functions, unless the arbitral tribunal decides otherwise.

Exclusion of liability
ARTICLE 16

Save for intentional wrongdoing, the parties waive, to the fullest extent permitted under the applicable law, any claim against the arbitrators, the appointing authority and any person appointed by the arbitral tribunal based on any act or omission in connection with the arbitration. In particular, no arbitrator, employee or agent of an arbitrator shall be liable to any person for any act or omission in connection with an arbitration unless they are shown to have intentionally caused damage by conscious and deliberate wrongdoing. Similarly, ASEAC, its organs (Management, Secretary General, Advisory Board) and employees and any other service providers engaged by ASEAC shall not be liable with respect to any act or omission in connection with an arbitration unless they are shown to have intentionally caused damage by conscious and deliberate wrongdoing.

SECTION III.
ARBITRAL PROCEEDINGS

General provisions
ARTICLE 17

1. Subject to these Rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are equality and that at an appropriate stage of the proceedings each party is given a reasonable opportunity of presenting its case. The arbitral tribunal, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the parties' dispute.
2. As soon as practicable after its constitution and after inviting the parties to express their views, the arbitral tribunal shall establish the provisional timetable of the arbitration. The arbitral tribunal may, at any time, after inviting the parties to express their views, extend or abridge any period of time prescribed under these Rules or agreed by the parties.
3. If at an appropriate stage of the proceedings any party so requests, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.
4. In exercising their functions under these Rules, ASEAC and the ASEAC Appointing Authority may require from any party and the arbitrators the information they deem necessary to fulfil their function and they shall give the parties and, where appropriate, the arbitrators, an opportunity to present their views in any manner they consider appropriate. All such communications by one party to ASEAC, the ASEAC Appointing Authority and the arbitral tribunal and vice versa shall also be provided by the

sender to all other parties. A copy of any and all communication exchanged between the parties and the arbitrators shall also be sent to ASEAC (without annexes unless requested otherwise by ASEAC).

5. The arbitral tribunal may, at the request of any party, allow one or more third persons to be joined in the arbitration as a party provided such person is a party to the arbitration agreement, unless the arbitral tribunal finds, after giving all parties, including the person or persons to be joined, the opportunity to be heard, that joinder should not be permitted because of prejudice to any of those parties. The arbitral tribunal may make a single award or several awards in respect of all parties so involved in the arbitration.

Place of arbitration
ARTICLE 18

1. If the parties have not explicitly agreed on another seat, the seat of the arbitration will be Hamburg, Germany. Regardless of the seat of the arbitration, the parties are free to determine any appropriate place for hearings or other proceedings.

2. The arbitral tribunal may meet at any location it considers appropriate for deliberations. Unless otherwise agreed by the parties, the arbitral tribunal may also meet at any location it considers appropriate for any other purpose, including hearings.

Language
ARTICLE 19

1. Subject to an agreement by the parties, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. This determination shall apply to the statement of claim, the statement of defence, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.

2. The arbitral tribunal may order that any documents annexed to the statement of claim or statement of defence, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

3. Unless otherwise agreed by the parties, all arbitrators in the respective proceedings and ASEAC management, English is the working language of ASEAC**.**

Statement of claim
ARTICLE 20

1. The claimant shall communicate its statement of claim in writing to the respondent and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The claimant may elect to treat its notice of arbitration referred to in article 3 as a statement of claim, provided that the notice of arbitration also complies with the requirements of paragraphs 2 to 4 of this article.

2. The statement of claim shall include the following particulars:

   (a) The names and contact details of the parties;

   (b) A statement of the facts supporting the claim;

   (c) The points at issue;

   (d) The relief or remedy sought;

(e) The legal grounds or arguments supporting the claim.

3. A copy of any contract or other legal instrument out of or in relation to which the dispute arises and of the arbitration agreement shall be annexed to the statement of claim.

4. The statement of claim should, as far as possible, be accompanied by all documents and other evidence relied upon by the claimant, or contain references to them.

Statement of defence
ARTICLE 21

1. The respondent shall communicate its statement of defence in writing to the claimant and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The respondent may elect to treat its response to the notice of arbitration referred to in article 4 as a statement of defence, provided that the response to the notice of arbitration also complies with the requirements of paragraph 2 of this article.

2. The statement of defence shall reply to the particulars (b) to (e) of the statement of claim (art. 20, para. 2). The statement of defence should, as far as possible, be accompanied by all documents and other evidence relied upon by the respondent, or contain references to them.

3. In its statement of defence, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counterclaim or rely on a claim for the purpose of a set-off provided that the arbitral tribunal has jurisdiction over it.

4. The provisions of article 20, paragraphs 2 to 4, shall apply to a counterclaim, a claim under article 4, paragraph 2 (e), and a claim relied on for the purpose of a set-off.

Amendments to the claim or defence
ARTICLE 22

During the course of the arbitral proceedings, a party may amend or supplement its claim or defence, including a counterclaim or a claim for the purpose of a set-off, unless the arbitral tribunal considers it inappropriate to allow such amendment or supplement having regard to the delay in making it or prejudice to other parties or any other circumstances. However, a claim or defence, including a counterclaim or a claim for the purpose of a set-off, may not be amended or supplemented in such a manner that the amended or supplemented claim or defence falls outside the jurisdiction of the arbitral tribunal.

Pleas as to the jurisdiction of the arbitral tribunal
ARTICLE 23

1. The arbitral tribunal shall have the power to rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause that forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null shall not entail automatically the invalidity of the arbitration clause.

2. A plea that the arbitral tribunal does not have jurisdiction shall be raised no later than in the statement of defence or, with respect to a counterclaim or a claim for the purpose of a set-off, in the reply to the counterclaim or to the claim for the purpose of a set-off. A party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged

to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

3. The arbitral tribunal may rule on a plea referred to in paragraph 2 either as a preliminary question or in an award on the merits. The arbitral tribunal may continue the arbitral proceedings and make an award, notwithstanding any pending challenge to its jurisdiction before a court.

Further written statements
ARTICLE 24

The arbitral tribunal shall decide which further written statements, in addition to the statement of claim and the statement of defence, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

Periods of time
ARTICLE 25

The periods of time fixed by the arbitral tribunal for the communication of written statements (including the statement of claim and statement of defence) should not exceed 45 days. However, the arbitral tribunal may extend the time limits if it concludes that an extension is justified.

Interim measures
ARTICLE 26

1. The arbitral tribunal may, at the request of a party, grant interim measures.
2. An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to:
   (a) Maintain or restore the status quo pending determination of the dispute;
   (b) Take action that would prevent, or refrain from taking action that is likely to cause, (i) current or imminent harm or (ii) prejudice to the arbitral process itself;
   (c) Provide a means of preserving assets out of which a subsequent award may be satisfied; or
   (d) Preserve evidence that may be relevant and material to the resolution of the dispute.
3. The party requesting an interim measure under paragraphs 2 (a) to (c) shall satisfy the arbitral tribunal that:
   (a) Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and
   (b) There is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.
4. With regard to a request for an interim measure under paragraph 2 (d), the requirements in paragraphs 3 (a) and (b) shall apply only to the extent the arbitral tribunal considers appropriate.
5. The arbitral tribunal may modify, suspend or terminate an interim measure it has granted, upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative.

6. The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.
7. The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which the interim measure was requested or granted.
8. The party requesting an interim measure may be liable for any costs and damages arbitral tribunal later determines that, in the circumstances then prevailing, the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.
9. A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

Evidence
ARTICLE 27

1. Each party shall have the burden of proving the facts relied on to support its claim or defence.
2. Witnesses, including expert witnesses, who are presented by the parties to testify to the arbitral tribunal on any issue of fact or expertise may be any individual, notwithstanding that the individual is a party to the arbitration or in any way related to a party. Unless otherwise directed by the arbitral tribunal, statements by witnesses, including expert witnesses, may be presented in writing and signed by them.
3. At any time during the arbitral proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time as the arbitral tribunal shall determine.
4. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Hearings
ARTICLE 28

1. In the event of an oral hearing, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof.
2. Witnesses, including expert witnesses, may be heard under the conditions and examined in the manner set by the arbitral tribunal.
3. Hearings shall be held in camera unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or caused by the measure to any party if the witnesses, including expert witnesses, during the testimony of such other witnesses, except that a witness, including an expert witness, who is a party to the arbitration shall not, in principle, be asked to retire.
4. The arbitral tribunal may direct that witnesses, including expert witnesses, be examined through means of telecommunication that do not require their physical presence at the hearing (such as videoconference).

Experts appointed by the arbitral tribunal
ARTICLE 29

1. After consultation with the parties, the arbitral tribunal may appoint one or more independent experts to report to it, in writing, on specific issues to be determined by the arbitral tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.

2. The expert shall, in principle before accepting appointment, submit to the arbitral tribunal and to the parties a description of his or her qualifications and a statement of his or her impartiality and independence. Within the time ordered by the arbitral tribunal, the parties shall inform the arbitral tribunal whether they have any objections as to the expert's qualifications, impartiality or independence. The arbitral tribunal shall decide promptly whether to accept any such objections. After an expert's appointment, a party may object to the expert's qualifications, impartiality or independence only if the objection is for reasons of which the party becomes aware after the appointment has been made. The arbitral tribunal shall decide promptly what, if any, action to take.
3. The parties shall give the expert any relevant information or produce for his or her inspection any relevant documents or goods that he or she may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the arbitral tribunal for decision.
4. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties, which shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his or her report.
5. At the request of any party, the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing, any party may present expert witnesses in order to testify on the points at issue. The provisions of article 28 shall be applicable to such proceedings.

Default
ARTICLE 30

1. If, within the period of time fixed by these Rules or the arbitral tribunal, without showing sufficient cause:

   (a) The claimant has failed to communicate its statement of claim, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings, unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so;

   (b) The respondent has failed to communicate its response to the notice of arbitration or its statement of defence, the arbitral tribunal shall order that the proceedings continue, without treating such failure in itself as an admission of the claimant's allegations; the provisions of this subparagraph also apply to a claimant's failure to submit a defence to a counterclaim or to a claim for the purpose of a set-off.

2. If a party, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.

3 If a party, duly invited by the arbitral tribunal to produce documents, exhibits or other evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the award on the evidence before it.

Closure of hearings
ARTICLE 31

1. The arbitral tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.

2. The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own initiative or upon application of a party, to reopen the hearings at any time before the award is made.

Time Limit for the Award
Article 31a

1. Unless otherwise agreed by the parties, the time limit within which the arbitral tribunal must render its final award is nine months as of the constitution of the arbitral tribunal, which shall be the case when ASEAC received (all of) the acceptance declaration(s) of the appointed arbitrator(s).
2. The management of ASEAC may extend this time limit pursuant to a reasoned request from the arbitral tribunal or on its own initiative if it decides this to be necessary.

Waiver of right to object
ARTICLE 32

A failure by any party to object promptly to any non-compliance with these Rules or with any requirement of the arbitration agreement shall be deemed to be a waiver of the right of such party to make such an objection, unless such party can show that, under the circumstances, its failure to object was justified.

SECTION IV. THE AWARD

Decisions
ARTICLE 33

1. When there is more than one arbitrator, any award or other decision of the arbitral tribunal shall be made by a majority of the arbitrators.
2. In the case of questions of procedure, when there is no majority or when the arbitral tribunal so authorizes, the presiding arbitrator may decide alone, subject to revision, if any, by the arbitral tribunal.

Form and effect of the award
ARTICLE 34

1. The arbitral tribunal may make separate awards on different issues at different times.
2. All awards shall be made in writing and shall be final and binding on the parties. The parties shall carry out all awards without delay.
3. The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
4. An award shall be signed by the arbitrators and it shall contain the date on which the award was made and indicate the place of arbitration. Where there is more than one arbitrator and any of them fails to sign, the award shall state the reason for the absence of the signature.
5. An award may be made public with the consent of all parties or where and to the extent disclosure is required of a party by legal duty, to protect or pursue a legal right or in relation to legal proceedings before a court or other competent authority.
6. Copies of the award signed by the arbitrators shall be communicated to the parties and ASEAC by the arbitral tribunal.

Applicable law, amiable compositeur
ARTICLE 35

1. The arbitral tribunal shall apply the law or rules of law designated by the parties as applicable to the substance of the dispute. The parties may wish to consider the use of this model clause with the following option by marking one of the following boxes:

   This contract shall be governed by

   - ☐ (a) the law of the jurisdiction of _____ [country to be inserted],[2] or
   - ☐ (b) the United Nations Convention on Contracts for the International Sale of Goods of 1980 (CISG)[3] without regard to any national reservation, supplemented for matters which are not governed by the CISG,[4] by the UNIDROIT Principles of International Commercial Contracts[5] and these supplemented by the otherwise applicable national law, or
   - ☐ (c) the UNIDROIT Principles of International Commercial Contracts supplemented by the otherwise applicable law.

   In the absence of any such agreement, the arbitral tribunal shall apply the rules of law which it determines to be appropriate.

2. The arbitral tribunal shall decide as amiable compositeur or ex aequo et bono only if the parties have expressly authorized the arbitral tribunal to do so.

3. In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract, if any, and shall take into account any usage of trade applicable to the transaction.

Settlement or other grounds for termination
ARTICLE 36

1. If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by the parties and accepted by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.

2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the arbitral tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so.

3. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the arbitral tribunal to the parties **and to ASEAC**. Where an arbitral award on agreed terms is made, the provisions of article 34, paragraphs 2, 4 and 5, shall apply

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[2] With respect to sales contracts it should be noted that, according to Art. 1 lit. b) CISG, such national law may include the United Nations Convention on Contracts for the International Sale of Goods of 1980 (CISG) in their "nationalised" version: That is the version applicable with due consideration of the national reservations made by the state whose law is chosen.
[3] See e.g. the literature and cases referred to at www.unidroit.org.
[4] This limitation reflects the UNCITRAL report 2007 regarding the discussion with respect to the relationship between the CISG and the UNIDROIT Principles at the 2007 session of UNCITRAL. Matters which are governed by the CISG are to be interpreted according to the CISG (including Art. 7 CISG).
[5] See www.unidroit.org.

Interpretation of the award
ARTICLE 37

1. Within 30 days after the receipt of the award, a party, with notice to the other parties and ASEAC, may request that the arbitral tribunal give an interpretation of the award.
2. The interpretation shall be given in writing within 45 days after the receipt of the request. The interpretation shall form part of the award and the provisions of article 34, paragraphs 2 to 6, shall apply.

Correction of the award
ARTICLE 38

1. Within 30 days after the receipt of the award, a party, with notice to the other parties and ASEAC, may request the arbitral tribunal to correct in the award any error in computation, any clerical or typographical error, or any error or omission of a similar nature. If the arbitral tribunal considers that the request is justified, it shall make the correction within 45 days of receipt of the request.
2. The arbitral tribunal may within 30 days after the communication of the award make such corrections on its own initiative.
3. Such corrections shall be in writing and shall form part of the award. The provisions of article 34, paragraphs 2 to 6, shall apply.

Additional award
ARTICLE 39

1. Within 30 days after the receipt of the termination order or the award, a party, with notice to the other parties and ASEAC, may request the arbitral tribunal to make an award or an additional award as to claims presented in the arbitral proceedings but not decided by the arbitral tribunal.
2. If the arbitral tribunal considers the request for an award or additional award to be justified, it shall render or complete its award within 60 days after the receipt of the request. The arbitral tribunal may extend, if necessary, the period of time within which it shall make the award.
3. When such an award or additional award is made, the provisions of article 34, paragraphs 2 to 6, shall apply.

Definition of costs
ARTICLE 40

1. The arbitral tribunal shall state the costs of the arbitration in its award or if it deems appropriate, in another decision, according to the prior determination of costs by ASEAC management. The term “costs” includes only:
   (a) The fees of the arbitral tribunal to be stated separately as to each arbitrator;
   (b) The travel and other expenses incurred by the arbitrators;
   (c) The costs of expert advice and of other assistance required by the arbitral tribunal;
   (d) The travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;

(e) The costs of legal representation and assistance of the successful party if such costs were claimed during the arbitral proceedings, but only to the extent that the arbitral tribunal determines that the amount of such costs is reasonable and that they were reasonably incurred;

(f) Any fees and expenses of ASEAC incurred in connection with the case;

(g) VAT, if applicable, in relation to the costs.

2. In relation to the interpretation, correction or completion of any award under Articles 37 to 39, the arbitral tribunal may charge the costs referred to in paragraphs 1 (b) to (f), but no additional fees.

Fees and expenses of arbitrators and ASEAC
ARTICLE 41

1. Before rendering the final award, the arbitral tribunal shall request ASEAC management to finally determine the costs of the arbitral proceedings (without the costs mentioned in Article 40 paragraph 1 (c) to (e) which shall be determined by the arbitral tribunal). At that time the arbitration tribunal shall also request a decision, if necessary, under No. 4 of the Schedule of Costs in light of "excessive workload of the arbitrators". The fees of the arbitral tribunal and ASEAC shall be calculated according to the ASEAC Schedule of Costs as in force at the time of commencement of the arbitral proceedings.
2. If the arbitral proceedings are terminated before the final award is rendered, the ASEAC management shall finally determine the costs of the arbitral proceedings (without the costs mentioned in Article 40 paragraph 1 (c) to (e) which shall be determined by the arbitral tribunal) having regard to when the arbitral proceedings terminate, the work performed by the arbitral tribunal and any other relevant circumstances.
3. The parties are jointly and severally liable to the arbitrator(s) and to ASEAC for the costs of the arbitral proceedings.

Allocation of costs
ARTICLE 42

1. The costs of the arbitration shall in principle be borne by the unsuccessful party or parties. However, the arbitral tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.
2. The arbitral tribunal shall in the final award or, if it deems appropriate, in any other award, determine any amount that a party may have to pay to another party as a result of the decision on allocation of costs.

Deposit of costs
ARTICLE 43

1. Upon filing of the notice of arbitration by claimant, ASEAC´s management may order the parties to deposit an amount as an advance for the costs referred to in article 40 of these Rules.
2. Each party shall pay half of the advance on costs, unless separate advances are determined (e.g. in a multi-party arbitration), and except for the initial administration fee which shall be advanced by the claimant. Where counterclaims are submitted, ASEAC´s management shall invoice any additional costs according to the principles set forth in sentence 1 of this Article 43 para. 2. This shall not apply to the ASEAC administration fee: In this respect, the party filing the counterclaim shall advance the additional amount, if any, incurred as a result of the filing of the counterclaim, plus VAT. Upon its own

initiative or upon request by the arbitral tribunal, ASEAC´s management may order the parties to pay additional advances during the course of the arbitral proceedings.

3. If a party fails to make a required payment, ASEAC´s management shall give the other party an opportunity to do so within a specified period of time. If the required payment is not made within such period of time, the claim or the counterclaim shall be deemed to have been withdrawn. If the other party makes the required payment, the arbitral tribunal may, at the request of such party, render at any time a separate award for reimbursement of the payment.
4. At any stage during the arbitral proceedings or after the award has been rendered, ASEAC´s management may draw on the advance on costs to cover the costs of the arbitral proceedings.
5. ASEAC´s management may order that part of the advance on costs shall be provided in the form of a bank guarantee or other form of security. Advances on costs shall not bear any interest.
6. After the award has been issued, ASEAC´s management shall render to the parties an accounting of the deposits received and return the balance, if any, to the parties in such proportion as the tribunal may have determined.
7. The arbitrators are remunerated after termination of the proceedings. If the proceedings consist of more than one oral hearing, the arbitrators are entitled to 50% of their share of the arbitral fees plus VAT, as applicable, after the first hearing.

ANNEX

MODEL ARBITRATION CLAUSE

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by institutional arbitration administered by the Asian European Arbitration Centre (ASEAC) in Hamburg (Germany) in accordance with the ASEAC Rules.

Options:

- ☐ (a) The number of arbitrators shall be ___ ((i) one or (ii) three or (iii) three unless the amount in dispute is less than € _____ [e.g. 100.000 €] in which case the matter shall be decided by a sole arbitrator);
- ☐ (b) Regardless of the seat of arbitration, the arbitral tribunal is free to hold hearings in _____ (town and country);
- ☐ (c) The language(s) to be used in the arbitral proceedings shall be _____ ;
- ☐ (d) Documents also may be submitted in _____ (language);
- ☐ (e) The Arbitration shall be confidential;
- ☐ (f) The parties agree that also the mere existence of an arbitral proceeding shall be kept confidential except to the extent disclosure is required by law, regulation or an order of a competent court;
- ☐ (g) The arbitral tribunal shall apply the ASEAC Rules as in force at the moment of the commencement of the arbitration unless one of the parties requests the tribunal, within 4 weeks as of the constitution of the arbitral tribunal, to operate according to the ASEAC Rules as in force at the conclusion of this contract.