

# ARBITRATION CLAUSES

It is recommended that parties wishing to make reference to ICC Arbitration in their contracts use the standard clause below.

## **Standard ICC Arbitration Clause**

*All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.*

Parties are free to adapt the clause to their particular circumstances. For instance, they may wish to stipulate the number of arbitrators, given that the ICC Arbitration Rules contain a presumption in favour of a sole arbitrator. Also, it may be desirable for them to stipulate the place and language of the arbitration and the law applicable to the merits. The ICC Arbitration Rules do not limit the parties' free choice of the place and language of the arbitration or the law governing the contract.

When adapting the clause, care must be taken to avoid any risk of ambiguity. Unclear wording in the clause will cause uncertainty and delay and can hinder or even compromise the dispute resolution process.

Parties should also take account of any factors that may affect the enforceability of the clause under applicable law. These include any mandatory requirements that may exist at the place of arbitration and the expected place or places of enforcement.

## **ICC Arbitration Without Emergency Arbitrator**

If the parties wish to exclude any recourse to the Emergency Arbitrator Provisions, they must expressly opt out by adding the following wording to the clause above:

*The Emergency Arbitrator Provisions shall not apply.*

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### Expedited Arbitration

The ICC Arbitration Rules provide for use of an expedited procedure in lower-value cases. If parties wish to exclude the application of the Expedited Procedure Provisions, they must expressly opt out by adding the following wording to the clause above:

*The Expedited Procedure Provisions shall not apply.*

Parties wishing to avail themselves of the expedited procedure in higher-value cases should expressly opt in by adding the following wording to the clause above:

*The parties agree, pursuant to Article 30(2)(b) of the Rules of Arbitration of the International Chamber of Commerce, that the Expedited Procedure Rules shall apply irrespective of the amount in dispute.*

If parties wish the ceiling for the application of the Expedited Procedure Rules to be higher than that specified in those Rules, the following wording should be added to the clause above:

*The parties agree, pursuant to Article 30(2)(b) of the Rules of Arbitration of the International Chamber of Commerce, that the Expedited Procedure Rules shall apply, provided the amount in dispute does not exceed US\$ [specify amount] at the time of the communication referred to in Article 1(3) of the Expedited Procedure Rules.*

### Standard ICC Arbitration Clause Without Publication of Awards

*All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. No award or procedural order made in the arbitration shall be published.*

## Multi-Tiered Clauses

ICC Arbitration may be used as the forum for final determination of a dispute following an attempt at settlement by other means such as mediation. Parties wishing to include in their contracts a tiered dispute resolution clause combining ICC Arbitration with ICC Mediation should refer to the standard clauses relating to the ICC Mediation Rules (see pages 98-101).

Other combinations of services are also possible. For instance, arbitration may be used as a fallback to expertise or dispute boards. Also, parties who resort to ICC Arbitration may wish to provide for recourse to the ICC International Centre for ADR for the proposal of an expert if an expert opinion is required in the course of the arbitration.

Standard clauses for these and other combinations of services are available in several languages at **<https://iccwbo.org/dispute-resolution-services/>**.