

**NETHERLANDS  
ARBITRATION INSTITUTE**

**ARBITRATION RULES**  
In force as of 1 March 2024

© Netherlands Arbitration Institute, Rotterdam

## TABLE OF CONTENTS

### SECTION ONE - GENERAL

- Article 1 - Definitions
- Article 2 - Netherlands Arbitration Institute
- Article 3 - Scope and amendments of the Rules
- Article 4 - Communications
- Article 5 - Time limits
- Article 6 - Language
- Article 7 - Confidentiality of the arbitration and publication of awards, orders and decisions

### SECTION TWO - COMMENCEMENT OF THE ARBITRATION

- Article 8 - Request for arbitration
- Article 9 - Short answer
- Article 10 - Purport of the request for arbitration and the short answer
- Article 11 - Multi-contract
- Article 12 - Contesting the jurisdiction of the arbitral tribunal

### SECTION THREE - THE ARBITRAL TRIBUNAL

- Article 13 - The arbitrator
- Article 14 - Number of arbitrators
- Article 15 - Composition of the arbitral tribunal
- Article 16 - Nomination of prospective arbitrators by a party
- Article 17 - List procedure
- Article 18 - Another method of composition of the arbitral tribunal agreed upon by the parties
- Article 19 - Composition of the arbitral tribunal where there are multiple claimants and/or respondents
- Article 20 - Making available of the arbitration file
- Article 21 - Release from mandate
- Article 22 - Replacement of an arbitrator
- Article 23 - Challenge of an arbitrator
- Article 24 - Secretary

### SECTION FOUR - PROCEDURE

- Article 25 - Manner of proceedings
- Article 26 - Case management conference and determining the order of the proceedings
- Article 27 - Place of the arbitration
- Article 28 - Appearance in person or by legal representative
- Article 29 - Exchange of written statements
- Article 30 - Midstream conference

## TABLE OF CONTENTS

- Article 31 - Counterclaim
- Article 32 - Hearing
- Article 33 - Amendment of the claim
- Article 34 - Evidence in general
- Article 35 - Production of documents
- Article 36 - Witnesses and experts
- Article 37 - Appointment of an expert by the arbitral tribunal
- Article 38 - On-site inspection
- Article 39 - Default of a party
- Article 40 - Interim measures
- Article 41 - Emergency arbitration
- Article 42 - Expedited arbitration
- Article 43 - Joinder or intervention and impleader
- Article 44 - Consolidation of arbitral proceedings
- Article 45 - Early determination

### SECTION FIVE - AWARD

- Article 46 - Time limit
- Article 47 - Types of awards
- Article 48 - Measure for decision-making
- Article 49 - Decision and signing
- Article 50 - Contents of the award
- Article 51 - Award on agreed terms
- Article 52 - Transmission and deposit of the award
- Article 53 - Binding effect of the award
- Article 54 - Rectification of the award
- Article 55 - Additional award

### SECTION SIX - COSTS

- Article 56 - Costs of the arbitration and costs of legal assistance
- Article 57 - Administration fees
- Article 58 - Advance on costs, fees and disbursements of the arbitrator(s)
- Article 59 - Award on costs

### SECTION SEVEN - FINAL PROVISIONS

- Article 60 - Timely objection
- Article 61 - Competent provisional relief judge
- Article 62 - Contingencies
- Article 63 - Processing of personal data and data protection
- Article 64 - Limitation of liability
- Article 65 - Choice of forum

## **TABLE OF CONTENTS**

### **APPENDIX A - THE NAI CASE MANAGEMENT COMMITTEE AND THE NAI SECRETARIAT**

Article A1 - Tasks and composition

Article A2 - Conduct

Article A3 - Decision-making by the members of the NAI Case  
Management Committee

### **APPENDIX B - CHALLENGE PROCEDURE**

Article B1 - Duties of Challenge Committee, Challenge Chamber  
and Challenge Committee Secretariat

Article B2 - Composition of Challenge Committee, Challenge  
Chamber and Challenge Committee Secretariat

Article B3 - Conduct of Challenge Committee and Challenge  
Chamber

### **APPENDIX C - EMERGENCY ARBITRATION**

Article C1 - Request for arbitration

Article C2 - Composition of the arbitral tribunal

Article C3 - Conduct of the proceedings

Article C4 - Contesting the jurisdiction of the arbitral tribunal

Article C5 - Counterclaim

Article C6 - Hearing

Article C7 - Costs

Article C8 - Award

### **APPENDIX D - EXPEDITED ARBITRATION**

Article D1 - Applicability

Article D2 - Request for arbitration

Article D3 - Short answer

Article D4 - Composition of the arbitral tribunal

Article D5 - Case management conference and determining the  
order of the proceedings

Article D6 - Procedure

Article D7 - Counterclaim

Article D8 - Hearing

Article D9 - Decision on expedited arbitration

Article D10 - Costs

Article D11 - Award

## **TABLE OF CONTENTS**

### **APPENDIX E - CONSOLIDATION OF ARBITRAL PROCEEDINGS**

- Article E1 - Request for consolidation
- Article E2 - Designation of consolidator
- Article E3 - Requirements
- Article E4 - Decision
- Article E5 - Arbitral tribunal after consolidation

### **APPENDIX F - COSTS OF THE ARBITRATION**

- Article F1 - The monetary interest of the claims
- Article F2 - Administration fees
- Article F3 - The arbitrator(s) fees, disbursements and the advance

## SECTION ONE - GENERAL

### Article 1 - Definitions

In these Rules, the following terms have the following meaning:

- (a) “appointment”: the appointment of an arbitrator by the responsible member of the NAI Case Management Committee pursuant to Article 15(2)(d) or (3);
- (b) “Executive Board”: the executive board of the NAI;
- (c) “day”: a calendar day;
- (d) “third person”: one or, insofar as applicable, more legal or natural persons making a request for joinder or intervention in accordance with Article 43 or one or, insofar as applicable, more legal or natural persons impleaded in accordance with Article 43;
- (e) “claimant”: one or, insofar as applicable, more claimants;
- (f) “prospective arbitrator”: a natural person of legal capacity who has been nominated for appointment as an arbitrator in accordance with Section Three and Section Four;
- (g) “NAI”: the Netherlands Arbitration Institute (*Stichting Nederlands Arbitrage Instituut*);
- (h) “NAI Case Management Committee”: the committee established by the Executive Board whose members are entrusted with the administration of arbitrations as defined in the Rules. The composition of the NAI Case Management Committee and the duties of its members are detailed in Appendix A;
- (i) “NAI arbitration platform”: a digital data processing system of the NAI which participants can use to exchange documents electronically;
- (j) “NAI Secretariat”: the members of the NAI who are entrusted with supporting the administration of arbitrations by the members of the NAI Case Management Committee as defined in the Rules and Appendix A;

(k) “arbitration agreement”: an agreement by which the parties bind themselves to submit to arbitration any disputes that have arisen or may arise between them from a defined legal relationship, whether contractual or not, and/or an agreement by which the parties bind themselves to submit to arbitration the determination only of the quality or condition of goods, and/or the determination only of the quantum of damages or monetary amount owed, and/or the filling of gaps or modification of the legal relationship as referred to in the first part of this sentence;

(l) “party” or “parties”: the claimant and/or the respondent, and/or a third person;

(m) “Rules”: these NAI Arbitration Rules, including Appendices A, B, C, D, E and F, which Appendices form an integral part of these Rules;

(n) “consolidator”: the person charged with deciding on requests for consolidation as referred to in Article 44 and Appendix E;

(o) “arbitral tribunal”: an arbitral tribunal consisting of one or more arbitrators that has been composed in accordance with the provisions of the Rules or according to the applicable rules of arbitration law in an arbitration under the Rules;

(p) “Challenge Committee Secretariat”: the persons designated by the Executive Board who are entrusted with supporting the processing of challenge requests as referred to in Article 23 and in Appendix B;

(q) “documents”: procedural and other documents, including data on a data carrier as well as procedural and other documents submitted by electronic means;

(r) “respondent”: one or, insofar as applicable, more respondents;

(s) “chair”: the chair of the arbitral tribunal appointed in accordance with Article 15(7), Article 16, Article 17, Article 18, Article 41, Article 42 or Article 44, in conjunction with Article 15(3), or Article 15(2)(d), and in the case of an arbitral tribunal composed of a single arbitrator, that arbitrator;

(t) “Challenge Committee”: the committee entrusted with handling challenge requests as referred to in Article 23 and Appendix B; and

(u) “Challenge Chamber”: the chamber composed by the chair of the Challenge Committee to decide on the merits of a challenge pursuant to Article 23 and Appendix B.

## **Article 2 - Netherlands Arbitration Institute**

1. The NAI is a foundation (stichting) incorporated under Dutch law.
2. The NAI itself does not resolve disputes that are submitted or to be submitted to an arbitral tribunal.
3. Decisions and/or actions by members of the NAI Case Management Committee, the NAI Secretariat, the Challenge Committee, the Challenge Chamber, the Challenge Committee Secretariat and/or the consolidator are binding on the parties and the arbitral tribunal, except where the Rules provide otherwise.
4. Without prejudice to any provision of applicable mandatory arbitration law, the parties and the arbitral tribunal (and the members of the arbitral tribunal) are deemed to have waived any right of appeal, revision or review with respect to decisions as referred to in paragraph 3.

## **Article 3 - Scope and amendments of the Rules**

1. The Rules apply where the parties have referred to arbitration by or before the NAI or in accordance with the Rules.
2. The Rules apply in the form they have at the time at which the arbitration is commenced. Amendments to the Rules have no effect on arbitrations that have already been commenced at the time of amendment of the Rules.
3. In derogation of paragraph 2, Article 44 and Article 48(1) and (3) only apply to arbitration agreements concluded on or after 1 January 2015 in which the parties have referred to arbitration by or before the NAI or in accordance with the Rules, unless the parties have agreed otherwise. Arbitration agreements concluded before 1 January 2015 continue to be subject to Article 45 and, in connection therewith Article 1(g), of the NAI 2010 Arbitration Rules. In derogation of paragraph 2, Article 42(1) applies only to arbitration agreements concluded on or after 1 March 2024.



## **Article 4 - Communications**

1. All communications must be made in writing in the manner provided for in this article.

2. Subject to the provisions of Article 8(3), Article 9(1) and (4), Article 52 and Article 54(7), requests, communications or other documents will only be transmitted electronically, either by email or by submitting or posting them on the NAI arbitration platform.

3. The time at which a request, communication or other document is transmitted electronically is:

(a) when transmitted by email: the time at which the request, communication or other document reaches a data processing system for which the sender has no responsibility; or

(b) when using the NAI arbitration platform: the time at which the request, communication or other document is placed on the NAI arbitration platform.

4. The time at which a request, communication or other document is received electronically is:

(a) when transmitted by email: the time at which the request, communication or other document reaches a data processing system for which the recipient is responsible; or

(b) when using the NAI arbitration platform: the time at which the request, communication or other document is placed on the NAI arbitration platform.

## **Article 5 - Time limits**

1. For the purposes of the Rules, a time limit commences on the day a request, communication or other document is transmitted and, if not transmitted in electronic form as provided for in Article 4, on the day of receipt of a request, communication or other document except where the Rules or the arbitral tribunal explicitly provide otherwise.

2. The responsible member of the NAI Case Management Committee is authorised, at the request of a party, the arbitral tribunal, or of its own motion, to extend or shorten the time limits as referred to in Article 6(2) and (3), Article 9(4), Article 13(3), Article 15(4) and (7), Article 16(1) and (2), Article 17(2), Article

18, Article 26(1) and (3), Article 45(2), Article 46(1), Article 57(4) and Article 58(4). The same applies to the time limits in Article C7(2), Article C8(1), Article D3, Article D4(2) and (5), Article D7(2), Article D9, Article D10(2), Article D11(1), Article E2(1) and Article E5(1).

3. In exceptional circumstances, the arbitral tribunal is authorised, at the request of a party or of its own motion, to extend a time limit set by the arbitral tribunal or agreed by the parties.

## **Article 6 - Language**

1. The proceedings are conducted in the language or languages agreed by the parties or, in the absence of such agreement, in the language or languages determined by the arbitral tribunal. Until such time as the arbitral tribunal has determined the language or languages, the responsible member of the NAI Case Management Committee may provisionally determine the language or languages.

2. Until such time as the arbitral tribunal has determined the language or languages referred to in paragraph 1, the responsible member of the NAI Case Management Committee may, at the request of the counterparty or of its own motion, require a party to submit, within a time limit as determined by the responsible member of the NAI Case Management Committee, a translation of the requests, communications and/or other documents it has submitted in a language in which the counterparty is proficient.

3. Without prejudice to the provisions of paragraphs 1 and 2, if any request, communication or other document is made in a language in which the responsible member of the NAI Case Management Committee or the arbitral tribunal is not proficient, the responsible member of the NAI Case Management Committee and the arbitral tribunal may require the party making the request or communication or submitting the document to arrange for a translation into a language determined by the responsible member of the NAI Case Management Committee or the arbitral tribunal, within a time limit determined by the responsible member of the NAI Case Management Committee or the arbitral tribunal.

4. The arbitral tribunal may make arrangements for the presence of an interpreter at a hearing.

## **Article 7 - Confidentiality of the arbitration and publication of awards, orders and decisions**

1. An arbitration is confidential and all persons involved either directly or indirectly in an arbitration are bound to secrecy, except and insofar as disclosure ensues from the law or the parties' agreement.

2. The responsible member of the NAI Case Management Committee will send a confidentiality statement to the prospective arbitrator. The responsible member of the NAI Case Management Committee will send the statement referred to in Article 13(3), the request for arbitration, the short answer and other procedural agreements between the parties to the prospective arbitrator only after receiving the confirmation of confidentiality.

3. The NAI may publish, or have published, an award, order or a decision on a challenge, omitting the names of the parties and leaving out all other information that might reveal the parties' identities, except where a party objects to such publication with the NAI Secretariat within two months of the date of the award, order or decision on a challenge.

## **SECTION TWO - COMMENCEMENT OF THE ARBITRATION**

### **Article 8 - Request for arbitration**

1. An arbitration is commenced by submitting a request for arbitration to the NAI Secretariat. The arbitration is deemed to have been commenced on the day of receipt of the request for arbitration by the NAI Secretariat.

2. The request for arbitration must contain the following information:

(a) the name, the address, the postal code, the place of residence, the telephone number, the email address and, as applicable, the VAT number of each of the parties;

(b) the name, the address, the postal code, the place of residence, the telephone number and the email address of the person or persons representing the claimant in the arbitration;

(c) the email address at which and by which the claimant can be reached for electronic communications for the duration of the arbitration, and for the purposes referred to in Article 52, Article 54 and Article 55;

(d) a brief description of the dispute;

(e) a clear statement of the relief sought with a specification of the monetary interest of each of the claims, including interest, as well as an estimate of the monetary interest of each of the non-monetary claims;

(f) a reference to the arbitration agreement(s) and any other agreement(s) to which the arbitration relates, along with copies of the agreements concerned;

(g) insofar as applicable, the parties' agreement regarding an expedited arbitration as referred to in Article 42(2) or, in the absence of an agreement as referred to in Article 42(2), the claimant's preference on this matter;

(h) insofar as applicable, the name, the address, the postal code, the place of residence, the telephone number and the email address of the prospective arbitrator(s) nominated by the claimant or by the parties;

(i) where the parties have agreed on a method of composition of the arbitral tribunal that differs from Article 16, the method of composition of the arbitral tribunal;

(j) the agreement between the parties concerning the number of arbitrators, the qualifications of the arbitrator(s), the place of arbitration and the language of the arbitration or, in the absence of an agreement between the parties in this regard, the claimant's preferences on these matters;

(k) the name of any party other than the parties to the arbitration that has made an arrangement with a party to the arbitration for the financing of claims or counterclaims on the basis of which this latter party has a beneficial interest in the outcome of the arbitration. If such an arrangement is made with a party to the arbitration only after submission of the request for arbitration, this party must share this information with all other parties to the arbitration, the prospective arbitrator(s) or the arbitrator(s) and the responsible member of the NAI Case Management Committee as soon as possible; and

(l) insofar as applicable, other details of the arbitral proceedings, including whether the arbitration is being commenced pursuant to Article 11(1).

3. The request for arbitration is to be submitted in one of the manners provided for in Article 4(2). If the claimant is unable to do so, the request for arbitration may be submitted in another manner. The NAI Secretariat will confirm receipt of the request for arbitration to the claimant, stating the date of receipt.

4. The responsible member of the NAI Case Management Committee may suspend the handling of the request for arbitration where the request does not yet satisfy the requirements mentioned in paragraph 2. This suspension does not prejudice the provisions of paragraph 1.

#### **Article 9 - Short answer**

1. The NAI Secretariat will transmit a copy of the request for arbitration to the respondent, stating the date of receipt, and will invite the respondent to submit a short written answer in response. A copy of the invitation will simultaneously be transmitted to the claimant.

2. The short answer must contain the following information:

(a) the name, the address, the postal code, the place of residence, the telephone number, the email address and, as applicable, the VAT number of the respondent;

(b) the name, the address, the postal code, the place of residence, the telephone number and the email address of the person or persons representing the respondent in the arbitration;

(c) the email address at which and by which the respondent can be reached for electronic communications for the duration of the arbitration, and for the purposes referred to in Article 52, Article 54 and Article 55;

(d) a response to the information referred to in Article 8(2)(e), (f), and (g) and, to the extent that it concerns the parties' nomination of one or more prospective arbitrators, the information referred to in Article 8(2)(h), (i) and (j);

(e) insofar as applicable, the name, the address, the postal code, the place of residence, the telephone number and the email address of the prospective arbitrator(s) nominated by the parties;

(f) the name of any party other than the parties to the arbitration that has made an arrangement with a party to the arbitration for the financing of claims or counterclaims on the basis of which this latter party has a beneficial interest in the outcome of the arbitration. If such an arrangement is made with a party to the arbitration only after submission of the short answer, this party must share this information with all other parties to the arbitration, the prospective arbitrator(s) or the arbitrator(s) and the responsible member of the NAI Case Management Committee as soon as possible; and

(g) insofar as applicable, any other particulars concerning the arbitral procedure, including a response to the particulars specified by the claimant as referred to in Article 8(2)(l).

3. In the short answer, the respondent may file a counterclaim against the claimant with due observance of the provisions of Article 31(2). The requirements mentioned in Article 8(2)(d), (e), (f) and (l) apply *mutatis mutandis* to the filing of a counterclaim.

4. The respondent must submit the short answer to the NAI Secretariat within fourteen days of the transmission of the invitation referred to in paragraph 1 in one of the manners provided for in Article 4(2) and transmit a copy of the short answer to the claimant at the same time. If the respondent is unable to transmit the short answer electronically, the short answer may be submitted to the NAI Secretariat by other means within this time limit, with a copy transmitted to the claimant at the same time. The NAI Secretariat will confirm to the parties the receipt of the short answer.

## **Article 10 - Purport of the request for arbitration and the short answer**

1. The request for arbitration and the short answer do not prejudice the parties' right to present a statement of claim or a statement of defence, respectively, with due observance of the provisions in Article 29.

2. Insofar the responsible member of the NAI Case Management Committee is involved in the determination of an estimate of the monetary interest of the claims or counterclaims, the determination of the number of arbitrators and/or the direct appointment of the arbitrator(s), the responsible member of the NAI Case Management Committee may rely on the request for arbitration and the short answer to derive the necessary information.

## **Article 11 - Multi-contract**

1. Without prejudice to any other provision of the Rules, claims relating to disputes arising from more than one contract may also be dealt with in a single arbitration, to the extent that such disputes between the same parties are subject to arbitration by or before the NAI or in accordance with the Rules.

2. If, prior to the completion of the composition of the arbitral tribunal, a party disputes that the conditions of paragraph 1 have been met, the responsible member of the NAI Case Management Committee will decide whether the arbitration will be administered in accordance with the provisions of paragraph 1, where applicable in anticipation of a possible decision of the arbitral tribunal on the basis of paragraph 3.

3. Once the composition of the arbitral tribunal has been completed, a party may submit to the arbitral tribunal that the conditions of paragraph 1 have not been met. The arbitral tribunal will decide in accordance with the provisions of paragraph 1.

## **Article 12 - Contesting the jurisdiction of the arbitral tribunal**

1. A party that has appeared in the arbitration and that wishes to contest the jurisdiction of the arbitral tribunal must do so before submitting any defence, i.e. in the statement of defence or, where no statement of defence is filed, no later than in the first written or oral defence after the arbitral tribunal has been constituted.

2. Cooperating in the appointment of the arbitrator(s) in the manner provided for in Section Three and Section Four does not cause the parties to forfeit the right to contest the jurisdiction of the arbitral tribunal on the ground of the non-existence of a valid arbitration agreement.

3. If a party that has appeared in the arbitration has omitted to contest the jurisdiction of the arbitral tribunal in accordance with the provisions of paragraph 1, its right to rely on this later, in the arbitration or before the court, is forfeited, except where jurisdiction is contested on the ground that the dispute is not capable of settlement by arbitration.

4. The arbitral tribunal decides on pleas contesting its jurisdiction.

5. If the arbitral tribunal decides it has no jurisdiction, the declaration of lack of jurisdiction qualifies as an award. The provisions of Section Five, Section Six, and Section Seven apply in full.

6. An arbitration agreement is to be considered and decided upon as a separate agreement. The arbitral tribunal has the power to decide on the existence and the validity of the main contract of which the arbitration agreement forms part or to which it is related.

7. A plea contesting the jurisdiction of the arbitral tribunal does not prevent the responsible member of the NAI Case Management Committee from administering the arbitration. This is subject to the Rules.

### SECTION THREE - THE ARBITRAL TRIBUNAL

#### **Article 13 - The arbitrator**

1. Any natural person of legal capacity may be appointed as an arbitrator. Subject to the provisions of Article 16(3) and Article 17(4), no person is precluded from appointment by reason of his or her nationality.

2. An arbitrator must perform his or her mandate independently, impartially and to the best of his or her knowledge.

3. A prospective arbitrator intending to accept an assignment as an arbitrator must make a statement prior to appointment by the responsible member of the NAI Case Management Committee confirming his or her independence and impartiality, availability, electronic means of contact in accordance with the Rules and acceptance of the mandate, subject to appointment by the responsible member of the NAI Case Management Committee. In the statement, a prospective arbitrator who has reason to suspect that there might be justifiable doubts as to his or her impartiality or independence must communicate this in writing, stating the suspected reason(s). Prior to the appointment, the responsible member of the NAI Case Management Committee will transmit copies of the statement to the parties and, where the arbitral tribunal consists of more than one arbitrator, to the other arbitrator(s) or to the other prospective arbitrator(s) and set a time limit for the parties to submit any comments.

4. An arbitrator who, during the arbitration, suspects that justifiable doubts as to his or her impartiality or independence



might arise must without delay communicate this in writing to the responsible member of the NAI Case Management Committee, the parties and, where the arbitral tribunal consists of multiple arbitrators, to the other arbitrators in writing, stating the suspected reason(s).

#### **Article 14 - Number of arbitrators**

1. The proceedings are conducted before a single arbitrator or another odd number of arbitrators.
2. Where the parties have not agreed on the number of arbitrators, or where the agreed method of determining that number of arbitrators is not carried out and the parties cannot reach agreement on the number, the responsible member of the NAI Case Management Committee will set the number at one or three, taking account of the parties' preferences, the scope of the dispute, the monetary interest of the claims, the complexity of the dispute and the parties' interest in efficient proceedings.
3. If the parties have agreed on an even number of arbitrators, an additional arbitrator will be appointed as the chair in accordance with the provisions of Article 16(2).

#### **Article 15 - Composition of the arbitral tribunal**

1. The arbitral tribunal is composed once the arbitrator(s) has (have) been appointed.
2. The arbitral tribunal may be composed according to the following ways:
  - (a) a nomination of a prospective arbitrator by a party or parties or a nomination of a prospective arbitrator by the already-appointed arbitrators as referred to in Article 16 and Article E5(1);
  - (b) a nomination pursuant to the list procedure as referred to in Article 17 and Article D4;
  - (c) a method of nomination of the arbitrator(s) agreed upon by the parties as referred to in Article 18;
  - (d) a direct appointment by the responsible member of the NAI Case Management Committee pursuant to Article C2 or pursuant to paragraph 7, Article 16, Article 17, Article 18 and Article D4 if the manner prescribed in these articles did not result in an appointment;

(e) a nomination by the consolidator pursuant to Article E5(1), if the manner prescribed in that Article did not result in any appointment.

3. Following the nomination of a prospective arbitrator pursuant to paragraph 2(a), (b), (c) and (e), the responsible member of the NAI Case Management Committee will appoint the prospective arbitrator as arbitrator, subject to the provisions of paragraphs 6 and 7. Paragraph 6 applies *mutatis mutandis* to a direct appointment pursuant to paragraph 2(d).

4. Subject to the provisions of Article 18, Article C2(3) and Article D4(5), the appointment by the responsible member of the NAI Case Management Committee of the prospective arbitrator(s) is made within three months of the arbitration being commenced.

5. The parties, the person or persons representing them, the arbitrator(s) and the responsible member of the NAI Case Management Committee will take account of the benefits of diversity and inclusivity when nominating prospective arbitrator(s) and when appointing arbitrator(s) under the Rules.

6. A person will not be appointed as an arbitrator by the responsible member of the NAI Case Management Committee under the provisions of this Section Three and Article C2, Article D4 and Article E5 if, in the opinion of the responsible member of the NAI Case Management Committee, the appointment is not in accordance with the Rules or if the person in question offers insufficient safeguards for sound arbitration.

7. If, pursuant to paragraph 6, the nomination of the prospective arbitrator is not followed, the responsible member of the NAI Case Management Committee will, within fourteen days after the responsible member of the NAI Case Management Committee has communicated this to the prospective arbitrator, the parties, and the arbitrator(s) already appointed, request the party or parties that was or were entitled to nominate the prospective arbitrator in question or the co-arbitrators that were entitled to nominate the prospective chair in question based on Article 16(2), or the consolidator entitled to nominate the prospective arbitrator(s) in question based on Article E5(1), to nominate another prospective arbitrator. If the parties have agreed on appointment under the list procedure referred to in Article 17, the responsible member of the NAI Case Management Committee will, in accordance with that procedure, invite the parties to express their preferences and/or objections with respect to any persons not featured on the initial

list. On the basis of the foregoing, the responsible member of the NAI Case Management Committee will appoint an arbitrator, co-arbitrator or chair, with due observance of the provisions of paragraph 6. If this does not result in the appointment of an arbitrator, the responsible member of the NAI Case Management Committee will directly appoint the relevant arbitrator.

## **Article 16 - Nomination of prospective arbitrators by a party**

1. Where an arbitral tribunal consisting of one arbitrator is to be composed, the parties must notify the responsible member of the NAI Case Management Committee, no later than fourteen days after the transmission of the short answer, of the name, address, postal code, place of residence, telephone number and email address of the prospective arbitrator nominated by them jointly. The responsible member of the NAI Case Management Committee will appoint this prospective arbitrator pursuant to Article 15(3). If such notification is not received by the responsible member of the NAI Case Management Committee within this period, this member will directly appoint the arbitrator.

2. Where an arbitral tribunal consisting of three or more arbitrators is to be composed, the claimant and the respondent must, in the request for arbitration and short answer, respectively, each nominate a prospective arbitrator to be appointed as a co-arbitrator by the responsible member of the NAI Case Management Committee pursuant to Article 15(3). If the request for arbitration or the short answer does not contain a nomination for the appointment of an arbitrator, the responsible member of the NAI Case Management Committee will directly appoint the arbitrator. The two appointed co-arbitrators will, within fourteen days of a request to that effect by the responsible member of the NAI Case Management Committee, jointly and in consultation with the latter, appoint a chair of the arbitral tribunal, stating the name, address, place of residence, telephone number and email address of the chair. If such notification is not received by the responsible member of the NAI Case Management Committee within this period, the responsible member of the NAI Case Management Committee will directly appoint the arbitrator.

3. Where an arbitral tribunal consisting of three or more arbitrators needs to be composed in an arbitration between parties that do not have the same nationality, each of the parties may, in the request for arbitration or the short answer, require that the chair does not have the same nationality as any of the parties.

## **Article 17 - List procedure**

1. In derogation of the method of composition provided for in Article 16, the parties may agree that the arbitrator(s) be nominated in accordance with the list procedure provided for in this Article 17. In the event of nomination of the prospective arbitrator(s) in accordance with the list procedure, the responsible member of the NAI Case Management Committee will transmit to the parties the list referred to in paragraph 2 as soon as possible after receipt of the short answer or, where a short answer is not submitted, after expiry of the time limit for submitting the short answer.

2. The responsible member of the NAI Case Management Committee will transmit an identical list of names of persons to each party. This list must contain at least three names in the event that one arbitrator is to be appointed and at least nine names, three of which being potential chairs, in the event that three or more arbitrators are to be appointed. A party may delete from the list the names of persons against whom this party has strong objections, and may number the remaining names in its order of preference. A party is not required to send a copy of the list to the counterparty. If the responsible member of the NAI Case Management Committee has not received a list back from a party within fourteen days after transmitting it, it is assumed that all of the persons named on the list are equally acceptable to that party.

3. With due observance of any preferences and/or objections expressed by the parties, the responsible member of the NAI Case Management Committee will invite persons named on the list to serve as arbitrators. The responsible member of the NAI Case Management Committee will then appoint the arbitrator(s) based on the preferences and/or objections expressed by the parties. If the lists returned by the parties show that there is an insufficient number of persons who are acceptable as arbitrators to each of the parties, or a person will not or cannot accept the responsible member of the NAI Case Management Committee's invitation to serve as arbitrator or proves unable to serve as arbitrator for any other reasons and an insufficient number of persons remain that are acceptable as arbitrators to each of the parties, the responsible member of the NAI Case Management Committee will proceed to directly appoint a person who was not featured on the list issued to the parties.

4. Where an arbitral tribunal needs to be composed in accordance with this Article 17 in an arbitration between parties

that do not have the same nationality, each of the parties may submit a notice to the responsible member of the NAI Case Management Committee stating the requirement that the chair does not have the same nationality as any of the parties.

#### **Article 18 - Another method of composition of the arbitral tribunal agreed upon by the parties**

If the parties have agreed upon a method of composition of the arbitral tribunal that deviates from Article 16 or Article 17, the nomination of (a) prospective arbitrator(s) to be appointed as arbitrator(s) will take place in the manner agreed upon by the parties. If all or part of the agreed method of composition of the arbitral tribunal has not been carried out within the period agreed upon by the parties or, failing that, within four weeks after the arbitration has been commenced, the responsible member of the NAI Case Management Committee will directly appoint the relevant arbitrator(s).

#### **Article 19 - Composition of the arbitral tribunal where there are multiple claimants and/or respondents**

1. If there are multiple claimants and/or respondents and the composition of the arbitral tribunal takes place in the manner provided in Article 16, in case of an arbitral tribunal consisting of three or more arbitrators, claimants will jointly nominate an arbitrator and respondents will jointly nominate an arbitrator.

2. If either the claimants fail to jointly nominate an arbitrator or the respondents jointly fail to nominate a prospective arbitrator within the time limit set in Article 16(2), all members of the arbitral tribunal will be appointed in the manner provided in Article 17.

#### **Article 20 - Making available of the arbitration file**

1. Once all the members of the arbitral tribunal have been appointed, the NAI Secretariat will immediately make the arbitration file available to the arbitral tribunal. The NAI Secretariat will promptly notify the parties of this.

2. After the NAI Secretariat has made the arbitration file available to the arbitral tribunal in accordance with paragraph 1, the parties must send their requests, communications and other documents directly to the arbitral tribunal, simultaneously transmitting these to all other parties. Every request,

communication or other document must be sent simultaneously to the NAI Secretariat. The preceding sentence also applies to other requests, communications or documents from the arbitral tribunal to the parties.

## **Article 21 - Release from mandate**

1. An arbitrator may be released from his or her mandate at his or her own request, either by consent of the parties or by consent of the responsible member of NAI Case Management Committee.

2. An arbitrator may be released from his or her mandate by the parties jointly. The parties must immediately communicate the release of mandate to the arbitrator in question and, where the arbitral tribunal consists of more than one arbitrator, the other arbitrators, as well as to the responsible member of the NAI Case Management Committee.

3. An arbitrator who has become de jure or de facto unable to perform his or her mandate may, at the request of any party, be released from his or her mandate by the responsible member of the NAI Case Management Committee.

4. The responsible member of the NAI Case Management Committee may, of its own motion, release an arbitrator from his or her mandate if he or she (i) has de jure or de facto become unable to perform his or her mandate, or (ii) is not performing his or her mandate in accordance with the Rules.

5. An arbitral tribunal may, at the request of any party, be released from its mandate by the responsible member of the NAI Case Management Committee, if, taking account of all the circumstances, it fails to perform its mandate without undue delay even after repeated demands for action have been made.

6. In the events mentioned in paragraphs 1, 3, 4 and 5, the responsible member of the NAI Case Management Committee will not proceed to release the arbitrator or the arbitral tribunal from the mandate until the parties have been given the opportunity to make their positions known to the responsible member of the NAI Case Management Committee.

## **Article 22 - Replacement of an arbitrator**

1. Unless the parties have agreed on another manner of replacement, an arbitrator who has been released from his or her

mandate or an arbitral tribunal that has been released from its mandate for any reason whatsoever will be replaced in accordance with the rules applicable to the original manner of appointment. The same applies in the event of the death of an arbitrator.

2. The proceedings become suspended by operation of law for the duration of the replacement of an arbitrator or an arbitral tribunal. After replacement, the proceedings will move forward from the stage they had reached prior to the replacement, except where the arbitral tribunal wishes to handle the case again in full or in part.

### **Article 23 - Challenge of an arbitrator**

1. An arbitrator may be challenged by a party in accordance with the provisions of this Article 23 if there are justifiable doubts as to his or her impartiality or independence. A party may not challenge an arbitrator if it has acquiesced in his or her appointment, except where that party only became aware of the ground for the challenge afterwards.

2. A party that has reasons to challenge an arbitrator must base its challenge request on these reasons, on pain of forfeiture of the right to invoke them later in the arbitral proceedings or in court.

3. The challenging party must give written notice of the challenge, stating reasons, to the arbitrator concerned, the counterparty, the responsible member of the NAI Case Management Committee and, if the arbitral tribunal consists of multiple arbitrators, the other arbitrators. The notice of the challenge must be given within fourteen days after the reason for the challenge becomes known to the challenging party.

4. The arbitral tribunal may suspend the arbitral proceedings at any time from the day of receipt of the notice referred to in paragraph 3.

5. If a challenged arbitrator resigns, this does not imply acceptance that the reasons for the challenge are well-founded. If a challenged arbitrator resigns, the NAI Secretariat will notify the parties and, if the arbitral tribunal consists of more than one arbitrator, the other arbitrators, of this in writing.

6. If the challenged arbitrator resigns or if the Challenge Chamber decides that the challenge is well-founded, the arbitrator will be released from his or her mandate and will be replaced in accordance with the provisions of Article 22(1).

7. If a challenged arbitrator does not resign within fourteen days after the day of receipt of a notice that is within the time limit as referred to in paragraph 3, a Challenge Chamber will, if the challenge is upheld within the time limit pursuant to Article B3(2), at the request of the challenging party, decide whether the challenge is well-founded.

8. The challenge procedure referred to in this Article 23 is governed by Appendix B.

**Article 24 - Secretary**

1. At the request of the arbitral tribunal, the responsible member of the NAI Case Management Committee may appoint a legally qualified person as the arbitral tribunal’s secretary. The provisions of Article 7(2), Article 13, Article 15(3), Article 21, Article 22 and Article 23 apply *mutatis mutandis* to a secretary.

2. The work of a secretary is performed for, on behalf of and under the supervision of the arbitral tribunal. A secretary has no decision-making authority. The arbitral tribunal is not permitted to delegate any decision-making power to a secretary.

**SECTION FOUR - PROCEDURE**

**Article 25 - Manner of proceedings**

1. Without prejudice to any provision of applicable mandatory arbitration law, the arbitral tribunal determines the manner in which and the time limits within which the proceedings will be conducted, with due observance of any arrangements between the parties in that regard, the provisions of the Rules and the circumstances of the arbitration.

2. The arbitral tribunal treats the parties equally. The arbitral tribunal must give the parties the opportunity mutually to set out and explain their positions and to comment on each other’s positions and on all documents and other information brought to the attention of the arbitral tribunal during the proceedings. The arbitral tribunal may not base its decision, where it is unfavourable for one party, upon documents and other information on which that party was not sufficiently able to comment.

3. The arbitral tribunal must guard against unreasonable delay of the proceedings and, if necessary, at the request of a party or of its



own motion, take measures to effectuate a just, efficient and final settlement of the dispute.

4. If a party fails to wholly or partially satisfy any provision mentioned in Section Four or any order, decision or measure of the arbitral tribunal under the provisions of Section Four, the arbitral tribunal may draw any conclusions from such failure that it considers appropriate.

5. The parties, the person or persons representing them, the arbitral tribunal, the responsible member of the NAI Case Management Committee and the NAI Secretariat will take aspects of sustainability into account when conducting the proceedings.

### **Article 26 - Case management conference and determining the order of the proceedings**

1. A case management conference is to be held as soon as possible, but no later than three weeks after the NAI Secretariat has made the arbitration file available to the arbitral tribunal in accordance with Article 20(1). The arbitral tribunal determines the time, the place and the manner in which the case management conference is held.

2. The arbitral tribunal will in any event address the following topics at the case management conference:

(a) also having regard to the provisions of Article 8(2)(e), the monetary interest of the claim or each of the claims, including interest, as well as the monetary interest of the non-monetary claims;

(b) the question whether, also in view of the nature of the case, expedited arbitration as referred to in Article 42 must or may be followed;

(c) the use of electronic means, in particular the NAI arbitration platform, as well as the need for specific data security measures when electronic means are used;

(d) the preference or need for the exchange of further written statements after the exchange of the statement of claim and the statement of defence as referred to in Article 29;

(e) preferences regarding the midstream conference as referred to in Article 30;

- (f) the rules of evidence as referred to in Article 34;
- (g) the preference or need for the production of documents as referred to in Article 35;
- (h) the preference or need for the taking of evidence through the hearing of witnesses and/or experts as referred to in Article 36 and Article 37 and the manner in which such evidence will be taken;
- (i) directions or measures concerning the protection of personal data as referred to in Article 63.

3. As soon as possible, but no later than two weeks after the case management conference, the arbitral tribunal, after consultation with the parties, will determine the order of proceedings, including a (provisional) timetable for the further course of the arbitration, including a provisional date for the award with due observance of the provisions of Article 46(1).

#### **Article 27 - Place of the arbitration**

1. Where the place of arbitration is not determined by agreement between the parties, the place of arbitration is Amsterdam.
2. Regardless of the place of arbitration, the arbitral tribunal may hold hearings, deliberate and hear witnesses and experts at any place, within or outside the Netherlands, it considers appropriate.

#### **Article 28 - Appearance in person or by legal representative**

Each party may appear in the proceedings in person, or be represented by a practising lawyer or by a representative authorised in writing for this purpose. Each party may be assisted by any persons of its choice.

#### **Article 29 - Exchange of written statements**

1. Unless the parties have agreed otherwise, the arbitral tribunal gives the claimant and the respondent the opportunity to present a statement of claim and a statement of defence, respectively.
2. Unless parties have agreed otherwise, the arbitral tribunal is free to determine whether any further written statements may be presented.

### **Article 30 - Midstream conference**

The arbitral tribunal may at any stage of the proceedings, and will in any case after the submission of the statement of defence, order a midstream conference, taking place electronically or otherwise, for the purpose of providing information, consultation on the further course of the arbitration or for exploring the possibility of a settlement. The arbitral tribunal may also re-address the points of Article 26(2). Having heard the parties, the arbitral tribunal may designate its chair to conduct the midstream conference, unless the parties have agreed otherwise.

### **Article 31 - Counterclaim**

1. A counterclaim is admissible if it is subject to the same arbitration agreement as the one on which the claim is based or if that same arbitration agreement has been expressly or tacitly declared applicable by the parties.

2. A counterclaim that is not filed at the latest with the statement of defence or, in the absence thereof, no later than with the first written or oral defence conducted after the NAI Secretariat has made the arbitration file available to the arbitral tribunal based on Article 20(1), cannot be filed afterwards in the same arbitration, except in exceptional circumstances at the arbitral tribunal's discretion.

3. Article 11, Article 12, Article 29, Article 33, Article 39, Article 57, Article 58 and Appendix F apply *mutatis mutandis* to the counterclaim.

### **Article 32 - Hearing**

1. The arbitral tribunal gives the parties the opportunity to explain their case at an oral hearing, except where the parties waive that opportunity. The arbitral tribunal determines the time and place of the hearing and the manner of the hearing.

2. In addition to the parties and persons mentioned in Article 24, Article 28, Article 36 and Article 37, the arbitral tribunal, after consulting with the parties, may admit other persons to the hearing.

3. Except as provided for in Article 30 and Article 34(2), hearings are held in the presence of the full arbitral tribunal.

4. If a party, although properly having been called, fails to appear at a hearing without asserting well-founded reasons, the arbitral tribunal may move the arbitral proceedings forward and make an award.

### **Article 33 - Amendment of the claim**

1. A party may amend or increase its claim or the grounds thereof until the beginning of the last hearing or, if no hearing is held, in the last admissible written statement. After that time, this is no longer allowed, except in exceptional circumstances at the arbitral tribunal's discretion. A party may reduce its claim(s) at any time. Article F2(5) applies in full.

2. The counterparty is authorised to object to an amendment or increase of the claim if it will be unreasonably hindered in its defence or if the proceedings will be unreasonably delayed as a result. The arbitral tribunal, after giving the parties an opportunity to be heard, will decide on the counterparty's objection as soon as possible.

3. The arbitral tribunal must give a party that has not appeared as referred to in Article 39 the opportunity to comment on an amendment or increase.

### **Article 34 - Evidence in general**

1. Unless the parties have agreed otherwise, the arbitral tribunal is free to determine the rules of evidence, the admissibility of evidence, the allocation of the burden of proof and the evaluation of evidence.

2. Unless the parties have agreed otherwise, the arbitral tribunal, after giving the parties an opportunity to be heard, may designate its chair to hear witnesses or experts or to conduct an on-site inspection or viewing.

### **Article 35 - Production of documents**

1. Unless the parties have agreed otherwise, the written statements referred to in Article 29 are, in as much as possible, to be accompanied by the documents relied upon by the parties.

2. Unless the parties have agreed otherwise, the arbitral tribunal may, at any party's request or of its own motion, order the inspection of, a copy of, or an extract from, specific documents

related to the dispute from the party which has these documents at its disposal. The arbitral tribunal determines the conditions under which and the manner in which inspection of a copy of or an extract from documents are provided.

### **Article 36 - Witnesses and experts**

1. The arbitral tribunal may allow the parties to furnish evidence by means of hearing witnesses and experts or, at any party's request or of its own motion, order the parties to furnish evidence by means of hearing witnesses and experts.

2. The arbitral tribunal may determine the form in which statements of witnesses and experts are given. A party may submit written witness statements or expert advice it has obtained along with the statements as referred to in Article 29. If a party so requests or if the arbitral tribunal so determines, the party submitting the advice is to call the expert to provide a further explanation at the hearing.

3. If an oral examination of witnesses or experts is to take place, the arbitral tribunal will determine the time, place and order for the oral examination and the manner in which the examination will be conducted.

4. The names of the witnesses or experts that a party wishes to have heard must be communicated to the arbitral tribunal and the counterparty in a timely manner.

5. Where the arbitral tribunal considers it necessary, it will hear the witnesses after they have sworn or affirmed that they will tell the whole truth and nothing but the truth.

6. The arbitral tribunal decides whether and in what form a report of the examination will be drawn up. A report of the examination must in any event be drawn up where the chair hears the witnesses or experts in accordance with Article 34(2).

### **Article 37 - Appointment of an expert by the arbitral tribunal**

1. The arbitral tribunal may appoint one or more experts to give written advice. The arbitral tribunal must consult the parties regarding the terms of reference to be issued to the expert. The arbitral tribunal must transmit to the parties a copy of the decision to appoint an expert and the terms of reference given to the expert as soon as possible.

2. If a party does not provide the expert with the information he or she requires or render the cooperation he or she needs, the expert may ask the arbitral tribunal to order the relevant party to do so.

3. After receipt of the expert's report, the arbitral tribunal sends a copy thereof to the parties as soon as possible.

4. At the request of any of the parties, the experts will be heard at a hearing of the arbitral tribunal. If a party wishes to make such a request, it must notify the arbitral tribunal and the counterparty of this as soon as possible. At the hearing, the arbitral tribunal must give the parties the opportunity to ask the expert questions.

5. Without prejudice to the provisions in paragraph 4, the arbitral tribunal must give the parties the opportunity to be heard regarding the advice of the experts appointed by the arbitral tribunal.

#### **Article 38 - On-site inspection**

The arbitral tribunal may, at the request of any of the parties or of its own motion, inspect a site or conduct a viewing, within or outside the Netherlands. The arbitral tribunal must give the parties the opportunity to be present at the on-site inspection or viewing and to subsequently express their views on the on-site inspection or viewing.

#### **Article 39 - Default of a party**

1. If the claimant fails to present a statement of claim as referred to in Article 29 within the time limit determined by the arbitral tribunal or to reasonably explain its claim within a time limit determined by the arbitral tribunal in accordance with an order of the arbitral tribunal, without asserting well-founded reasons, the arbitral tribunal may, by award, or in another manner it considers appropriate, bring an end to the arbitral proceedings.

2. If the respondent fails to present a statement of defence as referred to in Article 29 within the time limit determined by the arbitral tribunal, despite having been granted due opportunity to do so and without asserting well-founded reasons, the arbitral tribunal may immediately make an award.

3. The award referred to in paragraph 2 will wholly or partially award the claim, except where the claim appears to the arbitral tribunal to be unlawful or unfounded. The arbitral tribunal may,

before making its award, require proof from the claimant of one or more of its assertions.

#### **Article 40 - Interim measures**

1. An arbitral tribunal may grant the following interim measures:

(a) during pending arbitral proceedings on the merits, the arbitral tribunal may, at the request of any of the parties and with due observance of the provisions of this Article 40, grant interim measures related to the claim or counterclaim as filed;

(b) regardless of whether arbitral proceedings on the merits are pending, in all urgent cases that require immediately enforceable interim measures in view of the parties' interests, an arbitral tribunal specifically composed to that end may, at the request of any of the parties, grant interim measures in emergency arbitration with due observance of the provisions of Article 41. If the place of arbitration has not been determined for the arbitral proceedings on the merits, the place of arbitration of the emergency arbitration is Amsterdam.

2. The arbitral tribunal referred to in paragraph 1 may, in conjunction with the interim measures sought by each party, require that sufficient security is provided, including the provision of security for the claim or counterclaim in the main action and the costs of the arbitral proceedings on the merits.

3. Without prejudice to any provision of applicable mandatory arbitration law, the decision on the interim measures may be taken in the form of an order by the arbitral tribunal or in the form of an award, to which the provisions of Section Five and Section Six and Article 7(3) are applicable. At the request of a party, the arbitral tribunal, having heard the other party or parties, may convert an order by the arbitral tribunal into an award, in which it must state the request.

4. The decision on the interim measures does not in any way prejudice the arbitral tribunal's ultimate decision in the arbitral proceedings on the merits.

## **Article 41 - Emergency arbitration**

Emergency arbitration as referred to in Article 40(1)(b) is commenced in accordance with the provisions contained in Appendix C. Furthermore, Article 40(2), (3) and (4) as well as Section One and Section Seven apply to emergency arbitration. The provisions of Section Two to Section Six inclusive only apply to the extent referred to in Appendix C.

## **Article 42 - Expedited arbitration**

1. The rules on expedited arbitration as contained in the Rules and Appendix D apply when:

(a) the arbitration agreement(s) providing for arbitration by or before the NAI or in accordance with the Rules was or were entered into on or after 1 March 2024;

(b) the total amount claimed by the claimant in the request for arbitration does not exceed € 1,000,000; and

(c) the parties have not ruled out the application of the rules on expedited arbitration.

2. The parties may, even if the provisions of paragraph 1 are not met, agree in writing to apply the expedited arbitration rules set forth in the Rules and Appendix D.

3. Expedited arbitration is commenced in accordance with Appendix D.

4. Without prejudice to any provision of applicable mandatory arbitration law, the provisions of Section One and Section Seven apply *mutatis mutandis* to expedited arbitration. The provisions of Section Two to Section Six inclusive only apply to expedited arbitration to the extent referred to in this Article 42 and Appendix D.

5. If, pursuant to what is provided in Article D9, the responsible member of the NAI Case Management Committee decides that the case is not suitable to be decided on in expedited arbitration, the case will be taken forward as an arbitration on the merits.



## **Article 43 - Joinder or intervention and impleader**

1. At the written request of a third person who has an interest in arbitral proceedings to which the Rules apply, the arbitral tribunal may allow that person to join or intervene in the proceedings, provided that the same arbitration agreement as between the original parties applies or enters into force between the original parties to the arbitration and the third person. By allowing the joinder or intervention, the third person becomes a party to the proceedings.

2. The request must be submitted to the NAI Secretariat. The NAI Secretariat will transmit a copy of the request to the parties and to the arbitral tribunal as soon as possible.

3. Regardless of whether the same arbitration agreement as between the original parties applies or enters into force between the parties and the third person, by submitting the request for joinder or intervention, the third person agrees that the provisions of Section Six and Section Seven, except for Article 61, apply *mutatis mutandis*.

4. At the written request of a party, the arbitral tribunal may allow that party to implead a third person, provided that the same arbitration agreement as between the original parties in the arbitration applies or enters into force between the requesting party and the third person.

5. After receiving a request referred to in paragraphs 1 and 4, the arbitral tribunal must give the parties and the third person the opportunity to make their opinions on the request known. The arbitral tribunal will not allow the admission of a party by way of joinder, intervention or impleader if the arbitral tribunal considers that its admission would cause unreasonable delay to the arbitral proceedings. Nor will the arbitral tribunal allow an impleader if the arbitral tribunal sees no plausible case in advance that the third party will be required to bear the adverse consequences of any order against the requesting party.

6. The arbitral tribunal may suspend the proceedings after receipt of a request as referred to in paragraph 1 and paragraph 4. After lifting the suspension or allowing the joinder or intervention, or an impleader, the arbitral tribunal will decide on the further course of the proceedings, except where the parties have made provisions for this by agreement.

## **Article 44 - Consolidation of arbitral proceedings**

1. Unless the parties have agreed otherwise, in respect of pending arbitral proceedings governed by the Rules, a party may, in accordance with Appendix E, request a consolidator to be designated to order that these proceedings are consolidated with other pending arbitral proceedings governed by the Rules.

2. Consolidation may be ordered insofar as:

(a) it does not cause unreasonable delay in the pending proceedings, also in view of the stage they have reached; and

(b) the arbitral proceedings are so closely connected that the good administration of justice renders it expedient to hear and determine them together to avoid the risk of irreconcilable decisions resulting from separate proceedings.

3. Without prejudice to any provision of applicable mandatory arbitration law, Appendix E and the provisions of Section Six and Section Seven, except for Article 61, apply *mutatis mutandis* to the request for consolidation and/or any subsequent appointment of the arbitrator(s) and determination of the remuneration of the arbitrator(s).

## **Article 45 - Early determination**

1. At the request of a party, the arbitral tribunal may, with respect to one or more issues of law and/or fact, decide by way of an early determination procedure that a claim, counterclaim or defence is:

(a) manifestly inadmissible;

(b) manifestly outside the jurisdiction of the arbitral tribunal; or

(c) manifestly legally unfounded.

2. The arbitral tribunal, after hearing the counterparty, decides whether the request for an early determination referred to in paragraph 1 can be considered. If the arbitral tribunal considers the request, the parties must be given an opportunity to present their views before the arbitral tribunal decides on the request. The early determination may be given in the form of an order by the arbitral tribunal or in the form of an award, to which the provisions of Section Five and Section Six and Article 7(3) apply. The arbitral

tribunal must render its decision within 30 days after the arbitral tribunal has notified the parties that the request for an early determination will be considered.

## SECTION FIVE - AWARD

### **Article 46 - Time limit**

1. The arbitral tribunal must make its award within eight weeks after the last hearing as referred to in Article 32 or after the last admissible written statement of one of the parties in the arbitration. In all cases, the award will be made expeditiously.

2. Without prejudice to the provisions of Article 54 and Article 55, the mandate of the arbitral tribunal is terminated by the transmission of the final award to the parties.

### **Article 47 - Types of awards**

The arbitral tribunal may make a final award, a partial final award or an interim award. In accordance with Article 51, the arbitral tribunal may record the agreed terms of a settlement in an award.

### **Article 48 - Measure for decision-making**

1. Subject to the provisions of Article 3(3), the arbitral tribunal decides according to the rules of law.

2. If a choice of law has been made by the parties, the arbitral tribunal decides in accordance with the rules of law designated by the parties. Failing such designation of law, the arbitral tribunal decides in accordance with the rules of law which it considers appropriate.

3. The arbitral tribunal decides as *amiable compositeur* if the parties, by agreement, have instructed it to do so.

4. In any event, in its decision the arbitral tribunal will take into account any applicable trade usages.

### **Article 49 - Decision and signing**

1. If the arbitral tribunal consists of three or more arbitrators, it decides by a majority of votes.

2. If the arbitral tribunal consists of three or more arbitrators, procedural matters of minor importance may be decided by the chair if he or she has been so authorised by the co-arbitrators, unless the parties have agreed otherwise.

3. The award containing the decision must be drawn up in writing in at least three copies and signed by the arbitrator, where an arbitral tribunal consists of one arbitrator, or by all the arbitrators, where the arbitral tribunal consists of multiple persons.

4. Without prejudice to any provision of the applicable mandatory arbitration law, the award may also be made in electronic form by affixing it with a qualified electronic signature or qualified electronic signatures as referred to in Article 3(12) of Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJEU 2014, L 257).

5. If a minority of the arbitrators refuses to sign, this must be stated by the other arbitrators in the award signed by them. A similar statement must be made if a minority is incapable of signing and it is unlikely that the impediment will cease to exist shortly.

6. The award will not state a minority opinion. A minority may express its opinion to the other arbitrators and the parties in a separate written document. This document is not considered to be a part of the award.

## **Article 50 - Contents of the award**

1. The award must in any event contain:

(a) the name and place of residence of the arbitrator, where an arbitral tribunal consists of one arbitrator, or the names and places of residence of all the arbitrators, where an arbitral tribunal consists of multiple arbitrators;

(b) the name and place of residence of each of the parties;

(c) a brief summary of the proceedings;

(d) a description of the claim(s) and any counterclaim(s);

(e) the reasons for the decision given in the award;

(f) the determination and order to pay the arbitration costs as referred to in Article 59;

(g) the statement whether in accordance with the provisions of Article 48 the arbitral tribunal is deciding according to the rules of law or as *amiable compositeur*;

(h) the decision;

(i) the place where the award is made as determined in accordance with the provisions of Article 27(1); and

(j) the date on which the award is made.

2. If the arbitral tribunal's award is an order for interim measures, an interim award or a partial final award, the determination of the arbitration costs and the order to pay these as referred to in paragraph 1(f) may be stayed until a later time in the proceedings.

3. In derogation of the provisions of paragraph 1(e), the award may contain no grounds for the decision given if, after the arbitration has been commenced, the parties agree in writing that no grounds will be given for the decision.

4. The arbitral tribunal is to transmit a draft of the award to the responsible member of the NAI Case Management Committee. The responsible member of the NAI Case Management Committee may make recommendations with respect to the provisions of paragraph 1(a), (b), (c), (d), (f), (g), (i) and (j), without prejudice to the discretion of the arbitral tribunal. Additionally, the responsible member of the NAI Case Management Committee may point out to the arbitral tribunal manifest computational or clerical errors in the draft of the award or any other manifest errors contained therein that lend themselves to simple rectification and any omission to decide on one or more claims or counterclaims that have been subjected to the arbitral tribunal's discretion. The arbitral tribunal remains responsible for both the content and form of the award.

**Article 51 - Award on agreed terms**

1. If a settlement is reached between the parties during the course of the proceedings, the parties may jointly request the arbitral tribunal to record the terms of such a settlement in an award.

2. The award on agreed terms referred to in paragraph 1 is regarded as an award to which the provisions of this Section Five and Section Six and Article 7(3) apply, it being understood that the award, in derogation of the provisions of Article 50(1)(e), need not contain any grounds for the decision rendered.

#### **Article 52 - Transmission and deposit of the award**

1. On behalf of the arbitral tribunal, the responsible member of the NAI Case Management Committee ensures that an original of the award is transmitted to the parties as soon as possible.

2. An original of the award will be kept in the NAI archives for a period of ten years. Any party may, during that period, request that the responsible member of the NAI Case Management Committee provides a copy of an original of the award certified by the responsible member of the NAI Case Management Committee.

#### **Article 53 - Binding effect of the award**

An award is binding upon the parties with effect from the day on which it is made. The parties undertake to comply with the award as soon as possible.

#### **Article 54 - Rectification of the award**

1. A party may, within three months after the date of transmission of the award, request in writing that the arbitral tribunal correct a manifest computing error, a manifest clerical error or another manifest error that lends itself to simple rectification in the award.

2. If the particulars referred to in Article 50(1)(a), (b), (i) and (j) are stated incorrectly or are partially or wholly absent from the award, a party may, within three months after the date of transmission of the award, request in writing that the arbitral tribunal correct such particulars.

3. The request must be submitted to the NAI Secretariat. The NAI Secretariat will transmit a copy of the request to the arbitral tribunal and the counterparty as soon as possible.

4. Within three months after the date of the transmission of the award, the arbitral tribunal may also of its own motion proceed to the correction as referred to in paragraph 1 and paragraph 2.

5. Before the arbitral tribunal decides on the request referred to in paragraph 1 or paragraph 2, or decides of its own motion to proceed to the correction as referred to in paragraph 4, it must give the parties the opportunity to comment on the matter.

6. If the arbitral tribunal proceeds to make a correction, it will be mentioned by the arbitral tribunal in a separate document, which document is considered to be a part of the award. The document will be drawn up in at least triplicate and must contain:

- (a) the particulars stated in Article 50(1)(a) and (b);
- (b) a reference to the award to which the correction relates;
- (c) the correction;
- (d) the date of the correction, it being understood that the date of the award to which the correction relates remains decisive; and
- (e) a signature to which the provisions of Article 49 apply.

7. The responsible member of the NAI Case Management Committee ensures that the document referred to in paragraph 6 is sent to the parties as soon as possible. The provisions of Article 52 apply *mutatis mutandis*.

8. If the arbitral tribunal denies the request for the correction, it must so notify the parties by intervention of the responsible member of the NAI Case Management Committee.

### **Article 55 - Additional award**

1. Within three months after the date of transmission of the award, a party may request the arbitral tribunal to make an additional award on any claims or counterclaims that were presented to the arbitral tribunal but on which the arbitral tribunal did not decide.

2. The request must be submitted to the NAI Secretariat. The NAI Secretariat will transmit a copy of the request to the arbitral tribunal and the counterparty as soon as possible.

3. The arbitral tribunal must give the parties an opportunity to comment on the request before deciding on it.

4. An additional award constitutes an award to which the provisions of this section apply.

5. If the arbitral tribunal denies a request for an additional award, it must so notify the parties by intervention of the responsible member of the NAI Case Management Committee.

**SECTION SIX - COSTS**

**Article 56 - Costs of the arbitration and costs of legal assistance**

1. Costs of the arbitration include:
  - (a) the administration fees;
  - (b) the fees and disbursements of the arbitrator(s); and
  - (c) the other costs which, in the opinion of the arbitral tribunal, were necessarily incurred in the arbitration.
2. The costs of legal assistance do not form part of the costs of the arbitration.

**Article 57 - Administration fees**

1. Upon submission of the request for arbitration, the claimant will owe, within the time limit set by the responsible member of the NAI Case Management Committee, administration fees as determined by the responsible member of the NAI Case Management Committee in accordance with Appendix F.
2. If the respondent files a counterclaim, the respondent will also owe, within the time limit set by the responsible member of the NAI Case Management Committee, administration fees as determined by the responsible member of the NAI Case Management Committee in accordance with Appendix F.
3. With due observance of Article F1(3) and Article F2(4), the responsible member of the NAI Case Management Committee may increase the administration fees during the proceedings if it appears that the total monetary interest of the claim(s) or counterclaim(s) is higher than initially assumed when determining the administration fees as referred to in paragraph 1 and paragraph 2. In case of an increase in the administration fees, the claimant and the respondent, respectively, will owe a supplement to the administration fees according to the provisions of Article F2.



4. If after a second reminder by the responsible member of the NAI Case Management Committee, the administration fees owed by a party are not received by the NAI within fourteen days, that party is deemed to have withdrawn its claim(s) or counterclaim(s). This party is not, on account of such withdrawal, prevented from bringing the same claim(s) or counterclaim(s) again at a later date in other proceedings.

#### **Article 58 - Advance on costs, fees and disbursements of the arbitrator(s)**

1. As soon as possible after the composition of the arbitral tribunal, the arbitral tribunal will consult with the responsible member of the NAI Case Management Committee as to the amount of an advance for the fees and disbursements of the arbitrator(s) payable by the claimant or the respondent pursuant to paragraph 2, which advance will be held in deposit by the NAI upon receipt. The amount of the advance is determined by the responsible member of the NAI Case Management Committee in accordance with the provisions of Article F3.

2. The responsible member of the NAI Case Management Committee will require an advance payment from the claimant. If the respondent has filed a counterclaim, the responsible member of the NAI Case Management Committee may also require the respondent to make an advance payment. The costs as referred to in Article 56(1)(b) will be paid from this advance. The costs and disbursements of the secretary as appointed by the responsible member of the NAI Case Management Committee and of the expert, technical assistance or interpreter appointed by the arbitral tribunal are also to be paid from the advance, if and insofar as these costs were incurred by the arbitral tribunal. If the parties have agreed to deposit the award with the court registry, the advance is also to be used to pay the associated costs.

3. The responsible member of the NAI Case Management Committee may redetermine the amount of the advance in accordance with Article F3 and require the claimant and/or respondent to supplement the advance to be kept in deposit until no later than fourteen days after the last hearing or until no later than fourteen days after the arbitral tribunal's receipt of the last admissible written statement.

4. The arbitral tribunal may suspend the arbitration in respect of the claim or the counterclaim as long as the relevant party has not made the advance required. If the NAI does not receive the

advance required from a party within fourteen days after a second reminder from the responsible member of the NAI Case Management Committee, that party will be deemed to have withdrawn its claim(s) or counterclaim(s). This party is not, on account of such withdrawal, prevented from bringing the same claim(s) or counterclaim(s) again at a later date in other proceedings.

5. The responsible member of the NAI Case Management Committee notifies the arbitral tribunal and the parties of the advance held in deposit.

6. In consultation with the arbitral tribunal, the responsible member of the NAI Case Management Committee reasonably determines the fees and disbursements for (each of) the arbitrator(s) in accordance with the provisions of Article F3.

7. If an arbitrator has been released of his or her mandate prior to the last final award or the mandate of the arbitral tribunal has been terminated prior to the last final award, the responsible member of the NAI Case Management Committee may, at the request of the arbitrator in question or of the arbitral tribunal and in accordance with Article F3(7), determine a fee and disbursement allowance for (each of) the arbitrator(s). In connection with this, the responsible member of the NAI Case Management Committee may, in derogation of the provisions of paragraph 3, require the claimant and/or respondent to supplement the advance.

#### **Article 59 - Award on costs**

1. Subject to the provisions of Article 56, Article 57 and Article 58 as well as the provisions of Appendix F, the arbitral tribunal determines the costs of the arbitration.

2. The arbitral tribunal orders a party to pay the costs of the arbitration. The unsuccessful party is ordered to pay the costs of the arbitration, except in exceptional circumstances at the arbitral tribunal's discretion. If the parties are each partially unsuccessful, the arbitral tribunal may order the parties to each pay part of the costs of the arbitration.

3. The arbitral tribunal may order the unsuccessful party to pay reasonable compensation for the successful party's legal assistance, if and insofar as these costs were necessarily incurred in the arbitration in the arbitral tribunal's opinion.

4. When deciding on the division of the costs of the arbitration and the costs of legal assistance, the arbitral tribunal may take into account the manner in which parties conducted the proceedings as well as whether each of the parties promoted the speedy and efficient conduct of the proceedings. If, in the opinion of the arbitral tribunal, a party has unreasonably delayed the arbitral proceedings, the arbitral tribunal may take this into account in its decision on the division of the costs of the arbitration and the costs of legal assistance.

5. The arbitral tribunal takes the advance made under Article 58 into account when ordering a party to pay the costs. Insofar as the advance made by a party is used to pay the costs of the arbitration that the other party is ordered to pay in accordance with the previous paragraph 2, the latter party will be ordered to reimburse the former party for such amount.

6. Payment of the costs of the arbitration may also be ordered if a party did not expressly seek such payment.

## SECTION SEVEN - FINAL PROVISIONS

### **Article 60 - Timely objection**

A party that has appeared in the proceedings must file an objection with the arbitral tribunal without unreasonable delay, sending a copy to the counterparty and the NAI Secretariat, as soon as it knows or reasonably should know of any act contrary to or failure to act in accordance with any provision of these Rules, the arbitration agreement or any order, decision or measure of the arbitral tribunal. If a party fails to do so, the right to rely on this later, in the arbitral proceedings or before the courts, is forfeited.

### **Article 61 - Competent provisional relief judge**

If the place of arbitration is located in the Netherlands, the provisional relief judge of the Amsterdam District Court has jurisdiction for the circumstances as referred to in Article 1027(3) (appointment of the arbitrator(s)), Article 1028 (privileged position of a party with regard to the appointment of the arbitrator(s)) and Article 1041a (hearing an unwilling witness) of the Dutch Code of Civil Procedure.

## **Article 62 - Contingencies**

Without prejudice to the provisions of Article 25(1), in all events not provided for in the Rules, action is to be taken in accordance with the spirit of the Rules.

## **Article 63 - Processing of personal data and data protection**

1. The processing of personal data by the NAI is subject to the applicable regulations on the protection of personal data as well as to NAI's privacy notice, which can be consulted on the NAI website.

2. The NAI and the arbitral tribunal may, with due observance of the applicable provisions of mandatory law, issue instructions regarding the security of information and/or protection of (personal) data that are binding on the parties, and, in the case of instructions from the NAI, also on the arbitral tribunal.

## **Article 64 - Limitation of liability**

The NAI, its Executive Board members and employees (including the members of the NAI Case Management Committee), the members of its advisory board, the members of the Challenge Committee, the arbitrator(s), the secretary, the consolidator, any other person that may have been appointed by (one of) these persons or other persons who fulfil a role pursuant to the Rules are not liable either by contract or otherwise for any damage caused by their own or any other person's acts or omissions or caused by the use of any aids in or involving arbitration, all this except where and insofar as mandatory Dutch law precludes this exclusion of liability. To the extent that they are liable at all on the basis of the above, the NAI, its Executive Board members and employees, including the members of the NAI Case Management Committee, are not liable for payment of any amount that is not covered by the advance.

## **Article 65 - Choice of forum**

The legal relationship between the arbitrator(s) and the parties, between the arbitrator(s) and the NAI and between the NAI and the parties, as well as the legal relationship between the arbitrators, the parties or the NAI and other persons playing a role pursuant to the Rules, is governed by Dutch law. The Amsterdam District Court has jurisdiction over all disputes arising out of or in connection with the aforementioned legal relationships.

## APPENDIX A - THE NAI CASE MANAGEMENT COMMITTEE AND THE NAI SECRETARIAT

### **Article A1 - Tasks and composition**

1. The members of the NAI Case Management Committee are entrusted with the administration of arbitrations as defined in the Rules and Appendix A. The NAI Case Management Committee consists of the NAI employees designated as such by the Executive Board. The NAI Case Management Committee has at least three members.

2. The NAI Secretariat supports the members of the NAI Case Management Committee in carrying out the members of the NAI Case Management Committee's duties and powers as referred to in the Rules. The NAI Secretariat is also entrusted with receiving and transmitting documents as provided for in the Rules. The NAI Secretariat is made up of Counsel, Legal Counsel, and Case Managers.

### **Article A2 - Conduct**

1. The members of the NAI Case Management Committee distribute among themselves the required work relating to the administration of arbitrations pending under the auspices of the NAI. Members of the NAI Case Management Committee may, for purposes of absence or otherwise, assign work to each other temporarily or permanently. Parties and arbitrators will be able to ascertain which member of the NAI Case Management Committee is responsible for the administration of a specific arbitration.

2. The members of the NAI Case Management Committee may confer with one another on their work relating to the arbitrations they administer, also where this concerns matters in individual arbitrations.

3. The members of the NAI Case Management Committee are supported in their work by one or more members of the NAI Secretariat. Parties and arbitrators will be able to ascertain which member of the NAI Secretariat is supporting a member of the NAI Case Management Committee in his or her work.

**Article A3 - Decision-making by the members of the NAI Case Management Committee**

Each member of the NAI Case Management Committee has independent decision-making authority with respect to the administration of a specific arbitration for which that member is responsible in accordance with Article A2(1).

## APPENDIX B - CHALLENGE PROCEDURE

### **Article B1 - Duties of Challenge Committee, Challenge Chamber and the Challenge Committee Secretariat**

1. The Challenge Committee is the committee constituted by the Executive Board that is charged with handling challenge requests as referred to in Article 23 of the Rules and Appendix B.
2. The Challenge Chamber is the chamber constituted by the chair of the Challenge Committee to decide on the merits of a challenge pursuant to Article 23 of the Rules and Appendix B.
3. The Challenge Committee Secretariat assists the Challenge Committee and the Challenge Chamber in carrying out the powers conferred upon them.

### **Article B2 - Composition of Challenge Committee, Challenge Chamber and the Challenge Committee Secretariat**

1. The Challenge Committee consists of at least six members, including, in any event, one chair and one deputy chair.
2. Members of the Challenge Committee are appointed and removed by the Executive Board. The Executive Board appoints one chair and one deputy chair from among the members of the Challenge Committee.
3. Members of the Executive Board, the NAI advisory board and NAI employees are not eligible for appointment as a member of the Challenge Committee.
4. The deputy chair of the Challenge Committee performs the duties of the chair of the Challenge Committee when the chair is absent or unable to do so.
5. A member of the Challenge Committee is appointed for a term of up to four years and may be reappointed no more than once for a term of up to four years. The Challenge Committee establishes a schedule of retirement.
6. A member of the Challenge Committee leaves office:
  1. by his or her death;

2. by his or her bankruptcy, receivership or by becoming subject to debt restructuring;
3. upon the loss of the free disposition of his or her assets;
4. by retiring according to the schedule;
5. by written notice of resignation;
6. by his or her removal by the Executive Board; or
7. by acceptance of an appointment as a member of the Executive Board or the NAI advisory board as well as by employment with the NAI.

7. A Challenge Chamber is constituted by the chair of the Challenge Committee and consists of three members of the Challenge Committee.

8. The Challenge Committee has a secretariat as referred to in Article B1(3). The Executive Board designates persons to serve on the Challenge Committee Secretariat.

9. Members of a Challenge Chamber and the members of the Challenge Committee Secretariat receive compensation for their work as determined by the Executive Board.

### **Article B3 - Conduct of Challenge Committee and Challenge Chamber**

1. If in the event of a challenge as referred to in Article 23 of the Rules, the challenged arbitrator does not resign, the responsible member of the NAI Case Management Committee, to the extent that the challenging party, when asked by the responsible member of the NAI Case Management Committee, expressly upholds the challenge, sends the notification of the challenge as referred to in Article 23(3) of the Rules to the chair of the Challenge Committee. If the challenging party does not expressly uphold the challenge within fourteen days after being asked by the responsible member of the NAI Case Management Committee, the challenge is deemed to have been withdrawn.

2. If the challenge is maintained, the chair of the Challenge Committee will as soon as possible put together a Challenge Chamber consisting of three members of the Challenge Committee, who will decide impartially and independently whether the challenge is well-founded. The Challenge Chamber appoints one chair from among its members.

3. The Challenge Chamber is to give the challenging party, within a period of time to be determined by the Challenge



Chamber, the opportunity to further explain in writing the reasons underlying the notice of the challenge as referred to in Article 23(3) of the Rules. The challenged arbitrator, the parties and the other arbitrators of the tribunal are to be given the opportunity to respond in writing to the notice of the challenge and to the further explanation of the challenging party within a short time limit to be determined by the Challenge Chamber.

4. Before the Challenge Chamber decides on the merits of the challenge, an oral hearing is to be held at which the challenged arbitrator, parties and the other arbitrators are given an opportunity to be heard orally.

5. For the remainder, the challenge proceedings are conducted before the Challenge Chamber in the manner determined by the Challenge Chamber for the challenge in question. The Challenge Chamber must decide on the merits of the challenge as soon as possible. The Challenge Chamber decides by majority vote. The decision and its grounds are given in writing.

6. The written decision of the Challenge Chamber, stating the reasons for the decision, must be signed by the chair of the Challenge Chamber and in his or her absence by one of the other members of the Challenge Chamber, and is sent as soon as possible by the Challenge Committee Secretariat to the parties to the arbitration, the challenged arbitrator, the responsible member of the NAI Case Management Committee and, where the arbitral tribunal consists of several arbitrators, to the other arbitrators. The Challenge Chamber's decision may be published pursuant to the provisions of Article 7(3) of the Rules.

7. Without prejudice to any provision of applicable mandatory arbitration law, the Challenge Chamber may issue an oral decision during or following the oral hearing if there is such urgency that a full written elaboration of the decision cannot be awaited. The oral decision must state both the decision and the main reasons of the decision. With due observance of the provisions of paragraph 6, a full written elaboration of the oral decision will be made available to the parties as soon as possible and in any event within two weeks of the oral decision. The written elaboration must state the date of the oral decision as well as the date on which the written elaboration of that decision is set.

8. Where the Challenge Chamber finds that the challenging party has abused its right to raise a challenge, the Challenge Chamber may determine that a subsequent challenge will not be considered. This will be noted in the decision of a Challenge Chamber.

## APPENDIX C - EMERGENCY ARBITRATION

### **Article C1 - Request for arbitration**

1. Emergency arbitration, as referred to in Article 41 of the Rules, is commenced by submitting a request for emergency arbitration to the NAI Secretariat.
2. An emergency arbitration is deemed to have been commenced on the day of receipt of the request for emergency arbitration by the NAI Secretariat.
3. The request must contain the information as referred to in Article 8(2)(a), (b), (c), (d), (e), (f), (k) and (l) of the Rules, the agreed place of arbitration, the agreed language of the arbitration and a description of the grounds of the claim and of the grounds on which the urgent interest is based as required by Article 40(1)(b) of the Rules. Article 8(3) and (4) of the Rules apply *mutatis mutandis*.
4. The claimant must immediately and properly bring a copy of the request, along with any documents, to the attention of every respondent. Proof that notice has been given to every respondent must be submitted before the start of the hearing mentioned in Article C6.

### **Article C2 - Composition of the arbitral tribunal**

1. As soon as possible after receipt of the request, the responsible member of the NAI Case Management Committee directly appoints an emergency arbitrator to decide in the emergency arbitration. If the parties have by agreement specified a method of appointing the arbitral tribunal and/or a number of arbitrators, such agreement will be disregarded when appointing the emergency arbitrator as referred to in the first sentence of this paragraph, unless the parties have expressly provided for a method for appointing an arbitral tribunal in emergency arbitration.
2. Any natural person of legal capacity may be appointed as an arbitrator in emergency arbitration. No person shall be precluded from appointment as arbitrator in emergency arbitration by reason of his or her nationality. Article 13(2), (3), (4), Article 15(2)(d), (6), Article 20, Article 21, Article 22(2), Article 23, Article 24 of the Rules apply in full. In the events as referred to in Article 22(1) of the Rules, a new emergency arbitrator will be appointed in the manner provided for in paragraph 1.

3. The appointment of the arbitral tribunal in accordance with the procedure provided for in this Article C2 is to be made as soon as possible after the emergency arbitration is commenced.

### **Article C3 - Conduct of the proceedings**

1. The provisions of Article 25, Article 27, Article 28, Article 33 to Article 39 inclusive, and Article 43 of the Rules apply *mutatis mutandis* to the conduct of the proceedings in emergency arbitration.

2. If the arbitral tribunal finds that the case is insufficiently urgent or too complex to be decided in emergency arbitration, it may deny all or part of the claim for that reason while referring the parties to arbitration on the merits. If arbitral proceedings on the merits are not yet pending, they may be commenced pursuant to Article 8 of the Rules, with due observance of the provisions of Section Six of the Rules.

### **Article C4 - Contesting the jurisdiction of the arbitral tribunal**

If the respondent wishes to contest the jurisdiction of the arbitral tribunal, it must raise such a plea before submitting a defence, *i.e.* before the start of the hearing referred to in Article C6 or, if a written statement is presented prior to that hearing, in that statement at the latest. Article 12 of the Rules applies *mutatis mutandis*.

### **Article C5 - Counterclaim**

The respondent may present a counterclaim in the emergency arbitration. A counterclaim must be filed by means of a written statement to be presented to the arbitral tribunal ultimately at the hearing referred to in Article C6, with copies simultaneously being transmitted or handed to the claimant and transmitted to the NAI Secretariat.

### **Article C6 - Hearing**

The arbitral tribunal determines as soon as possible the date, time and place of the hearing as well as the manner in which the hearing in the emergency arbitration is to be conducted and immediately communicates this information to the parties. Parties may only submit written statements if the arbitral tribunal so determines, without prejudice to the provisions of Article C4 and Article C5. Article 32(2) of the Rules applies *mutatis mutandis*.

## **Article C7 - Costs**

1. The provisions of Section Six of the Rules apply to the emergency arbitration, it being understood that the administration fees must have been paid and the advance must have been deposited prior to the hearing as referred to in Article C6. Where a counterclaim is filed at the hearing, this must be effected as soon as possible after the end of that hearing.

2. The arbitral tribunal may suspend the hearing or stay its decision if any of the parties have failed to satisfy their payment obligations pursuant to paragraph 1. If, after a single reminder from the responsible member of the NAI Case Management Committee, a party fails to satisfy its payment obligation pursuant to paragraph 1 within the time limit specified by this member, it is deemed to have withdrawn its claim(s) or counterclaim(s). The party concerned is not, on account of such withdrawal, prevented from bringing the same claim(s) or counterclaim(s) again at a later date in other proceedings.

## **Article C8 - Award**

1. The arbitral tribunal will render its award within two weeks after the last hearing referred to in Article C6. In all cases, the award will be rendered expeditiously. Subject to this provision, Section Five of the Rules applies *mutatis mutandis*.

2. Without prejudice to any provision of applicable mandatory arbitration law, the arbitral tribunal may make an oral award during or following the hearing if there is such urgency that a full written elaboration of the award cannot be awaited.

3. The award referred to in paragraph 2, constitutes an award, to which the provisions of Section Five and Section Six of the Rules apply, it being understood that, in derogation of the provisions of Article 50 of the Rules, the award only needs to contain the requirements referred to in (e), (g), (h) and (i).

4. As soon as possible, but in any case within two weeks of the oral award, as referred to in paragraph 2, with due observance of the requirements set forth in Article 49(3) and Article 50(1)(a) to (i) inclusive of the Rules, a complete written elaboration of the oral award is to be made available to the parties in the manner provided for in Article 49 and Article 52 of the Rules.

5. The written elaboration must state the date of the oral award as well as the date on which the written elaboration of that award is set.

## APPENDIX D - EXPEDITED ARBITRATION

### **Article D1 - Applicability**

1. The rules on expedited arbitration as contained in the Rules and Appendix D apply when:

(a) the arbitration agreement(s) providing for arbitration by or before the NAI or in accordance with the Rules was or were entered into on or after 1 March 2024;

(b) the total amount claimed by the claimant in the request for arbitration does not exceed € 1,000,000; and

(c) the parties have not ruled out the application of the rules on expedited arbitration.

2. The parties may, even if the provisions of paragraph 1 are not met, agree in writing to apply the expedited arbitration rules set forth in the Rules and Appendix D.

### **Article D2 - Request for arbitration**

Expedited arbitration is commenced by submitting a request for arbitration to the NAI Secretariat to which Section Two of the Rules applies.

### **Article D3 - Short answer**

The NAI Secretariat will invite the Respondent to submit, within fourteen days of the transmission of the invitation to do so, the short answer to which the Section Two of the Rules applies. The NAI Secretariat's invitation will give notice that the rules in expedited arbitration will be followed. The claimant is notified that the rules on expedited arbitration will apply concurrently with the invitation referred to in Article 9(1) of the Rules.

### **Article D4 - Composition of the arbitral tribunal**

1. The arbitral tribunal will consist of one arbitrator. If the parties have by agreement specified a method of composition of the arbitral tribunal and/or a number of arbitrators, such agreement will be disregarded when appointing an arbitrator in expedited arbitration, unless one of the parties indicates in the request for arbitration or the short answer that it wishes to maintain a (previously) agreed other number of arbitrators, or where the

parties have expressly provided for the number of arbitrators and/or method for appointing an arbitral tribunal in expedited arbitration in their agreement for expedited arbitration specifically.

2. For the purpose of the composition of the arbitral tribunal in the expedited arbitration, the responsible member of the NAI Case Management Committee will transmit to each of the parties an identical list of names of three persons who are eligible for appointment as arbitrators. A party may delete from the list the names of persons against whom this party has strong objections, and may number the remaining names in its order of preference and must return this list to the responsible member of the NAI Case Management Committee within four days after transmission. A party is not required to send a copy of the list to the counterparty. If the responsible member of the NAI Case Management Committee has not received a list back from a party within four days, it is assumed that all of the persons named on the list are equally acceptable to that party.

3. With due observance of any preferences and/or objections expressed by the parties, the responsible member of the NAI Case Management Committee will invite persons named on the list to serve as arbitrators. The responsible member of the NAI Case Management Committee will then appoint an arbitrator based on the preferences and/or objections expressed by the parties.

4. If the lists returned by the parties show that there is an insufficient number of persons who are acceptable as arbitrators to each of the parties, or a person will not or cannot accept the responsible member of the NAI Case Management Committee's invitation to serve as arbitrator or proves unable to serve as arbitrator for any other reasons and an insufficient number of persons remain that are acceptable as arbitrators to each of the parties, the responsible member of the NAI Case Management Committee will proceed to directly appoint a person who was not featured on the list issued to the parties.

5. The composition of the arbitral tribunal in accordance with the procedure set forth in this Article D5 is to take place within one month after the expedited arbitration is commenced.

6. Article 13, Article 15(3), (5), (6) and (7), Article 20, Article 21, Article 22(2), Article 23 and Article 24 of the Rules apply *mutatis mutandis* to expedited arbitration. In the case referred to in Article 22(1) of the Rules, a new arbitrator will be appointed in the manner provided for in paragraph 1, paragraph 2, paragraph 3, paragraph 4 and paragraph 5.

## **Article D5 - Case management conference and determining the order of the proceedings**

Unless the parties have agreed otherwise, the arbitral tribunal is to determine, in consultation with the parties, the time, the manner and the format for a case management conference within four days after it has been composed. The case management conference is held to enable the arbitral tribunal to establish a timetable and a procedural order. The case management conference will be held in electronic format and is to take place as soon as possible, but no later than fourteen days from the date of composition of the arbitral tribunal, unless the parties have agreed otherwise. For the remainder Article 26 of the Rules applies to the extent that the nature of expedited arbitration does not preclude its application.

## **Article D6 - Procedure**

1. Unless the parties and the arbitral tribunal agree otherwise, the parties may submit one written document each: a statement of claim by the claimant and a statement of defence by the respondent. The claimant has the right to raise a defence against a counterclaim by means of a statement of defence on the counterclaim.

2. Section One, Article 11, Article 12, Article 20 to Article 25 inclusive, Article 27, Article 28, Article 33 to Article 39 inclusive, Article 40(1), Article 43, Article 44 and Article 45 and Section Seven of the Rules apply *mutatis mutandis* to the expedited arbitration.

3. Where a claim is increased pursuant to Article 33 of the Rules and this causes the total monetary interest of the claim(s) and the counterclaim(s) combined to exceed € 1,000,000, the arbitral tribunal retains its jurisdiction, except where one of the parties then insists on the other number of arbitrators originally agreed. The responsible member of the NAI Case Management Committee will then invite the parties to each nominate one or more arbitrators within a specified time limit. The arbitrator appointed pursuant to Article D4 and Article 15(3), or Article 15(2)(d), of the Rules will then be designated as the chair.

## **Article D7 - Counterclaim**

1. The respondent is entitled to present a counterclaim in the expedited arbitration. The counterclaim must be filed no later than in the statement of defence.
2. Where a counterclaim is filed and causes the total monetary interest of the claim(s) and the counterclaim(s) combined to exceed € 1,000,000, the arbitral tribunal retains its jurisdiction, except where one of the parties then insists on the other number of arbitrators originally agreed. The responsible member of the NAI Case Management Committee will then invite the parties to each nominate one or more arbitrators within a specified time limit. The arbitrator appointed pursuant to Article D4 and Article 15(3), or Article 15(2)(d), of the Rules will then be designated as the chair.
3. Where a counterclaim is increased pursuant to Article 33 and this causes the total monetary interest of the claim(s) and the counterclaim(s) combined to exceed € 1,000,000, the arbitral tribunal retains its jurisdiction, except where one of the parties then insists on the other number of arbitrators originally agreed. The responsible member of the NAI Case Management Committee will then invite the parties to each nominate one or more arbitrators within a specified time limit. The arbitrator appointed pursuant to Article D4 and Article 15(3), or Article 15(2)(d), of the Rules will then be designated as the chair.

## **Article D8 - Hearing**

1. Only one hearing will be held in the expedited arbitration as referred to in Article 32 of the Rules, unless the parties and the arbitral tribunal agree otherwise.
2. The hearing will take place in electronic form, unless the parties and the arbitral tribunal agree otherwise or the arbitral tribunal decides otherwise.

## **Article D9 - Decision on expedited arbitration**

Exceptional circumstances may merit that the parties jointly and/or the arbitral tribunal make or makes a request to the responsible member of the NAI Case Management Committee to decide that the case is not suitable to be decided in an expedited arbitration. If the responsible member of the NAI Case Management Committee decides that the case is not suitable to be decided in expedited arbitration, the case will be moved forward as an arbitration on the



merits. In that event, the arbitral tribunal retains its jurisdiction, unless one of the parties insists on the other number of arbitrators originally agreed. If required, the responsible member of the NAI Case Management Committee will then invite the parties to each nominate one or more arbitrators within a specified time limit. The arbitrator appointed pursuant to Article D4 and Article 15(3), or Article 15(2)(d), of the Rules will then be designated as the chair.

#### **Article D10 - Costs**

1. The provisions of the Section Six of the Rules apply to an expedited arbitration, it being understood that the administration fees must be paid and the advance must be deposited prior to the case management conference as referred to in Article D5.

2. The arbitral tribunal may suspend the hearing or stay its decision if any of the parties have failed to satisfy their obligations pursuant to paragraph 1. If, after a single reminder from the responsible member of the NAI Case Management Committee, a party fails to satisfy its payment obligation pursuant to paragraph 1 within the time limit specified by this member, it is deemed to have withdrawn its claim(s) or counterclaim(s). This party is not, on account of such withdrawal, prevented from bringing the same claim(s) or counterclaim(s) again at a later date in other proceedings.

#### **Article D11 - Award**

1. The arbitral tribunal must issue its award within five months after the case management conference. In all cases, the award will be made expeditiously.

2. Section Five and Article 7(3) of the Rules apply *mutatis mutandis* to expedited arbitration.

## APPENDIX E - CONSOLIDATION OF ARBITRAL PROCEEDINGS

### **Article E1 - Request for consolidation**

A request for consolidation as referred to in Article 44 of the Rules must be submitted in writing to the NAI Secretariat. The NAI Secretariat will transmit a copy of the request to all parties and, if appointed, the arbitrators. Each of the pending arbitral proceedings may be suspended by the arbitral tribunal from the day of receipt of the request.

### **Article E2 - Designation of consolidator**

1. The consolidator is designated as follows. The responsible member of the NAI Case Management Committee invites the parties to jointly nominate a consolidator within fourteen days, which nomination shall be followed by a designation by the responsible member of the NAI Case Management Committee. If the parties have not nominated a consolidator within this time limit, the responsible member of the NAI Case Management Committee will directly designate a consolidator.

2. Unless all parties have agreed otherwise, none of the arbitrators appointed in the arbitral proceedings of which the consolidation is being requested may be designated as a consolidator.

3. Article 13, Article 15(5), (6) and Article 20 to Article 24 inclusive of the Rules apply *mutatis mutandis* to the nomination by the parties or direct designation by the responsible member of the NAI Case Management Committee of the consolidator.

### **Article E3 - Requirements**

Consolidation may be ordered insofar as:

- (a) it does not cause unreasonable delay in the pending proceedings, also in view of the stage they have reached; and
- (b) the arbitral proceedings are so closely connected that the good administration of justice renders it expedient to hear and determine them together to avoid the risk of irreconcilable decisions resulting from separate proceedings.

## **Article E4 - Decision**

The consolidator may grant or refuse the request, after having given all parties and, if appointed, the arbitrators an opportunity to make their opinions known. The decision is communicated by the responsible member of the NAI Case Management Committee to all parties and the arbitral tribunals concerned.

## **Article E5 - Arbitral tribunal after consolidation**

1. If the consolidator orders that the proceedings are to be consolidated, the parties will in mutual consultation nominate the prospective arbitrator(s) for the consolidated proceedings, which nomination is followed by appointment by the responsible member of the NAI Council pursuant to Article 15(3) of the Rules. If the parties have not reached an agreement on the nomination of the arbitral tribunal within the time limit set by the responsible member of the NAI Case Management Committee, the consolidator will nominate the prospective arbitrator(s) for the consolidated arbitration, which nomination pursuant to Article 15(3) will be followed by appointment as arbitrator(s) by the responsible member of the NAI Case Management Committee. Article 13, Article 14 and Article 15 of the Rules apply *mutatis mutandis* to this appointment. The Rules continue to apply in full to the consolidated arbitral proceedings.

2. The appointment of the arbitrator(s) in the consolidated proceedings causes the mandate of the arbitrator(s) who are not reappointed in the consolidated proceedings to terminate. The consolidator, in consultation with the responsible member of the NAI Case Management Committee, will, if necessary and with due observance of the provisions of Article 58 of the Rules, determine the remuneration for the work performed by such arbitrator(s).

## APPENDIX F - COSTS OF THE ARBITRATION

### **Article F1 - The monetary interest of the claims**

1. Based on the information in the request for arbitration and/or the short answer, the responsible member of the NAI Case Management Committee makes a preliminary estimate of the monetary interest of the claim(s) and any counterclaim(s), including any contingent claims or counterclaims, in order to determine the administration fees and the amount of the advance. This preliminary estimate will also include an estimation of the monetary interest of claims of undetermined value.

2. If the information on the monetary interest of the claims or counterclaims is lacking in the request for arbitration and/or in the short answer or if, in the opinion of the responsible member of the NAI Case Management Committee, the estimate made by a party is manifestly too low, the responsible member of the NAI Case Management Committee has the discretion to determine the monetary interest of the claims and/or counterclaims.

3. If during the course of the proceedings it is shown that the total monetary interest of the claims or counterclaims is higher than initially assumed, the responsible member of the NAI Case Management Committee may redetermine the monetary interest.

## Article F2 - Administration fees

1. The administration fees are calculated based on the monetary interest of the claims or counterclaims and Table A below, as adopted by the Executive Board.

Table A - Administration fees excluding VAT\*

up to			€	25,000.-	:	€	660.-
from	€	25,000.-	to	€	50,000.-	:	0.60%
from	€	50,000.-	to	€	75,000.-	:	0.96%
from	€	75,000.-	to	€	100,000.-	:	0.85%
from	€	100,000.-	to	€	150,000.-	:	0.45%
from	€	150,000.-	to	€	200,000.-	:	0.025%
from	€	200,000.-	to	€	500,000.-	:	0.167%
from	€	500,000.-	to	€	1,000,000.-	:	2.40%
from	€	1,000,000.-	to	€	2,000,000.-	:	0.50%
from	€	2,000,000.-	to	€	5,000,000.-	:	0.167%
from	€	5,000,000.-	to	€	10,000,000.-	:	0.13%
from	€	10,000,000.-	to	€	20,000,000.-	:	0.085%
from	€	20,000,000.-	to	€	30,000,000.-	:	0.04%
from	€	30,000,000.-	to	€	40,000,000.-	:	0.07%
from	€	40,000,000.-	to	€	50,000,000.-	:	0.065%
from	€	50,000,000.-	to	€	75,000,000.-	:	0.034%
from	€	75,000,000.-	to	€	100,000,000.-	:	0.01%
from	€	100,000,000.-	to	€	250,000,000.-	:	0.005%
from	€	250,000,000.-					€ 75,000

2. Upon receipt of the request for arbitration, the responsible member of the NAI Case Management Committee will determine the administration fees as soon as possible and send the claimant an invoice for these fees.

3. If the respondent files a counterclaim it will owe administration fees. The responsible member of the NAI Case Management Committee will determine the administration fees as soon as possible and will invoice the respondent for these fees.

4. The responsible member of the NAI Case Management Committee may increase the administration fees referred to in Article 57(3) of the Rules in the event of an increase of a claim or counterclaim, in the event of new claims or counterclaims or in the event of an adjustment of the monetary interest in accordance with Article F1(3). The responsible member of the NAI Case Management Committee will then redetermine the administration fees and send an additional invoice.

5. The administration fees will remain payable and will not be refunded if a request for arbitration is withdrawn or if one or more claim(s) or counterclaim(s) are withdrawn or if the total monetary interest of the claim(s) and counterclaim(s) is reduced.

**Article F3 - The arbitrator(s) fees, disbursements and the advance**

1. The hourly rate of the arbitrators is determined based on the total monetary interest of the claim(s) and counterclaim(s) in accordance with Table B below, as adopted by the Executive Board.

*Table B - Hourly arbitrator rates excluding VAT\**

Total monetary interest (€)	Hourly rate of arbitrator (€)	
	Expedited/on the merits	Emergency arbitration
0 - 50,000	175	225
50,001 - 100,000	200	250
100,001 - 200,000	225	275
200,001 - 500,000	225	275
500,001 - 1,000,000	300	350
1,000,001 - 2,000,000	325	375
2,000,001 - 5,000,000	375	425
5,000,001 - 10,000,000	400	450
10,000,001 - 20,000,000	425	475
20,000,001 - 30,000,000	475	525
30,000,001 - 40,000,000	525	575
40,000,001 - 50,000,000	550	575
50,000,001 - 75,000,000	550	575
75,000,001 - 100,000,000	550	575
100,000,001 - 250,000,000	550	575
250,000,001 - 500,000,000	550	575
more than 500,000,000	550	575

2. The amount of the advance is determined by the responsible member of the NAI Case Management Committee based on the total monetary interest of the claim(s) and counterclaim(s), the applicable hourly rates and the expected work and disbursements of the arbitral tribunal.

3. In making the determination as referred to in paragraph 2, the responsible member of the NAI Case Management Committee uses Table C below as adopted by the Executive Board. The responsible member of the NAI Case Management Committee may deviate from the standard advances listed below where this is merited by the complexity of the proceedings.

*Table C - Benchmarks for advances including any VAT\**

Total monetary interest (€)	Benchmark for 1 arbitrator (€)	Benchmark for 3 arbitrators (€)
0 - 50,000	8,750	22,000
50,001 - 100,000	11,500	25,000
100,001 - 200,000	13,500	28,000
200,001 - 500,000	14,500	33,750
500,001 - 1,000,000	20,000	50,000
1,000,001 - 2,000,000	23,000	58,500
2,000,001 - 5,000,000	30,000	75,000
5,000,001 - 10,000,000	43,000	98,500
10,000,001 - 30,000,000	48,000	120,000
30,000,001 - 50,000,000	62,000	153,000
50,000,001 - 100,000,000	67,000	168,000
100,000,001 - 250,000,000	70,500	173,000
250,000,001 - 500,000,000	79,000	185,500
more than 500,000,000	90,000	225,000

4. For the hourly rates of secretaries appointed by the responsible member of the NAI Case Management Committee, the responsible member of the NAI Case Management Committee uses Table D below as adopted by the Executive Board.

*Table D - Hourly rates secretary excluding VAT\**

Total monetary interest (€)	Hourly rate of secretary (€)
0 - 50,000	100
50,001 - 100,000	100
100,001 - 200,000	100
200,001 - 500,000	100
500,001 - 1,000,000	150
1,000,001 - 2,000,000	150
2,000,001 - 5,000,000	150
5,000,001 - 10,000,000	175
10,000,001 - 20,000,000	175
20,000,001 - 30,000,000	175
30,000,001 - 40,000,000	175
40,000,001 - 50,000,000	190
50,000,001 - 75,000,000	190
75,000,001 - 100,000,000	225
100,000,001 - 250,000,000	225
250,000,001 - 500,000,000	225
more than 500,000,000	300

5. The NAI has no obligation to pay any costs that are not covered by an advance kept in deposit. The costs of the secretary appointed by the responsible member of the NAI Case Management Committee, the expert, technical assistance or interpreter appointed by the arbitral tribunal, as referred to in Article 58(2) of the Rules, are paid from the advance with priority.

6. No interest is paid on the amount of the advance placed in deposit. Any negative interest may be charged to the advance by the NAI.

7. If an arbitrator has been released from his or her mandate based on Article 21(1), (2), (3) and (4), Article 23(6) of the Rules or Article E5(2) prior to the last final award, or if the mandate of the arbitral tribunal has been terminated prior to the last final award, with the exception of cases as referred to in Article 21(5) of the Rules, the responsible member of the NAI Case Management Committee has discretionary authority to determine, at the request



of the arbitrator(s) concerned, an amount to be paid by parties in compensation for the fees and disbursements of the arbitrator(s).

8. The fees set, or to be set, by the responsible member of the NAI Case Management Committee will remain payable upon the withdrawal of an arbitration application or claim(s) or counterclaim(s) or a reduction in the total monetary interest of the claim(s) or counterclaim(s).

\* The Executive Board may amend the Rules, including the tables in this Appendix. The most recent version of the Rules can be accessed at [www.nai.nl](http://www.nai.nl).













