



***EBA Mediation and Arbitration Center***

***Arbitration Rules***

***(November 26, 2019)***

Tbilisi, 2019

## **Section I – General Provisions**

Article 1. Definitions

Article 2. Operating principles of EBA Mediation and Arbitration Center

Article 3. Equality, Disposition and Adversarial principles

Article 4. Arbitration Rules in time

Article 5. The analogy of the Law and Justice

Article 6. Seat of arbitration

Article 7. Time Limits

Article 8. Confidentiality

Article 9. Written and Oral forms of arbitral proceedings

## **Section II – Appointment, Challenge, and Resignation of Arbitrators**

Article 10. Selection of arbitrators

Article 11. Numbers of arbitrators and the rule of appointment

Article 12. Chairman of EBA Mediation and Arbitration Center

Article 13. List of arbitrators

Article 14. Recognition arbitrators' authority

Article 15. Challenge of Arbitrators

Article. 16. Resignation of Arbitrators

## **Section III Notice and Summons**

Article 17. Notifications of parties and representatives

Article 18. Results of the failure to serve

Article 19. Content of arbitral summon

Article 20. Sending arbitral summon

Article 21. Notification in the absence of the addressee

Article 22. Refusal to accept arbitral summon

Article 23. Change of address during the arbitral proceedings

Article 24. Delivery of arbitral summons to the joined parties

Article 25. Delivery of arbitral summons using technical means

Article 26. Public Notice

#### **Section IV Arbitration Proceedings**

Article 27. Commencing the arbitration proceedings. Request for arbitration.

Article 28. Interim measures

Article 29. Answer to the request for arbitration

Article 30. Competence of competence

Article 31. Certain issues of oral hearings

Article 32. Evidence, estimation and exploration of evidence

Article 33. Oral hearings

#### **Section V. Mediation in arbitration proceedings**

Article 34. The essence of mediation in arbitration proceedings

Article 35. Procedure and time limits of Mediation in arbitration

#### **Section VI. Documents only arbitration**

Article 36. Documents only arbitration proceedings

#### **Section VII. Arbitral Award**

Article 37. The rule of making the award

Article 38. Allocation of the costs between the parties

Article 39. Correction and interpretation of the Award

Article 40. Enforceability of the Award

#### **Section VIII. Termination of the proceedings without making an award**

Article 41. The grounds for termination of the proceedings without making an award

Article 42. The refusal of Arbitration Center to commence arbitration proceedings

Article 43. Termination of the proceedings

Article 44. Dismissing the arbitral request without consideration

Article 45. Withdrawal of the arbitral claim

**Section IX. Final Provisions**

Article 46. Entry into force of Rules

Article 47. Ethics

Article 48. Costs

Article 49. The results of the setting aside an award and the refusal of recognition and enforcement

Article 50. Electronic case management system of arbitration center (ODR)

## Section I General Provisions

### **Article 1. Definitions**

*If the law does not provide otherwise used terms shall have the following meanings:*

**Arbitration Center** – EBA Mediation and Arbitration Center

**Arbitration Agreement (clause)** – Written agreement based on which Arbitration Center is authorized to consider the dispute and render a final award.

**The Subject of Arbitration Proceedings** – any dispute between the parties, which shall be resolved by the Arbitration Center and according to law it is not prohibited to be resolved by arbitration and does not contradict morality and public order.

**Rules** – the Rules drafted according to the Law of Georgia on Arbitration and effective legislation of Georgia and approved by the shareholder resolution of EBA Mediation and Arbitration Center and used by Arbitration Center during the arbitration proceedings.

**Arbitral Proceedings** – Arbitration proceedings organized according to the Law of Georgia on Arbitration, effective legislation of Georgia and the rules, aiming to resolve the dispute between the parties.

**Chairman of Arbitration Center** – Authorized person to manage and represent Arbitration Center according to the power granted by the law, charter of the Arbitration Center, arbitration agreement and the Rules.

**Arbitrator** – Neutral person, who is authorized by the law, arbitration agreement and the Rules to resolve the dispute between the parties.

**Arbitral Tribunal** – three or more arbitrators.

**Arbitration** – the chairman of arbitration center, sole arbitrator or arbitral tribunal.

**Chairman of Arbitral Tribunal** – Arbitrator appointed as a chairman of arbitral tribunal according to arbitration agreement and the Rules.

**Party** - Person involved in the arbitration agreement or/and his Representative.

**Arbitral Claim** – the claim as defined by the law of Georgia on Arbitration and filed to Arbitration Center according to which claimant requests imposition of certain action or refraining from such action over the respondent in favor of claimant.

**Claimant**- Requesting party.

**Respondent** - The party against whom the Arbitral Claim was filed.

**Costs of Arbitration** - Fees to be paid by the claimant for resolving the dispute and rendering a final award

## **Article 2. Operating Principles of Arbitration Center**

2.1. Arbitration Center operates under the Constitution of Georgia, effective legislation of Georgia and International treaties ratified by Georgia.

2.2. If Arbitration Clause is a part of contract between the parties and Arbitral Tribunal decides that the contract is annulled, annulment of the contract does not result in invalidity of the Arbitration Clause.

2.3. If criminal proceedings commence on the issues which are subject matter of the Arbitral Proceedings or which may have effect on Arbitral Proceedings, based on court ruling arbitration shall not be considered valid. If Arbitral Proceedings are not finished, taking into consideration circumstances of case and agreement between the Arbitrators, the Chairman of the Arbitration Center is authorized to refuse to hold the Arbitral Proceedings.

2.4. Arbitration operates under the law, arbitration agreement and the Rules. Any intervention in arbitration activities is prohibited, except in cases provided by the law.

2.5. Existence of arbitration agreement between the parties based on which Arbitration Center has an authorization to resolve a dispute, excludes authorization of state or non-state bodies to resolve the dispute between the parties.

2.6. A court is not authorized to commence proceedings on the matter, which is subject to the arbitration agreement unless it finds that the agreement is void, invalid or incapable of being performed.

2.7. A claim before the court requesting annulment of arbitration agreement shall not terminate Arbitral Proceedings or enforcement of an award, unless otherwise is provided by the law or court ruling.

2.8. If any provision of the Rules, which may be derogated by the parties or any requirement of arbitration agreement is not fulfilled and the party still continues participation in Arbitral Proceedings and does not object such breach or derogation, it shall be deemed that party waived right to object.

2.9. Arbitration agreement based on which Arbitration Center has an authorization to resolve a dispute includes an agreement on the Rules.

2.10. Parties are authorized to derogate from the Rules and agree on different rules, which are obligatory for Arbitration Center, if the law allows it.

## **Article 3. Equality, Disposition and Adversarial principles**

3.1. Arbitral proceedings commence by the initiative of the party or parties filing a claim.

3.2. Filing a claim is allowed only in case there is arbitration agreement.

3.3. Arbitration agreement shall explicitly stipulate that the Arbitration Center has an authorization to resolve the dispute arising from certain legal relationship.

3.4. Arbitration agreement according to which all disputes between the parties shall be resolved by Arbitration Center is void.

3.5. If the party filed a claim and there is no arbitration agreement, Chairman has a right but not an obligation to send respondent draft of arbitration agreement and offer to resolve the dispute at Arbitration Center. If respondent accepts the offer and signs arbitration agreement, Arbitration Center shall have an authority to resolve the dispute.

3.6. If claims of the parties are beyond the arbitration agreement, arbitration has a right to offer them to conclude additional arbitration agreement.

3.7. If parties fail to enter into additional arbitration agreement as defined under the Article 3.6, Arbitration Center is authorized to resolve the dispute only in the scope originally defined by the parties, Arbitration Center shall explain the parties the scope of Arbitral Proceedings. Such an explanation shall be included in the arbitral protocol.

3.8. Parties itself define subject matter of the dispute by arbitration agreement and itself take decision to file a claim.

3.9. Parties may settle their disputes during arbitration proceedings. A claimant may withdraw a claim and respondent may acknowledge a claim.

3.10. Arbitral proceedings shall be conducted based on adversarial principles. Parties shall enjoy equal rights and opportunities to substantiate their claims, reject or extinguish claims, opinions or evidence presented by the other party. Parties shall determine on their own on which facts their claims must be based, or which evidence must be used to verify those facts.

3.11. To establish details of a case, on its own initiative Arbitration Center may take actions under the law, arbitration agreement and the Rules, if such actions are not directly prohibited by the law.

#### **Article 4. Arbitration rules in time**

4.1. During the Arbitral Proceedings the Rules shall be used which is in force for the moment of conducting certain actions.

4.2. Arbitration Center has an obligation to send the parties the Rules, which is in force for the moment of commencement of Arbitral Proceedings or conducting the certain actions.

#### **Article 5. Analogy of law and justice**

5.1. During the arbitration proceedings and resolving the dispute Arbitration uses Constitution of Georgia, effective legislation of Georgia and International treaties ratified by Georgia.

5.2. If there is no law that can regulate a dispute relationship, Arbitration shall apply the law that regulates similar relationships (analogy of law), and if no such law is available either, then the arbitration shall apply general principles of the legislation of Georgia (analogy of justice).

5.3. If there is no provision in rules that can regulate certain relationship arising during arbitration proceedings, arbitration shall apply the provision that regulates similar relationship, and if no such provision is available either arbitration shall apply general principles of international arbitration.

#### **Article 6. Seat of Arbitration**

6.1. Unless otherwise agreed by the parties, seat of arbitration is factual location of. A model arbitration agreement offered by the arbitration includes an address of factual location of Arbitration Center.

6.2. Unless otherwise agreed to by the parties, the arbitral tribunal may convene meeting at any place for consultation among arbitrators, for hearing witnesses, experts or the parties, or for inspection of evidences or any other actions, which will be helpful to resolve dispute timely and fairly.

## **Article 7. Time Limits**

7.1. Unless otherwise agreed to by the parties, a term provided for in this Rules, that is to be calculated in days, begins from the day following the day of the occurrence of the event, which is determined as its commencement.

7.2. If the last day of a term falls on a holiday or a non-business day, the following business day is deemed to be the end of the term.

## **Article 8. Confidentiality**

8.1. Unless otherwise agreed to by the parties, hearing and all documentation related to Arbitral Proceedings is confidential. Arbitrators and any person participating in the Arbitral proceedings must keep confidential information disclosed to them during the Arbitral Proceedings.

8.2. If there is a written permission of parties, Chairman of Arbitration Center is entitled to allow third party to review documentation related to Arbitral Proceedings only for research and teaching purposes.

8.3. Third party who is allowed to review documentation related to Arbitral Proceedings signs a declaration and undertakes not to disclose content of the documentation. The information obtained from the Arbitral Proceedings shall be used in such manner that identification of dispute and parties shall be impossible.

## **Article 9. The form of arbitration proceedings**

9.1. Unless otherwise agreed by the parties, arbitration holds oral hearings.

9.2. Parties may agree that Arbitration Center resolves dispute without oral hearings only based on written positions and the evidence.

9.3. Party may offer another party through Arbitration to resolve dispute without oral hearings. Arbitration is authorized to resolve dispute without oral hearings if another party submits written consent.

## **Section II – Appointment, Challenge, and Resignation of Arbitrators**

### **Article 10. Selection of Arbitrators**

10.1. According to the Rules arbitrator shall be natural person meeting the requirements agreed by the parties.

10.2. A person shall not be appointed as an arbitrator, if he/She:

- a) Has limited legal capacity or is a beneficiary of support;
- b) Is a state political official or a public servant;
- c) Has been convicted of committing an intentional crime;
- d) Is a relative of party or party's representative;

e) Has not profession, education and experience agreed by the parties.

f) There are certain circumstance and evidence causing a reasonable assumption that a person will be influenced by one of the parties.

### **Article 11. Number of Arbitrators and the Rule of Appointment**

11.1 Unless otherwise agreed by the parties, a dispute will be resolved by a sole arbitrator appointed by the Chairman. Any agreement is void based on which one of the parties has a privilege to appoint arbitrator.

11.2 Due to the complexity of the dispute and other circumstances the Chairman of the Arbitration Center is entitled to appoint three arbitrators to resolve a dispute.

11.3 According to the order based on which dispute shall be resolved by three arbitrators the Chairman of Arbitration Center explains to parties that each party has a right to nominate one arbitrator within a period of 10 days from the receipt of the notification of the order of arbitrator. If party-appointed arbitrators do not nominate chairman of Arbitral Tribunal within a period of 5 days, the chairman of Arbitral Tribunal shall be appointed by the Chairman of Arbitration Center.

11.4 If Arbitral Tribunal is not composed according to article 11.3 of Rules all three arbitrators shall be appointed by the Chairman of the Arbitration Center.

11.5 If party agreed to resolve the dispute by three arbitrators but they have not determined the rules and terms of composition of arbitral tribunal, the arbitral tribunal shall be composed according to this article.

11.6 Party may transfer a right to nominate an arbitrator to the other person. Notary shall approve such transfer of a right.

11.7. If multiple claimants or multiple respondents nominate more than one arbitrator, Arbitration Center explains that claimants, jointly, and the multiple respondents, jointly, shall nominate one arbitrator within a period of 10 days.

11.8 If parties do not nominate one arbitrator according to article 11.7 within 10 days, Chairman of Arbitration Center shall appoint all three arbitrators.

### **Article 12. Chairman of the Arbitration Center**

12.1. The authority of the Chairman of the Arbitration Center is determined by these rules.

12.2. The special authority of the Chairman of the Arbitration Center is to appoint an arbitrator, is the parties fail to agree on appointment of arbitrator.

### **Article 13. List of Arbitrators**

13.1. The Arbitration Center published the list of the arbitrators;

13.2. During a selecting process of the arbitrator's candidate the parties are able to use the list of the arbitrators;

13.3. The list of the arbitrators does not limit the parties' right to choose other candidate who is not in the list of the arbitrators. However, the other person should satisfy the conditions which are stipulated by effective law, rules and arbitration agreement.

#### **Article 14. Recognition of Arbitrators' Authority.**

14.1. The person appointed as an arbitrator by a party or Arbitration Center gives consent in writing. Together with accepting appointment in writing that person signs a declaration under which he/she states that he/she is not in contractual, professional, business, family and other relationships with the parties likely to give rise to justifiable doubts as to his or her impartiality or independence. The person to be appointed as an arbitrator must prove that he/she has not already presented his/her opinion regarding the prospective of dispute resolution.

14.2. The Arbitration Center is obliged to send to the party arbitrator's statement and declaration together with the decision stipulated under Article 11.3.

14.3. The party which applies to the Arbitration Center with arbitrator appointment statement together with this statement must submit to the Arbitration Center accepting appointment in writing signed by the arbitrator, declaration of impartiality or independence in timeframe stipulated by Article 11.3. Arbitrator appointment statement must consist of arbitrator's Name, last name, ID number, telephone/mobile number, profession and address of the actual place of residence or any other address where it is possible to connect to the arbiter.

14.4. Arbitrator is entitled to hear the case only after the approval of his/her authority by the Arbitration Center. Arbitration Center must give explanation to the parties regarding the approval of refusal of arbitrator's authority. Arbitrator's authority is deemed to be approved if Arbitration Center does not render decision regarding refusal.

14.5. Arbitration Center is not able to approve arbitrator's authority before submitting by the party accepting appointment in writing signed by the arbitrator and declaration of impartiality or independence. However, Arbitration Center is entitled to make refusal at the moment of nominating arbitrator's candidate made by the party.

14.6. While sending the parties declaration under Article 11.3 arbitration center is obliged to define the parties their obligation regarding nominating arbitrator's candidate, approval of authority, submission acceptance of appointment in writing signed by the arbitrator and declaration of impartiality or independence. The party must be informed in writing that non-performance of obligations stipulated under Article 11.3 will be considered as a delay of the hearing of the case and as a refusal of appointing an arbitrator.

14.7. If arbitrator appointed by the party or arbitration center who has already submitted acceptance of appointment and declaration of impartiality or independence and even once fails to appear on hearing without providing valid reasons a chairman of arbitration center will define to the parties that a delay of the hearing of the case and a gross violation of obligations are present and due to failure of appearance he/she is dismissed. On the same day of dismissal a chairman of arbitration center appoints a new arbitration and imposes an obligation to hear the case to a new arbitral tribunal.

#### **Article 15. Challenge of arbitrator**

15.1. If there is any ground which is stipulated by Art., 10 of this arbitration rule or if there are circumstances that may cause reasonable doubt about his/her impartiality or independence, also if an arbitrator does not qualify under

the qualifications or does not know the arbitration language a party to the arbitration has the right to challenge the arbitrator.

15.2. A party may challenge an arbitrator appointed by him/her only for reasons that become known for him/her after the appointment of the arbitrator;

15.3. The person who offered the appointment of an arbitrator is obliged to deny to sign the declaration and provide an information the parties and arbitration center about any circumstances that make his/her impartiality and independence doubtful.

15.4. Within fifteen days after the day that the appointment of the arbitrator or one of the grounds for challenge provided for by the “Law of Georgia on Arbitration” became known to him/her, a party who intends to challenge an arbitrator is obliged to submit a written statement of challenge of the arbitrator to the arbitral tribunal. A written statement of challenge of an arbitrator must indicate the grounds and motives for challenging the arbitrator. If the challenged arbitrator, whose challenge is pending, within thirty days after submission of a written statement of challenge, does not announce his/her withdrawal from the position, or if the other party does not agree to the challenge, within 30 days after expiration of the initial 30-day term, the arbitral tribunal shall decide the issue of challenge to the arbitrator. If the arbitral tribunal denies the challenge to the arbitrator, within thirty days after the notice of the decision rejecting the challenge was served on him/her, the challenging party may file a claim challenging the arbitrator in a court.

15.5. In an arbitration with a sole arbitrator, within thirty days after the appointment of the arbitrator, or after one of the circumstances provided for by this law that is a ground for the challenge to an arbitrator becomes known to him/her, the party is entitled to file a claim challenging the arbitrator in a court.

15.6. If the tribunal hears the case and challenge is declared against one of the arbitrators, who does not refuse his/her authority or the other party does not agree with the challenge the remaining arbitrators shall decide the matter of challenge;

15.7. If the challenge is declared against the chairman of the arbitration center who only reviews a case he/she decides the matter of challenge;

15.8. If the challenge is declared against an arbitrator who is not the chairman of the arbitration center but reviews a case solely the matter of challenge decides the chairman of the arbitration center.

## **Article 16. Resignation of arbitrators**

16.1. If an arbitrator is unable to fulfill his/her obligations he/she may be resign under his/her request or under a party’s request by the arbitration center or by the parties’ agreement;

16.2. Arbitration center renders decision regarding arbitrator’s resignation upon his/her request only in case if the valid reasons are present.

16.3. A party is not entitled to unilaterally replace the arbitrator appointed by him/her.

16.4. If the arbitrator becomes unable to perform his/her obligations or becomes inactive because of any other reasons, his/her authority terminates based on his/her request to withdraw from the position or based on the parties’ agreement on termination of authority. In the cases, where the parties cannot reach an agreement, within 30 days after submission of a request to terminate the authority of an arbitrator, one party may file a claim in court seeking termination

of the authority of the arbitrator. On these matters, a court shall render its judgment within fourteen days after the submission of an application. This judgment shall be final and without appeal.

16.5. If, an arbitrator withdraws from the position or if a party agrees to the termination of the authority of an arbitrator, this does not imply the existence of any ground provided for by paragraph 2 of this article, or the existence and acceptance of the grounds for challenge provided for by this law.

16.6. In the case when authority of an arbitrator terminates, a substitute arbitrator shall be appointed in compliance with the rules applicable to the appointment of the previous arbitrator.

### **Section III. Notice and summons**

#### **Article 17. Notifications of parties and representatives**

17.1. A party or its representative shall be notified by an arbitral summon of the date and location of a hearing or of the performance of individual procedural actions. The summons shall be deemed served on a party or its representative if it has been served on either of them or on the entities under Article 21.1 of these Rules. The representative shall be obliged to notify the party of receipt of the summons. Summons are also used for summoning witnesses, experts, specialists and interpreters to arbitration center.

17.2. Summons shall be served on the parties or their representatives in such a way as to give them reasonable time to prepare the case and to appear in arbitration center on time.

17.3. The parties, their representatives, as well as witnesses, experts, specialists and interpreters may be summoned by phone, fax, and other technical means of communication. When using technical means of communication for summons, details specified in Article 19.1 of these Rules shall be indicated, a certificate of service shall also be drawn up and enclosed with the case file. An appropriate arbitration center officer shall draw up the certificate of service.

#### **Article 18. Results of the failure to serve**

18.1. Summons shall be served on the addressee based on the principal address (factual location), alternative address, workplace, other address known to the arbitration center.

18.2. If summons could not be served on the plaintiff at the address indicated, although provisions of Article 20.2 of these Rules have been complied with, the summons shall be deemed served. This rule shall apply to a defendant if summons are sent to the address indicated in his/her reply (response).

18.3. If the address of the defendant indicated by the plaintiff is correct, but summons could not be served on the defendant under Article 20.2 of these Rules, the arbitration center shall act in compliance with the provisions of Article 26 of these Rules.

#### **Article 19. Content of the Arbitral Summon**

19.1. Arbitral summons shall contain:

a) Full name and exact address of the arbitration center;

b) Reference to the time and place of appearance; if the summons is sent to a representative, also a reference to the obligation of the representative to notify the party which he/she represents;

c) Title of the case with respect to which the person is summoned, and reference to the subject matter of dispute;

d) Identity of the person to be summoned to the arbitration center, also the status under which he/she is summoned;

e) Proposal to the parties to provide all the evidence available to them;

f) Reference to the obligation of the person who accepts the summons in the absence of the addressee, to hand over the summons to the addressee as soon as possible;

g) Reference to the consequences of the failure to appear and to the obligation to notify the arbitration center about the reasons for the failure to appear.

19.2. Together with the summons, the arbitration center shall send to the defendant the arbitration claim form and copies of the supporting documents. Together with the summons, the arbitration center shall send to the claimant copy of the defendant's written statement, if such statement has been received in arbitration center by the time of sending the summons. Copies of all written documents submitted to the arbitration center may be sent to the parties before or after sending the summons.

## **Article 20. Sending Arbitral Summons**

20.1 Summons shall be sent using technical means specified in Article 17.3 of these Rules by mail or a courier. The arbitration center shall determine the method of notification and the address where summons are to be sent and the arbitration center may send summons in any order. The arbitration center may also serve summons on a person in a court building.

20.2. If summons could not be served on the addressee at the time when they were first sent, the summons shall be sent again to the person at least once to the same address or to a different address known to the arbitration center.

20.3. Service of summons by technical means shall be confirmed:

a) When using a telephone - by a certificate of service by technical means;

b) When using an email or fax - by the confirmation received by the respective technical means and/or by a certificate of service by technical means.

20.4. When a person is summoned by a telegram, service of summons shall be confirmed by a notice confirming receipt of the telegram.

20.5. The time of service of summons on the addressee shall be marked on the second copy of the summons, which shall be returned to the arbitration center. When using technical means, the time of service of summons shall be marked in the certificate stipulated by Article 20.3 of these Rules.

20.6. In order to deliver summons in a timely manner, the party may ensure the delivery of the summons through a courier at his/her own expense, based on a written application to the arbitration center. A person mandated by the

arbitration center to deliver the summons, shall be obliged to return to the arbitration center the second copy of the summons signed by the addressee.

20.7. Summons sent to a citizen by mail or a courier shall be delivered in person. Summons sent to a citizen's workplace, also to a legal entity, shall be delivered to its secretariat or equivalent structural unit or person, or in its absence – to duly authorized person of the entity who will deliver the summons to the addressee. Delivery of summons under this paragraph shall be confirmed by the signature of the addressee on the second copy of the summons.

#### **Article 21. Notification in the absence of the addressee**

21.1. If a person delivering the summons failed to meet the addressee of the summons at the address indicated by the party, he/she shall hand over the summons to any adult family member living with the addressee, and if the summons is delivered according to the workplace to the administration of the workplace, under Article 20.7 of this arbitration rule except when they participate in the hearing as opposite parties. On the second copy of the summons the recipient of the summons shall be obliged to put his/her name and surname, relation to the addressee, and the position held. The recipient of the summons shall also be obliged to immediately deliver the summons to the addressee. Delivery of the summons to the person specified in this paragraph shall be considered as service of the summons on the addressee, which shall be confirmed by the recipient's signature on the second copy of the summons;

21.2. If the addressee is absent, the person delivering the summons shall indicate on the second copy of the summons the location of the addressee and the time of his/her expected return.

#### **Article 22. Refusal to accept the Arbitral Summon**

22.1. If the addressee or the person under Article 21.1 of this arbitration rule refuses to accept summons, except as determined by the article 22.2., the person delivering the summons shall record the refusal on the summons, which shall be returned to the arbitration center. In this case, summons shall be deemed served on the addressee and the arbitration center may hear the case;

22.2. If the person under Article 21.1 of this arbitration rule refuses to accept the summons, the summons shall not be deemed served on the defendant, if the summons is sent to him/her for the first time, except where summons has been sent to the address indicated by the defendant in its reply response.

#### **Article 23. Change of address during the arbitral proceedings**

The parties and their representatives shall be obliged to notify the arbitration center of a change of address during the proceedings. In the absence of such notification, summons shall be sent to the last address known to the arbitration center, and shall be deemed served, even if the addressee no longer lives at that address.

#### **Article 24. Delivery of Arbitral Summons to the joined parties**

24.1. If one of the joined parties has been tasked with pursuing the proceedings, the summons shall be served on him/her. He/she shall be obliged to notify the other joined parties. Service of the summons on the party tasked with pursuing the proceedings shall mean that the summons has been served on all the joined parties.

24.2. If the number of plaintiffs and opposite parties to a case exceeds 10 persons, and if the circumstances specified in the first paragraph of this article do not exist, the summons shall be sent to the first three signatories on the

claim (appeal, response). Service of the summons on one of them shall mean that the summons has been served on all the parties on his/her side.

#### **Article 25. Delivery of arbitral summons using technical means**

25.1 The arbitrator is entitled to serve summons on the defendant regarding the claim against him/her, date and time of a hearing by technical means of communication. When using technical means of communication recording should be carried out in accordance with the legislation.

25.2. When serving on a summon by using technical means certificate of service is drawn in writing and is signed by secretary. In such case the arbitration center is not obliged additionally to serve on the summon on the addressee.

25.3. When serving summons on the defendant regarding the claim against him/her the arbitration center offers the defendant to appear at the factual address of arbitration center and deliver the claim and annexes in person. The defendant is entitled to refuse deliver of the claim and annexes in person at the factual address of arbitration center only upon providing valid reasons.

25.4. When serving on a summon by using technical means the arbitration center should inform the addressee that the communication is recorded.

#### **Article 26. Public Notice**

26.1. If not otherwise agreed by the parties, the written notice shall be deemed as received if it was served on personally or on the legal address, residential address or the last working place. If it is impossible to determine such place, the written notice is deemed as received if it is sent to the known last legal address of the addressee, or residential address or working place with an insured post or other means which confirm the sending and delivering attempts.

26.2. If the location of a party is unknown or it is impossible to serve on summons in any other way, the arbitration center may, by its resolution, approve service by publication. Public notification is carried out by publishing in the newspaper widely circulated in the administrative territorial unit where the party resides.

26.3. Provisions stipulated in Article 26.2. of these Rules includes impossibility of serving case materials, arbitration resolution, arbitration award or other documents which are mandatory to delivered to the party under these Rules.

26.4. The party may ensure the delivery of the summons through other means of public notification upon the order of the arbitration center.

26.5. In cases stipulated by Articles 26.2 and 26.3 the summons are deemed to be served on the party on the seventh day after the summons are published in the newspaper.

26.6. If the decision was rendered against the respondent who had not been served on the summon and it had been published in the newspaper the decision will be served on in the same way.

### **Section IV Arbitration proceedings**

#### **Article 27. Commencing the arbitration proceedings. Request for arbitration.**

27.1. Basis of the arbitration proceedings is submitting request for arbitration by one of the parties of arbitration agreement. Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

27.2. Request for arbitration must contain the following information:

a) Full name of the arbitration center;

b) Reference to the arbitration agreement, under which arbitration center is empowered to discuss and resolve dispute;

c) The name in full (name, surname, title), main address (factual residence), also alternative address in the case of existence, address of the working place, phone number, mobile phone number, e-mail and fax of the arbitration claimant, his representative's (if the request of the arbitration is submitted by the representative), defendants, witness's and other persons, which must be convened during the proceedings. Claimant and his representative can also note information about the contact person;

d) A brief description of the matter of the proceeding;

e) Amount of arbitration claim;

f) Claim of the arbitration claimant;

27.3. Request for arbitration may also include the following information:

a) The legal grounds, which are the basis of claimant's claim;

b) The specific facts and circumstances which are the basis of claimant's claim;

c) Evidences, which confirm circumstances mentioned by the claimant;

27.4. Request for arbitration must be enclosed the following:

a) Document which confirms payment of arbitration fees;

b) If arbitration claim is submitted by the representative, a power of attorney, which must be corresponded with this rules of arbitration;

c) If claimant or defendant is a legal entity, extract from the proper registry;

d) The original arbitration agreement, or the original of the document which includes arbitration agreement.

27.5. Request for arbitration must be signed by the party or his authorized representative;

27.6. If the request for arbitration does not include documents which is foreseen under the article 27.2, or is not enclosed by the documents mentioned in article 27.4. or/and is not signed compliance the rule under the article 27.5 arbitration center informed claimant about this and grant him relevant period for making the request compliance to this rules. Granted period must not be less than two days.

27.7. If the claimant fails to comply with the obligation under the article 27.6. during the granted time period, chairman of the arbitration center is empowered to offer the claimant call back arbitration claim;

27.8. If the claimant does not call back the arbitration claim during the granted time period by the chairman of arbitration center, chairman of the arbitration center will make a resolution about dismissal the request and return relevant documents to the claimant.

27.9. If the claimant call back the request according the article 27.7 of this arbitration rules, 95% of paid amount (arbitration fee) will return him back.

27.10. According the article 27.8 of this rules of arbitration, in the case of dismissal the arbitration claim, 80% of paid amount (arbitration fee) will be returned the claimant back.

27.11. The requirements set out in this rules of arbitration about the arbitration claim also equally applies to a counter-claim.

27.12. Counter-claim will be received and discussed only if a counter-claim dispute is also under the same arbitration agreement, which is mentioned by the first claimant.

27.13. If the person who filled a counter-claim (defendant) refers not to that arbitration agreement which is mentioned in the arbitration claim, but the other arbitration agreement, according which the authority to discuss dispute mentioned in the request for arbitration, has arbitration center, in this case arbitration will allow counter-claim and discuss both of them together, if consider that the dispute between the parties will be resolved faster, cheaper and objectively.

27.14. Arbitration makes only one common award on the issues raised in the request for arbitration and counter claim.

27.15. If any party fails to appear before the arbitration or/and does not represent his position and evidences without valid reason, arbitration may continue discussing the case and make an award according the evidences which he already had, if something else is not determined by the parties.

27.16. In legal relations arbitration with right of replacing the previous becomes a party of the arbitration agreement, if something else is not determined by the parties.

27.17. Death or liquidation of one of the parties does not lead to abolishment of agreement or changing of appointed arbiter, if something else is not determined by the parties.

## **Article 28. Interim measures**

28.1. At any time prior to the issuance of the award by which the dispute is finally decided, parties can file the motion for granting interim measures if it is not contrary to the arbitration agreement.

28.2. According the motion of the party, arbitration orders to a party with the writing award to:

- a) Maintain or restore the status quo pending determination of the dispute;
- b) Take action that would prevent, or refrain from taking action that is likely to cause, current or imminent harm or prejudice to the arbitral process itself;
- c) Provide a means of preserving assets out of which a subsequent award may be satisfied;
- d) Preserve evidence that may be relevant and material to the resolution of the dispute.

28.3. The party requesting an interim measure under article 28.2 shall satisfy the arbitral tribunal that:

a) Un-use of arrangements/security/interim measures of providing may cause the damage, avoidance of which will be impossible with obligation of compensation of damage to another side;

b) Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted;

c) There is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.

28.4. With regard to a request for an interim measure under article 28.2 (d) the requirements in paragraphs (a-c) of the article 28.3 shall apply only to the extent the arbitral tribunal considers appropriate.

28.5. The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.

28.6. The party requesting an interim measure or applying for a preliminary order shall be liable for any costs and damages caused by the measure or the order to any party if the arbitral tribunal later determines that, in the circumstances, the measure or the order should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.

28.7. Arbitral tribunal has authenticity, if it considers necessary, to change, abate or abolish arrangements of providing arbitration action used by itself according to the request of one party or in special cases, after preliminary notification of sides, by their initiative.

28.8. Arbitral tribunal may order to the party to disclose such information immediately, which is connected to the significant changes of such circumstances, which are basis of requesting and using of the interim measures.

28.9. Enforcement of the order, mentioned in this article will be done according the determined rules under the Georgian law on arbitration.

### **Article 29. Answer to the request for arbitration**

29.1. Chairman of the arbitration center is obliged to send request for arbitration with enclosed materials to the defendant immediately and grant him the time for the presentation of his answer, granted period must not be less than 5 days.

29.2. The answer to the request arbitration shall include full name of the arbitration center, defendant also must notice admission or not arbitration claim. If the defendant partly admissions arbitration claim, he must concretely designate in the answer, which of the claim admissions and which not. Defendant can present evidences for the confirmation of the circumstances, which he mentioned in the answer also he/she can use all opportunities which he/she has granted with this rules of arbitration.

29.3. Answer to the request for arbitration must be signed according the article 27.5.

29.4. If the answer to the request for arbitration is signed by the representative of the defendant, or defendant is legal entity, accordingly use article 27.4 points "b" and "c".

29.5. If the answer to the request for arbitration does not apply articles 29.2; 29.3 and 29.4, chairman of the arbitration center informed defendant about this and offer him to detect this irrelevances before the hearing, or if the parties agreed about the proceeding without hearing, during the granted period by the arbitration center.

29.6. If the defendant des not signed the answer to the request for arbitration in spite of the notice mentioned in article 29.5, or does not present power of attorney presented by authorized person or other documents, arbitration will explain to parties/representatives with written form, that proceeding continues and final award will be made on the basis of the introduced proof, without foresee the answer and attached/supporting documents.

### **Article 30. Competence of competence**

30.1. Arbitration is empowered to make decision about its competence, including existence and authenticity of arbitration agreement. For this, arbitration agreement which represents or was considered as the part of another contract is discussed as independent agreement between parties, which does not depend on other contract. If arbitration makes decision that such contract does not exist or it has no juridical validity, arbitration agreement stays in force.

30.2. Any statement on competence of the arbitration may be made prior to delivery the answer. Take a part in appointment of arbitrators does not deprive the parties right making such statement.

30.3. Statement on competence of the arbitration must be made not later than 7 days after a party becomes aware relevant circumstances.

30.4. Statement on the competence of the arbitration may be made after the period granted according the article 30.3, if the arbitration considers that expiration is valid.

30.5. If the arbitral tribunal decides that arbitral tribunal has competence, within thirty days after receiving the notice of such decision, any party may appeal this decision to a court. A court shall render a well-grounded judgment on the competence of the arbitral tribunal within 14 days after the receipt of the application. This judgment shall be final and without appeal. Before the judgment is made by the court about the case, the arbitral tribunal may commence or continue the arbitral proceedings and make an award.

### **Article 31. Certain issues of oral hearings**

31.1. Arbitration center is obliged to notify the parties time and place of each hearing by written form two days earlier than the consideration begin, this time must not be less than two days, if the parties are not agreed in other ways.

31.2. Arbitration center is obliged to send copies of all the applications, documents, requests or other information, introduced to the Arbitration by one of the Parties, to the other Party within two days, if something else is not determined by the parties.

31.3. Arbitration proceedings conducts on the basis of equality of parties.

31.4 Participant of the arbitration proceedings may be any competent person. A party has the right to be represented by a lawyer during the arbitration proceedings. Authority of physical persons representative confirms by the power of attorney approved by the notary. Power of attorney of the representative of the legal entity must be signed by the authorized person manage and representative this entity. If the legal entity has a seal, seal must be been with the signature too.

### **Article 32. Evidence, estimation and exploration of evidence**

32.1. Each party must prove circumstances, which is the basis of his claims and answer.

32.2. Prove of this circumstances may be done with the explanation of the parties, testimonies of witnesses, written or physical evidences and experts' conclusions.

32.3 Circumstances of the case, which must be proved by the certain types of evidences according the law, can not be proved by other types of evidences. No evidence has predetermined power. Arbitration assess the evidences according to his belief, which must be based on its comprehensive and objective examination, based on this he make a decision on existence or non-existence of important/main circumstances. Opinions, which are the basis of arbitrators belief must be reflected in the award.

32.4. Arbitration can voluntarily interrogate witnesses and offer to the party to present evidences.

32.5. The party, requesting the interrogating of the witness, is obliged to maintenance attendance of the witness on the hearing. If the party could not provide attendance of the witness, arbitration is empowered but not obliged to use power connected to the interrogating witness, granted by the Georgian law about the arbitration.

32.6. Party can present experts conclusion to prove the circumstances mentioned by him.

32.7. Arbitration is obliged to appoint expert, if the parties have requested it. Arbitration is empowered to terminate arbitration proceeding on the basis of parties joint request till the presentation of the conclusion by the expert.

32.8. If the only one party is requesting interrogating the witness, arbitration does not satisfy this motion, if considers that party can present experts conclusion with the request for arbitration, or with the answer.

32.9. If the circumstance, which is the basic of the parties motion about the appointment of the expert, appeared after the filling the claim, or answer, in this case arbitration grant him time period for the presentation of experts conclusion. If the experts does not present the conclusion during the granted period, it will not obstacle the arbitration proceedings. In this case arbitration will make a decision/award based on the evidences exited in the case.

32.10. In the case of exceptional circumstances arbitration may appoint expertise by its initiate. In this case arbitration terminate arbitration proceedings until the introduce experts conclusion.

32.11. In the case of existence of arbitration decision, party is obliged to introduce experts any information, thing or document which he has and is connected to the case.

32.12. Experts conclusion is not binding for the arbitration, arbitration asses it according to its belief as on of the evidence.

32.13. Party may offer to the arbitration specialists participation for exploration case circumstances party, which made this motion is obliged to maintenance attendance of the specialist on the hearing. Nonattendance of the specialist does not obstacle the arbitration proceedings. After listening parties' opinions arbitration has right to invite specialist by its initiative.

32.14. Specialist invited by the party, as well as invited with the arbitration initiative is obliged to sign the declaration about non-disclosure of information, which he introduced during the proceeding. This obligation is spread on the expert too.

32.15. In the case of abolishment of the obligation mentioned in the article 32.14 of this arbitration rules, expert and specialist are obliged to reimburse to the parties damage which has come as a result of disclosure of the information connected the case.

32.16. Arbitration is empowered but not obliged to use power granted by the Georgian law about the arbitration, to determinate issues connected to the evidences.

### **Article 33. Oral hearings**

33.1. If defendant has presented the answer to the request for arbitration, which is in accordance to this arbitration rules, answer and notice paper with the directions about time and place of the hearing proceeding should be immediately sent to the claimant. The relevant notice is sent to the defendant and other persons, whose participation in the proceeding is expedient in arbitrations opinion.

33.2. During the hearing competition between the parties is led by the chairman of the arbitration board. If something else is not determined according the law, arbitration agreement or rules of the arbitration. When case is discussed by one arbitrator he has same empowerment as a chairman of the arbitration board.

33.3. Arbitrator, mentioned in the article 33.2 opens and announces the hearing closed, he/she gives the parties time for their opinion, determine claimants, defendants, witnesses and experts speeches sequence, provide full, thoroughly and objective study of the evidences, he gives parties equal opportunity to express their opinion about the evidences, or circumstances which are important for the case. Each parties opinion, if it mentions in the protocol, must be assessed. In the event of examination of an arbitration dispute without oral hearings, an arbitration will make decision/award on the basis of arbitration claim, answer and parties written submission, also on the basis of the evidences existent in the case.

33.4. After examining of the evidences and hearing parties' explanation, each party can apply with the final/conclusive speech to the arbitration. The last final/conclusive speech is respondents' speech.

33.5. After the hearing parties' final speeches, arbitration announces the discussion closed and makes an award.

## **Section V. Mediation in Arbitration Proceedings**

### **Article 34. The essence of mediation in the arbitration proceedings**

Parties may agree on mediation before the substantial determination of the dispute by the arbitral tribunal in accordance with the requirements of this Rules. In the purposes of this Rules mediation means to facilitate the negotiation between the parties to resolve the dispute through the mediator (professional negotiator) and reach an agreement from the moment of submitting the application to the moment of starting the substantial determination by the arbitral tribunal.

### **Article 35. Mediation procedure and time limits of mediation in arbitration**

35.1. If there is the agreement mentioned in Article 34 the arbitrator who is reviewing the dispute after accepting to review the claim appoints a mediator by an order and this order is sent to the parties with case materials.

35.2. The mediator appoints a date of a mediation meeting within two days after expiring the term of submission of the statement of the defense and parties are promptly informed about it.

35.3. Mediations is deemed to be started from the day when the parties receive the information about the date of the mediation meeting. Parties have 15 days to reach the agreement.

35.4. Mediation is conducted in accordance with the principles of confidentiality, equality of the parties, parties' autonomy to make a decision regarding the agreement, and avoidance of the conflict of interest.

35.5. In case of reaching an agreement as a result of mediation the act of a settlement is approved by the arbitrator reviewing the case in compliance with the requirements of Law of Georgia on Arbitration

35.6. If the parties don't reach an agreement at a time stated by Article 35.3. of this Rules, a mediator shall provide information in writing about it to the arbitrator reviewing the respective case. This is the ground to start the substantial determination the dispute for the arbitrator. In this regard the arbitral tribunal renders the order which determines the period of time for the claimant to cover the arbitration fee stipulated by Article 2.1. of the Appendix N1 of this Rules.

35.7. In case of refusing the mediation by the party the arbitral tribunal continues to review the dispute under the respective regulations stipulated by this Rules. In this regard the arbitral tribunal renders an order which determines the period of time for the claimant to cover the arbitration fee stipulated by Article 2.1. of the Appendix N1 of this Rules.

## **Section VI. Documents Only Arbitration**

### **Article 36. Documents only arbitration proceedings**

36.1. The arbitral tribunal reviews the case and takes a decision without an oral hearing in accordance with the documentary evidence presented by the parties if the parties agree on it in a special form (Documents only arbitration) .

36.2. Within 3 days after accepting to review the claim, the claim and enclosed documents shall be sent to the defendant and it shall submit the statement of the defense and evidence within 5 up to 10 days.

36.3 The arbitral tribunal shall send the statement of the defense and enclosed evidence to the claimant within 3 days after receiving them from the defendant and suggest the claimant to submit the position on the statement of the defense within 5 working days.

36.4. The arbitral tribunal shall review the case and make the grounded award within 10 days after the time limit of submission of the statement of the defense.

36.5. If the claim and enclosed evidence is not served on the defendant and its reason is an incomplete address or the fact that the defendant does not live at that address any more the arbitral tribunal shall determine the time period for the claimant (no longer than 3 days) to submit the alternative address of the defendant (in case of existing such address). If the claimant does not know the alternative address of the defendant or even at the alternative address it is impossible to deliver the documents to the defendant, arbitral tribunal sends the claim to the same address one more time and at the same time carries out the public notification. If the statement of the defense is not submitted within one week after publishing the notice the arbitral tribunal shall render the grounded award within 10 days after expiring the term of the notification.

## **Section VII. Arbitration Award**

### **Article 37. The rule of making the award**

37.1. If the parties do not state the special period of time to make an award such award shall be made within 90 days after commencement of arbitration proceedings, unless otherwise provided by the arbitration agreement.

37.2. If there is an absolute necessity of it and it complies with the interest of the arbitration hearing, the arbitral tribunal is entitled to prolong the agreed term of the arbitration proceedings based on its own initiative which shall not be longer than the period of time stated by the Article 37.1. of this Rules.

37.3. If the arbitration award is not made within the stipulated period of time the arbitral tribunal shall be dismissed if the parties has not agreed on prolongation of the term of the arbitration proceedings. Prolongation is allowed only once for no longer than 4 months.

37.4. If the parties has not agreed on the prolongation of the term of rendering an arbitral award according to the arbitration agreement, after dismissal of the arbitral tribunal new composition of the arbitral tribunal is formed under the regulations of this Rules. If the reformed arbitral tribunal do not render an arbitral award within 3 months after completing the formation, the arbitration agreement shall be deemed set aside. The arbitral center is not obliged to review this dispute if the parties conclude the new arbitration agreement and still demand the arbitration proceedings.

37.5. An arbitral tribunal which consists of more than one member renders a decision by majority of votes of the voters.

37.6. An arbitrator is not entitled to refrain from rendering a decision.

37.7. An arbitration award shall be made in a written form and it shall contain:

a) Date and place of rendering an award and composition of an arbitral tribunal;

b) Arbitration agreement under which the arbitral tribunal was acting;

c) Parties and others who participated in the arbitration proceedings;

d) Subject matter of the dispute;

e) Motivation with the opinions of the arbitral tribunal as grounds of an award unless the arbitration agreement directly excludes composing such motivation;

f) An arbitral order;

37.8. An arbitration award shall be signed by all arbitrators. If any arbitrator refuses to sign the arbitration award, there shall be a notice in the award regarding this.

37.9. One exemplar of the arbitration award shall be delivered to each party.

37.10. An arbitration award shall be binding for parties. An arbitral award shall not contain any obligation of the third parties.

### **Article 38. Allocation of the costs between the parties**

Unless otherwise agreed by parties an arbitral tribunal shall take a decision regarding the allocation of the arbitration costs between parties.

### **Article 39. Correction and interpretation of the award**

39.1 Each party may request the arbitration tribunal to give an interpretation of a specific part to clarify the content of the arbitral award. Within 30 days after requesting the clarification of the content of the arbitral award the arbitration tribunal shall give the interpretation or render an order on refusing the interpretation. The interpretation of an arbitral award is a component part of this award.

39.2. Each party may request the arbitration tribunal to correct in the award any errors in calculation, any clerical or typographical errors within 30 days after serving on the award. If the arbitration tribunal considers the request justified the corrected version of the award shall be served on parties. The refusal to correct the award by the arbitration tribunal must be respectively grounded.

39.3. An arbitration tribunal is authorized to carry out any of these actions on its own initiative.

#### **Article 40. Enforceability of the Award**

An arbitration award shall be enforced under the regulations of Law of Georgia on Arbitration.

### **Section VIII. Termination of the Proceedings without Making an Award**

#### **Article 41. The grounds for termination of the proceedings without making an award**

The arbitration proceedings shall be terminated without rendering an arbitration award if:

- a) In accordance with the requirements of this Rules the arbitration tribunal refuses the arbitration proceedings;
- b) In accordance with the requirements of this Rules arbitration claim is left without being considered;
- c) In accordance with the requirements of this Rules arbitration proceedings is cancelled;
- d) In accordance with the requirements of this Rules claimant takes aside the arbitration claim.

#### **Article 42. The refusal of arbitration center to commence arbitration proceedings**

42.1. Arbitration tribunal shall refuse commencing the arbitration proceedings if:

a) The dispute which has to be resolved according to the arbitration agreement cannot be a subject of the arbitration proceedings;

b) The circumstances connected to the case make a ground to presume that reviewing this case may affect negatively on the reputation of the arbitration center and arbitrators. (e.g. if there is an ongoing criminal proceedings which is not completed and is related to the parties of the arbitration agreement and so on).

42.2. An arbitration tribunal is authorized to refuse the arbitration proceedings under the paragraph b) of Article 42.1 of this Rules at any stage of the proceedings. The arbitration tribunal is not obliged to ground the refusal.

42.3. According to the paragraph b) of Article 42.1 of this Rules in case of refusing the arbitration proceedings, the claimant shall get back the arbitration fee completely despite on which stage was made the refusal of the arbitration proceedings.

42.4. According to the paragraph a) of Article 42.1 of this Rules, in case of refusing the arbitrations proceedings claimant shall get back 90% of the arbitration fee.

### **Article 43. Termination of the proceedings**

43.1. If a party requests or on its own initiative the arbitral tribunal shall not accept to review the claim or terminate the arbitration proceedings if:

a) Subject matter of the dispute does not exist;

b) There is a court decision or an arbitration award entered into force with the same subject matter, same parties and same grounds;

c) Claimant waived the claim; unless the defendant is against the termination of the arbitration proceedings and the arbitration tribunal considers that the defendant has a legal interest to settle the dispute.

d) Parties settle the dispute;

e) Succession is inadmissible because of the nature of the disputable legal relation when a party is dead – individual or liquidated – legal entity;

f) In other cases stipulated by the Arbitration Rules.

43.2. If there are preconditions stated by the paragraphs (c) and (d) of Article 43.1., the arbitration tribunal is obliged to return 50% of the arbitration cost if parties agree on it in writing.

43.3. If there are preconditions stated by the paragraphs a), b), e) and f) of Article 43.1., the arbitration tribunal is obliged to return 70% of the arbitration fee.

43.4. If the arbitration proceedings is terminated in accordance with the paragraph d) of Article 43.1. the arbitration tribunal approves the act of settlement unless the condition of the settlement is not against the law. The issue of allocation of the arbitration fee shall be resolved according to the agreement of the parties.

43.5. The arbitration tribunal is obliged to render an arbitration award on terminating the arbitration proceedings and approving the settlement act within 3 days after receiving the application for settlement.

43.6. After the termination of the arbitration proceedings request to the arbitration tribunal to resolve the dispute on the same case and with the same grounds is not allowed. In this case the arbitration tribunal is obliged not to accept the submission of a claim and return 90% of the arbitration fee to the party.

### **Article 44. Dismissing the arbitral request without consideration**

44.1. The arbitration tribunal shall dismiss the claim without consideration under the application of the party or on its own initiative if:

a) Claim is submitted by the legally incapable person;

b) Claim is submitted in the name of the interested person but by the person who does not have authority to participate in the arbitration proceedings;

c) There is an ongoing proceedings in the arbitration center, other private arbitration tribunal or court on the same subject matter of the dispute, between the same parties and on the same grounds;

d) The motion of the claimant is satisfied regarding taking aside the claim and enclosed documents;

e) Claimant did not pay the arbitration fee according Article 35.6 or Article 35.7 of this Rules.

44.2. If neither party attend the oral hearing, respectively notified about the appointment under the regulations of this Rules, the arbitration tribunal shall postpone the proceedings, shall notify the parties about the appointment once more and warn about the results of nonattendance. If despite notifying secondly to attend the hearing still neither party attend the hearing, the arbitration tribunal shall dismiss the claim without consideration. In this case the claimant shall get back 50% of the arbitration fee.

44.3. In case of dismissing the claim without consideration in accordance with the paragraph e) of Article 44.1. of this Rules the claimant shall not get back the arbitration fee.

44.4. Dismissing the claim without consideration does not deprive the claimant of a right to submit the claim again after precluding the grounds of dismissal.

#### **Article 45. Withdrawal of the arbitral claim**

45.1. The claimant has a right to withdraw the claim without refusing its demand. The withdrawal is allowed at any stage of the proceedings. After submitting the statement of the defense by the defendant withdrawal is allowed only under the defendant's acceptance. If the defendant does not accept the withdrawal of the claim in writing the arbitration tribunal shall continue the proceedings and render the final decision.

45.2. Opinions expressed at the oral hearing on the revocation of the claim shall be brought in the record of the hearing and it is deemed to be a consent or rejection to revocation of the claim in writing.

45.3. In the case of this Article the arbitration tribunal is obliged to return 50% of the arbitration fee to the claimant.

### **Section IX. Final Provisions**

#### **Article 46. Entry into force of Rules**

46.1. The Arbitration Rules shall come into force after approving it by the minutes of Arbitration Center's shareholders' meeting/shareholders' decision and publishing it in accordance with the requirements of the Georgian Law on Arbitration.

46.2. The termination or annulment of any provision of the Arbitration Rules shall not cause the termination or annulment of the entire Rules unless it is impossible to review and resolve the dispute under this Rules without its terminated or annuls part.

#### **Article 47. Ethics**

EBA Mediation and Arbitration Center recognizes and joins the Code of Ethics of Georgian Arbitrators' Association and the regulations of this codes shall completely extend to the arbitrators of Tbilisi Arbitration Center.

#### **Article 48. Costs**

48.1. The arbitration costs consists of the arbitration charge, expanses of representation, expanses of getting the evidence and present them in the arbitration proceedings.

48.2. The arbitration charge has to be paid for:

- a) Submitting the claim;
- b) Submitting the application requesting the interim measures;
- c) Submitting the complaint appealing the order on the provisional measures.

48.3. The amount of the arbitration fee and the rule of paying is determined by the Appendix #1 of this Rules, which is proved by the minutes of the shareholder' meeting/decision of the shareholders of the Arbitration Center and shall be an inseparable part of this Rules.

48.4. If the text of this Rules under the requirements of this Rules has to be sent to the party, the Appendix #1 of this Rules shall be sent to the party as well.

#### **Article 49. The results of setting aside an award and the refusal of recognition and enforcement**

49.1 The setting aside of the arbitration award or refusing its recognition or enforcement shall not annulment the arbitration agreement, based on which the arbitration award is rendered.

49.2 According to the court order/decision, the Arbitration Center is authorized to renew the arbitration proceedings and render the new award.

49.3 While rendering the new award the Arbitration Center is obliged to take into consideration and preclude the deficiencies, which became the reason to set aside or dismiss the arbitration award.

49.4 In case of renewing the arbitration proceedings according to this article keeping time for the arbitration proceeding agreed by the parties or stated by this Rules shall restart.

#### **Article 50. Electronic case management system of arbitration center (ODR)**

50.1 The Parties are entitled to submit (upload), get acquainted with, and download any documentation related to arbitration proceedings through the electronic case management system (hereinafter referred to as the "electronic case management system") posted on the official web-page of arbitration center: <https://eba-mac.com/>.

50.2 Any documentation submitted by the parties through electronic case management system is considered to be submitted to arbitration from the moment they were uploaded.

50.3 The party must register in the electronic case management system in order to use it, after which the party will be given the username and the password, which is known and accessible only to him, will be sent to the email

specified by the party in order to log in to the system. The party is obliged to secure and maintain the username and password of the electronic case management system and to not allow them to become known to a third party, otherwise, the party will be held responsible for the use of the electronic case management system by the third parties.

50.4 The party is obliged to use electronic case management system only for the purposes of the arbitration proceedings, otherwise the party will be held responsible according to Georgian legislature.

**Appendix I of the Arbitration Rules of EBA Mediation and Arbitration Center LLC**

**Article 1. The legal force of the Appendix**

1.1. The amount and the payment procedure of the arbitration charge set by EBA Mediation and Arbitration Center LLC (hereinafter “Arbitration Center”) for reviewing and resolving the dispute is stated by this Appendix, which is an inseparable part of the Rules of the Arbitration Center and is in force with it.

1.2. This Appendix is proved with the Arbitration Rules by the minutes of the shareholders’ meeting/shareholders’ decision of the Arbitration Center.

1.3. If the text of the Arbitration Rules has to be sent to the party, the Appendix #1 shall be sent to the party as well.

**Article 2. Amount of the arbitration charge**

2.1. The arbitration charge for the claim is assessed as follows:

<b>Amount of Dispute (GEL)</b>	<b>Arbitration Charge (GEL)</b>
<b>0-10 000 (without an oral hearing)</b>	<b>GEL 220</b>
<b>0-100 000</b>	<b>2%, But not less than GEL 250</b>
<b>100 001-500 000</b>	<b>1,8%</b>
<b>500 001 and more</b>	<b>1.5 % But not more than GEL 9 000</b>

2.2. If it is impossible or difficult to estimate the value of the claim, arbitration charge is GEL 3 000.

2.3. For the application requesting interim measures for the claim the arbitration charge is GEL 150.

2.4. The arbitration charge for appealing the order of the arbitration tribunal on provisional measures is GEL 150.

2.5. The arbitration charge for mediation in the arbitration proceedings is 1% of the amount of dispute but not less than GEL 250. If it is impossible to settle the dispute as a result of mediation the arbitration charge shall be paid up to the amount set by the paragraph 2.1 of this Appendix #1.

2.6. The arbitration fee paid by the party contains the taxes (including VAT) stated by the Georgian legislation.

2.7. The clause stipulated by the paragraph 2.6 of this Appendix shall be extended to all the charges paid by the party since the foundation of EBA Mediation and Arbitration Center LLC.

2.8. The clause stipulated by the paragraph 2.6 of this Appendix shall be extended to all the payments made after this amendment.

### **Article 3. Paying and refunding the arbitration charge**

3.1. The arbitration fee shall be paid cashless and transfer to the account of the Arbitration Center. The Arbitration Center is obliged to give the party account details in the acceptable form.

3.2. If the arbitration fee paid by the party is refundable according to the Arbitration Rules, the Arbitration Center is obliged to refund and within 3 banking days after taking the decision about refunding. The refundable amount of the arbitration fee is stipulated by the Arbitration Rules.

3.3. The arbitration charge is refunded by transferring money to the bank account of the party, which is known to the Arbitration Center unless the party requests in writing to transfer money to another account and indicates the appropriate account details.