

STANDARD ICC DISPUTE BOARD CLAUSES

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Below are standard clauses for use by parties who wish to set up and operate a dispute board under the Rules contained in this booklet.

ICC Dispute Review Board followed by ICC arbitration if required

The Parties hereby agree to establish a Dispute Review Board (“DRB”) in accordance with the Dispute Board Rules of the International Chamber of Commerce (the “Rules”), which are incorporated herein by reference. The DRB shall have [one/three/X] member[s] appointed in this Contract or appointed pursuant to the Rules.

All disputes arising out of or in connection with the present Contract shall be submitted, in the first instance, to the DRB in accordance with the Rules. For any given dispute, the DRB shall issue a Recommendation in accordance with the Rules.

If any Party fails to comply with a Recommendation, when required to do so pursuant to the Rules, the other Party may refer the failure itself, without having to refer it to the DRB first, to arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration. A Party that has failed to comply with a Recommendation, when required to do so pursuant to the Rules, shall not raise any issue as to the merits of the Recommendation as a defence to its failure to comply without delay with the Recommendation.

If any Party sends a written notice to the other Party and the DRB expressing its dissatisfaction with a Recommendation, as provided in the Rules, or if the DRB does not issue the Recommendation within the time limit provided in the Rules, or if the DRB is disbanded pursuant to the Rules prior to issuing the Recommendation, the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration.

ICC Dispute Adjudication Board followed by ICC arbitration if required

The Parties hereby agree to establish a Dispute Adjudication Board (“DAB”) in accordance with the Dispute Board Rules of the International Chamber of Commerce (the “Rules”), which are incorporated herein by reference. The DAB shall have [one/three/X] member[s] appointed in this Contract or appointed pursuant to the Rules.

*All disputes arising out of or in connection with the present Contract shall be submitted, in the first instance, to the DAB in accordance with the Rules. For any given dispute, the DAB shall issue a Decision in accordance with the Rules.**

If any Party fails to comply with a Decision, when required to do so pursuant to the Rules, the other Party may refer the failure itself, without having to refer it to the DAB first, to arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration. A Party that has failed to comply with a Decision, when required to do so pursuant to the Rules, shall not raise any issue as to the merits of the Decision as a defence to its failure to comply without delay with the Decision.

If any Party sends a written notice to the other Party and the DAB expressing its dissatisfaction with a Decision, as provided in the Rules, or if the DAB does not issue the Decision within the time limit provided in the Rules, or if the DAB is disbanded pursuant to the Rules prior to issuing the Decision, the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration.

*[*The Parties may, if they wish, provide for review by the Centre of a DAB’s Decisions by inserting the following text in place of the asterisk above: The DAB shall submit each Decision to the ICC for review in accordance with Article 23 of the Rules.]*

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ICC Combined Dispute Board followed by ICC arbitration if required

The Parties hereby agree to establish a Combined Dispute Board (“CDB”) in accordance with the Dispute Board Rules of the International Chamber of Commerce (the “Rules”), which are incorporated herein by reference. The CDB shall have [one/three/X] member[s] appointed in this Contract or appointed pursuant to the Rules.

*All disputes arising out of or in connection with the present Contract shall be submitted, in the first instance, to the CDB in accordance with the Rules. For any given dispute, the CDB shall issue a Recommendation, unless the Parties agree that it shall render a Decision or it decides to do so upon the request of a Party and in accordance with the Rules.**

If any Party fails to comply with a Recommendation or a Decision, when required to do so pursuant to the Rules, the other Party may refer the failure itself, without having to refer it to the CDB first, to arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration. A Party that has failed to comply with a Recommendation or a Decision, when required to do so pursuant to the Rules, shall not raise any issue as to the merits of the Recommendation or the Decision as a defence to its failure to comply without delay with the Recommendation or the Decision.

If any Party sends a written notice to the other Party and the CDB expressing its dissatisfaction with a Recommendation or a Decision, as provided in the Rules, or if the CDB does not issue the Recommendation or the Decision within the time limit provided in the Rules, or if the CDB is disbanded pursuant to the Rules prior to issuing the Recommendation or the Decision, the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration.

[*The Parties may, if they wish, provide for review by the Centre of a CDB’s Decisions by inserting the following text in place of the asterisk above: *The CDB shall submit each Decision to the ICC for review in accordance with Article 23 of the Rules.*]

How to use these clauses

Each of the above clauses provides for a different type of dispute board, followed by arbitration as the ultimate recourse if a dispute is not resolved through the dispute board.

The parties should choose whichever kind of dispute board is most appropriate, given the nature of their contract and their relationship. The ICC does not favour any one type of dispute board over the others.

It may be necessary or desirable for parties to adapt the chosen clause to their particular circumstances. For instance, they may wish to stipulate the number of arbitrators, in the event of arbitration. They may also wish to stipulate the language and place of the arbitration and the law applicable to the merits. Should they wish to exclude any recourse to an emergency arbitrator or the expedited arbitration procedure, or opt into the expedited procedure in higher-value cases, they must do so explicitly. Further information and suggesting wording can be found at **www.iccarbitration.org**.

At all times, care must be taken to avoid any risk of ambiguity in the drafting of the clause. Unclear wording causes uncertainty and delay and can hinder or even compromise the dispute resolution process.

When incorporating one of the clauses in their contract, parties are advised to verify its enforceability under applicable law.

Translations of the above clauses can be found at **www.iccdisputeboards.org**.