

Appendix B: Expedited arbitration proceedings

Expedited arbitration proceedings are relevant in any situation where the dispute between the parties is simple and/or the amount at stake is moderate, such as in the case of liquid and payable debt for example.

Expedited arbitration proceedings may not be instigated in respect of proceedings brought on the basis of several contracts, in the scenario provided for in Article 14 of the OHADAC Institutional Arbitration Rules.

In opting for expedited OHADAC arbitration proceedings, the parties shall be deemed to have agreed that an arbitral tribunal comprising a Sole Arbitrator shall be appointed, notwithstanding any provision to the contrary in the arbitration agreement. They shall also waive their right to involve an additional party in pending proceedings, as provided for in Article 12 of the OHADAC Institutional Arbitration Rules. Lastly, with expedited proceedings, the parties waive their right to apply for interim or conservatory measures at the commencement of proceedings, whether via emergency arbitration as provided for in Appendix A or once the Arbitral Tribunal has been set up (Article 34 of the OHADAC Institutional Arbitration Rules).

These proceedings may be settled within a time limit ranging from two (2) weeks from the appointment of the Sole Arbitrator by the CARO Centre to five (5) months, depending on the characteristics of the dispute and the wishes of the parties as regards the conduct of the proceedings.

In order for these proceedings to be implemented, they must have been provided for by the parties in the arbitration clause or the arbitration agreement or, alternatively, must have been requested by both parties at the commencement of the arbitration proceedings.

The ability to have recourse to expedited proceedings shall nevertheless be subject to the discretion of the Sole Arbitrator appointed, who shall confirm whether this type of expedited dispute settlement is possible after the Organizational Hearing.

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Article 1: Hypotheses relating to expedited arbitration proceedings

1.1. The special provisions provided for in this appendix shall apply where:

- i) the parties have provided for recourse to expedited OHADAC arbitration proceedings in the arbitration agreement;
- ii) the Claimant, when filing a Notice of Arbitration, requests the application of the provisions of this appendix and the Respondent accepts this request, subject to the discretion of the Secretary-General in accordance with the provisions of Article 2 of this appendix.

1.2. Recourse to expedited OHADAC arbitration proceedings may be provided for in an arbitration clause, in an agreement to arbitrate or in a subsequent written exchange between the parties no later than at the commencement of the arbitration proceedings as described in Article 2 of the provisions of this appendix.

1.3. Once a Notice of Arbitration has been referred to the Secretariat of the CARO Centre, the Sole Arbitrator appointed shall be asked to confirm that the proceedings can be dealt with within a shorter time limit than provided for in the OHADAC Institutional Arbitration Rules, in accordance with the provisions of this appendix.

1.4. Recourse to expedited OHADAC arbitration proceedings is not possible in the case of arbitration instituted on the basis of multiple contracts, as provided for in Article 13 of the OHADAC Institutional Arbitration Rules. Furthermore, should the parties wish to have recourse to expedited arbitration proceedings as provided for in this appendix, they shall waive their right to involve an additional party on the basis of Article 12 of the OHADAC Institutional Arbitration Rules. The parties shall also waive their right to request interim measures in expedited arbitration proceedings.

Article 2: Commencement of expedited arbitration proceedings

2.1. The Claimant in expedited proceedings shall forward a Notice of Arbitration to the CARO Centre in accordance with the terms laid down in Articles 5 and 6 of the OHADAC Institutional Arbitration Rules. This notice shall be accompanied by payment of the

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registration fees for expedited proceedings laid down in Appendix C by way of an advance to be offset against the administration costs.

2.2. The Notice of Arbitration must contain the following information:

- a) The name, address, email address and telephone number of the Claimant, along with the name of any representative, if any, and his or her address, email address and telephone number;
- b) The name, address and, if known, email address and telephone number of the Respondent. If the Respondent has a representative in the arbitration proceedings, that representative's name, address, email address and telephone number;
- c) A brief summary of the facts and circumstances and a brief description of the issues in dispute, an indication of the relief sought by the Claimant and an assessment of the amount claimed or the value of the subject matter in dispute;
- d) A copy of the contract relating to the dispute and, unless already included in the contract, a copy of the arbitration agreement(s) binding the parties and establishing the jurisdiction of the CARO Centre;
- e) Any agreement between the parties or, failing that, any proposal by the Claimant as to the seat of the arbitration; the language to be used in the arbitration proceedings; the identity of the arbitrator or arbitrators; the qualifications required of the arbitrator or arbitrators; the law applicable to the dispute and to the arbitration proceedings; and,
- f) The signature of the Respondent or its representative.

2.3. The Claimant shall also state in the Notice of Arbitration whether it intends to make the proceedings subject to the provisions of this appendix on expedited proceedings.

2.4. Once the Notice of Arbitration has been filed, the Secretariat shall proceed with notification of the Notice of Arbitration as provided for in Article 7 of the OHADAC Institutional Arbitration Rules and shall ask for the Response to be forwarded within thirty (30) days of receipt of the Notice of Arbitration. Where there is no written agreement providing for recourse to expedited proceedings and if the Secretary-General considers that the dispute comes under the provisions of this appendix, s/he shall ask the Respondent for its written agreement within seven (7) days of receipt of the Notice of Arbitration. Failing

agreement, the dispute shall by default come under the provisions of the OHADAC Institutional Arbitration Rules, excluding the provisions of this appendix.

2.5. The Response must contain the following information:

- a) Confirmation or otherwise of the Respondent's name and address;
- b) If it has a representative in the arbitration proceedings, the name, address, email address and telephone number of that representative;
- c) A summary of the facts and its position on the claims made against it in the Notice of Arbitration, together with the grounds on which it intends to rely in its defence, accompanied by any documents it considers appropriate in this regard;
- d) Any counterclaim or set-off claim, accompanied by a brief summary of the facts and circumstances and a brief description of the issues in dispute, an indication of the relief sought by the Respondent and an assessment of the amount claimed or the value of the subject matter in dispute;
- e) Its response to the Claimant's submissions in the Notice of Arbitration pursuant to Article 2(2)(e) of this appendix and, where appropriate, its own submissions;
- f) If applicable, any objection to the jurisdiction of the CARO Centre, to the application of the Rules or to the Arbitral Tribunal to be constituted under these Rules; and,
- g) The signature of the Respondent or its representative.

Article 3: Setting up the Arbitral Tribunal

Once the Secretariat has received the Response and subject to the implementation of Article 10 of the OHADAC Institutional Arbitration Rules, the Secretariat shall directly appoint a Sole Arbitrator within three (3) days of receiving the Response, unless the parties have previously agreed on an arbitrator. If the arbitration agreement provides for a three-member Arbitral tribunal, the parties shall be deemed to have waived this provision in favour of appointing a Sole Arbitrator as provided for in this article.

Article 4: Organizational Hearing

4.1. Once appointed, the Sole Arbitrator shall contact the parties within 48 hours of his or her appointment to suggest a date for the Organizational Hearing and inviting them to

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prepare their observations on the information laid down in Article 24(2) of the OHADAC Institutional Arbitration Rules, with the exception of interim or conservatory measures, which the parties waive in expedited OHADAC arbitration proceedings.

4.2. The Organizational Hearing shall take place within fifteen (15) days at the latest of the referral to the Sole Arbitrator.

4.3. During the Organizational Hearing, the Sole Arbitrator shall hear the parties on the matter mentioned in paragraph 1 above.

Article 5: Procedural Organization Act and Order

5.1. After the hearing, the Sole Arbitrator shall tell the parties within five (5) days whether s/he confirms the expedited proceedings or, alternatively, whether the time limits defined in the OHADAC Institutional Arbitration Rules shall apply.

5.2. If the Sole Arbitrator does not confirm the holding of expedited arbitration, the provisions of the OHADAC Institutional Arbitration Rules applicable by default shall apply and the Sole Arbitrator shall issue a Procedural Organization Act within the time limits provided for in Article 26 of the OHADAC Institutional Arbitration Rules.

5.3. If the Sole Arbitrator confirms that expedited proceedings are to be held, s/he shall forward the Procedural Organization Act to the parties on the same day, specifying the procedures and time limits for conducting the proceedings, restating the agreements between the parties on the matters mentioned in Article 24(2) of the OHADAC Institutional Arbitration Rules. This Act shall be submitted to the parties and the Sole Arbitrator for signing.

5.4. This Act may potentially be supplemented, within forty-eight (48) hours after the date of signing the Procedural Organization Act or the date of refusal to sign, by a Procedural Organization Order settling any disagreement between the parties as regards certain aspects of the organization of the proceedings; or replacing the Procedural Organization Act where this was not signed by the parties. In this regard and as provided for in Articles 27 and 30 of the OHADAC Institutional Arbitration Rules, the Sole Arbitrator has the broadest powers to conduct the proceedings, within the time limits provided for in Article 6 of this appendix. In particular, the Sole Arbitrator is encouraged to have recourse to all means available to

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improve the efficiency of the arbitration proceedings in terms of time and costs, particularly technological means or expeditious procedures.

Article 6: Time limits

6.1. In expedited proceedings, the Sole Arbitrator must render his or her award no later than three (3) months after the date on which the Procedural Organization Act is signed or the date of any Procedural Organization Order organizing the proceedings.

6.2. Where the Sole Arbitrator considers that s/he has all the information necessary to make a decision following the Organizational Hearing and that the Procedural Organization Act signed by both parties confirms this, the award may be made within a period ranging from one (1) week to one (1) month from the date of signing the Procedural Organization Act, depending on the complexity of the case in particular.

6.3. If at any stage in the arbitration proceedings the Sole Arbitrator considers that s/he will not be able to comply with the time limits laid down in the Procedural Organization Act, potentially supplemented by the Procedural Organization Order, in accordance with the provisions of this appendix, s/he may extend the time limits in one or more subsequent procedural orders after informing the Secretariat and providing the reasons for the extension in writing to the parties and the Secretariat. The Sole Arbitrator shall be liable for financial penalties if this extension is not warranted.

Article 7: Application by default of the provisions of the OHADAC Arbitration Rules

For all other procedural stages not covered by the specific provisions in this appendix, the provisions of the OHADAC Institutional Arbitration Rules shall be implemented by the CARO Centre and the Sole Arbitrator.