

PROCEDURAL ORDER No. 1

dated **[date]**

[Case No.]

*conducted under the International Arbitration Rules of [Name of the Arbitral Institution]
(the “AI”) in effect as of [Year] (the “Rules”)*

between

[Name of Claimant]

([Nationality of Claimant])

Claimant

and

[Name of Respondent]

([Nationality of Respondent])

Respondent

Considering the consultations that took place among Claimant and Respondent (collectively, the "**Parties**") and the Arbitral Tribunal during the preliminary procedural conference [held via telephone conference] on [date], as well as the fact that the Rules apply to this arbitration since this arbitration commenced on [Date]¹ and the parties to the relevant agreement containing the arbitration clause under which this arbitration was initiated, agreed to refer the dispute to arbitration before the [AI]² and Claimant has its place of business in [State],³ the Arbitral Tribunal hereby issues the following decisions and directions:

I. Provisional Timetable⁴

Date	Procedural Step	Party Concerned
[Date]	Commencement of arbitration proceedings (i.e. the date on which the Request was received by the Secretariat) ⁵	Claimant
[Date]	Request received by Respondent ⁶	Claimant
[Date]	Answer submitted by Respondent ⁷	Respondent
[Date]	Constitution of the Arbitral Tribunal	Arbitral Tribunal
[date]	Preliminary procedural conference [To Parties: Please confirm if they prefer holding this via teleconferencing, video-conferencing or by in-person meeting.]	All
[date]	Statement of Claim accompanied by written witness statements, expert's reports and any documentary evidence [X weeks from the above]	Claimant
[date]	Statement of Defense accompanied by written witness statements, expert's reports and any documentary evidence [X weeks from the above]	Respondent

¹ See the Timetable below

² The arbitration agreement between Claimant and Respondent on [Date] (Article [X] of the YYY Agreement: [exhibit number])

³ See [Article(s)] of the Rules

⁴ See [Article(s)] of the Rules

⁵ See [Article(s)] of the Rules

⁶ See [Article(s)] of the Rules

⁷ See [Article(s)] of the Rules

Date	Procedural Step	Party Concerned
[date]	[Midstream Conference ⁸] [To Parties: Please inform the Arbitral Tribunal of your preference concerning the introduction of a midstream conference in these arbitral proceedings.]	All
[date]	[Document Production Phase (including any document requests, objections, production and the Arbitral Tribunal's ruling, if any) ⁹]	Claimant / Respondent / Arbitral Tribunal
[date]	Statement of Reply accompanied by reply witness statements and reply expert reports, if any [X weeks from the above]	Claimant
[date]	Rejoinder accompanied by reply witness statements and reply expert reports, if any [X weeks from the above]	Respondent
[date]	Parties to inform the Arbitral Tribunal which of the witnesses who have submitted written statements on behalf of a Party will be called to the hearing for cross-examination by the other Party [X weeks from the above]	Parties
To be determined	Pre-Hearing telephone conference to discuss practical details of the Hearing	All
[date]	Pre-Hearing written submissions/Skeleton Briefs (summarizing their respective arguments and providing quotations from key documents in their previous submissions), if the Arbitral Tribunal orders the Parties to submit them [X week prior to the Hearing]	Claimant / Respondent
[date]	[Parties shall submit the Hearing Bundles. ¹⁰] [X week prior to the Hearing]	Parties
[date]	Hearing [Parties to suggest duration of the Hearing.]	All
To be determined	Simultaneous Post Hearing Briefs if the Arbitral Tribunal orders the Parties to submit them, and cost submissions	Claimant / Respondent

⁸ See para. 32 below

⁹ See para. 9 below

¹⁰ See para. 26 below

Date	Procedural Step	Party Concerned
To be determined	Rebuttal on cost submissions, if any	Claimant / Respondent
To be determined	Target date for the Award ¹¹ [60 days from the date on which final submissions are made or the hearings are closed whichever is later] [To Parties: Can the Parties agree on the time limit for the Award as above? Notwithstanding Article [X] of the Rules, the Arbitral Tribunal considers it appropriate to have 60 days to draft the Award for the purpose of ensuring a well-reasoned and deliberate award.]	Arbitral Tribunal

1. Requests for extensions of time limits must state the reason for the request and must be filed as soon as possible, and no later than three business days prior to the time limit set. Extensions of time may be granted by the Arbitral Tribunal at its discretion, in exceptional cases only, and only when the request includes adequate reasoning and is submitted immediately after the event preventing a Party from complying with the deadline.

II. Written submissions

2. In order to facilitate references to pleadings of the Parties, the paragraphs of all written submissions shall be numbered consecutively. The submissions shall include a table of contents.
3. For each of their submissions, the Parties will make detailed factual allegations with a reasonable degree of specification and clearly indicate the evidence they invoke in support thereof: documents (with indication of the page and paragraphs), witness statements, expert reports, etc., if any.
4. Written submissions as well as accompanying documentary evidence shall be filed by email or uploaded to an FTP server to be created for this case, in a searchable PDF format on or before the due date, followed by a hard copy and a full electronic copy on USB flash drive containing the entire submission (including all attachments or

¹¹ See [Article(s)] of the Rules

accompanying materials such as exhibits, witness statements and expert reports) by courier delivery dispatched not later than the third business day following the electronic submission. The hard copy shall be supplied to the Arbitral Tribunal and the [AI] Secretariat in double-sided A4 format¹.

5. Written submissions shall be supplied to the Arbitral Tribunal by midnight [XST].

III. Documentary evidence

6. Written submissions shall be accompanied by the documentary evidence including exhibits, witness statements and expert reports (if any) relied upon by the respective Party. No new document may be presented at the hearing unless agreed upon by the Parties or authorized by the Arbitral Tribunal.
7. Documentary evidence shall be submitted in the following form:
 - a. Exhibits shall be numbered consecutively throughout these proceedings;
 - b. The number of each fact exhibit containing a document submitted by Claimant shall be preceded by the letter “C” (e.g. *Exhibit C-1*); the number of each exhibit containing a document submitted by the Respondent shall be preceded by the letter “R” (e.g. *Exhibit R-1*);
 - c. The number of each legal exhibit containing a document submitted by Claimant shall be preceded by the letter “CL” (e.g. *Exhibit CL-1*); the number of each exhibit containing a document submitted by Respondent shall be preceded by the letter “RL” (e.g. *Exhibit RL-1*);
 - d. Submission of exhibits shall be accompanied by a list of these exhibits, setting forth for each one:
 - aa. the exhibit number;
 - bb. the date of creation; and
 - cc. a brief description of the exhibit.
 - e. The lists of exhibits shall be updated with each new submission of exhibits in these proceedings.
8. All documentary evidence submitted to the Arbitral Tribunal shall be deemed true and complete, including evidence submitted in the form of copies, unless a Party disputes its authenticity or completeness.

9. **[To Parties: The Arbitral Tribunal would like to discuss with the Parties the scope and method of document production in these arbitral proceedings. The Arbitral Tribunal seeks the Parties' input on which document production option they prefer in these proceedings. Option A is not to set a specific phase for document production in the procedural timetable but to enable a Party to request that the other party produce specific documents within a narrow timeframe, while Option B is to set a document production phase in the timetable, during which each Party can request specific categories of documents by the other based on a Redfern Schedule. The Arbitral Tribunal invites the Parties to propose any other option, if they believe it to be more appropriate in this case.] [Option A]** Where either Party requires production of documents, that are in the possession of or under the control of the other Party, and are specifically relevant to the case and material to its outcome, it may, within [X] weeks of the submission of the other Party's written submissions to which the request has specific relevance, request production of those documents by the other Party. If the Parties failed to agree on a timetable and protocol for this limited document production exercise despite having *inter partes* consultation between the Parties upon the request for document production, the Arbitral Tribunal will set a timeline for its decision on the request, and be guided – but will not be bound – by the IBA Rules on the Taking of Evidence in International Arbitration (2010) (the “**IBA Rules**”) in making the decision. **[Option B]** The Arbitral Tribunal may, if no agreement between the Parties on *inter partes* requests for production of documents can be reached and upon the completion of the Redfern Schedule, order a Party to produce, on the target date mentioned in the timetable above, any documentary evidence within its custody, power or control which the Arbitral Tribunal deems specifically relevant to the case and material to its outcome. The Arbitral Tribunal will use the IBA Rules on the Taking of Evidence in International Arbitration (2010) (the “**IBA Rules**”) as a guideline. Any motion to the Arbitral Tribunal from the Parties shall identify the document(s) with a reasonable degree of specificity and state how the requested documents are specifically relevant to the case and material to its outcome. A sample of a Redfern Schedule is enclosed as an Annex to this Procedural Order.
10. The use of demonstrative exhibits (such as charts, tabulations, etc.) is allowed at the hearing, provided that no new evidence is contained therein. A hard copy of any such exhibit shall simultaneously be provided by the Party submitting such exhibit to the other Party and to the Arbitral Tribunal. The Parties shall exchange copies of proposed demonstrative exhibits no later than noon on the day before the first day of the hearing.
11. By no later than [X] weeks before the date of the hearing referred to in the timetable in this Procedural Order, the Parties will send to the Arbitral Tribunal [a core bundle

of exhibits agreed between the Parties,¹² in addition to] a chronological list of all the documents submitted in the proceedings.

IV. Witness evidence

12. If a Party wishes to submit witness evidence in support of its allegations, it shall indicate this in its written submissions and submit witness statements together with its written submissions in accordance with the timetable in this Procedural Order.
13. Any person may present evidence as a witness, including a Party, a Party's officer, employee or other representative.
14. Witness statements shall be submitted in the following form:
 - a. Each witness statement shall contain:
 - aa. the name and address of the witness, his or her relationship to any of the Parties (past and present, if any) and a description of his or her qualifications;
 - bb. a full and detailed description of the facts, and the source of the witness' information as to those facts; and
 - cc. an affirmation of the truth of the statement.
 - b. Each witness statement shall be signed by the witness and give the date and place of signature.
 - c. Each witness statement shall identify any document or other material relied on and, if not already provided with the Parties' submissions, include a copy of the document or other material relied on.
15. The witness statement shall be sufficiently detailed so that it can replace the direct examination of the witness at the hearing.
16. Witnesses who have submitted witness statements may be called to the hearing at the request of the Parties to cross-examine in accordance with the timetable in this Procedural Order. The Arbitral Tribunal shall decide what weight shall be given to the statement of witnesses who have not been called to the hearing by either Party.

¹² See para. 26 below

17. Being duly informed of the date of the hearing, the Parties will immediately after the receipt of this Procedural Order, or at least, as quickly as possible, inform their potential witnesses of these dates to secure their presence at the hearing in order to avoid any disruption of the procedural calendar.
18. Each Party is responsible for the physical presence at the hearing of the witnesses on which it intends to rely. Where a witness should ultimately not be able to attend the hearing for a valid reason, the Arbitral Tribunal shall hear the Parties on this issue and decide after taking into account all relevant circumstances, including the Parties' legitimate interests, what weight should be given to the statement of said witness, if any.
19. The admissibility, relevance, weight and materiality of the evidence offered by a witness or a Party shall be determined by the Arbitral Tribunal.
20. Each Party is responsible for the costs of the witnesses on which it relies (travel costs, hotel expenses etc.), subject to the Arbitral Tribunal's cost decision pursuant to [Article(s)] of the Rules.

V. Evidence of expert witnesses

21. The provisions of Section IV. of this Procedural Order are applicable, *mutatis mutandis*, to expert witnesses.
22. The expert shall identify his or her area of expertise. The expert report will contain the expert's opinion including a description of the method, evidence and information used in arriving at his or her conclusions.
23. The Arbitral Tribunal may, after consultation with the Parties, appoint one or more experts on its own initiative, or at the request of a Party. In this case, the Arbitral Tribunal shall cooperate with the Parties to define the expert's mission and to draft questions for the expert. The Arbitral Tribunal will be guided – but will not be bound – by Article 6 of the IBA Rules.
24. The Arbitral Tribunal will also be guided – but will not be bound – by Article 5 of the IBA Rules, which provides that if the Parties submit expert reports, the Arbitral Tribunal may, if it deems appropriate, order that the Party-appointed experts meet and confer about their reports. At such meeting, the experts shall attempt to reach an agreement regarding issues about which the opinions set forth in their expert reports

differ, or to narrow their differences where the experts cannot reach an agreement. The experts shall record in writing the issues on which they have reached agreement or in relation to which they have been able to narrow their differences.

VI. Hearing

25. The Arbitral Tribunal shall, at all times, have complete control over the procedure in relation to a witness giving oral evidence, including the right to recall a witness at the request of a Party or on its own motion. The Arbitral Tribunal may limit or deny, on its own motion or at the request of a Party, the right of a Party to put a question to a witness if the Arbitral Tribunal finds that such question does not serve any relevant purpose.
26. [Document bundles for use at the Hearing (the “**Hearing Bundles**”) shall be agreed by the Parties and provided to the Arbitral Tribunal in hard copy and by electronic means, on the date specified in the timetable in this Procedural Order. The Hearing Bundles shall contain all the documents likely to be referred to at the Hearing, specifically copies of written submissions, exhibits, witness statements and expert reports relied upon. Production of the Hearing Bundles shall not be taken as an admission by any Party of the relevance or truth of the contents of the documents contained therein.]
27. Each Party may first make a short opening statement, the duration of which is to be determined by the Arbitral Tribunal after consultation with the Parties.
28. The procedure for examining witnesses at the hearing shall be the following:
 - a. Claimant’s witnesses will be examined first, followed by the Respondent’s witnesses;
 - b. Each witness shall first of all be invited to confirm his witness statement;
 - c. The Party producing the witness will first be allowed to conduct a limited direct examination, the duration of which is to be determined by the Arbitral Tribunal after consultation with the Parties. The other Party shall proceed to cross-examine the witness, followed by a redirect examination by the first Party. The scope of the redirect examination shall be limited to matters that have arisen during cross-examination;
 - d. The Arbitral Tribunal shall have the right to examine the witnesses and to interject with questions during the examination by Counsel. It shall ensure that

each Party has the opportunity to re-examine a witness with respect to questions raised by the Arbitral Tribunal;

- e. The Arbitral Tribunal shall at all times have complete control over the procedure in relation to a witness giving oral evidence, including the right to limit or exclude any question it considers irrelevant, duplicative, or unnecessarily burdensome.
29. Witnesses will not be heard under oath but the Arbitral Tribunal shall draw their attention to the fact that the Arbitral Tribunal requests that they tell the truth, the entire truth and nothing but the truth and shall ask them to confirm that they will comply with this request.
30. Once the Parties have made their opening statements, fact witnesses may not be present in the hearing room during the examination of other fact witnesses until his or her testimony has been completed, unless the Parties agree otherwise.
31. The hearing shall be transcribed verbatim by a court reporter, the costs of which are to be advanced by each Party in equal share, without prejudice to the Arbitral Tribunal's cost decision pursuant to [Article(s)] of the Rules. The hiring of a court reporter will be organized and done jointly by the Parties.
32. [The midstream conference will be held for one day as a non-evidentiary hearing, i.e., no examination of witnesses. It will serve to give the Arbitral Tribunal the opportunity to ask questions and give directions for the second round of submissions. A preliminary assessment by the Arbitral Tribunal may also be given if both Parties agree to it.]
33. For non-evidentiary hearings or any procedural meetings between the Arbitral Tribunal and Parties' counsel, minutes, if any, shall in principle be made as summary minutes by the Arbitral Tribunal. Summary minutes circulated to the Parties by the Arbitral Tribunal, if any, will be deemed to appropriately reflect the non-evidentiary hearing or procedural meeting unless corrections are requested within one week or otherwise within the time limit fixed by the Arbitral Tribunal.

VII. Translations and interpretation

34. Pursuant to the Decision on the Language of the Arbitration issued by the Arbitral Tribunal on [Date], the arbitral proceedings are to be conducted in English.

35. Witness statements and documents in a language other than English shall be submitted with a translation in English. For documents, only the relevant parts have to be translated. Such translations may first be made “unofficially,” without the need for an “official” third Party certified translation. However, if the opposing Party challenges the appropriateness or accuracy of the “unofficial” translation, the Parties shall work jointly in good faith to arrive at an agreed wording or, failing agreement, the Party submitting the initial “unofficial” translation shall provide an “official” certified translation of the relevant parts which must be translated.
36. Oral testimony in a language other than English will have to be interpreted into English by an independent interpreter in sequential interpretation. **[Option A:** The Party whose witness testifies in a language other than English shall arrange for an independent interpreter with an advance on costs, without prejudice to the Arbitral Tribunal’s cost decision pursuant to [Article(s)] of the Rules. / **Option B:** The hiring of interpreters will be organized and done by the [AI] Secretariat after consultation with the Parties.]

VIII. Venue of the hearings/Place of the Arbitration

37. The venue of the hearings shall be [City, State]. The Parties are to agree on a suitable hearing location, [which may include the facilities of the [Name of the Arbitration Hearing Center]].
38. As agreed by the Parties, the place of the arbitration is [City, State].

IX. Applicable Law

39. As agreed by the Parties, the substantive law to be applied to the merits of the disputes are the laws of [State].

X. Administrative Secretary

40. [The Arbitral Tribunal appoints [Name], of the Sole Arbitrator’s law firm [Law Firm] in [State], as the Administrative Secretary to the Arbitral Tribunal (the “**Administrative Secretary**”). No further costs will be incurred by the Parties except for the Administrative Secretary’s travel and other out-of-pocket expenses related to this case, if any, which will be considered as costs of the arbitration.]

XI. Amendments

41. This Procedural Order No. 1 may be amended or supplemented, and the procedures for the conduct of this arbitration may be modified, pursuant to such further directions or Procedural Orders as the Arbitral Tribunal may issue from time to time.

XII. Communication

42. Contact details for the Parties are set forth as follows:

Claimant:	[Name of Claimant] Attn: [Name & Title]
Address:	[Address]
Represented by:	[Law Firm] [Address] Attn: [Names] Email: [emails]

Respondent:	[Name of Respondent] Attn: [Name & Title]
Address:	[Address]
Represented by:	[Law Firm] [Address] Attn: [Names] Email: [emails]

43. Contact details for the Arbitral Tribunal are set forth as follows:

[Name] (Sole Arbitrator)	
Address:	[Law Firm] [Address]
Email:	[email]

44. [Contact details for the Administrative Secretary are set forth as follows:]

[Name]	
Address:	[Law Firm] [Address]
Email:	[email]

45. All e-mail communications should state in the subject-line of the e-mail “[AI] Case No. [YYY]” followed by the nature of the issue and/or enclosure for ease of reference at a later stage.
46. All notifications or communications to the Arbitral Tribunal shall be valid if made to the e-mail addresses of the Arbitral Tribunal set out in paragraph 42 above.
47. All notifications or communications from the Arbitral Tribunal shall be valid if made to the e-mail addresses of the Parties’ duly authorized legal representatives set out in paragraph 41 above.
48. There shall be no *ex parte* communication between any Party or its representatives and the Arbitral Tribunal regarding any matter in these arbitral proceedings and all communications by one Party to the Arbitral Tribunal shall also be delivered contemporaneously to the other Party.
49. The Parties shall notify the other Parties, the Arbitral Tribunal and the [AI] of any change of names, descriptions, addresses and contact details or appointment or change of legal representation. Failing such notification, communications in accordance with the above procedure shall be valid.

Date: [date]

[Name]

The Sole Arbitrator

[ANNEX]

No.	Document Description	Reason for Request	Nature and Reason for Objection to Request to Produce	Description of the Documents that the Other Party Agrees to Produce	Reply	Decision of the Arbitral Tribunal