

**THE  
ARBITRATION  
HANDBOOK**

**THE HIGH COURT OF ORISSA ARBITRATION CENTRE**

**CUTTACK**

## INDEX

Subject	Page
The High Court of Orissa Arbitration Centre (Internal Management) Rules, 2014	1-8
The High Court of Orissa Arbitration Centre (Arbitration Proceedings) Rules, 2014	9-42
The High Court of Orissa Arbitration Centre (Administrative Cost and Arbitrators' Fees) Rules, 2014	43-48

# The Odisha Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

---

No. 1535 CUTTACK, FRIDAY, OCTOBER 10, 2014 / ASWINA 18, 1936

---

PUBLISHED UNDER THE HIGH COURT OF ORISSA, CUTTACK

NOTIFICATION

The 8th October 2014

No. 954—XII-1/1996-R.—In exercise of the powers conferred under Section 11(10) of the Arbitration and Conciliation Act, 1996 and Section 89 of the Code of Civil Procedure, 1908, the High Court of Orissa do hereby make “The Arbitration Handbook” containing “The High Court of Orissa Arbitration Centre (Internal Management) Rules, 2014”, “The High Court of Orissa Arbitration Centre (Arbitration Proceedings) Rules, 2014” and “The High Court of Orissa Arbitration Centre (Administrative Cost and Arbitrators’ Fees) Rules, 2014”.

By order of the High Court

G. MOHAPATRA

Registrar (Judicial)

**THE HIGH COURT OF ORISSA ARBITRATION CENTRE (INTERNAL  
MANAGEMENT) RULES, 2014**

**PRELIMINARY**

1. Title and Scope
2. Definitions

**PART-I- ARBITRATION COMMITTEE**

3. The Arbitration Committee
4. Powers & Function of the Arbitration Committee

**PART-II – SECRETARIAT**

5. The Secretariat
6. Duties & Responsibilities of the Coordinator

**PART-III- ADVISORY COUNCIL**

7. Advisory Council
8. Duties & Responsibilities of the Advisory Council

**PART-IV- PANEL OF ARBITRATORS**

9. Panel of Arbitrators

**PART-V- CONDUCT OF ARBITRATOR**

10. Conduct of Arbitrator

**PART-VI- GENERAL PROVISIONS**

11. The account of the High Court of Orissa Arbitration Centre
12. Amendment of Rules
13. Residuary Provision

## PRELIMINARY

1. **Title-** These Rules may be called the High Court of Orissa Arbitration Centre (Internal Management) Rules, 2014.

1.1. The Rules shall come into force with effect from the date of notification.

2. **Definitions-**

(i) In these Rules, unless the context otherwise requires,-

(a) "Act" means the Arbitration and Conciliation Act, 1996 and the amendments thereto or any reenactment thereof;

(b) "Advisory Council" means the Council appointed under Rule 8 of these Rules;

(c) "Arbitral Award" includes an interim, partial and preliminary award;

(d) "Arbitrator" means a person appointed by the Chief Justice as an arbitrator from the panel of Arbitrators of the High Court of Orissa under Rule-5(5) of the High Court of Orissa (Arbitrator' Panel and Fee) Order, 2014.

(e) "Arbitration Committee" means the Committee constituted under Rule-3 of these Rules;

(f) "Centre" means High Court of Orissa Arbitration Centre;

(g) "Chairperson" means the Chief Justice of the High Court of Orissa or a person nominated by him under Rule-3;

(h) "Co-ordinator" and "Additional Co-ordinator" means the persons appointed in terms of Rule 6 of these Rules;

(i) "Dispute" includes differences;

(j) "High Court of Orissa Panel of Arbitrators" means the panel of Arbitrators in accordance with Rule 10 of these Rules;

(k) "Party" means a Party(s) to an arbitration agreement.

(ii) The words and phrases not defined in these Rules shall bear the same meaning as used or defined in the Act.

(iii) The Chief Justice of the High Court of Orissa shall be the Patron-in-Chief of the High Court of Orissa Arbitration Centre and shall have the powers vested under Rule 3, 5, 7 & 12 of these Rules.

**PART I**  
**ARBITRATION COMMITTEE**

**3. The Arbitration Committee-**

- (1) There shall be an Arbitration Committee consisting of members as under :
  - (a) The Chief Justice or his designate shall be the Chairperson and two other Judges nominated by him, as Members.
  - (b) Advocate General of the State of Odisha.
  - (c) Asst. Solicitor General of India attached to the High Court of Orissa.
  - (d) President of the Orissa High Court Bar Association;
- (2) The Co-ordinator shall be the *ex-officio* member of the Arbitration Committee, without any voting rights, and shall convene the meetings of the Arbitration Committee as may be desired by the Chairperson.
- (3) The meeting of the Arbitration Committee shall be presided over by the Chairperson or in his absence, by the Senior most Judge nominated by the Chief Justice.
- (4) The members of the Arbitration Committee may meet as and when required for the smooth and efficient functioning of the Centre.

**4. Powers & Function of the Arbitration Committee -**

- (1) To take decisions for smooth and effective functioning of the Centre;
- (2) To formulate rules for internal functioning of the Arbitration Committee;
- (3) To prepare and update the Panel and to take such decisions as may be required from time to time;
- (4) To fix/revise the arbitrators' fees.
- (5) To remove a person from the Panel, if:-
  - (a) any complaint of breach of duty or misconduct is received against him and the Arbitration Committee is of the opinion that it would be expedient in the interest of the Arbitration Centre that such person should not continue on its Panel of Arbitrators; or
  - (b) he is declared to be a person of unsound mind or becomes incapacitated; or
  - (c) he has incurred any disqualification under the Act; and
  - (d) for any other reason deemed appropriate by the Committee.

- (6) To organize events or seminars in the field of Law of Arbitration for resolution of disputes;
- (7) To nominate the Arbitral Tribunal in case an Arbitration comes by mutual agreement to the Centre, in accordance with the terms & stipulations in the agreement.

## PART II

### ARBITRATION SECRETARIAT

5. **Arbitration Secretariat** – There shall be an Arbitration Secretariat to supervise and manage the High Court of Orissa Arbitration Centre and shall consist of :
- (a) A member of the Orissa Superior Judicial Service to be appointed by the Chief Justice as Coordinator for such period as the Chief Justice may direct who shall be in-charge of the Centre and act under the supervision of the Chairperson;
  - (b) A member of Orissa Judicial Service to be appointed by the Chief Justice as Additional Coordinator for such period as the Chief Justice may direct who shall act under the supervision of the Coordinator;
  - (c) Notwithstanding anything contained in Clause (a) and (b), the Chief Justice may appoint any other person, who, in the opinion of the Chief Justice, is well qualified and suitable to be appointed as Coordinator or Additional Coordinator;
  - (d) Such staff as may be appointed/deputed by the Chief Justice of the High Court of Orissa.
6. **Duties and responsibilities of the Coordinator-**
- (1) The Coordinator shall be responsible for the day to day functioning of the Centre.
  - (2) Without prejudice to the provision contained in Sub-Clause(1), the Coordinator shall undertake the following:
    - (a) Place all the records pertaining to each request for arbitration of disputes before the Advisory Council;
    - (b) Take initiative in accordance with the Rules of the Centre;
    - (c) Notify the parties to comply with the requirements of filing of the

request, reply, submission, payment of arbitrators' fees and miscellaneous expenses, within the prescribed time frame;

- (d) Maintain and update from time to time a profile of each Arbitrator on the Panel of the Centre, and make it available to the parties, on request;
  - (e) Maintain a fact sheet of each arbitration case dealt with by the Centre;
  - (f) Carry out directions given by the Arbitration Committee from time to time;
  - (g) Organize workshops, conferences, symposia, seminars, etc., in the field of Alternative Dispute Resolution Mechanism and to promote the use of the Centre for resolution of the disputes on the directions of the Arbitration Committee;
  - (h) Perform all other duties in conformity with the callings of his office as entrusted.
- (3) All correspondence and communications to the Centre shall be addressed to the Coordinator and the Coordinator shall make all correspondence and communication on behalf of the Centre.

### PART III ADVISORY COUNCIL

7. There shall be an Advisory Council consisting of the members as follows:-

- (1) (a) A Chief Counsel as the Head of the Advisory Council, who shall be a Senior Advocate with sufficient experience in the field of Arbitration to render *pro bono* services to the Centre;
  - (b) Two or more General Counsel who shall be advocates with sufficient experience in arbitration to render *pro bono* services to the Centre;
  - (c) One or more full-time General Counsel and two or more counsel for such tenure and on such remuneration as the Chief Justice may determine on the recommendation of the Arbitration Committee.
- (2) The Members of the Advisory Council shall be appointed by the Chief Justice for such period as the Chief Justice may direct.

Provided that the Chief Justice of the High Court of Orissa shall have the power to terminate the tenure of any of the members of the Advisory

Council at any time at his discretion without assigning any reason therefor.

## 8. Duties and Responsibilities of the Advisory Council –

The duties and responsibilities of the Advisory Council shall be as under:

- (a) To process the records pertaining to each Request for arbitration, received by the Centre, and recommend to the Coordinator to initiate action in accordance with the rules of the Centre;
- (b) To call upon the parties through the Coordinator to file their Statement(s) of claim, reply(ies) thereto; Counter-claim(s) etc;
- (c) To compile all documents received pursuant to filing of request, divide them into separate volumes, forward as copy to each member of the Arbitral Tribunal and maintain a copy for the record of the Centre in accordance with Rule 7 of the High Court of Orissa Arbitration Centre (Arbitration Proceedings) Rules;
- (d) To call upon the parties through the Coordinator to deposit the assessed miscellaneous expenses of the Centre and the fees for the arbitrator(s);
- (e) To render assistance by way of legal research, if called upon or requested by the Arbitral Tribunal;
- (f) To assist the Arbitral Tribunal in rectifying clerical errors, if any, in the Award;
- (g) To assess the costs to be awarded by the Arbitral Tribunal in all arbitration proceedings;
- (h) To take steps as may be necessary for timely completion of arbitration proceedings.

## PART- IV

### PANEL OF ARBITRATORS

#### 9. Panel of Arbitrators –

- (1) The Arbitration Committee shall prepare and maintain a Panel of Arbitrators from amongst persons who are eligible and willing to serve as Arbitrators;
- (2) The Secretariat shall maintain an up-to-date Panel of Arbitrators together with information as to their qualification and experience;
- (3) A *Curriculum Vitae* shall be furnished by the persons interested to be placed

in the High Court of Orissa Panel of Arbitrators, in the form prescribed in Schedule V of the High Court of Orissa Arbitration Centre (Arbitration Proceedings) Rules. Information so submitted by the persons who are finally empanelled may be made available to the parties seeking to appoint an arbitrator from the Panel, on request;

- (4) The parties may choose any person from the Panel to be appointed as arbitrator(s) in respect of their disputes, subject to their work-load and availability;
- (5) If the parties so desire, the Chairperson may appoint an arbitrator whose name is not in the Panel, but such appointment shall be restricted to the case concerned;
- (6) The Arbitration Committee may at any time add new names to the Panel or omit the name of any person from the Panel.

## PART-V

### CONDUCT OF ARBITRATORS

#### 10. Conduct of an Arbitrator

- (1) An Arbitrator should uphold the integrity and fairness of the arbitration process;
- (2) He/she should disclose any interest or relationship likely to affect impartiality or which might create an appearance of partiality;
- (3) He/she should avoid impropriety or the appearance of impropriety in communicating with parties;
- (4) He/she should conduct the proceedings fairly and diligently;
- (5) He/she should make decisions in a just, independent and dispassionate manner;
- (6) He/she should be faithful to the relationship of trust and confidentiality inherent in that office;
- (7) He/she should adhere to standards of integrity and fairness when making arrangements for compensation and reimbursement of expenses;
- (8) He/she may engage in advertising for promotion of arbitral services which is

- truthful and accurate;
- (9) Arbitrators appointed by one party have a duty to determine and disclose their status and to comply with this code;
- (10) He/she shall, unless otherwise agreed to by the parties, abide by the fee structure, norms of expenditure and other terms and conditions of availing his/her services as prescribed from time to time.

## PART VI

### GENERAL PROVISIONS

11. **Accounts of the High Court of Orissa Arbitration Centre-**

The accounts of the High Court of Orissa Arbitration Centre shall be maintained as per the Income Tax Act, 1961 as amended from time to time and the Rules and Circulars issued thereunder by the appropriate authority.

12. **Amendment of Rules -**

These Rules may be amended by the Chief Justice of the High Court of Orissa in consultation with the Arbitration Committee.

13. **Residuary Provision -**

In the absence of any specific norm made under these Rules, the Arbitration Committee shall take appropriate decision(s), as may be necessary from time to time.

---

# THE HIGH COURT OF ORISSA ARBITRATION CENTRE

## (ARBITRATION PROCEEDINGS) RULES, 2014

### PRELIMINARY

1. Title and scope
2. Definitions

### PART I – ARBITRATION PROCEDURE

3. Request for Arbitration
4. Reply to Request
5. Representation and Assistance
6. Written notices or Communications
7. Advisory Council to compile documents
8. Terms of Reference & Arbitration Schedule
9. Consolidation of proceedings
10. Joinder of Additional Parties
11. Additional claims and Counter claims
12. Hearing Procedure
13. Decision making by the Tribunal
14. Settlement of dispute.

### PART II – FORMATION OF TRIBUNAL

15. Appointment of Arbitrators
16. Where the number of Arbitrators is specified in the agreement
17. Appointment in case of Multiparty Arbitration
18. Confirmation of Arbitrator

### PART III – SUMMARY PROCEDURE

19. Summary Procedure

## **PART-IV- EMERGENCY ARBITRATION**

20. Emergency Arbitration.
21. Law Applicable to the substance of the dispute.
22. Law applicable to the Arbitration Proceedings
23. Language.
24. Applicability of other parts

## **PART-VI- MED-ARB**

25. Reference to Med-Arb.

## **PART VII – GENERAL PROVISIONS**

26. Interim measures ordered by the Tribunal
27. Default of parties
28. Default of Arbitrators
29. Place of Arbitration
30. Appointment of Experts
31. Application for adjournment
32. Deposits
33. Additional fees and expenses
34. Form and contents of Arbitral Award
35. Interest on sums awarded
36. Termination of Proceedings
37. Correction and interpretation of Award
38. Waiver
39. Amendment of Rules
40. Residuary Provision

SCHEDULE – I

SCHEDULE – II

SCHEDULE – III

SCHEDULE – IV

SCHEDULE – V

## PRELIMINARY

### 1. Title and Scope –

- (1) These Rules may be called the High Court of Orissa Arbitration Centre (Arbitration Proceedings) Rules, 2014
- (2) The Rules shall come into force with effect from the date of notification.
- (3) These Rules shall apply where the parties have agreed in writing, that any dispute(s), which has arisen or which may arise between them, in respect of a defined legal relationship, whether contractual or otherwise, shall be arbitrated under the High Court of Orissa Arbitration Centre (Arbitration Proceedings) Rules, 2014 and/or as amended from time to time;
- (4) These Rules shall also apply where the parties sign a joint memorandum agreeing to their dispute(s) being resolved by arbitration in accordance with the High Court of Orissa Arbitration Centre (Arbitration Proceedings) Rules, 2014 and or as amended from time to time in any proceedings in any Court, including;
  - (a) Under Section 89 of the Code of Civil procedure, 1908; or
  - (b) Under Sections 8, 9, 11, 45 or 54 of the Arbitration and Conciliation Act.1996 or any other related statute as the case may be.

### 2. Definitions :-

- (1) In these rules, unless the context otherwise requires -
  - (a) “Act” means the Arbitration and Conciliation Act, 1996 and the amendments thereto or the re-enactment or modification thereof;
  - (b) “Advisory Council” means the Council constituted under Rule-7 of the High Court of Orissa Arbitration Centre (Internal Management) Rules, 2014;
  - (c) “Arbitral Award” includes as interim, partial and preliminary award;
  - (d) ‘Arbitrator’ means a person appointed as an arbitrator from the High Court of Orissa Panel of Arbitrators and includes an arbitrator appointed in terms of Rule 9(5). of the High Court of Orissa Arbitration Centre (Internal Management) Rules, 2014;

- (e) "Arbitration Committee" means the Arbitration Committee of the High Court of Orissa Arbitration Centre;
  - (f) "Centre" means the High Court of Orissa Arbitration Centre;
  - (g) "Chairperson" means the Chief Justice of the High Court of Orissa or a person nominated by him under Rule 3 of the High Court of Orissa Arbitration Centre (Internal Management) Rules, 2014;
  - (h) "Claimant" means the applicant who makes a request for arbitration or files statements of claim under these Rules;
  - (i) "Confirming Party" means a party to an arbitration agreement and who has signed the Terms of Reference;
  - (j) "Dispute" includes differences;
  - (k) "Joint Memorandum" means a memorandum jointly signed by the parties as contemplated in Rule 1(3) and in the form as prescribed in Schedule-II of the Rules;
  - (l) "Panel of Arbitrator" means the panel of arbitrators prepared by the Arbitration Committee in accordance with Rule-9 of the High Court of Orissa Arbitration Centre (Internal Management) Rules, 2014;
  - (m) "Party" means a party to an arbitration agreement;
  - (n) "Request" means a written communication to the Centre to commence the arbitration in accordance with these Rules;
  - (o) "Rules" mean the High Court of Orissa Arbitration Centre (Arbitration Proceedings) Rules, 2014.
- (2) The words and phrases not defined here shall bear the same meaning as used or defined in the Act or the High Court of Orissa Arbitration Centre (Internal Management) Rules and the High Court of Orissa Arbitration Centre (Administrative Cost and Arbitrators' Fees) Rules, 2014.

## PART - I

## ARBITRATION PROCEDURE

## 3. Request for Arbitration –

- (1) Any person desirous of initiating an arbitration under these Rules shall submit his Request in writing for Arbitration (the 'Request') to the Secretariat addressed to the Coordinator, with a simultaneous copy to the Respondent(s),
- (2) The Request shall, *inter alia*, contain the following information:
  - (a) Name in full, description, contact details and address of each of the parties;
  - (b) Description of the nature and circumstances of the dispute giving rise to the claim(s);
  - (c) Statement of the relief sought, including, to the extent possible, an indication of any amount(s) claimed and all supporting documents;
  - (d) Relevant agreements and, in particular, a copy of written arbitration clause or written arbitration agreement;
  - (e) Provisional "Terms of Reference" and the issues to be adjudicated;
  - (f) All relevant particulars concerning the arbitrators, their number, qualifications, if any, prescribed in the arbitration agreement on which parties have already agreed in writing;
  - (g) Statements as to the applicable rules of law, if any, and the language of the arbitration; and
  - (h) Order of Court, if any, passed in proceedings referred to in Rule 1(3) of these Rules, along with the signed joint memorandum.
- (3) The Request shall be accompanied by all relevant documents in support of the claim(s).
- (4) The party making such Request, may file its Statement of Claim, along with the Request but in any event, shall do so within fifteen days thereof or within such time, as may be specified by the Coordinator, along with all documents in support of the claim.
- (5) The Claimant shall submit sufficient number of copies of the Request and the Statement of Claim, and also soft copy thereof being one copy for the Centre, one copy for each arbitrator(s) (if the number of arbitrators is mentioned in the

arbitration agreement) and one copy for each of the Respondent(s).

- (6) The Claimant shall also make an advance payment for his share of administrative costs, miscellaneous expenses and arbitrators' fees, as the Coordinator may require in terms of Rule 32 of these Rules, determined in accordance with the High Court of Orissa Arbitration Centre (Administrative Cost and Arbitrators' Fees) Rules, 2014 in force on the date the Request is submitted.

In the event the Claimant(s) fails to comply with any of the aforesaid requirements, the Coordinator may fix a time limit within which the Claimant must comply, failing which, the file shall be closed without prejudice to the rights of the Claimant to submit the claims at a later date by way of a fresh Request.

- (7) The Coordinator shall send a copy of the Request, Statement of Claim and the documents annexed thereto, at the earliest to the Respondent(s) for his Reply to the Request.

#### 4. Reply to Request –

- (1) Within thirty days from the date of receipt of the Request and the Statement of Claim, from the Secretariat, the Respondent shall send his written response (the "Reply") to the Secretariat addressed to the Coordinator, which shall *inter alia*, contain the following information and be accompanied by:-
- (a) his name in full, description, contact details and address;
  - (b) confirmation or denial of all or part of the Claims(s) made by the Claimant in the Statement of claim;
  - (c) comments in response to the nature and circumstances of the dispute giving rise to the Claim(s) contained in the Request;
  - (d) Response to the relief sought in the Request;
  - (e) Statement describing the nature and circumstances giving rise to any Counter-claim(s), if any, including all relevant or supporting documents;
  - (f) Provisional "Terms of Reference" and the issues to be adjudicated;
  - (g) Comments, if any, concerning the number of arbitrators and their choice in the light of the Claimant's proposals; and

- (h) Statements, if any, as to the applicable rules of law and the language of the arbitration;
- (i) to deposit with the Centre in advance 50% share of Arbitrator's fee, on the Claim amount and the Miscellaneous Expenses within 30 days.

(2) The Coordinator may, on sufficient grounds in writing, explaining the delay, grant an extension of time for filing of the Reply and/or Counter-claim to the Respondent upon payment of such costs as may be deemed appropriate and within such time as may be specified;

Provided, that the request for extension of time shall be entertained only once and such extension shall not exceed thirty days. If the Respondent fails to file his reply and/or Counter-claim, the Coordinator shall proceed further in accordance with the Rules

- (3) Failure of the Respondent to file his Reply and/or Counter-claim within the time stipulated or the extended time shall constitute a waiver of the Respondent's opportunity to file the Reply;
- (4) Reply and/or Counter-claim shall be supplied to the Secretariat in sufficient number of copies and also soft copy thereof being one copy for the Centre, one copy each for arbitrator(s) (if the number of arbitrators is mentioned in the arbitration agreement) and one copy each for the Claimant(s);
- (5) If the Respondent(s) files a Counter-claim, he shall make an advance payment for his share of Arbitrators' fee as the Coordinator may require in terms of Rule 32 of the these Rules, determined in accordance with the High Court of Orissa Arbitration Centre (Administrative Cost and Arbitrators' Fees) Rules, 2014 in force on the date the Request is submitted;
- (6) A copy of the Reply or Counter-claim and the documents annexed thereto shall be communicated by the Coordinator to the claimant(s);
- (7) The Claimant(s) shall file a reply to any Counter-claim within 30 days from the date of receipt of the Counter-claim communicated by the Coordinator;
- (8) The Coordinator may, on sufficient grounds in writing explaining the delay, grant the Claimant an extension of time for filing the Reply only upon payment of costs as may be deemed appropriate;

Provided, that the request for extension of time shall be entertained only once and such extension cannot exceed thirty days.

- (9) Failure of the Claimant(s) to file his Reply to Counter-claim within the time stipulated or the extended time shall constitute a waiver of the Claimant's opportunity to file the Reply to Counter-claim.

**Representation and Assistance -**

- (1) Each party shall advise, in writing, the other party and the Coordinator of-
- (a) the names and addresses of persons who will represent or assist him or her, and
  - (b) the capacity in which those persons will act.
- (2) Once the Arbitral Tribunal has been established, the parties or their representatives may communicate in writing directly to the Arbitral Tribunal, with a copy of the communication addressed to the Coordinator.

**6. Written Notices or Communications -**

- (1) All notices or communications from the Coordinator and the Arbitral Tribunal shall be in writing and deemed to have been duly delivered, when sent in the last known address of the party or duly notified representative of such party. Such notice or communication may be made through registered/speed post, courier, facsimile transmission, telex, telegram or any other means of telecommunication that provides a record or proof of despatch.
- (2) The parties shall file with the Coordinator a copy of any notice, communication or proposal concerning the arbitration proceedings. Any such notice or communication may be sent by such party to all the other parties to the proceedings as well as to the Arbitral Tribunal and the Coordinator by registered/speed post, courier, electronic mail, facsimile or any other means of telecommunication that provide a record or proof of despatch.

**7. Advisory Council to compile documents -**

The Advisory Council shall compile all documents and divide them into separate volumes e.g.

- (a) One volume for orders and pleadings (Request and Reply thereto, Claims and Reply thereto and Counter-claims and Reply thereto);
- (b) One volume for evidence by way of affidavits filed by the parties;

- (c) One volume for all documents filed by the parties in support of their respective claims etc. and shall forward a copy to each member of the Arbitral Tribunal and maintain a separate copy thereof for the record of the Centre.

## 8. Terms of Reference and Arbitration Schedule –

- (1) The Arbitral Tribunal shall within fifteen days of receiving the compilation of documents from the Advisory Council, draw up the terms of reference in the presence of the parties and on the basis of their pleadings, consisting of Claim(s) and Reply, Counter-claim(s), if any and Reply thereto and the Evidence by way of affidavit including the provisional terms of reference, if any, suggested by the parties, in the light of their submissions.

The Terms of Reference shall include the following particulars:

- (a) Full names and descriptions of the parties;
  - (b) Addresses of the parties to which notices and communications arising in the course of the arbitration may be made;
  - (c) Summary of the claim and the relief sought for by each party;
  - (d) Issues to be determined by the Arbitral Tribunal;
  - (e) Full names, descriptions and addresses of the arbitrators;
  - (f) Particulars of the procedural rules mutually agreed between the parties and if required reference to the power conferred upon the Arbitral Tribunal to act as *amiable compositeur* or to decide *ex aequo et bono*.
- (2) (a) The Terms of Reference shall be signed by all the parties and members of the Arbitral Tribunal;
- (b) The Arbitral Tribunal may secure consent of the parties to the terms of reference as finally drawn up by means of video conferencing or confirm the same in writing through electronic mails, facsimile or such other means of telecommunications which will provide a record of the consent of the parties.

- (3) If any party refuses to take part in the drawing up of the Terms of Reference and to sign the same, the arbitral proceedings shall continue in respect of the claims or counter-claims of parties who have signed the Terms of Reference and any claims or Counter-claims made by the party who so refuses to participate or sign shall not be considered but shall be bound by the orders and award of the Arbitral Tribunal.
- (4) Soon after the Terms of Reference have been drawn up by the Arbitral Tribunal, the Advisory Council shall prepare, in consultation with the Arbitral Tribunal and the parties, a timetable for the conduct of the arbitration and shall communicate it to each of them. The time-table shall specify:-
  - a) the period within which the parties would file statement of witnesses by way of affidavit to be treated as their statements made in examination-in-chief;
  - b) the dates when the Arbitral Tribunal shall record oral evidence to be adduced by the parties by way of cross-examination of the witnesses filing their affidavit evidence (treated as their statement in examination-in-chief) and such other oral depositions as the Arbitral Tribunal may permit;
  - c) the dates when the parties would address their arguments before the Arbitral Tribunal.
- (5) The time-table so fixed shall remain firm and binding on all concerned.
- (6) The Arbitral Tribunal shall communicate the time-table to the Coordinator and also the time period for publication of the award.
- (7) The Arbitral Tribunal shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) or the Indian Evidence Act. 1872 (1 of 1872).
- (8) In the absence of any specific provision in these Rules, the parties are free to agree upon the procedure to be followed by the Arbitral Tribunal in conducting its proceedings.
- (9) Failing any agreement referred to in Sub-Rule (8), the Arbitral Tribunal may conduct the proceedings in the manner it considers appropriate.

- (10) The power of the Arbitral Tribunal under Sub-Rule (9) includes the power to determine the admissibility and relevance of any evidence.
- (11) The Arbitral Tribunal may, where necessary, secure agreement of parties to dispense with formal proof of documents, except in case of questioned documents.
- (12) Notwithstanding anything contained under these Rules, the Chairperson of the Arbitral Tribunal may decide all questions relating to procedure, to be adopted by the Arbitral Tribunal.

#### 9. Consolidation of Proceedings

On the date fixed for Terms of Reference, the Arbitral Tribunal may, with the consent of the parties, direct consolidation of two or more arbitral proceedings before it, if the disputes or differences therein are identical and between the parties or between the parties having common interest or where such disputes arise out of separate contracts but relate to the same transaction.

#### 10. Joinder of Additional Parties.

Arbitral Tribunal may implead a party to the arbitral proceedings with the written consent of all the parties to the arbitration agreement and written consent of the party to be impleaded.

The proportionate administrative costs and Arbitral Tribunals' fee prescribed in the respective schedule shall be payable by the newly added party.

The Arbitral Tribunal will determine the proportionate share of administrative costs and fee.

#### 11. Additional Claims or Counter-claims –

After the Terms of Reference have been signed or approved by the Arbitral Tribunal, no party shall make any additional claim or counter-claim which falls outside the limits of the Terms of Reference unless it has obtained authority to do so from the Arbitral Tribunal, which shall consider the nature of such new claims or counter-claims, the stage of the arbitration and other relevant circumstances and thereafter issue necessary orders.

## 12. Hearing Procedure

- (1) Unless otherwise agreed between the parties in writing, the Arbitral Tribunal shall hold oral hearings.
- (2) Unless the Arbitral Tribunal decides to undertake site inspection or for any reason it becomes necessary, entire sittings will be in the Centre of the High Court of Orissa.
- (3) If the Arbitral Tribunal fixes the date, time and place of hearing other than in the Centre at the High Court of Orissa, it shall give the parties reasonable notice of such hearing and communicate its decision to the Coordinator.
- (4) All meetings and hearings shall be in private unless the parties agree otherwise or the Arbitral Tribunal directs otherwise.
- (5) The Centre shall provide a Translator, if necessary, subject to costs being borne by the parties.
- (6) After the conclusion of evidence and hearing, the Arbitral Tribunal shall fix a date in the presence of the parties, for pronouncement of the award.

## 13. Decision making by Arbitral Tribunal -

In arbitral proceedings with more than one arbitrator, the decision of the Arbitral Tribunal shall be on majority.

## 14. Settlement of dispute -

- (1) The Arbitral Tribunal may encourage settlement of the dispute with the agreement of the parties.
- (2) The parties are free to opt for either Mediation or Conciliation even during the pendency of the proceedings before the Arbitral Tribunal, in which event, the matter may be referred to Mediation.
- (3) If during the arbitration proceedings, the parties settle their dispute, the Arbitral Tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the Arbitral Tribunal, record the settlement in the form of an Arbitral Award on agreed terms.

**PART II****FORMATION OF ARBITRAL TRIBUNAL****15. Appointment of Arbitrators**

- (1) The parties to a dispute are free to determine the number of arbitrators, provided that such number shall not be an even number and in case there are only two parties to a dispute, such number shall not exceed three. In case of more than two parties to a dispute, the number of arbitrators may be more than three, but in no case it shall exceed five.
- (2) Failing the determination referred to in Sub-Rule (1), the Arbitral Tribunal shall consist of a sole arbitrator.

**16. Where the number of arbitrators is specified in the agreement –**

- (1) Where the agreement provides for the appointment of a sole arbitrator, the parties shall appoint such arbitrator from amongst the members on the High Court of Orissa Arbitration Centre Panel of Arbitrators, within thirty days of intimation of filing of the Request. Where the parties fail to agree upon the sole arbitrator from the High Court of Orissa Panel of Arbitrators within the said period, the Chairperson shall appoint a sole arbitrator.
- (2) Where the agreement provides for appointment of three arbitrators, the Claimant and Respondent shall appoint their individual arbitrators within thirty days of intimation of filing of the Request and the third arbitrator shall be appointed by the Chairperson and such third arbitrator shall Chair the Arbitral Tribunal.

**17. Appointment in case of multiparty arbitration –**

- (1) Where a dispute arises amongst more than two parties out of defined legal relationship or out of a series of interconnected contracts (including “chain” or “string” of contracts), the parties may agree that the Arbitral Tribunal shall consist of three members, one to be nominated by each of the parties (supporting parties will be grouped together and treated as one party for the purpose of such nomination of the arbitrator) and the third arbitrator shall be appointed by the Chairperson, who shall Chair the Arbitral Tribunal.

- (2) If the parties to a dispute are required to be grouped in three groups, each such group will nominate one arbitrator each and the three members of the Arbitral Tribunal shall nominate one out of themselves to Chair the Arbitral Tribunal. If the members fail to so nominate, the Chairperson shall nominate anyone of them to Chair the Arbitral Tribunal within fifteen days of the constitution of the Arbitral Tribunal.
- (3) If the parties to a dispute are required to be grouped in four groups, each such group will nominate one arbitrator and the Chairperson will appoint an independent arbitrator from the panel who shall Chair the Arbitral Tribunal.
- (4) If the parties to a dispute are required to be grouped in five groups, each such group will nominate one arbitrator each and the five members of the Arbitral Tribunal shall nominate one out of themselves to Chair the Arbitral Tribunal. If the members fail to so nominate, the Chairperson shall nominate anyone of them to Chair the Arbitral Tribunal within fifteen days of the constitution of the Arbitral Tribunal.
- (5) All efforts shall be made to ensure that such grouping of parties shall not exceed five. In case the groups are more than five, the Chairperson shall adopt such procedure for the appointment of arbitrators as may be deemed appropriate, in view of the facts and circumstances of the case, but in no case, the number of arbitrators comprising the Arbitral Tribunal shall exceed five.

**18. Confirmation of Arbitrators -**

- (1) Soon after the arbitrator(s) has been appointed, the Coordinator shall send an official communication to that effect to the parties and to the arbitrator(s).
- (2) The arbitrator(s) so appointed shall give a declaration in the format prescribed in Schedule IV of these Rules.

**PART III  
SUMMARY PROCEDURE**

**19. Summary Procedure -**

- (1) Notwithstanding anything contained hereinbefore, the parties may mutually agree, in writing, adopting the summary procedure for resolution of their disputes or differences.

- (2) In adopting the summary procedure, the parties shall sign an undertaking (Schedule III) in writing to the effect that they shall dispense with the necessity of oral evidence.
- (3) The Claimant shall submit copies of all the documents in support of its claim alongwith the Request, in terms of Rule 3 of these Rules, to the Secretariat addressed to the Coordinator and simultaneously supply copies thereof to the other party.
- (4) The other party shall, within fifteen days of the receipt of the documents referred to in sub-rule(3) , submit its Reply in terms of Rule 4 of these Rules, to the Secretariat addressed to the Coordinator, together with documents in support of the Reply.
- (5) The parties may appoint a sole arbitrator from the High Court of Orissa Panel of Arbitrators within a period of fifteen days after the expiry of the date specified in sub-rule(4) and communicate the same to the Coordinator. If parties fail to reach an agreement, the Chairperson shall make such appointment within one week after the expiry of said period of fifteen days.
- (6) The parties shall notify the Coordinator their estimate of time request to be spent by the Arbitral Tribunal to hear oral address by the parties. Based on such estimate, the Advisory Council shall determine the time-table, in consultation with the arbitrator(s) and accordingly notify the parties.
- (7) Any relevant document that could not be filed at the stage as provided under Sub-rules (3) and (4), for the reason that either the party was not aware of its existence or was unable to locate the same despite reasonable efforts, may be filed at a later stage, if permitted by a written order of the Arbitral Tribunal subject to payment of costs, as may be determined. The Arbitral Tribunal before taking the documents on record must satisfy itself that the document is relevant and necessary for the resolution of the dispute(s) before it;

Provided that no such document shall be filed after the Terms of Reference have been drawn up by the Arbitral Tribunal.

- (8) Soon after the appointment of the sole arbitrator, the Advisory Council, in consultation with the Arbitral Tribunal, shall notify the parties, the date of hearing which should not be later than fifteen days.

- (9) On the date of hearing, the Arbitral Tribunal shall settle Terms of Reference in consultation with parties and same shall be signed by parties as well as by the Arbitral Tribunal. The parties shall thereafter proceed to address oral argument based on the records of case.
- (10) The Arbitral Tribunal is expected to make its Award within thirty days after conclusion of oral address by the parties.
- (11) (i) The sole Arbitrator's fee shall be as prescribed in Schedule 'B' & 'C' & 'D' of the High Court of Orissa Arbitration Centre (Administrative Costs and Arbitrators' Fees) Rules, 2014.
- (ii) The Emergency Arbitrator's fee shall be as prescribed in Schedule 'E' of the High Court of Orissa Arbitration Centre (Administrative Costs and Arbitrators' Fees) Rules, 2014.

#### PART IV

#### EMERGENCY ARBITRATION

##### 20. Emergency Arbitrator

- (1) If a party is in requirement of an urgent interim or conservatory measures, that cannot wait the formation of the Arbitration Tribunal, it may make an application to the Secretariat addressed to the Coordinator, with a simultaneous copy thereof to the other parties to the arbitration agreement for such measures.
- (2) The party making such an application shall
- a) Describe the circumstances and the nature of the urgency and the measures sought for;
  - b) Pay the requisite application fee for appointment of the Emergency Arbitrator;
  - c) File proof of service of such application upon the opposite parties.
- (3) The party invoking the provision of Emergency Arbitrator shall deposit cash and fees prescribed in the schedule.
- (4) The Secretariat with the consent of the Chairperson shall appoint the Emergency Arbitrator within two days of making of such request (excluding non-business day).

- (5) The Emergency Arbitrator so appointed shall schedule a hearing including filing of pleadings and documents by the parties within two business days of his appointment. The Emergency Arbitrator shall provide reasonable opportunity of being heard to all the parties before granting any urgent interim or conservatory measures and proceed to make an Order by giving reasons. The parties shall comply with any order made by the Emergency Arbitrator.
- (6) The Emergency Arbitrator shall ensure that the entire process from the appointment of the Emergency Arbitrator to making of the Order shall be completed within seven (7) days (excluding non-business days.)
- (7) The Emergency Arbitrator shall become functus officio after the Order is made and shall not be a part of the Arbitrator Tribunal, which may be formed subsequently and in accordance with Rule 15, unless otherwise agreed to by the parties.
- (8) The Order for urgent interim or conservatory measures passed by the Emergency Arbitrator shall not bind the Arbitral Tribunal on the merits of any issue or dispute that the said Tribunal may be required to determine.
- (9) The Order passed by the Emergency Arbitrator shall remain operative for a period of two months from the date of passing of the order unless modified, substituted or vacated by the Arbitral Tribunal. The Arbitral Tribunal will also have the power to extend the order beyond the period of two months.

## PART V

### INTERNATIONAL ARBITRATIONS

#### 21. Laws applicable to the substance of the dispute.

The Arbitration Tribunal shall decide the dispute in accordance with the rules of law as agreed upon by the parties and as applicable to the substance of the dispute.

#### 22. Laws applicable to the arbitration proceedings

Unless otherwise agreed by the parties, the law governing the arbitration proceedings shall be the laws in force in India.

### 23. Language

- (1) The parties are free to agree upon the language or languages to be used in the arbitration proceedings.
- (2) Failing any agreement referred to in sub rule (1), the Arbitration Tribunal shall determine the language or languages to be used in the arbitration proceedings.
- (3) The agreement or determination, unless otherwise specified, shall apply to any written statement by a party, any hearing or any arbitral award, decision or other communication by the Arbitral Tribunal.
- (4) The Arbitral Tribunal may order that any pleadings / documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by Arbitration Tribunal.

### 24. Applicability of other Parts.

The rules and particularly the rules under the titles Preliminary, Part – I Arbitration Procedure, Part – II Formation of Arbitral Tribunal, Part – III – Summary Procedure, Part –IV Emergency Arbitration, Part-V- International Arbitration, Part-VI-Med-Arb and Part – VII – General Provisions herein as also the High Court of Orissa Arbitration Centre (Arbitration Proceedings) Rules shall mutatis mutandis apply to all international commercial arbitrations. Separate Fee Schedule – D shall apply to International Commercial Arbitration.

### PART - VI MED ARB

### 25. Reference to Med-Arb.

- (1) Parties to an arbitration agreement may, at any time before the commencement of the arbitration proceedings or while the arbitration proceedings are in progress, opt for mediation, and request the Arbitral Tribunal to put the arbitration proceedings on hold to enable the parties to resolve their disputes amicably.
- (2) The parties should convey their request to the Arbitral Tribunal, or if the Arbitral Tribunal is not in session, to the coordinator.

- (3) The Arbitral Tribunal shall accept the request of the parties and keep in abeyance the arbitration proceedings, relegating the parties to Med-Arb.
- (4) The Mediators on the panel of the State Mediation Centre shall be deemed to be the Mediators for the purpose of the reference to Med-Arb. The parties shall have liberty to appoint the Mediator of their choice and proceed with the mediation proceedings expeditiously.
- (5) The mediation proceedings shall be conducted in accordance with the Civil Procedure Mediation Rules, 2007, which shall be deemed to have been incorporated herein and as an integral part of these Rules. The proceedings before the Mediators shall remain confidential and shall not be brought on record in the arbitration proceedings, in case such mediation fails.

#### **PART-VII GENERAL PROVISIONS**

#### **26. Interim measures ordered by Arbitral Tribunal –**

- (1) The Arbitral Tribunal may, at the request of a party, order a party to take any interim measure of protection in respect of the subject-matter of the dispute, as it may consider necessary;
- (2) The Arbitral Tribunal may require a party to provide appropriate security in connection with a measure ordered under sub-rule (1);
- (3) The party requesting for Interim Measures under sub rule (1) shall satisfy the Arbitral Tribunal that there is a reasonable possibility that it is likely to succeed on the merits of its claim and that it may suffer irreparable damage, i.e. while granting interim measure, the Arbitral Tribunal ought to be satisfied that the party seeking interim measure has a prima facie case, the balance of convenience is in its favour and that non granting of interim measure will result in irreparable loss or damages, which cannot be compensated in terms of money. The determination of Arbitral Tribunal in respect of such request shall not affect the discretion of the Arbitral Tribunal, in making subsequent determination;

- (4) The Arbitral Tribunal may modify, suspend or terminate an interim measure granted by it, upon an application by a party, if the circumstances so warrant.

**27. Default of parties –**

- (1) If any party to an arbitration agreement fails to participate at any stage before the signing of terms of reference, then such party shall be proceeded against *ex parte* and a notice to this effect shall be sent to the defaulting party along with a copy to the other Party (s).
- (2) If any confirming party refuses or fails to take part in the arbitration proceedings, the Arbitral Tribunal shall proceed *ex-parte*, after a written notice is served on the defaulting party.
- (3) If a confirming party is proceeded *ex-parte*, the Coordinator shall send an intimation in writing to this effect to the defaulting party as well as the other confirming party (s). However, this shall not preclude such party from participating in any subsequent stage of the arbitration proceedings.

**28. Default of Arbitrators –**

When after the constitution of the Arbitral Tribunal, an arbitrator fails to participate in two hearings, without sufficient cause, his mandate to act as an arbitrator shall stand terminated and the Chairperson shall appoint another arbitrator.

**29. Place of Arbitration –**

Ordinarily the place of arbitration shall be in the premises of the High Court and the venue shall be the High Court of Orissa Arbitration Centre, unless otherwise agreed upon by the parties.

**30. Appointment of Experts -**

- (1) The Arbitral Tribunal may, unless otherwise agreed to, by the parties in writing :
- (a) appoint one or more experts to report to it on specific issues to be determined by the Arbitral Tribunal; and
- (b) require a party to give the expert any relevant information or to produce, or to provide access to any relevant documents, goods or other property for inspection.

- (2) If a party so requests or if the Arbitral Tribunal deems it necessary, the expert shall, after delivery of his written or oral report, participate in an oral hearing, where the parties have the opportunity to put questions to him.
- (3) The expert shall, on the request of a party, make available to that party, for examination of all documents, goods or other property in the possession of the expert which enabled the expert to prepare his report.
- (4) The fees and costs of any expert appointed by a party shall be borne by the party appointing him. If the expert is appointed by the Arbitral Tribunal, the fees and costs of such appointment, unless otherwise directed by the Arbitral Tribunal, shall be shared equally by all the parties.

### 31. Application for adjournment –

- (1) Any party seeking adjournment or change in the time-table fixed for the arbitration proceedings shall file a written request, supported by sufficient and cogent reasons and necessary documents, if any, at least thirty days prior to the date for which such adjournment is sought along with costs by way of Demand Draft in the name of the High Court of Orissa Arbitration Centre for a sum of `25,000/-. The Arbitral Tribunal may accede to such request after recording its reasons in writing.
- (2) If a request for adjournment could not be made at least 30 days prior to the date for which it is sought, then the same may be entertained only if it is made in writing and supported by sufficient and cogent reasons and necessary documents, subject to payment of costs as given below:-

Time	Cost
30 to 26 days (both inclusive) prior to fixed date.	`25,000/- plus 10% i.e. `27,500/-
25 to 21 days (both inclusive) prior to fixed date.	`25,000/- plus 20% i.e. `30,000/-
20 to 16 days (both inclusive) prior to fixed date.	`25,000/- plus 30% i.e. `32,500/-
15 to 11 days (both inclusive) prior to fixed date.	`25,000/- plus 40% i.e. `35,500/-

Provided that no request for adjournment shall be entertained ten days before the scheduled date, unless supported by special or exceptional reasons or in case of emergency. The percentage of additional costs may be decided by the Chairperson in such cases, including the power to exempt the imposition of additional costs, original costs to remain unaffected. In all such cases, the Chairperson shall record special reasons in writing.

- (3) The Chairperson may, for reasons to be recorded in writing, exempt a party from depositing costs for seeking adjournment or may reduce the amount of costs.
- (4) For removal of doubts, it is clarified that the Arbitral Tribunal may, in addition to the above costs payable to the Centre, determine costs, if any, payable by the party seeking adjournment to the opposite party (s).

### 32. Deposits –

- (1) The Coordinator may require the parties, before referring the case to the Arbitral Tribunal, to deposit in advance in one or more instalments, such sums of money, as he deems necessary to defray miscellaneous expenses and arbitrator's fee.
- (2) The deposits shall be called for in equal shares from the Claimant (s) and the Respondent (s). The Coordinator may during the course of the arbitration proceedings, require further sums to be deposited by the Parties or anyone of them, to meet the costs of the arbitration.
- (3) When one of the parties neglects or refuses to make the deposit, the Coordinator may require such deposit, whether in relation to a Claim or a Counter-claim, to be made by the other Party to the dispute (Claimant or Respondent as the case may be). Should the whole or part of the deposit be not made by the Parties or any one of them, the Coordinator shall inform the Parties or the Party concerned that the Claim or Counter-claim, as the case may be, will not be the subject matter of the reference.

- (4) The Arbitral Tribunal shall proceed only in respect of those Claims or Counter-claims for which the deposits have been duly paid to the Centre and otherwise may order the suspension or termination of the arbitral proceedings.
- (5) All deposits towards miscellaneous expenses and fees shall be made with the Centre and no payment shall be released to the arbitrators directly by the parties. The deposit made by the parties shall be taken into account by the Arbitral Tribunal in apportioning the costs while making the Arbitral Award. Any deposit made in excess shall be refunded to such party (s) as the Arbitral Tribunal may direct.
- (6) The Centre shall have a lien on the Arbitral Award for any unpaid costs of the Arbitration including adjournment cost, miscellaneous expenses and the fees of the Arbitrator and the Award will not be notified to the parties unless all such costs have been fully paid to the centre by the parties or by one of them.

### 33. Additional Fees and Expenses -

The Arbitral Tribunal shall be entitled to allow fees and expenses of witnesses, expenses connected with the selection and carriage of sample and examination of goods, if required, conveyance, hire, cost of legal or technical advice or proceedings in respect of any matter arising out of the arbitration incurred by the Arbitral Tribunal, and any other incidental expenses and charges in connection with or arising out of the reference or award as the Arbitral Tribunal shall, in its absolute discretion, think fit.

### 34. Form and contents of Arbitral Award -

- (1) An arbitral award shall be made in writing and shall be signed by the members of the Arbitral Tribunal.
- (2) For the purposes of Sub-Rule (1), in arbitral proceeding with more than one arbitrator, the signatures of the majority of all the members of the Arbitral Tribunal shall be sufficient so long as the reason for any omitted signature is stated.

- (3) The arbitral award shall state the reasons upon which it is based, unless –
- (a) The parties have agreed that no reasons are to be given; or
  - (b) The award is an arbitral award on agreed terms under Rule 14 of these Rules.
- (4) The Arbitral Award shall state its date and the place of arbitration and the award shall be deemed to have been made at that place.
- (5) After the Arbitral Award is made, a signed copy shall be delivered to each party.
- (6) The Arbitral Tribunal may, at any time during the arbitral proceedings, make an interim Arbitral Award on any matter with respect to which it may make a final Arbitral Award.
- (7) In case of monetary claims, the Award shall specify the amount awarded.
- (8) Unless otherwise agreed to, by the parties, -
- (a) The costs of an arbitration shall be fixed by the Arbitral Tribunal
  - (b) The Arbitral Tribunal shall specify –
    - (i) The party entitled to costs;
    - (ii) The party who shall pay the costs;
    - (iii) The amount of costs or method of determining that amount; and
    - (iv) The manner in which the costs shall be paid.
- (9) On termination of the proceedings, the Arbitrator may pass a direction and hand over the original record along with the proceedings, to either of the parties, as he may deem fit and proper, subject to submission of digitized version of the entire record and proceedings by the concerned party, one copy each, for the Arbitrator, for the Centre and for the other party (ies). Such copies shall be signed digitally.

**Explanation –**

For the purpose of clause (a), “costs” means reasonable costs relating to-

- (1) The fees and costs of the arbitrators and witnesses;
- (2) Legal fees and expenses;
- (3) The Miscellaneous Expenses;
- (4) Any other expenses incurred in connection with the arbitral proceeding and the arbitral award.

**35. Interest on Sums awarded –**

- (1) Unless otherwise agreed to by the parties, where and in so far as an Arbitral Award is for the payment of money, the Arbitral Tribunal may include interest alongwith the sum for which the Award is made, at such rate as it deems reasonable, on the whole or any part of the money, for the whole or any part of the period between the date on which the cause of action arose and the date on which the Arbitral Award is made.
- (2) The Arbitral Award shall also provide the rate of interest to be paid from the date of the Award till the date of payment.

**36. Termination of proceedings –**

- (1) The arbitral proceeding shall be terminated by the final Arbitral Award or by order of the Arbitral Tribunal under Sub-Rule (2).
- (2) The Arbitral Tribunal shall issue an order for the termination of the arbitral proceedings where –
  - (a) The Claimant withdraws his claim, unless the Respondent objects to the order and the Arbitral Tribunal recognizes legitimate interest on his part in obtaining a final settlement of the dispute;
  - (b) The parties agree on the termination of the proceedings; or
  - (c) The Arbitral Tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
- (3) Subject to Rule 37 of these Rules and Sub-Section (4) of Section 34 of the Act, the mandate of the Arbitral Tribunal shall terminate with the termination of the arbitral proceedings.

**37. Correction and interpretation of Award; Additional Award –**

- (1) Within thirty days from the receipt of the Arbitral Award, unless another period of time has been agreed upon by the parties –
  - (a) A party, with notice to the other party, may request the Arbitral Tribunal to correct any computation errors, any clerical or typographical errors or any other errors of a similar nature occurring in the award;

- (b) If so agreed by the parties, a party, with notice to the other party, may request the Arbitral Tribunal to give an interpretation of a specific point or part of the award.
- (2) If the Arbitral Tribunal considers the request made under Sub-Rule- (1) to be justified, it shall make the correction or give the interpretation within thirty days from the receipt of the request and the interpretation shall form part of the arbitral award.
- (3) The Arbitral Tribunal may correct any error of the type referred to in Sub-Rule (1) clause (a) on its own initiative, within thirty days from the date of the Arbitral Award.
- (4) Unless otherwise agreed to by the parties, a party with notice to the other party, may request, within thirty days from the receipt of the Arbitral Award, the Arbitral Tribunal to make an additional Arbitral Award as to claims presented in the arbitral proceedings but omitted from the Arbitral Award.
- (5) If the Arbitral Tribunal considers request made under Sub-Rule (4) to be justified, it shall make the additional Arbitral Award within sixty days from the receipt of such request.
- (6) The Arbitral Tribunal may extend, if necessary, the period of time within which it shall make a correction, give an interpretation or make an additional Arbitral Award under Sub-Rules (2) or (5).
- (7) Rule 34 and 35 of these Rules shall apply to a correction or interpretation of the Arbitral Award or to an additional Arbitral Award made under this Rule.

### 38. Waiver –

A party which proceeds with the arbitration without raising its objection to a failure to comply with any of the provision of these Rules, or of any other Rules applicable to the proceedings, any direction given by the Arbitral Tribunal, or any requirements under the arbitration agreement relating to the constitution of the Arbitral Tribunal, or to the conduct of the proceedings, shall be deemed to have waived its right to object.

**39. Amendment of Rules –**

These Rules may be amended by the Chief Justice of the High Court of Orissa in consultation with the Arbitration Committee.

**40. Residuary Provision –**

The Arbitration Committee may take appropriate decisions, as it considers necessary in respect of all matters, which are not specifically provided in these Rules.

**SCHEDULE-I****I. HOW TO REFER DISPUTES TO HIGH COURT OF ORISSA ARBITRATION CENTRE**

Disputes may be referred to the High Court of Orissa Arbitration Centre through a procedure administered by the Centre in two ways :

- I. By insertion of a clause in a contract providing for the reference of all disputes in relation to or arising out of that contract between the parties;
- or
- II. By a separate agreement providing for the reference of an existing dispute to the High Court of Orissa Arbitration Centre for arbitration in accordance with its Rules.

**A Model Arbitration Clause and a Model Arbitration Agreement are given below :**

**A. MODEL ARBITRATION CLAUSE****For Arbitration of Contractual Disputes :**

Parties to an agreement who agree to resolve their disputes and differences in accordance with the High Court of Orissa Arbitration Centre (Arbitration Proceedings) Rules, 2014, and to have the Centre as appointing authority and / or provide administrative services, may use the following provisions in their contract;

All disputes and differences arising out of or in connection with or relating to the present agreement shall be settled under the Rules of the High Court of Orissa Arbitration Centre by one or more arbitrators appointed in accordance with its Rules.

**Note :** Parties may consider adding the following :

- (a) The number of arbitrator (s) shall be \_\_\_\_\_ .
- (b) The language of the arbitration proceedings shall be \_\_\_\_\_ .
- (c) Specific qualifications of the arbitrator (s) including language, technical qualifications and experience, if any.
- (d) The place of arbitration shall be the High Court of Orissa Arbitration Centre, Cuttack.

## B. MODEL ARBITRATION AGREEMENT

This agreement made on the \_\_\_\_ day \_\_\_\_ month, \_\_\_\_ (year), between \_\_\_\_ (full description and address of the Party to be given) of ONE PART and \_\_\_\_ (full description and address of the Party to be given) of the OTHER PART.

WHEREAS certain disputes have arisen and are subsisting between the aforesaid parties in relation to \_\_\_\_ (details of contract to be given).

AND WHEREAS the Parties agree to submit their dispute (s) for being resolved in accordance with the Rules of the High Court of Orissa Arbitration Centre.

Now the parties hereby agree as follows :-

The parties agree to submit their dispute (s) to arbitration in accordance with the Rules of the High Court of Orissa Arbitration Centre.

The arbitrator (s) shall be appointed in accordance with the Rules of the Centre.

The arbitration shall be administered by the High Court of Orissa Arbitration Centre.

The place of arbitration shall be the High Court of Orissa Arbitration Centre.

In Witness whereof, this Agreement has been signed on this \_\_\_\_ day of \_\_\_\_ Month of \_\_\_\_ (year) at \_\_\_\_ by :

1. \_\_\_\_\_ for and on behalf of \_\_\_\_\_ .
2. \_\_\_\_\_ for and on behalf of \_\_\_\_\_ .

**Note : The parties may :-**

- (a) provide for qualification (s) of the arbitrator (s) including, language, technical experience, and legal experience, if any,
- (b) specify the language for the conduct of arbitration proceedings.

## **SCHEDULE - II**

### **JOINT MEMORANDUM TO BE SIGNED BY PARTIES**

We hereby agree that disputes or differences, which have arisen between us in respect of our contract \_\_\_\_\_ (give details) dated \_\_\_\_\_ and which are subject matter of the proceedings \_\_\_\_\_ (specify the nature and particulars of proceedings with cause title) (use separate sheet if necessary) to be resolved by arbitration in accordance with the Rules of the High Court of Orissa Arbitration Centre.

In Witness Whereof, this Agreement has been signed on this \_\_\_\_\_ Day of \_\_\_\_\_ Month of \_\_\_\_\_ (year) at \_\_\_\_\_ by :

1. \_\_\_\_\_ for and on behalf of \_\_\_\_\_ .
2. \_\_\_\_\_ for and on behalf of \_\_\_\_\_ .

88

**SCHEDULE - III**

**MODEL AGREEMENT FOR SUMMARY PROCEDURE**

This agreement is between \_\_\_\_\_ (name and address of the initiating party) and \_\_\_\_\_ (name and address of the other party or parties).

IN THE MATTER RELATING TO \_\_\_\_\_

The parties to this Agreement agree as follows :

WHEREAS the parties desire to resolve their disputes by the High Court of Orissa Arbitration Centre following its Summary Procedure.

WHEREAS the parties hereby undertake to dispense with the requirement of oral evidence and agree that the Arbitration Proceedings be held on the basis of documents only.

WHEREAS the parties hereby waive their right to present oral evidence and agree that the award made by the Arbitral Tribunal following the summary Procedure of the Centre shall be final and binding on the parties.

AND WHEREAS the parties hereby undertake to strictly adhere to the time schedule drawn up for hearing under the Summary Procedure.

IN WITNESS WHEREOF, this Agreement has been signed on this \_\_\_\_\_ Day of \_\_\_\_\_ Month of \_\_\_\_\_ (year) at \_\_\_\_\_ by :

1. \_\_\_\_\_ for and on behalf of \_\_\_\_\_ .
2. \_\_\_\_\_ for and on behalf of \_\_\_\_\_ .

**SCHEDULE - IV**

**ARBITRATOR'S DECLARATION OF ACCEPTANCE AND STATEMENT OF INDEPENDENCE**

I, the undersigned

Name : \_\_\_\_\_

First Name : \_\_\_\_\_

**ACCEPTANCE**

hereby declare that I accept to serve as arbitrator under the Rules of the High Court of Orissa Arbitration Centre in the instant case. In so declaring, I confirm that I have familiarized myself with the requirements of the Rules of the Centre and I am capable and available to serve as an arbitrator in accordance with all of the requirements of the Rules of the Centre and accept to be remunerated in accordance therewith. I accept that the obligation to disclose any facts or circumstances which may call into question my independence or impartiality in the eyes of any of the parties shall remain binding on me till the arbitration proceedings are finally concluded.

Please tick the boxes below as may be applicable :

**I am independent** of each of the parties and intend to remain so; to the best of my knowledge, there are no facts or circumstances, past or present, that need be disclosed for they might be of such nature as to call into question my independence or impartiality in the eyes of any of the parties.

**OR**

I am independent of each of the parties and intend to remain so; however I wish to call your attention to the following facts or circumstances which I hereafter disclose because they might be of such a nature as to call into question my independence or impartiality in the eyes of any of the parties. (Use separate sheet if necessary)

NON-ACCEPTANCE hereby declare that I decline to serve as arbitrator in the subject case. (if you wish to state the reasons, please do so.)

Date : \_\_\_\_\_

Signature : \_\_\_\_\_

Business Address (include company or firm name where applicable)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone \_\_\_\_\_  
Telex \_\_\_\_\_  
E-Mail \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone \_\_\_\_\_  
Telex \_\_\_\_\_  
E-Mail \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please indicate which, if any, of the following should be used for correspondence:

Home  Business

Academic degrees or qualifications

Current professional activity (yes) and position (s)

**SCHEDULE - V****CURRICULUM VITAE**

For use of the High Court Of Orissa Arbitration Centre and communication to the parties. To be completed in English.

Mr.                       Mrs.                       Miss                       Ms.

Last Name : \_\_\_\_\_

First Name : \_\_\_\_\_

Date of birth : \_\_\_\_\_

Personal Address : \_\_\_\_\_

\_\_\_\_\_

Telephone : \_\_\_\_\_

Telefax : \_\_\_\_\_

E-Mail : \_\_\_\_\_

Business Address (including company or firm name where applicable) :

Telephone : \_\_\_\_\_

Telefax : \_\_\_\_\_

E-Mail : \_\_\_\_\_

Website : \_\_\_\_\_

Please indicate which address you wish to be used for correspondence :

Personal                       Business

Academic degrees or Qualifications :

Current professional activity (ies) and position (s) :

Professional Experience :

Additional information (Use separate sheet if necessary)

Please indicate any language (s) in which you consider yourself able to conduct an arbitration and to draft award without the assistance of an interpreter or translator.

Field of expertise :

Arbitration Experience :

Number of arbitration cases in which you have acted as :

	Chairman of Arbitral Tribunal	Sole Arbitrator	Co-Arbitrator	Party's Counsel	Other
International Institutional Arbitration					
International Ad hoc Arbitration					
International Domestic Arbitration					
Ad hoc Domestic Arbitration					

Other alternative dispute resolution (ADR) experience including Mediation / Conciliation, etc.

Date : \_\_\_\_\_

Signature : \_\_\_\_\_

-----

**THE HIGH COURT OF ORISSA ARBITRATION CENTRE  
(ADMINISTRATIVE COST AND ARBITRATORS' FEES) RULES, 2014**

1. Title
2. Administrative costs
3. Arbitrators' Fees
4. Parties to share equally Administrative Cost and Fees of the Arbitrator
5. Miscellaneous Expenses
6. Chief Cashier to maintain accounts under the supervision/direct control of the Coordinator
7. Administrative Cost Miscellaneous Expenses and Arbitrators' Fees when proceedings terminate.
8. Amendment of Rules
9. Residuary Provision
10. Repeal & Savings

**SCHEDULE 'A'- Administrative Costs**

**SCHEDULE 'B'- Arbitrators' Fees**

**SCHEDULE 'C'- Arbitrators' Fees in Summary Arbitration**

**SCHEDULE 'D'- Arbitrators' Fees in International Arbitration**

**SCHEDULE 'E'- Arbitrators' Fees in Emergency Arbitration**

**THE HIGH COURT OF ORISSA ARBITRATION CENTRE**  
**(ADMINISTRATIVE COST AND ARBITRATORS' FEES) RULES, 2014**

1. **Title** – These Rules may be called the High Court of Orissa Arbitration Centre (Administrative Cost and Arbitrators Fees) Rules, 2014
2. **Administrative Cost**- The Administrative Costs payable to the Arbitrators shall be determined in accordance with the scales specified in Schedule-A to these Rule.
3. **Arbitrators' Fees**- The Fees payable to the Arbitrators shall be determined in accordance with the Scales specified in Schedules "B", 'C', 'D' & 'E' to these Rules. In cases where the Arbitral Tribunal consists of three or more Members, the Coordinator shall, in consultation with the Chairperson, decide the fees payable to each of the Arbitrators.
4. **Parties to share equally Administrative Cost and the Fees**- The Administrative Cost and the Arbitrators' Fees set forth in these Rules shall be initially shared equally by the parties subject to the Cost of Arbitration as may be finally determined by the Arbitral Tribunal.
5. **Miscellaneous Expenses** likely to be incurred during Arbitration shall be determined by the Coordinator and shall be paid equally by the parties.
6. The coordinator may maintain an account of the Administrative cost and miscellaneous expenses and for which the coordinator shall be entitled to open and operate a Bank Account with a scheduled Nationalized Bank.
7. **Administrative cost, Miscellaneous Expenses and Arbitrators' Fees payable** when proceedings are terminated, withdrawn or settled-

- A. In the event of the Arbitration being terminated, withdrawn or settled, the Coordinator, in consultation with the Chairperson shall fix the quantum of Fees payable to the Arbitrator(s). The Coordinator shall take into account the stage at which the Arbitration Proceedings stood terminated and the extent of work done or time spent by the Arbitrators on the matter.
- B. The Administrative Costs and Miscellaneous Expenses paid by the parties shall not be refundable, under any of the aforesaid eventualities.
8. **Amendment of Rules** – These Rules may be amended by the Chief Justice of the High Court of Orissa in consultation with the Arbitration Committee.
9. **Residuary Provision**- The Arbitration Committee may take appropriate decision, as it considers necessary in respect of all matters which are not specifically provided in these Rules.
10. **Repeal and Savings**- The High Court of Orissa (Arbitrators' Panel and Fee) Order, 2014 hereby stands repealed.

All such acts done under the provisions of Sub-Section-10 of Section-11 of the Arbitration and Conciliation Act, 1996 shall be deemed to have been done under these Rules and the validity thereof shall not be questioned on account of the repeal so made.

## SCHEDULE-A- ADMINISTRATIVE COSTS

### Domestic Arbitration

As may be determined by the Chairperson of the Arbitration Committee from time to time.

### International Arbitration

<b>Normal Expenses</b>	<b>`25,000/- (To be paid along with the request for arbitration)</b>
<b>SUM IN DISPUTE</b>	<b>FEEs</b>
From `10,00,000/- to `50,00,000/-	`25,000/- + 1% of the Claim amount over and above `10,00,000/-
From `50,00,000/- to `1,00,00,000/-	`60,000/- + 0.5% of the Claim amount over and above `50,00,000/-
From `1,00,00,000/- to `10,00,00,000/-	`75,000/- + 0.25% of the Claim amount over and above `1,00,00,000/-
Over `10,00,00,000/-	`2,75,000/- + 0.15% of the Claim amount over and above `10,00,00,000/-
Note: Air fare and cost of stay in Hotel of the Member(s) of the Arbitral Tribunal are excluded, which are to be equally borne by the parties	

### Emergency Arbitration

<b>Fixed Fee</b>	<b>`25,000/-</b>
In addition to the forgoing, the parties shall be required to pay a sum of `3000/- per day for use of facilities of the High Court of Orissa Arbitration Centre on the days the Arbitral Tribunal holds its sittings. (International & Emergency Arbitration)	

### Schedule – B- Arbitrators' Fees

Sum in dispute (In `)	Fees
Upto ` 5 Lakh (Rs.5,000,00/-)	` 35,000/-
Above ` 500,001/- and upto ` 20,00,000/-	` 35,000/- + 3.5% of the Claim amount over and above ` 5,00,000/-
Above ` 20,00,001/- and upto ` 1,00,00,000/-	` 87,500/- + 3% of the Claim amount over and above ` 20,00,000/-
Above ` 1,00,00,001/- to ` 10,00,00,000/-	` 3,27,500/- + 0.75% of the Claim amount over and above ` 1,00,00,000/-
Above ` 10,00,00,001/- to ` 20,00,00,000/-	` 10,02,500/- + 0.5% of the Claim amount over and above ` 10,00,00,000/-
Above ` 20,00,00,001/-	` 15,02,000/- + 0.25% of the Claim amount over and above ` 20,00,00,000/- with an overall ceiling of ` 25,00,000/-

### Schedule – C- Arbitrators' Fees in Summary Arbitration

Upto ` 10,00,000/-	` 25,000/-
Above ` 10,00,000/-	As per Schedule –B

\*Sums in dispute mentioned in Scheduled –B & C above shall include any counter claim made by a party.

**Note-** Fees in respect of claims/counter claims, either wholly or partially, monetary value whereof can't be ascertained will be fixed by the Chairperson, having regard to effective and substantial relief sought for by the parties and complexity of the subject matter.

### Schedule -D- Arbitrators' Fees in International Arbitration

Sum in Dispute	Arbitrator's Fee
Upto \$50,000 or equivalent in `	3,00,000/- (Minimum)
From \$ 50,001/- and upto \$ 100,000/- or equivalent in `	6% of the additional amount
From \$ 100,001/- and upto \$ 500,000/- or equivalent in `	3.5% of the additional amount
From \$ 500,001/- and upto \$ 10,00,000/- or equivalent in `	2.5% of the additional amount
From \$ 10,00,001/- and upto \$ 20,00,000/- or equivalent in `	1.5% of the additional amount
From \$ 20,00,001/- and upto \$ 50,00,000/- or equivalent in `	0.75% of the additional amount
From \$ 50,00,001/- and upto \$ 1,00,00,000/- or equivalent in Rs.	0.35% of the additional amount
From \$ 1,00,00,001/- and upto \$ 5,00,00,000/- or equivalent in `	0.15% of the additional amount
From \$ 5,00,00,001/- and upto \$ 8,00,00,000/- or equivalent in `	0.075% of the additional amount
From \$ 8,00,00,001/- and upto \$ 10,00,00,000/- or equivalent in `	0.03% of the additional amount
Over \$ 10,00,00,001/- or equivalent in `	0.02% of the additional amount

### Schedule -E- Arbitrators' Fees in Emergency Arbitration

Over and above the Fixed fee, an additional 15% of the fees payable to the Arbitrator in accordance with the fee structure in Schedule-B or D as the case may be.

BY ORDER OF THE CHIEF JUSTICE

(G. MOHAPATRA)

REGISTRAR (JUDICIAL)