

Article 1

Definitions

In these rules:

- 1.1 "BCMA" is the Business Center of Mediation and Arbitration.
- 1.2 "Claimant" is one or more subjects initiating an arbitration procedure and "Respondant" is one or more subject against whom a claim is being made in an arbitration procedure.
- 1.3 "Award" is the decision of the arbitral tribunal, whether partial or final.
- 1.4 "Final List" is the arbitrators list made up by adding all the arbitrators appointed by the parties, whether from the official list or from the reduced list.
- 1.5 "Final Numbered List" is the final list indicating the parties order of preference as regards every arbitrator appointed.
- 1.6 "Official List" is the list of candidates formally registered in the mediator and arbitrator lists of the BCMA.
- 1.7 "Reduced List" is the arbitrators list resulting from a reduction every party is discretionally entitled to do up to forty per cent (40%) of the official arbitrator list.
- 1.8 "Prior Award Submission" is the submission of the award by the Arbitral Tribunal to the parties and to the Executive Director before such Award is deposited, so they can make observations on form issues or issues related to the substance of the dispute, respecting the decision of the Arbitral Tribunal.
- 1.9 "Summary Proceeding" is a special and brief procedure set forth in Title III of these Rules.
- 1.10 "Regular Procedure" are the general rules applicable to disputes submitted to the BCMA, unless otherwise agreed by the parties.
- 1.11 "Rules" are this set of provisions, its attachments, Ethic Code, and any other provision ruled by the BCMA.
- 1.12 "Arbitral Tribunal" is one or more arbitrators appointed to settle a dispute.

Article 2

Purpose and Composition

2.1 BCMA is a civil association with no lucrative purpose duly registered before the Subaltern Office for Public Registry of the Chacao Municipality of the Miranda State, on August 2nd, 1999, under No. 9, Vol. 8, First Protocol,

and aims at helping to settle disputes through alternative means, and to carry out its functions, it shall count on the entities set forth in its By Laws.

2.2 The Direction and management of the BCMA is entrusted to a Board of Directors of up to nine directors.

2.3 Members to the Board of Directors shall be appointed by a BCMA Shareholder Meeting; the term of office is three years, and they can be reelected twice.

2.4 Decisions shall be made by a majority vote. In the event of a tie, the Chairman of the Board has a casting vote.

2.5 BCMA Shareholder Meeting shall appoint from among the board's members a Chairman and Vice Chairman. The Board's Chairman is the legal representative, he shall preside over the Shareholder and Board of Director Meetings and has the powers to direct the BCMA set forth in the Business Arbitration Law as well as the functions set forth in these Rules and in the BCMA By-Laws. Temporary or absolute absences of the Chairman shall be covered by the Vice Chairman.

2.6 The Board of Directors is in charge of the Association's management and of supervising the service rendered by the BCMA.

2.7 The Board shall appoint an Executive Director and Executive Secretary. The Executive Director is the officer in charge of executing the decisions taken by the Board and his functions are set forth in these Rules and in the BCMA By-Laws. Executive Director's temporary or absolute absences shall be covered by a person appointed as such by the Board. The Executive Secretary is in charge of the functions set forth in these Rules and in the BCMA By-Laws.

Article 3

Mediators and Arbitrators

3.1 Those approved by the BCMA Board of Directors as per the procedure set forth herein shall be registered in the official list of mediators and arbitrators.

3.2 In order to conform a BCMA list of mediators and arbitrators, the Board shall receive recommendations from the community on possible candidates, and shall get information, by means of a proper investigation, on who are the fittest, taking into account their reputation, experience, interest, and willingness to serve. Once the fittest are chosen, the Board shall invite them to fill their application, by presenting before the Executive Director the corresponding application, curriculum vitae, two reference letters and any other document the Board deemed necessary.

3.3 A request before the BCMA shall contain the following:

- a) A commitment to comply these Rules and the BCMA Ethic Code;
- b) An acceptance that the decisions both of the Chairman and of the BCMA Board regarding the admission of members in the official list are

discretionary and that waives to challenge them before any entity or jurisdiction;

c) An acknowledgement that his application might be rejected despite of having a well known professional career.

d) An acceptance that the BCMA reserves the right to disclose the motives of admission denial.

e) A statement declaring to understand that BCMA members are freely appointed and removed, and their registrations are valid until the Board decides otherwise.

3.4 Recommendation letters shall be addressed to the Chairman in a closed and signed envelope that clearly warns its content. Such letters are a detailed explanation on how the person making the recommendation knows the applicant, the time knowing each other and the reasons why he or she believes in the moral and professional suitability of the applicant as well as his or her capacity as arbitrator or mediator.

3.5 Once the Chairman verifies the fulfillment of the requirements set forth in this rule, he shall submit the applications and respective documents to the board, which might freely approve them, deny them, or require further information. The Board might verify any information by any means it considers appropriate.

3.6 The recommendation letters as well as the observations of those consulted in the admission process shall only be known by the Board. Everything related to the admission and rejection of arbitrators and mediators is strictly confidential.

TITLE I MEDIATION RULES

Article 4 **Mediation Commencement**

4.1 Anyone interested can request the BCMA mediation services at any time, with no need of an arbitration procedure.

4.2 The party requiring the mediation shall address his request in writing to the Executive Director, together with the initial payment set forth in Attachment I

4.3 The request shall indicate:

a) Full name, domicile, incorporation data if applicable, address and phone number of the parties;

b) Object of the mediation, amount, and any useful comments, specially the version of the claimants.

c) Possible venue of the mediation acts.

d) The number of mediators suggested, as well as an indication on a notification mean to be used henceforth.

4.4 The Executive Director, once verified that the claim fulfills all requirements set forth herein, shall notify the parties the date and time of the hearing in which the parties or their attorneys shall appoint a mediator or several mediators, as set forth in these Rules.

4.5 The mediation shall be terminated by express manifestation of any party or if any party fails to attend the hearing to appoint the mediator. Likewise, the mediation shall be terminated if any party fails to deposit, within ten business days after the hearing, a payment for administrative costs provided for in Attachment I valid at the date the mediation commenced.

4.6 In such hearing, the parties shall appoint a mediator or mediators. In the event they cannot make an appointment, or fail to set a procedure for such appointment, the BCMA Board shall appoint one (1) sole mediator from among the BCMA official mediator list.

Article 5 **Mediators Impartiality**

No person shall intervene as mediator in such disputes where he has or might have a personal or economic interest, unless a written consent from all the parties is obtained. Before accepting the appointment as a mediator, or at any time during the procedure, the prospective candidate or candidates shall notify in written the BCMA Executive Director of any fact or circumstance that might call into question his impartiality. Once said notification is received, the Executive Director shall immediately communicate such circumstance to the parties. In the event the parties fail to reach an agreement on the appointment, the Executive Director shall appoint a new mediator as per article 4 of these mediation rules.

Article 6 **Parties Representation**

During the mediation, it is not necessary that the parties be counseled by attorneys, counselors or any other person. However, in the event that any of the parties decided to attend any of the mediation acts with any such persons, said party shall notify the BCMA Executive Director, with at least three business days prior the date of the act, the name, occupation and address of the companions, as well as the acting representation. Once the notification is received, the Executive Director shall immediately notify such circumstance to the other party. The party notified might be accompanied by the same number of persons of similar occupation.

Article 7 **Mediators Functions**

7.1 Mediators shall be of well known competence, in the business field, industry, mediation process or law and shall inspire confidence to the parties as to their impartiality.

7.2 Only those registered as such in the BCMA official list shall be appointed as mediators, unless the parties unanimously agreed on appointing a mediator or mediators not registered in such official list, and provided that the person appointed, at the BCMA Board's discretion, has the conditions of reputation, experience, interest and availability required to be a part of the BCMA official list and sign a statement of acceptance, independence and impartiality of the mediator and its attachments.

7.3 The mediator shall remain impartial, take into account the arguments and points of view of the parties to ease and stimulate the search for effective ways to settle the dispute.

7.4 The Mediator shall try to help the parties to settle satisfactorily as per the procedure considered appropriate, but is not entitled to impose a solution upon them. The mediator, as he deemed it necessary, shall be authorized to hold meetings with all the parties or separately, as well as to make recommendations to them. Likewise, when deemed wise, the mediator shall ask the Executive Director for help or experts recommendations as to the technical aspects related to the dispute, provided that the parties agreed on pay the expenses of such assistance.

7.5 The mediator is authorized to terminate the mediation at any time, when he considers that the future efforts shall not help to settle the dispute between the parties. Further, he is obliged to terminate the mediation when requested in written by the parties.

7.6 No party shall bring to any process, both arbitral or judicial or before any other authority the arguments, statements, admission of facts or offers to settle posed by the other party to the mediation process, or the arguments or recommendations proposed by the mediator, since every and all of them are strictly confidential.

7.7 The mediator shall make no statement or comment as to the issues discussed in the mediation procedure; further, no party shall promote the mediator as a witness in an arbitral or judicial procedure rised on the occasion of the mediation.

Article 8

Identification of the Issues Submitted to Mediation

If deemed it convenient, the mediator shall request the parties to submit, before the first hearing, a document with their viewpoints as to the facts related to the dispute. Likewise, the parties shall, if they consider it convenient, submit in such document settlement proposals. At the mediator's sole discretion, and when he determines so, such documents shall be exchanged between the parties.

Article 9

Mediation Venue and Time

9.1 The mediator shall determine the venue, date and time of the different mediation hearings. Once appointed, he shall fix a time table to set the venue, date and time of the different hearings and of the meetings he shall hold separately with the parties. Said time table may be changed by the mediator at any time, taking into account the procedure course and the parties' opinion.

9.2 The mediator shall summon the parties to hearings through written notifications sent to the addresses they indicated. Such notifications shall mention all the persons attending the hearing, as well as the venue, date and time.

9.3 In the event that any of the parties unreasonably fails to attend a mediation act, or a settlement cannot be reached within the time agreed by the parties, the mediator shall terminate the mediation, without prejudice that any of the parties request a new commencement at any other time.

Article 10 **Mediation Act**

10.1 In the event that a settlement is reached, the mediator shall prepare an act with the agreement, which shall be signed by the mediator and the parties.

10.2 In the event that a settlement is reached in an arbitral procedure, after the arbitral tribunal is conformed, the mediator, unless otherwise agreed by the parties, shall submit the settlement act to the tribunal so it record the settlement in the form of an award. The Arbitral Tribunal shall request for clarifications it deemed pertinent. If the arbitrators have no objection, they shall promptly issue an Award, pursuant to the terms set forth in such settlement act. Arbitrators shall not issue an Award in the event that the mediation issues cannot be settled, which shall be evidenced and reasoned in a partial Award, wherefrom the mediation terminates and an arbitration continues as per these Rules. Those issues not included in the settlement act or not taken into account in the Award, shall be discussed in the arbitration procedure in course.

10.3 If a settlement is reached in an independent mediation process or before the installation of the arbitral tribunal, the settlement, except otherwise agreed by the parties, shall be recorded in the form of an Award, as per article 10.2 of these Rules. For that purpose, the sole mediator of the case shall be appointed arbitrator. The Executive Secretary shall assist the mediator in recording the Award.

TITLE II ARBITRATION RULES CHAPTER I GENERAL PROVISIONS

Article 11

General Rule

Issues not governed in these Rules or those rising doubts as to their interpretation shall be decided by the Arbitral Tribunal, and if the latter is not installed, shall be decided by the Executive Director, as per the purpose and intention of these Rules, and trying that the Award be capable of execution.

Article 12

Effects of the Arbitration Clause

12.1 When the parties agreed to arbitration as per the BCMA Rules, they are submitted, only because of that, to the rules in force at the time the arbitration commenced, unless they agreed to submit to the rules in force at the time of the agreement. In any case, the independent will of the parties shall prevail to determine the procedural rules.

12.2 In the event that any of the parties refuses or restrain it self to participate in the arbitral procedure at any step, the procedure shall continue despite such refusal or restrain.

12.3 Unless otherwise set forth and having known the validity of the arbitration clause, the Arbitral Tribunal shall not cease to have jurisdiction by reason of a claim that the contract is null and void or allegation that it is non-existent. The Arbitral Tribunal shall continue to have jurisdiction to decide on the rights and claims of the parties.

Article 13

On the Time Limit and Procedure Term

13.1 Swiftiness is essential to the procedures administered under the the BCMA. Arbitrators shall make everything possible to keep swiftiness during the procedure, avoiding any kind of unnecessary delay. The Executive Director shall look after the efficiency of the procedures administer under the BCMA.

13.2 If the arbitration clause shall not set forth a procedure term, this shall not exceed eight calendar months counted from the reception of the claim by the Executive Director.

13.3 Time limits set forth in these Rules shall be counted from the day after the reception of the summon, notification or communication. If the last day of the time limit is a holyday in the place of reception of the notification or communication, it shall be extended to the next bussines day.

13.4 Unless otherwise provided for by the Arbitral Tribunal or the Executive Director, are non bussines days or holidays, in addition to Saturdays and Sundays, those days identified as such in the official calendar published annually by the BCMA.

13.5 The parties or the Arbitral Tribunal shall agree on shorten or extending different time limits set forth in these Rules.

Article 14
Summon and other Notifications

14.1 When the arbitration clause fails to mention the address of every and all the parties and the means to summon and deliver the arbitration claim, those mentioned in the contract shall be considered as such for any purpose. In absence of such provisions, every summon, notification or communication shall be considered received the day it was personally delivered to the party or delivered in his home, permanent address, or office.

14.2 In the event that any such places are found, after a reasonable investigation, it shall be considered received the day it was delivered or attempted to be delivered by registered post or any other means that provides a record of the sending thereof, in the last known home, permanent address, or office.

14.3 At the Claimant's request, prior verification of the fulfilment of the requirements set forth in these Rules to submit a claim, the Executive Director shall decide that the Claimant, through a Notary, deliver the Respondant a copy of the claim and the attachment thereto, or to any of the Respondant's representatives, directors, managers, attorneys, or the person in charge of receiving his correspondence. Once accomplished, the Claimant shall give the Executive Director the result of his acts, properly documented.

14.4 The notification or communication shall be valid when made by fax or any other electronic telecommunication, telematic mean or of any other kind, that allows the delivery and reception of written documents providing a record of their remission and reception and that were designated by the party.

Article 15
Petitions and Copies

Every and all petitions submitted by any of the parties, as well as all the documents attached thereto shall be presented in as many copies as parties are to the procedure, plus one for each arbitrator and one for the Executive Director. Further, the Arbitral Tribunal shall send the Executive Director a copy of all the communications addressed to the parties. If a party fails to fulfill this requirement, the Executive Director shall set a term so that the party fulfill the requirement or the BCMA can alternatively prepare copies charging said party.

Article 16
Tacit Waive to Impugnation Faculties

It shall be considered as a waive to the right to impugnate if a party proceeds with the arbitration procedure knowing that a provision of these Rules or an

instrcution of the Arbitral Tribunal, or any requirement or provision of the arbitration clause hasn't been fulfilled, and fails to express immediatly his objection.

CHAPTER II REGULAR PROCEDURE

Article 17 Commencing Arbitration

The party wishing to request an arbitration shall address the claim, with the initial payment set forth in Annex I of these Rules, to the BCMA Executive Director, who shall notify the respondants the reception of the claim and date of it, through the means he considers appropriate.

Article 18 Arbitration Claim

18.1 The date of the arbitration commencement shall be that of the reception of the claim by the BCMA Executive Director.

18.2 The claim shall mention, in particular:

a) the full name or name of the corporation, address, data relating the incorporation or registry, telephone number and email of every party and, if it is the case, a statement expressing the will to change the address set in the arbitration clause, as well as an indication of a means to be used henceforth to notify such party. Said address, telephone and email, as well as the chosen notification means shall outlive for all purposes until the claimant expresses other different.

b) The relevant agreements and particularly the arbitration clause.

c) All relevant indication relating the number of arbitrators and their appointment.

d) A summary explanation of the conclusions describing the nature and circumstances of the dispute.

e) An indication of the claims and, if possible, of the amounts involved.

f) Any other consideration relating the arbitration venue, legal rules applicable and language.

18.3 The Executive Director, once receiving enough copies of the claim and the payment required, and after verifying the fulfilment of the requirements set forth in these Rules for the claim, shall send the Respondant, for the Statement of Defense, a copy of the claim and the documents attached thereto.

Article 19 Statement of Defense; Counterclaim

19.1 Within the twenty bussines days after the reception of the claim, the respondant shall submitt his Statement of Defense (the "Defense") to the claim. In the event of several repondants, those might act jointly or severally.

The Defense shall mention, in particular:

a) The full name or name of the corporation, address, data relating the incorporation or registry, telephone number and email, if it is the case, a statement expressing the will to change the address set in the arbitration clause, as well as an indication of a means to be used henceforth to notify such party. Said address, telephone and email, as well as the chosen notification means shall outlive for all purposes until the claimant expresses other different.

b) Comments on the nature and circumstances of the dispute.

c) Point of view on the claimants claims and all defenses he considers relevant to mention.

d) Any comments on the arbitrators number and appointment.

e) Any other consideration relating the arbitration venue, applicable legal rules and language.

19.2 A copy of the Defense and the attachment thereto shall be sent to the claimant by the Executive Director.

19.3 In the event of a counterclaim, it shall be submitted with the Defense with the payment set forth in Annex I. The counterclaim shall mention:

a) A description of the nature and circumstances of the counterclaim.

b) An indication of the claims, and if possible, of the amounts.

19.4 In the event of submitting one or several counterclaims, the Executive Director shall fix separately a budget of expenses relating to the claim and counterclaims.

19.5 Within the twenty bussines days after the reception of the claim sent by the Executive Director, the claimant shall submitt a replay with the defenses he considers relevant.

19.6 The Executive Director, in the event that a request is made and if he consideres it justified, shall extend the such terms.

Article 20

Mediation Hearing

20.1 Once the term for making a Defense expires, and the term for making a replay to the counterclaim expires as well, the Executive Director shall notify the parties the date and time of the hearing in which they or their attorneys shall appoint one or several mediators, who shall determine the issues in dispute and try to reach an agreement as per the mediation rules set forth in these Rules in the term and form agreed by the parties in that hearing.

20.2 The mediator shall be appointed as per the mediation rules set forth herein.

20.3 Once the mediator is appointed, he shall call immediatly the parties to the first mediation hearing.

20.4 The mediation hearings shall not suspend the course of the arbitration procedure unless the parties, aiming at facilitating the mediation, agreed on suspending said procedure, as long as they deemed it necessary.

CHAPTER III THE ARBITRAL TRIBUNAL

Article 21 **Arbitrator's Impartiality**

21.1 Every arbitrator shall be and remain impartial and independent. If a proposed arbitrator considers that there is a legal or factual impediment to fulfill his functions, shall reject the appointment immediately.

21.2 No party or their representatives shall communicate separately with any of the arbitrators, except prior notification to the other party, who is entitled to intervene in such a communication.

21.3 The arbitrator shall immediately communicate in written the Executive Director of any fact or circumstance occurring during the arbitration and that, even though it does not require challenge, might compromise his impartiality and independence. In any case, the parties shall be always entitled to waive the challenge of the arbitrator concerned. The party waiving the challenge shall express his will within four business days after the date of reception of the inhibition notification by the Executive Director.

21.4 The arbitrator, by accepting the appointment, shall commit to fulfill his or her duties as per these Rules, the Ethic Code and other BCMA rules.

21.5 The Arbitral Tribunal in any step of the procedure or whenever it deemed it convenient, shall compel the parties to reach an amicable agreement on the dispute or on certain specific issues in dispute. However, unless otherwise agreed by the parties, the Arbitral Tribunal shall not participate in any negotiation or mediation between the parties.

Article 22 **Arbitrators Selection**

22.1 After the mediation hearing set forth in article 20.1 of these Rules, or the expiration of the term in which the arbitral procedure was suspended, the Executive Director shall notify the parties the date in which the appointment of the arbitrators shall take place.

22.2 The parties shall freely determine an uneven number of arbitrators. If there is no agreement on the number, there shall be three of them. Arbitrators shall only be appointed from the BCMA Official List, unless the parties agreed unanimously on appointing persons not included in said Official List, and provided that the BCMA Executive Director considers that the person appointed fulfills the same requirements of reputation, experience, interest and availability needed to be a part of the BCMA Official List, and signs a

statement of acceptance, independence and impartiality of the arbitrators and the attachments.

22.3 In selecting arbitrators, each party is entitled to reduce discretionaly 40% of the names of the BCMA Official List. The Executive Director, in the same notification of the date in which shall take place the appointment of the arbitrators, shall communicate the parties the conformation of the BCMA Official List Arbitral Tribunal that time, and the exact number of candidates that can be excluded by each party. The party wishing to exercise this right, shall particpate the Executive Director within three bussines days after the notification, the names of the arbitrators object of the reduction, and by failing to do so in that term, he shall loose that right. The Executive Director shall keep confidential the exclusions from the Official List until all the parties participate the Executive Director their respective exclusions. The candidates remaining after the exclusions or once expired the three-day term, shall conform the Reduced List. The Executive Director shall notify the parties three days prior the date of the act of appointment of arbitrators, the conformation of the Reduced List.

22.4 When the parties agreed that the dispute be solved by a sole arbitrator, they shall appoint him from the Reduced List by mutual agreement. If there is no agreement, the sole arbitrator shall be appointed by the BCMA Board from the Reduced List.

22.5 When the parties have no agreement on a sole arbitrator to settle the dispute or in the procedure to appoint the arbitrators, both the claimant and the respondant, in the act to appoint the arbitrators set by the Executive Director, shall postulate ten possible arbitrators from the Reduced List. The candidates thus postulated are the Final List.

22.6 The Arbitral Tribunal shall be formed by the candidates converging in both lists.

22.7 In the event of three or more arbitrators converging in both lists, and the parties cannot agree on the appointment of the Arbitral Tribunal or its President, the BMCA Board shall make the corresponding appointment of the converging arbitrators.

22.8 When there were two convergent arbitrators, these two convergent arbitrators shall be appointed and the third one shall be chosen from the Final List, according to the preferent order listed by the parties. For that purpose, each party shall give the Executive Director in the act of appointment of arbitrators, the final numbered list. The third arbitrator thus appointed shall preside the Tribunal.

22.9 When there si only one convergence among the postulated arbitrators, the convergent shall be appointed and the other two shall be elected by the parties selecting each party one arbitrator from the ones postulated by the other party. The convergent candidate shall preside the Arbitral Tribunal.

22.10 If there were no convergence among those postulated, each party shall chose an arbitrator from those posttulated by the other party, and the third shall be selected from the Final List, according to the preferent order listed by the parties. The third arbitrator thus appointed shall preside the Arbitral Tribunal.

22.11 if a term of three days counted from the act to appoint arbitrators expires and for any reason no arbitrator or President to the Arbitral Tribunal is appointed, this appointment shall be made by the BCMA Board from the final list.

22.12 If any of the parties fails to present himself or fails to postulate arbitrators in said act, the appointment shall be made by the BCMA Board, as well as that of the President to the Arbitral Tribunal, from the Official List or the Reduced List, when the right to reduce the list was exercised.

Article 23 **Multiple Parties**

23.1 When there are several subjects, as claimants or as respondants, and if the dispute is submitted to the desicion of three arbitrators, the claimants, jointly, and the respondants, jointly, shall select the arbitrators as per the foregoing article.

23.2 In absence of a jointly appointment and if the parties cannot agree on the method to set up the Arbitral Tribunal, the BCMA Board shall appoint each arbitrator and also the President to the Arbitral Tribunal.

Article 24 **Arbitrators Challenge**

24.1 Arbitrators can be challenged for any reason that rise doubts regarding their impartiality. A challenge shall be presented before the Executive Director through a written document in which are specified the facts and circumstances in which it is based.

24.2 Arbitrators appointed by agreement between the parties shall only be challenged for causes occurred after the appointment. Those appointed by the BCMA Board or by a third party shall be challenged within five bussines days after the date of notification of their appointment.

24.3 The concerned arbitrator is entitled to five bussines days, counted from the date in which he received the challenge, to express his acceptance or rejection.

24.4 In the event of a challenge, the party not challenging might agree on accepting the challenge, in which case the concerned arbitrator shall withdraw. The concerned arbitrator is entitled as well to withdraw in absence of such an agreement, which does not imply the acceptance of the motives of the challenge.

24.5 In the event that the other party does not agree with the challenge, or that the concerned arbitrators reject it or do not express anything about it, the Executive Director shall send the BCMA Board the relevant requirements from them to decide. The BCMA Board, if considers it appropriate, might ask the opinion of the non challenged arbitrators. Said opinion shall be confidential and not binding.

Article 25
Arbitrator Replacement

25.1 An arbitrator shall be replaced in the event of his death, of acceptance of his resignation or withdraw ; of a declaration in favor of his challenge or of request by all the parties. The replacement shall be appointed in the same manner in which the replaced aritrator was appointed.

25.2 An arbitrator shall also be replaced, by initiative of the BCMA Executive Director when existing a factual or legal impediment to fulfill his functions or when the arbitrator does not comply with his functions as per law, these Rules and other BCMA provisions. The BCMA Board shall decide on the subject after the presentation by such arbitrator, the parties and, if that is the case, the other members to the Arbitral Tribunal of their written comments within a term set by the BCMA Board and notified by the Executive Director. Said comments shall be communicated to the parties and the arbitrators.

25.3 In the event that all the arbitrators or a majority of them withdraw or there is a decision in favor of a challenge of all of them or a majority of them, the Arbitral Tribunal shall declare terminated their functions and a new Arbitral Tribunal shall be appointed as per these Rules.

CHAPTER IV
INITIAL PROCEDURES

Article 26
Arbitral Tribunal Installation Acts

As soon as the Executive Director receives an acceptance from the appointed arbitrators, he shall notify the parties the installation of the Arbitral Tribunal and give each arbitrator a copy of the file, while the original shall remain at the parties and the Arbitral Tribunal disposal in the BCMA Executive Secretary.

Article 27
Arbitration Venue

27.1 The parties, or otherwise the Arbitral Tribunal shall determine the arbitration venue.

27.2 Execpt otherwise agreed by the parties, the Arbitral Tribunal shall hold hearings, witnesses depositions, debates and meetings in the BCMA venue or at any other venue it consider appropriate.

Article 28

First Hearing, Reference Terms, Procedure Calendar

28.1 As soon as it is constituted, the Arbitral Tribunal shall summon the parties for the first hearing, with ten business day prior notice, which shall set the date, time and place.

28.2 In the first hearing, the Arbitral Tribunal shall draw up a document defining the terms of reference, based upon the writings of the parties and the statements of the first hearing. For swiftness, the Arbitral Tribunal shall previously send the parties a draft for their review and comments.

28.3 Such document shall mention:

- a) Full name of the parties;
- b) Addresses of the parties to which notifications and communications during the course of the arbitration may be made;
- c) A summary of the parties' respective claims, statements and reliefs sought, and if possible, an indication of the amounts claimed
- d) Unless the Arbitral Tribunal decided otherwise, a list of the issues to be determined;
- e) The full name and address of the arbitrators;
- f) Venue of the arbitration;
- g) Language of the arbitration;
- h) If the Arbitral Tribunal shall act as per common law, definitions as to the applicable rules. If the Arbitral Tribunal shall act as an *amiable compositeur*, a mention of the powers invested on the Arbitral Tribunal;
- i) A summary of the evidence that each party considers necessary in order to establish a provisional timetable for the procedure. The Arbitral Tribunal may ask the parties the purpose of each evidence in order to allow agreements that prevent unnecessary evidences;
- j) The timetable that the Arbitral Tribunal intends to follow for the conduct of the arbitration. Any subsequent modification of the timetable shall be communicated to the Executive Director and to the parties;
- k) An indication as to the necessity of a motivation for the award;
- l) If it is the case, whether the award shall not be previously presented as set forth in these Rules;

28.4 The parties and the Arbitral Tribunal shall sign the terms of reference. If any of the parties refuses to take part in the drawing up of the terms of reference or refuses to sign such terms, they shall be submitted to the Executive Director for his approval. As soon as the terms are approved, the arbitration shall continue its course.

Article 29

Rules Governing the Procedure

29.1 The procedure before the Arbitral Tribunal shall be governed by the rules agreed upon by the parties, in fail of them, by these Rules, and where these

Rules are silent, by those determined by the Arbitral Tribunal whether or not as to a legal or any other kind of provision.

29.2 In all the cases, the Arbitral Tribunal shall act fairly and impartially and shall ensure that each party has a reasonable opportunity to present its case.

Article 30

Language of the Arbitration

In the absence of an agreement between the parties, the Arbitral Tribunal shall determine the language or languages of the arbitration, taking into account the circumstances of the case, such as the language of the relevant agreements, of the correspondence between the parties and of any other relevant documents.

Article 31

Rules Applicable to the Merit of the Dispute

31.1 The Arbitral Tribunal shall apply to the merit of the cause the rules agreed upon by the parties. In the absence of any such agreement, the Arbitral Tribunal shall apply the rules it determines to be appropriate.

31.2 The Arbitral Tribunal shall decide *ex aequo et bono* only if the parties have agreed to authorize it to that, and if the law applicable to the arbitration procedure permits this kind of arbitration.

31.3 In every and all cases, the Arbitral Tribunal shall take account of the provisions of the contract and the relevant trade usages applicable to the case.

Article 32

New Claims

Once the terms of reference have been approved, no party shall make new claims or counterclaims, unless the interested party has been authorized by the Arbitral Tribunal, which shall consider the nature of the new claims, the stage of the arbitration and other relevant circumstances.

Article 33

Establishing the Facts of the case

33.1 The Arbitral Tribunal shall proceed within as short time as possible to establish the facts of the case pursuant to the procedure agreed upon by the parties. In the absence of such agreement, the Arbitral Tribunal may, as per the BCMA Rules, establish the facts by the means it considers appropriate, which includes determining the acceptance, the manner, time and place to present evidence as well as their valuation and setting the time limits to present all the evidence.

33.2 The Arbitral Tribunal shall set a date for hearing witnesses, experts appointed by the parties, or by any other person, in the presence of the parties, or in their absence provided they have been duly summoned.

33.3 The Arbitral Tribunal, after having consulting the parties, may appoint one or more experts, decide their terms of reference and receive their reports. Arbitral Tribunal the request of a party, the parties shall be given the opportunity to question at a hearing any such expert appointed by the Arbitral Tribunal or by the parties.

33.4 At any time, the Arbitral Tribunal may summon the parties to provide additional evidences and may ask the questions it consideres necessary.

33.5 Once studied the written submissions and evidences of the parties, the Arbitral Tribunal shall hear the parties.

33.6 The Arbitral Tribunal shall theminate this stage when it considers that the parties have had enough opportunities to present their cases. Once this stage is declared closed, no new evidence shall be admitted, except when summoned or authorised by the Arbitral Tribunal.

33.7 Exceptionally, the arbitrators may ask one of them to be in charge of the acts to establish the facts of the case, provided the parties authorize that.

Article 34 **Hearings**

34.1 When a hearing is to be held, the Arbitral Tribunal shall summon the parties with reasonable notice, to appear before it on the date, time and place fixed by it.

34.2 If any of the parties, although duly summoned, fails to appear Arbitral Tribunal the date and time fixed without valid excuse, the Arbitral Tribunal shall proceed with the hearing.

34.3 The Arbitral Tribunal shall lead the hearings, and the parties are entitled to be present. Save with the approval of the Arbitral Tribunal and the parties, persons not involved in the proceedings shall not be admitted.

34.4 The parties may appear in person or through duly authorized representatives or advisers.

34.5 Once the arbitration commeces, it shall be conducted as continued as possible until its definite termination, being important the swiftness of the procedure.

Article 35 **Interim Measures**

35.1 Unless the parties have otherwise agreed, as soon as the file has been transmitted to it, the Arbitral Tribunal may, at the request of a party, order an interim measure it deems appropriate. The Arbitral Tribunal may make the granting of any such measures subject to appropriate security being furnished by the requesting party to cover any damages such measures may cause. Any such measures shall be reasoned.

35.2 Unless the parties have otherwise agreed, when urgent circumstances requires so, any party may prior the appointment of the arbitrators and prior the payment of the expenses and fees set forth in Annex I to these Rules, request the BCMA Board to appoint from the Official List, an Arbitral Tribunal integrated by, at the executive Director's judgement, by one or three arbitrators to decide solely on the interim measures requested. The appointment of these arbitrators shall be made by the BCMA Board in a rotative manner from among those registered in the Official List not acting as arbitrators in an arbitration governed by the BCMA in that moment. Any such measures decided by the Arbitral Tribunal may be subjected to appropriate security being furnished by the requesting party to cover any damages that such measure may cause. Any such measures shall be reasoned.

35.3 No attachment, prohibition to encumbrance or sell, nor protective measures shall be decided, or they shall be suspended if they are already decided when the party furnished sufficient security at the Arbitral Tribunal judgement.

35.4 The party affected by the interim measure may challenge it in a document submitted to the Executive Director, in a number of copies sufficient for each party thereto plus one for each arbitrator. The Arbitral Tribunal who decided the interim measure shall decide the challenge, notwithstanding that in the cases set forth in article 35.1 , at a party request, the Arbitral Tribunal appointed as per article 22 or 23 of these Rules, shall also review said measures and challenges and revoke, modify, suspend or confirm such measure or demand an extension of the security or declare that such security is no longer necessary.

35.5 The Arbitral Tribunal may take measures to protect trade secrets and confidential information.

CHAPTER V AWARD

Article 36 Time Limit for the Award

36.1 The Arbitral Tribunal shall render its award within sixty business days from the date of the approval of the terms of reference.

36.2 The Executive Director may extend such time limit at the Arbitral Tribunal request or whenever he deemed it appropriate.

Article 37

Prior Submission of the Award

37.1 Before it is deposited and unless otherwise agreed by the parties, the Arbitral Tribunal shall submit it to the parties and the Executive Director's consideration, who may, without affecting the Arbitral Tribunal's liberty of decision, within five business days after the reception of the award, make comments as to the form or substance. The document with the parties' comments shall be submitted to the Executive Director, who shall send them to the arbitrators and the parties so that they make comments as well Arbitral Tribunal the date and time fixed by the Arbitral Tribunal.

37.2 Once the time limit set in the foregoing paragraph expires without comments made by the parties or the Executive Director, the award shall be binding. If the parties or the Executive Director make comments, the Arbitral Tribunal, in a time limit to be informed to the parties and which shall only be extended once, shall make explanations, amplifications or corrections it deemed appropriate, which shall be notified and deposited as per article 39.1

37.3 Prior knowledge of the award as per this article does not cause a challenge to an arbitrator.

Article 38

Making and Reasoning the Award

38.1 The award shall be rendered in writing and shall be signed by the arbitrators. When the Arbitral Tribunal is composed by more than one arbitrator, the award shall be rendered by a majority decision and there are enough the signatures of the majority, notwithstanding that the dissenting arbitrator submit his opinion. If there be no majority, the President of the Arbitral Tribunal shall render the award.

38.2 Unless otherwise agreed by the parties, the Arbitral Tribunal shall reason the award without rewriting the procedural acts. Such reasoning shall be a brief summary of the factual and legal motifs that determine such decision.

Article 39

Notification and Deposit of the Award

39.1 The Executive Director shall notify the parties the award by giving each party an original signed by the Arbitral Tribunal and certified by the Executive Director, with a copy of the file certified by the Arbitral Tribunal.

39.2 Every Award rendered as per these Rules shall be deposited in original with the Executive Secretary and anyone interested may request a copy of it, unless the parties agreed its confidentiality. Unless otherwise agreed, every act of the parties or evidence presented shall be confidential.

39.3 By submitting the dispute to arbitration under these BCMA Rules, the parties are obliged to carry out any award without delay and specifically they waive their right to any form of recourse they are entitled to.

Article 40

Correction and Interpretation of the Award and Additional Award

40.1 Within ten business days after the reception of the award, unless the parties agreed another time limit, they may, by notifying the other party:

a) ask the Arbitral Tribunal to correct in the Award any computational, typographical error or errors of similar nature.

b) ask the Arbitral Tribunal to interpret a point or a specific part of the award.

40.2 If the Arbitral Tribunal deemed appropriate any of the foregoing requests, it shall make the correction or give the interpretation within ten business days after the reception of the request. Such interpretations and correction shall be part of the award.

40.3 The Arbitral Tribunal may correct any error mentioned in paragraph a) of this article on its own initiative within ten business days after the award's date.

40.4 Unless otherwise agreed by the parties, within five business days after the reception of the award, any of the parties, notifying the other party, may ask the Arbitral Tribunal to render an additional award as to issues raised by the parties and omitted in the award. If the Arbitral Tribunal deemed the request appropriate, it shall render an additional award within ten business days after the reception of the request.

40.5 The Executive Director, at the Arbitral Tribunal request, may extend the time limit to make the correction or interpretation of the award or to render the additional award.

40.6 All provisions set forth in these Rules as to the award shall apply to the corrections, interpretations or additional awards.

Article 41

Settlement

If during the arbitral procedure, the parties reach a settlement that solves the dispute, the Arbitral Tribunal shall declare the procedure closed. If the parties request so, the settlement shall be recorded in the form of an award in the terms agreed upon by the parties, unless the terms of the settlement, at the Arbitral Tribunal judgement, are against public order or ethical behaviour. This award shall not be reasoned and have the same nature and effect of any other award rendered on the merit of the dispute, being applicable all the provisions set forth in these Rules as to the award.

Article 42

Decision on the Cost of the arbitration

42.1 The arbitration costs shall cover the fees and expenses of the arbitrators as well as the BCMA administrative costs determined by the Executive Director, pursuant to the tariff valid at the date the arbitration commenced. They shall also cover the fees and costs of the experts appointed by the Arbitral Tribunal and reasonable expenses of the parties for their defense.

42.2 The final award shall fix the arbitration expenses and shall decide in which proportion they shall be paid between the parties.

CHAPTER VI MISCELLANEOUS

Article 43 **Liability**

By submitting to arbitration as per these Rules, the parties waive any liability action against the BCMA, its organs, directors, associate, officers, employees and dependants.

Article 44 **Validity of these Rules**

These Rules of Mediation and Arbitration have been approved by the BCMA Shareholder Meetings in Caracas, Arbitral Tribunal the 30th day of March, 2007, date from which the Rules are in force.

TITLE III SUMMARY PROCEEDING

Article 45 **Applicability**

45.1 When a dispute does not exceed US\$100,000.00 and there is only one claimant and only one respondent, the Summary Proceeding set forth in this title shall be applied, unless otherwise agreed by the parties. The Summary Proceeding may also be applied to disputes of greater amounts when the parties agreed so.

45.2 To determine the amount of the dispute the fees of the attorneys and expenses of the arbitration shall not be taken into account.

45.3 In the event that a counterclaim exceeds the amount of US\$ 100,000.00, the case shall be conducted as per the regular procedure set forth in these Rules, unless the parties and the arbitrator agree on continuing the summary proceeding.

Article 46

Answer, Counterclaim and Replay

46.1 Within ten business days after the reception of the claim, the Respondant shall submit his Answer, with any counterclaim, if that is the case.

46.2 Within ten business days after the reception of the counterclaim by the Executive Director, the claimant shall submit a Replay.

Article 47

Mediation Hearing

47.1 Once the time limit to submit an answer expires, and once the time limit to submit a replay expires, if it is the case, the Executive Director shall notify the parties a date and time the hearing shall take place in which they or their attorneys shall appoint a mediator who shall determine the issues disputed and try to reach a settlement in the time limit and manner agreed upon in that hearing, or as per the mediation provisions set forth in these Rules. The appointment of a mediator shall be made pursuant to Article 4.6 of the mediation rules.

47.2 The mediation hearings shall not suspend the course of the arbitration unless the parties, in order to facilitate the mediation, agree on suspending such procedure during the time they consider appropriate.

Article 48

Arbitrator's Appointment

The summary proceeding shall be conducted and decided by one sole arbitrator. Within five business days after the Answer, or the expiration of the time limit to suspend the arbitration, and save that the parties agreed on a different procedure to appoint the Arbitral Tribunal, the Executive Director shall send the parties a list with ten possible arbitrators chosen by the Executive Director from the BCMA Official List. Each party is entitled to reduce three the names of the list, making in this way a reduced list. The parties shall make their best effort to appoint from the reduced list a sole arbitrator who shall decide the dispute. If the parties do not reach an agreement regarding the appointment of the arbitrator within five business days after the delivery of the list, the BCMA Board shall appoint him from the reduced list.

Article 49

The Arbitral Tribunal

49.1 The first hearing shall be held within a time limit not exceeding ten business days after the appointment of the arbitrator.

49.2 In the first hearing, the parties shall present their claims and reliefs sought and shall be fixed a time table for the hearing to conduct the case.

Article 50

Prior Award Submission

50.1 Before depositing the Award and save otherwise agreed by the parties, the Arbitral Tribunal shall submit it to the consideration of the parties and of the Executive Director, who may, without affecting the Arbitral Tribunal's liberty of decision, and within the two bussines days after the recpetion of the Award, make ccomments as to the form or as to the merit of the dispute. A document with the parties comments shall be submitted before the Executive Secretary, who is in charge of sending the comments to the arbitrators and to the parties so they can verbally express their comments Arbitral Tribunal the time and date fixed by the Arbitral Tribunal.

50.2 Once the time limit set forth hereinafter expires without any comments from the parties or the Executive Director, the Award shall be binding. If the parties or the Executive Director do make comments, the Arbitral Tribunal, within the time limit it shall notify the parties, shall make explanations, extensions or corrections it deemed appropriate, which shall be notified and deposited as per Article 39.1

50.3 Prior knowledge of the award as per this article does not cause a challenge to an arbitrator.

Article 51

Publication of the Award, Correction, Interpretation. Additional Award.

51.1 Within a time limit no longer than ten bussines days counted from the first hearing the arbitrator shall render his Award.

51.2 The Award shall only be reasoned breifly unless no later than in the first hearing both parties request a deeper reasoning, in which case the arbitrator may charge additional fees fixed by the Executive Director.

51.3 Within five bussines dyas after the publication of the Award, the parties, notifying the other, may ask the Arbitral Tribunal:

- a) To correct in the Award any computational, typographical error or errors of similar nature;
- b) To interpret an issue or a specific part of the Award;
- c) To render an additional Award as to claims raised by the parties and omitted in the Award.

51.4 If the Arbitral Tribunal deemed it appropriate any of the foregoing requests, it shall make the correction or give the interpretation within ten bussines days after the reception of the request. Such interpretations and correction shall be part of the award.

51.5 The Arbitral Tribunal may correct any error mentioned hereafter of this article on its own initiative within ten bussines days after the award's date.

51.6 The Executive Director, when the Arbitral Tribunal ask it through a reasoned request, may extend the time limits of the Summary Proceeding.

Article 52

Supplementary Rules

Everything not expressly provided for in the foregoing Title shall be governed by the provisions of the Regular Procedure.

TITLE IV COSTS AND EXPENSES OF THE PROCEDURE

Article 53

Mediator's Fees and Success Fee

53.1 The basic fees of the mediators is covered by the initial payment set forth in Articles 4.2 and 17 and shall be paid to the mediator by BCMA from the application of the scale set forth in Annex II.

53.2 A settlement reached through a mediation whereby the dispute is solved totally or partially shall cause a success fee in favor of BCMA, calculated according to the amount of the dispute effectively resolved, as per the scale set forth in Annex I. Such success fee shall be paid to BCMA in the proportion agreed by the parties in the mediation agreement or Award. In absence of such agreement, each party shall pay a half of such success fee.

Article 54

Arbitrator's Fees and Expenses of the Procedure

54.1 Annex I set forth the minimum, intermediate and maximum mediator's and arbitrator's fees and BCMA administrative costs. The values of the Annex may be modified by the BCMA Board when it deemed it appropriate without implying a review of these Rules.

54.2 Before the installation of the Arbitral Tribunal, the Executive Director shall fix the advance on fees and expenses that shall be paid by the parties. Such advance shall cover an estimation on the fees of the arbitrators and BCMA administrative costs, fixed in accordance with the medium term of the tariff set forth in Annex I, in addition to a prudential estimation of the expenses of the Arbitral Tribunal, as well as the costs of the experts or any other assistance or declaration that may be required.

54.3 Once the advance on fees and expenses is fixed and notified to the parties, each party shall deposit equal shares. If one of the parties deposit its share and the other fails to pay its share, the other party may pay the whole of the advance within ten bussiness days after the notification. When a request for an advance payment is not complied, the Arbitral Tribunal or the Executive Director if the Arbitral Tribunal hasn't been appointed yet, may Arbitral Tribunal its judgement, declare the procedure suspended or the arbitration terminated.

54.4 When there is a request to appoint an Arbitral Tribunal in order to decide interim measures set forth in Article 35 of these Rules, the requesting party shall pay the arbitrator's fees and expenses fixed by the Executive Director.

54.5 In no case, arbitrators shall be appointed until the requesting party pay the advance on fees and expenses.

54.6 During the arbitration, the Executive Director, at the Arbitral Tribunal's request or on its own initiative, shall request the parties additional advances when extraordinary circumstances justify them.

54.7 The definitive fees and expenses of the arbitrators and BCMA administrative cost shall be fixed by the Executive Director when the procedure is terminated, from the medium term between the maximum and minimum limit fixed in the Annex I hereto and considering the actual time spent by the arbitrators, their diligence and the complexity of the dispute as well as any other relevant element. However, if extraordinary circumstances justify it, the Executive Director may fix the fees of the arbitrators and the BCMA administrative costs in a figure higher or lower than the one set forth in Annex I.

54.8 In case of doubt as to the amount of the dispute, or when such amount is not stated, the Executive Director shall fix it in order to determine the applicable tariff.

54.9 Once the Award is rendered, the Executive Director shall give the parties a statement with the final and actual fees and expenses and the payments received and shall ask them to pay any additional amount or shall reimburse any amount not used.

54.10 When the parties request the termination of the arbitration before the Award, they are entitled to a reimbursement of the share of the advance on fees and expenses paid and not used according to the Executive Director, who shall consider the work done by the arbitrators until that moment. Such reimbursement shall not exceed seventy five percent (75%) or be lower than twenty five percent (25%), and the figure retained shall cover services rendered.

Article 55

Treatment of the Mediator's and Arbitrator's Fees

It is absolutely against BCMA Rules that the parties and arbitrators reach independent agreements as to the fees and expenses. The BCMA Executive Director shall deal with everything related to the fees and expenses.