



SUMMARY OF REVISIONS TO INTERNATIONAL RULES

JAMS International Arbitration Rules, Amended and Effective June 1, 2021.

Article 2. Request for Arbitration

Revisions to Article 2 update and clarify certain procedures, including proper filing and service of Claimant's Request for Arbitration, commencement of the arbitration, and service of documents throughout the proceedings. Under these revisions commencement and service in an international arbitration at JAMS align more closely with commencement and service in a domestic arbitration at JAMS.

Article 2.1 – The revised article eliminates references to “facsimile” numbers.

Article 2.2(a) – The revisions update and clarify proper filing and service of Claimant's Request for Arbitration.

Articles 2.2(b) – 2.2(f) – These new articles make explicit the Tribunal's and JAMS' authority to require electronic filing and service, including via the JAMS Electronic Filing System; they describe valid filing and service via the JAMS Electronic Filing System; and they describe valid filing and service of documents not transmitted electronically.

Article 2.3 – Previously this article stated the Administrator would send a copy of Claimant's Request for Arbitration and accompanying documents to Respondent. Under the revised articles Claimant must provide the Request and accompanying documents to each party (see Article 2.2(a)). This revised article states the administrator may communicate with the parties via email. (Formerly Article 2.4 provided this authority. A prior reference to “facsimile” is eliminated here.)

Article 2.4 – Previously the arbitration was deemed commenced when JAMS received Claimant's Request for Arbitration. This revised article indicates the arbitration is deemed commenced when JAMS issues a commencement letter. The revisions include the bases for the issuance of a commencement letter. And they clarify that the arbitration will proceed where a party obligated to participate fails to do so.

Article 3. Emergency Relief Procedures

The revised article eliminates “facsimile” from the following: “Such Notice may be given by courier service, facsimile, email or personal delivery”

Relaxes standards for the granting of such relief. The EA “shall determine whether the party seeking emergency relief has shown that immediate loss or damage will result in the absence of emergency relief and whether the requesting party is entitled to such relief.”

Emergency relief hearings may be held remotely.

Article 4. Statements of Defense and Reply; Counterclaims

The former Article 4 (“Electronic Filing”) is now incorporated into Article 2.2. This new Article 4 (“Statements of Defense and Reply; Counterclaims”) was formerly Article 5.

Article 4.1 – Previously this article (5.1) required Respondent to deliver a Statement of Defense within 30 days of receipt of Claimant’s Request for Arbitration. The revised article requires Respondent to deliver a Statement of Defense within 30 days of commencement of the arbitration. The revised article also adds the following to the list of things the Statement of Defense should include: “If not made earlier, any objection to the jurisdiction of the Tribunal to determine a claim or defense, or any objection to JAMS’ authority to administer the Arbitration.” (4.1(b).) Lastly, the revised article eliminates “facsimile number” from the required contact information for Respondent’s party-arbitrator (if any).

Article 5. Amendments to the Claim or Defense

Formerly Article 6.

Article 6. Consolidation of Arbitral Proceedings (Joinder); Participation of Third Parties (Intervention)

Formerly Article 7.

Article 6.4 – By replacing “the Administrator” with “JAMS or the Tribunal, as the case may be,” the revised article clarifies that the JAMS International Arbitration Committee (see Article 1.3) or the Tribunal, not the Administrator, determines issues of consolidation or intervention under the rules.

Article 7. Appointment of the Arbitrator(s)

Formerly Article 8. Maintains consolidation and joinder rules.

Article 7.4 – Where three arbitrators are to be appointed, previously this article required Respondent to appoint one arbitrator within 30 days of receipt of the Request for Arbitration. The revised article requires Respondent to appoint one arbitrator within 30 days of commencement (unless that time is extended by JAMS or the parties).

Article 8. Independence and Availability of the Arbitrators

Formerly Article 9.

Article 9. Challenge to Arbitrators

Formerly Article 10.

Article 10. Replacement of an Arbitrator

Formerly Article 11.

Article 11. Majority Power to Continue with Proceedings

Formerly Article 12.

Article 12. Communications Between the Parties and the Arbitral Tribunal

Formerly Article 13. Maintains the rule that a party-appointed arbitrator, where applicable, may speak to her/his appointing party about the selection of the presiding arbitrator.

Article 13. Notices

Formerly Article 14.

Article 13.1 – The revised article adds “the JAMS Electronic Filing System” and eliminates “facsimile.”

Article 14. Seat of the Arbitration

Formerly Article 15.

Article 14.1- Maintains the rule that the Tribunal, in its discretion, may change the location of a hearing for the safety of a participant. It adds “health” to that discretion.

Article 14.2 – The revised article adds the following: “At the discretion of the Tribunal, and after consultation with the Parties, a Hearing, or any part thereof, may take place by conference call, videoconference or the use of technology that enables participants to be located in one or more geographical locations. If some or all of the witnesses or other participants are located remotely, the Tribunal may make such orders and set such procedures as it deems necessary or advisable.”

Article 15. Language

Formerly Article 16.

Article 16. Confidentiality

Formerly Article 17.

Article 16.1 – The revised article adds “the Parties” as follows: “. . . the Tribunal, the Parties, the Administrator and JAMS will maintain the confidentiality of the Arbitration.”

16.2 – Reiterates that the award will remain confidential unless all parties consent to its publication.

Article 17. Jurisdiction

Formerly Article 18.

Article 17.2 – The revised article adds the following: “The Tribunal may nevertheless admit an untimely objection as to its jurisdiction or authority if it considers the delay justified in the circumstances.”

Article 18. Applicable Law(s)

Formerly Article 19.

Article 19. Representation

Formerly Article 20.

Article 19.1 – The revised article eliminates “facsimile.”

Article 20. Conduct of the Arbitration

Formerly Article 21.

Article 21. Expedited Procedures

Formerly Article 22.

Article 22. Preliminary Conference

Formerly Article 23.

22.1 – Confirms that the Preliminary Conference can occur by remote means.

22.2 – Adds the following to the list of procedural matters that may be addressed during the preliminary conference: “the need or advisability of establishing measures or security protocols to protect the

confidentiality of the arbitration or the confidentiality of information disclosed in connection with the arbitration.”

Article 23. Hearings

Formerly Article 24.

Article 23.2- Hearings may be conducted by remote means at the discretion of the Tribunal

Article 23.6 – This new article provides as follows: “Any Party may arrange for a stenographic record to be made of the Hearing and shall inform the other Parties in advance of the Hearing. No other means of recording the proceedings shall be permitted absent agreement of the Parties or by direction of the Tribunal.”

Article 24. Evidence

Formerly Article 25.

Article 25. Dispositive Motions or Early Determinations

Formerly Article 26.

Article 25.1 – The revised article adds the following: “The dispositive motion may be granted only if the Arbitrator determines that the requesting Party has shown that the proposed motion is likely to succeed and dispose of or narrow the issues in the case.”

Article 25.2 – This new article states, “After consultation with the Parties, the Tribunal, in its discretion, may *sua sponte* determine that any claim or defense is outside of the jurisdiction of the Tribunal or manifestly without merit. If such a determination is made, the Tribunal will issue an appropriate Award to that effect.”

Article 26. Experts and Other Witnesses

Formerly Article 27.

Article 27. Default

Formerly Article 28.

Article 28. Waiver of Rules

Formerly Article 29.

Article 29. Closing of the Proceedings

Formerly Article 30.

Article 30. Powers of the Tribunal and Remedies

Formerly Article 31.

Article 31. Interim Measures of Protection

Formerly Article 32.

Article 31.1 – The revised article adds the phrase “the preservation of evidence,” thereby making explicit the Tribunal’s authority to take interim measures for that purpose.

Article 31.2 – This new article applies the two requirements found in the UNCITRAL Rules to requests for interim measures. First, a requesting party must show that “harm not adequately reparable by an Award of damages is likely to result if the measure is not ordered and such harm substantially outweighs the harm that is likely to result to the Party against whom the measure is directed if the measure is granted.” Second, a requesting party must show “there is a reasonable possibility that the requesting Party will succeed on the merits of the claim.”

Article 31.3 – This new article indicates that the two requirements prescribed in revised Article 31.2 (see above) shall apply to a request for an interim measure to preserve evidence or to protect or conserve property “to the extent the Tribunal considers appropriate.”

Article 31.4 – The revised article, formerly numbered 32.2, clarifies the various forms an interim measure may take, including an order, interim award, etc.

Article 31.5 – Formerly numbered 32.3.

Article 31.6 – Formerly numbered 32.4.

Article 32. Sanctions

Formerly Article 33.

Article 33. Determination of the Award

Formerly Article 34.

Article 34. The Form of the Award

Formerly Article 35.

Article 34.4 – The revised article adds the following sentence: “The Award may be signed electronically and/or in counterparts and assembled into a single document.”

Article 35. Fees.

Formerly Article 36.

Article 36. Arbitration Costs

Formerly Article 37.

Article 37. Interpretation or Correction of the Award

Formerly Article 38.

Article 38. Settlement and Award on Agreed Terms

Formerly Article 39.