

The Munich Rules on the Participation of Third Parties in Arbitration Proceedings
The Munich Rules ○△□

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Additional provisions:

The Munich Rules on the Participation of Third Parties in Arbitration Proceedings enclosed apply:

() including / () excluding the provision on Intervention in Support of a Party (§ 7) and

() including / () excluding the provision on Third-Party Notice Claim (§ 8).

The Munich Rules:

In addition to and taking precedence over any chosen arbitration rules or arbitration agreement, the following provisions shall apply in respect of the participation of third parties in arbitration proceedings:

§ 1 Limits to Confidentiality of Arbitration Proceedings

The parties are authorized to inform third parties, in particular informants, witnesses, experts, and potential debtors or creditors of recourse claims, as well as authorities, financial market institutions or the general public of the arbitration proceeding and the underlying facts of the case, to the extent that it is necessary for the assertion of or the defense against claims, or to comply with mandatory reporting obligations in relation to matters which are the subject of or related to the arbitration proceeding.

§ 2 Admissibility of a Third-Party Notice

2.1 Unless otherwise agreed by the parties, in the event of an unfavourable outcome in respect of one or more issues in the dispute where a party

- a) believes it has a claim for warranty or indemnity against a third party, or
- b) has a claim against it by a third party,

the party may, until the arbitral award is issued, inform the third party of the pending dispute with the request that the third party intervene in support of its claim (“Third-Party Notice”).

- 2.2 If the other party objects to the Third-Party Notice, the notice shall only be admissible if or to the extent that the party issuing the notice can conclusively demonstrate that it has a claim for warranty or indemnity against the third party or that it may be threatened with a claim by a third party in respect of the relevant issues at dispute, and is able to present the facts submitted in this regard credibly.
- 2.3 The arbitral tribunal, the arbitral institution administrating the proceeding, and experts appointed by the arbitral tribunal are not third parties for the purposes of these provisions.
- 2.4 The third party is entitled to issue a further Third-Party Notice on another party.

§ 3 Form of the Third-Party Notice

- 3.1 For the purposes of issuing a Third-Party Notice, the party shall submit a written pleading stating the grounds for issuing the Third-Party Notice and the status of the dispute to the arbitral tribunal, or, in institutional proceedings, to the administrative office of the arbitral institution in situations where the arbitral tribunal has not yet been constituted.
- 3.2 If the other party does not object within the time period set by the arbitral tribunal, or if the arbitral tribunal allows the Third-Party Notice after hearing the objection, the arbitral tribunal or the administrative office of the arbitral institution, in the case of institutional proceedings and on the instruction of the arbitral tribunal, shall send the written pleading to the third party and shall inform the party opposing the Third-Party Notice. In the case of submission by the administrative office of the arbitral institution, copies of the written pleading shall also be sent to the arbitral tribunal.
- 3.3 The Third-Party Notice is effective upon receipt by the third party.

§ 4 Third-Party Joinder

- 4.1 The joinder of the third-party shall be effective through the submission of a written pleading to the arbitral tribunal, or, in institutional proceedings, to the administrative office of the arbitral institution, and shall contain:
- a) the name of the parties and the dispute;
 - b) the Third-Party Notice which led to the joinder;
 - c) the declaration of the joinder, specifying the party on whose side the joinder is made and setting out the relevant issues in the Third-Party

Notice with regard to which the third party joins the proceeding.

- 4.2 The arbitral tribunal, or, in institutional proceedings, the administrative office of the arbitral institution, shall send the written pleading to both parties and, in the case of submission by the administrative office of the arbitral institution, the written pleading shall also be sent to the arbitral tribunal.

§ 5 Legal Position of the Third Party

- 5.1 The third party must accept the dispute in the state it is in at the time of the joinder. The third party is entitled to present evidence in support of a position and to undertake any procedural actions in the proceeding to the extent that his declarations and actions are not in conflict with the declarations and actions of the main party.
- 5.2 If the third party refuses or fails to join the proceeding, the dispute shall continue without regard to the third party.
- 5.3 The legal consequences of the joinder or the failure to join the proceeding shall be governed by the applicable substantive law.

§ 6 Costs in respect of the Third-Party Notice

The costs of the third party joining the proceeding shall be treated and reimbursed as those of the main party to the extent that it replaces the main party's costs.

§ 7 Intervention in Support of a Party

- 7.1 An intervention in support of a party in relation to a matter in dispute is admissible if the intervenor is a party to the arbitration agreement and can demonstrate its underlying right to recourse in the matter in dispute credibly or, in the absence of one of these prerequisites, both parties agree to the intervention.
- 7.2 The provisions governing Third-Party Notices shall apply accordingly as regards the intervention and legal position of the intervenor.

§ 8 Third-Party Notice Claim

- 8.1 In lieu of a Third-Party Notice, a party may sue the third party for recourse ("Third-Party Notice Claim"), subject to the same requirements for issuing a Third-Party Notice, if

- a) the other party consents; and
- b) the third party is or becomes a party to the arbitration agreement and, in respect of the Third-Party Notice Claim, submits to the decision-making authority of the existing arbitral tribunal.

8.2 The provisions on Third-Party Notices apply accordingly to the form of the Third-Party Notice Claim, the third-party joinder and its legal position in the proceeding.

8.3 In respect of the amount in dispute as well as costs, the arbitration claim and the Third-Party Notice Claim shall be treated separately.