

## 附录一：

### 印度尼西亚共和国仲裁与非讼纠纷解决程序法(英文版)

#### Law No. 30 of 1999

#### Concerning Arbitration and Alternative Dispute Resolution

##### Previous version

WITH THE GRACE OF GOD ALMIGHTY THE PRESIDENT OF THE REPUBLIC OF INDONESIA CONSIDERING, that;

a. Whereas, under prevailing regulations having the force of law, civil dispute resolution besides being submitted to the public courts also has the possibility of being submitted to arbitration and/or alternative dispute resolution;

b. Whereas, the current regulations having the force of law applicable to dispute resolution by means of arbitration are no longer sufficient to address developments in the business world and law in general;

c. Whereas, based on the considerations specified in points a and b, above, it is necessary to stipulate an Act concerning Arbitration and Alternative Dispute Resolution.

In View of;

1. Article 5 paragraph (1) and Article 20 paragraph (1) of the 1945 Constitution;
2. Basic Provisions of Judicial Authority Act (Law No. 14 of 1970) (State Gazette Book Number 74 of 1970, Supplement Number 2951);

With the approval of THE PEOPLE'S LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF INDONESIA HAS DECIDED: To promulgate this ARBITRATION and ALTERNATIVE DISPUTE RESOLUTION ACT.

#### Chapter I General Provisions

**Article 1** In this Act the following terms have the following meanings:

(1) Arbitration shall mean a mechanism of settling civil disputes outside the general courts based upon an arbitration agreement entered into in writing by the disputing parties.

(2) Parties shall be legal entities, based upon civil and/or public law.

(3) Arbitration agreement shall mean a written agreement in the form of an arbitration clause entered into by the parties before a dispute arises, or a separate written arbitration agreement made by the parties after a dispute arises.

(4) District Court shall mean the District Court having jurisdiction over the Respondent.

(5) Claimant shall mean the party submitting the request for resolution of the dispute by arbitration.

(6) Respondent shall mean the party opposing the Claimant in the resolution of the dispute by arbitration.

(7) Arbitrator [ or arbitrator(s) ] shall mean one or more persons designated by the parties in dispute or appointed by the District Court or by an arbitration institution to render an award regarding the particular dispute submitted for resolution by arbitration.

(8) Arbitration Institution shall mean a body designated by the parties in dispute to render an award with regard to a particular dispute. This institution may also give a binding opinion concerning a particular legal relationship where a dispute has not yet arisen.

(9) International Arbitration Awards shall mean awards handed down by an arbitration institution or individual arbitrator(s) outside the jurisdiction of the Republic of Indonesia, or an award by an arbitration institution or individual arbitrator(s) which under the provisions of Indonesian law are deemed to be International Arbitration Awards.

(10) Alternative Dispute Resolution ( or ADR ) shall mean a mechanism for the resolution of disputes or differences of opinion through procedures agreed upon by the parties, i. e. , resolution outside the courts by consultation, negotiation, mediation, conciliation, or expert assessment.

**Article 2** This Act shall regulate the resolution of disputes or differences of opinion between parties having a particular legal relationship who have entered into an arbitration agreement which explicitly states that all disputes or differences of opinion arising or which may arise from such legal relationship will be resolved by arbitration or through alternative dispute resolution.

**Article 3** The District Court shall have no jurisdiction to try disputes between par-

ties bound by an arbitration agreement.

**Article 4** (1) In the event the parties have previously agreed that disputes between them are to be resolved through arbitration and have granted such authority, the arbitrators are competent to determine in their award the rights and obligations of the parties if these matters are not regulated in their agreement.

(2) The agreement to resolve disputes through arbitration, as specified in paragraph (1), shall be contained in a document signed by the parties.

(3) In the event the agreement for resolution of disputes by arbitration is contained in an exchange of correspondence, including letters, telexes, telegrams, faxes, E – mail, or any other form of communication, the same shall be accompanied by a record of receipt of such correspondence by the parties.

**Article 5** (1) Only disputes of a commercial nature, and those concerning rights which, under the law and regulations, fall within the full legal authority of the disputing parties, may be settled through arbitration.

(2) Disputes which may not be resolved by arbitration are disputes where according to regulations having the force of law no amicable settlement is possible.

## **Chapter II Alternative Dispute Resolution**

**Article 6** (1) Disputes or differences of opinion that are not of a criminal nature may be resolved by the parties through Alternative Dispute Resolution (ADR) based on their good faith, by waiving such resolution by litigation in the District Court.

(2) Resolution of disputes or differences of opinion through ADR, as contemplated in paragraph (1), shall be carried out through a direct meeting of the parties not later than fourteen (14) days and the outcome shall be set out in a written agreement.

(3) In the event the dispute or difference of opinion cannot be resolved, as contemplated in paragraph (2), then by a written agreement of the parties, the dispute or difference of opinion between the parties may be resolved through the assistance of one or more expert advisors or a mediator.

(4) If the parties fail to reach an agreement as to the resolution of such dispute within fourteen (14) days with the assistance of one or more expert advisors or a mediator, or the mediator is not successful in reconciling the parties concerned, such parties

may request an Arbitration or ADR Institution to appoint a mediator.

(5) After the appointment of the mediator by such arbitration or ADR institution, the mediation process shall be commenced within seven (7) days.

(6) Efforts to resolve disputes or differences of opinion through mediation, as contemplated in paragraph (5), shall be undertaken in confidentiality. The settlement reached shall be set out in a written agreement, signed by all parties concerned, within thirty (30) days.

(7) The written agreement for such resolution of the dispute or difference of opinion shall be final and binding on the parties concerned, shall be implemented in good faith, and shall be registered in the District Court within no more than thirty (30) days after it has been signed.

(8) The agreement for resolution of the dispute or difference of opinion contemplated in paragraph (7) shall be completely implemented within no more than thirty (30) days after its registration.

(9) If attempts to reach an amicable settlement, as contemplated in paragraphs (1) to (6), are unsuccessful, the parties, based on a written agreement, may submit the matter to resolution by an arbitration institution or *ad hoc* arbitration.

### **Chapter III Conditions of Arbitration, Appointment of Arbitrators and Right of Recusal**

#### **First Part Conditions of Arbitration**

**Article 7** The parties may agree that a dispute which arises, or which may arise, between them shall be resolved by arbitration.

**Article 8** (1) In the event that a dispute arises, the Claimant shall inform the Respondent by registered letter, telegram, telex, fax, E – mail, or by courier that the conditions for arbitration to be entered into by the Claimant and Respondent are applicable.

(2) The notification of Arbitration, as contemplated in paragraph (1), shall expressly state at least the following: a. The names and addresses of the parties; b. Reference to the applicable arbitration clause or agreement; c. The agreement or matter being the subject of the dispute; d. The basis for the claim and the amount claimed, if any;

e. The method of resolution desired; and f. The agreement entered into by the parties concerning the number of arbitrators or, if no such agreement has been entered into, the Claimant may propose the total number of arbitrators, provided such is an odd number.

**Article 9** (1) In the event the parties choose resolution of the dispute by arbitration after a dispute has arisen, their designation of arbitration as the means of resolution of such dispute must be given in a written agreement signed by the parties.

(2) In the event the parties are unable to sign the written agreement as contemplated in paragraph (1), such written agreement must be drawn by a Notary in the form of a notarial deed.

(3) The written agreement contemplated in paragraph (1) must contain: a. The subject matter of the dispute; b. The full names and addresses of residence of the parties; c. The full name and place of residence of the arbitrator or arbitrators; d. The place the arbitrator or arbitration panel will make their decision; e. The full name of the secretary; f. The period in which the dispute shall be resolved; g. A statement of willingness by the arbitrator(s); and h. A statement of willingness of the disputing parties that they will bear all costs necessary for the resolution of the dispute through arbitration.

(4) A written agreement not containing the matters specified in paragraph (3) will be null and void.

**Article 10** An arbitration agreement shall not become null or void under any of the following circumstances: a. The death of one of the parties; b. The bankruptcy of one of the parties; c. Novation; d. The insolvency of one of the parties; e. Inheritance; f. Effectivity of requirements for the cancellation of the main contract; g. If the implementation of the agreement is transferred to one or more third parties, with the consent of the parties who made the agreement to arbitrate; or h. The expiration or voidance of the main contract.

**Article 11** (1) The existence of a written arbitration agreement shall eliminate the right of the parties to seek resolution of the dispute or difference of opinion contained in the agreement through the District Court.

(2) The District Court shall refuse and not interfere in settlement of any dispute which has been determined by arbitration except in particular cases determined in this Act.

## Second Part Conditions of Appointment of Arbitrators

**Article 12** (1) The parties who may be appointed or designated as arbitrators must meet the following requirements: a. Being authorized or competent to perform legal actions; b. Being at least 35 years of age; c. Having no family relationship by blood or marriage, to the third degree, with either of the disputing parties; d. Having no financial or other interest in the arbitration award; and e. Having at least 15 years experience and active mastery in the field.

(2) Judges, prosecutors, clerks of courts, and other government or court officials may not be appointed or designated as arbitrators.

**Article 13** (1) In the event the parties cannot reach agreement on the choice of arbitrators, or no terms have been set concerning the appointment of arbitrators, the Chief Judge of the District Court shall be authorized to appoint the arbitrator or arbitration tribunal.

(2) In an ad hoc arbitration, where there is any disagreement between the parties with regard to the appointment of one or more arbitrators, the parties may request the Chief Judge of the District Court to appoint one or more arbitrators for resolution of such dispute.

**Article 14** (1) In the event the parties have agreed that a dispute arising shall be heard and decided upon by a sole arbitrator, the parties must endeavour to reach an agreement concerning the appointment of such sole arbitrator.

(2) The Claimant shall propose to the Respondent, by registered letter, telegram, telex, telefax, E – mail or courier service, the name of a person eligible to be appointed as sole arbitrator.

(3) If the parties have not reached agreement as to the sole arbitrator within fourteen (14) days after the Respondent receives the Claimant's proposal contemplated in paragraph (2), then at the request of one of the parties, the Chief Judge of the District Court may appoint the sole arbitrator.

(4) The Chief Judge of the District Court shall appoint a sole arbitrator from a list of names submitted by the parties or obtained from the arbitration organization or institution contemplated in Article 34, with due consideration of the recommendation of or objections to the person concerned submitted by the parties.

**Article 15** (1) The appointment of two arbitrators by the parties shall constitute authority to the two arbitrators to elect and appoint a third arbitrator.

(2) The third arbitrator contemplated by paragraph (1) shall be appointed as the chair of the arbitration tribunal.

(3) If within no more than thirty (30) days after notification is received by the Respondent as contemplated in Article 8 paragraph (1), one of the parties has failed to appoint a person as member of the arbitration panel, the arbitrator chosen by the other party shall act as sole arbitrator and his/her award shall be binding upon both parties.

(4) In the event the two arbitrators appointed by the parties as contemplated in paragraph (1) do not succeed in appointing a third arbitrator within fourteen (14) days after the last arbitrator was appointed, then at the request of one of the parties the Chief Judge of the District Court may appoint the third arbitrator.

(5) No attempt may be made to nullify the appointment of an arbitrator made by the Chief Judge of the District Court as contemplated in paragraph (4).

**Article 16** (1) An arbitrator appointed or designated may accept or refuse the appointment or nomination.

(2) The parties must be advised by the arbitrator(s), in writing, of the acceptance or rejection of the appointment, as contemplated in paragraph (1) within fourteen (14) days from the date of the appointment or designation.

**Article 17** (1) By the appointment of one or more arbitrators by the parties in writing and the acceptance in writing of the appointment by the arbitrator(s), there is a civil contract between the appointing parties and the arbitrator(s) accepting the appointment.

(2) The appointment contemplated in paragraph (1) shall have the effect that the arbitrator or arbitrators will render an award fairly, justly, and in accordance with the prevailing stipulations (of law and contract), and the parties will accept such award as final and binding as mutually agreed.

**Article 18** (1) A prospective arbitrator asked by one of the parties to sit on the arbitration panel shall be obliged to advise the parties of any matter which could influence his independence or give rise to bias in the rendering of the award.

(2) Anyone accepting an appointment as arbitrator as contemplated in paragraph

(1) shall inform the parties of his appointment.

**Article 19** (1) In the event that an arbitrator states his/her acceptance of the appointment or designation as contemplated in Article 16, the arbitrator concerned may not withdraw his/her acceptance except with the approval of the parties.

(2) In the event the arbitrator contemplated in paragraph (1) who has accepted the appointment or designation, wishes to withdraw, such arbitrator shall submit a written request to the parties.

(3) In the event the parties may consent to the request to withdraw contemplated in paragraph (2) the arbitrator concerned may be released from his/her duties as arbitrator.

(4) In the event the request for withdrawal does not receive the consent of the parties the Chief Judge of the District Court may release such release of the arbitrator from his/her duties.

**Article 20** In the event an arbitrator or arbitration tribunal, without valid reason, fails to render an award within the period specified, such arbitrator(s) may be ordered to pay to the parties compensation for the costs and losses caused by the delay.

**Article 21** The arbitrator or arbitration tribunal may not be held legally responsible for any action taken during the proceedings to carry out the function of arbitrator or arbitration tribunal unless it is proved that there was bad faith in the action.

### Third Part Right of Recusal

**Article 22** (1) A demand for recusal may be submitted against an arbitrator if there is found sufficient cause and authentic evidence to give rise to doubt that such arbitrator will not perform his/her duties independently or will be biased in rendering an award.

(2) Request for recusal of an arbitrator may also be made if it is proven that there is any familial, financial, or employment relationship with one of the parties or its respective legal representatives.

**Article 23** (1) Application for recusal of an arbitrator appointed by the President of a District Court shall be submitted to the District Court concerned.

(2) Application for recusal of a sole arbitrator shall be submitted to the arbitrator concerned.



(3) Application for recusal of a member of an arbitration tribunal shall be submitted to the arbitration tribunal concerned.

**Article 24** (1) An arbitrator who was not appointed by the Court, may only be recused for a reason which became known to the party applying for such recusal after the appointment of the arbitrator concerned.

(2) An arbitrator appointed by the Court may only be recused for a reason which became known to the Court after acceptance of such appointment.

(3) The party objecting to the appointment of an arbitrator made by the other party must submit its demand for recusal within fourteen (14) days after the appointment.

(4) In the event that matters, as contemplated in Article 22 paragraphs (1) and (2), become known at a later date, the request for recusal must be submitted not more than fourteen (14) days after such matters become known.

(5) The demand for recusal must be submitted in writing, either to the other party or to the arbitrator concerned, stating the reason for the demand.

(6) In the event the demand for recusal submitted by one of the parties is consented to by the other party, the arbitrator concerned must resign and a replacement arbitrator shall be appointed in accordance with the procedures set out in this Act.

**Article 25** (1) In the event the request for recusal submitted by one of the parties is not consented to by the other party and the arbitrator concerned is unwilling to resign, the party concerned may submit its request for recusal to the Chief Judge of the District Court, whose decision on the matter shall bind the two parties, and shall not be subject to appeal.

(2) In the event the Chief Judge of the District Court decides that the request for recusal, contemplated in paragraph (1), is well founded, a replacement arbitrator shall be appointed in the manner applied to the appointment of the arbitrator to be replaced.

(3) In the event the Chief Judge of the District Court rejects the demand for recusal, the arbitrator shall continue to perform his/her duties.

**Article 26** (1) An arbitrator's authority shall not be nullified by the death of the arbitrator and the authority shall thereupon be continued by a successor arbitrator appointed in accordance with this Act.

(2) An arbitrator may be dismissed from his/her mandate in the event that he/she

is shown to be biased or demonstrates disgraceful conduct, which must be legally proven.

(3) In the event that during hearing of the dispute an arbitrator dies, is incapacitated, or resigns, and so is unable to meet his/her obligations, a replacement arbitrator shall be appointed in the manner applicable to the appointment of the arbitrator concerned.

(4) In the event a sole arbitrator or the chair of the arbitration tribunal is replaced, all hearings previously held shall be repeated.

(5) In the event a member of the arbitration tribunal is replaced, the hearing of the dispute shall only be repeated among the arbitrators themselves.

## **Chapter IV Procedures Applicable Before the Arbitration Tribunal**

### **First Part Arbitration Procedures**

**Article 27** All hearings of arbitration disputes shall be closed to the public.

**Article 28** The language to be used in all arbitration proceedings is Indonesian, except that the parties may choose another language to be used, subject to consent of the arbitrator or arbitration tribunal.

**Article 29** (1) The parties in dispute shall have the same right and opportunity to put forward their respective opinions.

(2) The parties in dispute may be represented by counsel, pursuant to special power of attorney.

**Article 30** Third parties outside the arbitration agreement may participate and join themselves into the arbitral process, if they have related interests and their participation is agreed to by the parties in dispute and by the arbitrator or arbitration tribunal hearing the dispute.

**Article 31** (1) The parties are free to determine, in an explicit written agreement, the arbitration procedures to be applied in hearing the dispute, provided this does not conflict with the provisions of this Act.

(2) In the event that the parties do not themselves determine the procedures to be applied, and the arbitrator or arbitration tribunal has been constituted in accordance with Articles 12, 13, and 14, all disputes which have been so referred to the arbitrator or ar-

bitration tribunal shall be heard and decided upon in accordance with the provisions in this Act.

(3) In the event, the parties have chosen an arbitration procedure as contemplated in paragraph (1) the time frame and venue of the arbitration must be agreed upon, and if these have not been so determined by the parties, they shall be decided upon by the arbitrator or arbitration tribunal.

**Article 32** (1) At the request of one of the parties, the arbitrator or arbitration tribunal may make a provisional award or other interlocutory decision to regulate the manner of running the examination of the dispute, including decreeing a security attachment, ordering the deposit of goods with third parties, or the sale of perishable goods.

(2) The period of implementation of the provisional award or other interlocutory decision contemplated in paragraph (1) shall not be counted into the period contemplated in Article 48.

**Article 33** The arbitrator or arbitration tribunal has the authority to extend its term of office:

- (1) if a request is made by one of the parties in specific special circumstances;
- (2) as result of a provisional award or other interlocutory ruling being made; or
- (3) if it is deemed necessary by the arbitrator or arbitration tribunal in the interests of the hearing.

**Article 34** (1) Resolution of a dispute through arbitration may be referred to a national or international arbitration institution if so agreed upon by the parties.

(2) Resolution of a dispute through institutional arbitration, as contemplated in paragraph (1), shall be done according to the rules and procedures of such designated institution, except to the extent otherwise agreed upon by the parties.

**Article 35** The arbitrator or arbitration tribunal may order that any document or evidence be accompanied by a translation into such language as determined by the arbitrator or arbitration tribunal.

**Article 36** (1) The arbitral hearings of the dispute shall be done by written documents.

(2) Verbal hearings may be conducted with the approval of the parties concerned or if deemed necessary by the arbitrator or arbitration tribunal.

**Article 37** (1) Unless the parties have themselves determined the venue of the arbitration, the same shall be determined by the arbitrator or arbitration tribunal.

(2) The arbitrator or arbitration tribunal may hear witness testimony or hold meetings, if deemed necessary, at a place or places outside the place where the arbitration is being held.

(3) Examination of witnesses and expert witnesses before the arbitrator or arbitration tribunal shall be carried out in accordance with the provisions of the Code of Civil Procedure.

(4) The arbitrator or arbitration tribunal may conduct examination of property in dispute, or of some other matter connected with the dispute, at the location of such property. If such is deemed necessary the parties shall be properly summoned so that they may also be present at such examination.

**Article 38** (1) The Claimant shall submit its statement of claim to the arbitrator or arbitration tribunal within the period of time as determined by the arbitrator or arbitration tribunal.

(2) The statement of claim shall contain at the least; a. The full name and residence or domicile of the parties; b. A short description of the dispute, accompanied by evidence; and c. Clear contents of the claim being asserted.

**Article 39** After receiving the statement of claim from the Claimant, the arbitrator or the chair of the arbitration tribunal shall forward a copy of such claim to the Respondent, accompanied by an order that the Respondent must file its response in writing within a period of not more than fourteen (14) days as from Respondent's receipt of the copy of Claimant's claim.

**Article 40** (1) Immediately upon receipt of the response from the Respondent, the arbitrator or the chair of the arbitration tribunal shall provide a copy thereof to the Claimant.

(2) At the same time, the arbitrator or chair of the arbitration tribunal shall order the parties or their representatives to appear at an arbitration hearing fixed for no more than fourteen (14) days from the issuance of the order.

**Article 41** In the event that the Respondent has not responded to Claimant's claim within the fourteen (14) day period contemplated in Article 39, the Respondent

shall be summoned to a hearing pursuant to the provisions set out in Article 40 paragraph (2).

**Article 42** (1) In the response or no later than the first hearing the Respondent may submit a counterclaim and the Claimant shall be given an opportunity to respond thereto.

(2) Any counterclaim, as contemplated in paragraph (1), shall be heard and decided upon by the arbitrator or arbitration tribunal together with the main dispute.

**Article 43** If on the day determined as contemplated in Article 40 paragraph (2) the Claimant for no good reason does not appear after being duly summoned, the statement of claim shall be declared null and void and the mandate of the arbitrator or arbitration tribunal deemed to have been completed.

**Article 44** (1) If on the day determined pursuant to Article 40 paragraph (2), the Respondent for no good reason does not appear, but has been duly summoned, the arbitrator or arbitration tribunal shall immediately summon the Respondent again.

(2) If the Respondent for no good reason still does not appear at the hearing, within ten (10) days after receipt by it of the second summons, the hearing shall continue without the presence of the Respondent and the Claimant's claim shall be granted as a whole, unless the claim is unfounded or contrary to law.

**Article 45** (1) In the event that the parties appear on the day determined, the arbitrator or arbitration tribunal shall first endeavour to encourage an amicable settlement between the disputing parties.

(2) In the event such attempt at amicable settlement, as contemplated in paragraph (1), is successful, the arbitrator or arbitration tribunal shall draw up a deed setting out such amicable settlement, which deed shall be binding on both parties and shall order the parties to comply with the terms of such amicable settlement.

**Article 46** (1) The hearing(s) on the merits of the dispute shall proceed if the attempt at amicable settlement, as contemplated in Article 45 paragraph (1), should not prove successful.

(2) The parties shall be afforded a final opportunity to explain in writing their respective positions, and to submit evidence deemed necessary to support such position, within such time limitation as shall be determined by the arbitrator or arbitration tribunal.

(3) The arbitrator or arbitration tribunal shall be empowered to require the parties to provide such supplementary written submissions of explanations, documentary or other evidence as may be deemed necessary, within such time limitation as shall be determined by the arbitrator or arbitration tribunal.

**Article 47** (1) Before there has been any response from the Respondent, the Claimant shall be entitled to withdraw its request for dispute resolution by arbitration.

(2) In the event that there has already been a response from the Respondent, any amendment or supplement to the Claimant's statement of claim shall be allowed only upon the consent of the Respondent; and any such amendment or supplement may only involve matters of fact and not the legal basis of the claim.

**Article 48** (1) The hearings on the dispute must be completed within not more than one hundred and eighty (180) days from the formulation of the arbitral panel.

(2) Such time limitation may be extended upon consent of the parties or if required in accordance with the provisions of Article 33 hereof.

## Second Part Witnesses and Expert Witnesses

**Article 49** (1) Upon the order of the arbitrator or arbitration tribunal, or at the request of the parties, one or more witnesses or expert witnesses may be summoned to give testimony.

(2) The costs of summoning such witnesses, or expert witnesses, and their travel expenses shall be borne by the party requesting such testimony.

(3) Any such witnesses or expert witnesses shall testify upon oath, given prior to such testimony.

**Article 50** (1) The arbitrator or arbitration tribunal may request the assistance of one or more expert witnesses to provide a written report concerning any specific matter relating to the merits of the dispute.

(2) The parties shall be required to provide all details and information that may be deemed necessary by such expert witnesses.

(3) The arbitrator or arbitration tribunal shall provide copies of any report provided by such expert witnesses to the parties, in order to allow the parties to respond in writing.

(4) In the event that any matters opined upon by any such expert witness is insuf-

ficiently clear, upon request of either of the parties, such expert witness may be requested to give testimony in a hearing before the arbitrator(s) and the parties, or their legal representatives.

**Article 51** Minutes of the hearings, and examination of witnesses, shall be drawn up by a secretary and shall cover all activities in the examination and arbitration hearings.

## Chapter V Opinion and Arbitral Award

**Article 52** The parties to an agreement have the right to request a binding opinion from an arbitration institution concerning any particular legal point or points contained in or concerning their agreement.

**Article 53** No appeal whatsoever may be filed against any binding opinion, as contemplated in Article 52.

**Article 54** (1) An arbitration award must contain: a. A heading to the award containing the words “Demi Keadilan Berdasarkan KetuhananYang Maha Esa” (for the sake of Justice based on belief in the Almighty God); b. The full names and addresses of the disputing parties; c. A brief description of the matter in dispute; d. The respective position of each of the parties; e. The full names and addresses of the arbitrators; f. The considerations and conclusions of the arbitrator or arbitration tribunal concerning the dispute as a whole; g. The opinion of each arbitrator in the event that there is any difference of opinion within the arbitration tribunal; h. The order of the award; i. The place and date of the award; and j. The signature(s) of the arbitrator or arbitration tribunal.

(2) The effectivity of the award shall not be frustrated by the failure of one arbitrator (where there are three) to sign the award if such failure to sign is caused by illness or demise of such non-signing arbitrator.

(3) The reason for the failure of such arbitrator to sign, as contemplated in paragraph (2), must be set out in the award.

(4) The award shall state a time limitation within which the award must be implemented.

**Article 55** When the examination of the dispute is complete the hearing shall be concluded, and a date shall be fixed for the rendering of the arbitration award.

**Article 56** (1) The arbitrator or arbitration tribunal shall render its decision based upon the relevant provisions of law, or based upon justice and fairness.

(2) The parties are entitled to designate the choice of law to be applied to the resolution of disputes which may arise, or which have arisen, between or among them.

**Article 57** The award shall be rendered not later than thirty (30) days after the conclusion of hearings.

**Article 58** Within not more than fourteen (14) days after receipt of the award, the parties may submit a request to the arbitrator or arbitration tribunal to correct any administrative errors and/or to make additions or deletions to the award if a matter claimed has not been dealt with in such award.

## **Chapter VI Enforcement of the Arbitration Award**

**Article 59** (1) Within thirty (30) days from the date the arbitral award is rendered, the original or an authentic copy of the award shall be submitted for registration to the Clerk of the District Court by the arbitrator(s) or a legal representative of the arbitrator(s).

(2) The submission and registration, as contemplated in paragraph (1), shall be carried out by recording and signature at the end, or on the margin, of the award by the Clerk of the District Court and by the arbitrator or his/her representative, and such submission shall constitute a deed of registration.

(3) The arbitrator(s) or legal representative(s) shall deliver the original, or authentic copy, of the award and of the instrument of appointment of such arbitrator(s) to the Clerk of the District Court.

(4) Failure to comply with the requirements set out in paragraph (1) above shall render the arbitration award unenforceable.

(5) All costs connected with the making of the deed of registration shall be borne by the parties.

**Article 60** The arbitration award shall be final and binding upon both parties to the dispute.

**Article 61** In the event that the parties fail voluntarily to implement the arbitration award, the award may be enforced on the basis of an order from the Chief Judge of the



District Court at the request of one of the parties to the dispute.

**Article 62** (1) The order referred to in Article 61 shall be issued not later than thirty (30) days after an application for execution of the award is submitted to the Clerk to the District Court.

(2) Prior to issuance of the order of execution, the Chief Judge of the District Court contemplated in paragraph (1) shall examine whether the arbitration award fulfils the requirements set out in Articles 4 and 5, and is not in conflict with public morality or order.

(3) In the event the arbitration award does not meet the requirements set out in paragraph (2) above, the Chief Judge of the District Court shall reject the request for execution and shall not order such execution, and there shall be no recourse whatsoever to the judgment of the Chief Judge of the District Court.

(4) The Chief Judge of the District Court shall not examine the substantive reasons or considerations upon which the arbitration award was based.

**Article 63** The order of the Chief Judge of the District Court shall be set out in writing upon the original text and authentic copy of the arbitration award.

**Article 64** An arbitration award bearing an order of execution from the Chief Judge of the District Court shall be enforced in accordance with the provisions (of the Code of Civil Procedure) on execution of judgments in civil cases which are final and binding. Second Part International Arbitration.

**Article 65** The District Court of Central Jakarta shall be the court vested with the authority to handle matters of the recognition and enforcement of International Arbitration Awards.

**Article 66** International Arbitration Awards will only be recognized and may only be enforced within the jurisdiction of the Republic of Indonesia if they fulfil the following requirements: (a) The International Arbitration Award must have been rendered by an arbitrator or arbitration tribunal in a country which, together with the Republic of Indonesia, is a party to a bilateral or multilateral treaty on the recognition and enforcement of International Arbitration Awards. (b) International Arbitration Awards, as contemplated in item (a), above, are limited to awards which, under the provisions of Indonesian law, fall within the scope of commercial law. (c) International Arbitration A-

wards, as contemplated in item (a), above, may only be enforced in Indonesia if they do not violate public order. (d) An International Arbitration Award may be enforced in Indonesia only after obtaining an order of Exequatur from the Chief Judge of the District Court of Central Jakarta. (e) An International Arbitration Award, as contemplated in item (a), in which the Republic of Indonesia is one of the parties to the dispute, may only be enforced after obtaining an order of Exequatur from the Supreme Court of the Republic of Indonesia, which order is then delegated to the District Court of Central Jakarta for execution.

**Article 67** (1) Application for enforcement of an International Arbitration Award shall be made after the award is submitted for registration to the Clerk to the District Court of Central Jakarta Pusat by the arbitrator(s) or the legal representative thereof.

(2) The submission of the file of the application for enforcement, as contemplated in paragraph (1) above, must be accompanied by: a. the original International Arbitration Award, or a copy authenticated in accordance with the provisions on authentication of foreign documents, together with an official translation of the text thereof into the Indonesian language; b. the original agreement which is the basis for the International Arbitration Award, or a copy authenticated in accordance with the provisions on authentication of foreign documents, together with an official translation of the text thereof into the Indonesian language; c. a certification from the diplomatic representative of the Republic of Indonesia in the country in which the International Arbitration Award was rendered stating that such country and the Republic of Indonesia are both bound by a bilateral or multilateral treaty on the recognition and implementation of International Arbitration Awards.

**Article 68** (1) No appeal to either the High Court or the Supreme Court may be lodged against a decision of the Chief Judge of the District Court, as contemplated in Article 66(d), above, recognising and enforcing an International Arbitration Award.

(2) An appeal may be filed with the Supreme Court against a decision of the Chief Judge of the District court contemplated in Article 66(d), refusing to recognise and enforce an International Arbitration Award.

(3) The Supreme Court shall consider and rule upon an appeal submitted to it, as contemplated in paragraph (2) above, within a period of not more than ninety (90)

days after the application for appeal has been received by the Supreme Court.

(4) No appeal may be submitted against a decision of the Supreme Court, as contemplated in Article 66(e).

**Article 69** (1) After the Chief Judge of the District Court of Jakarta Pusat has issued a writ of execution, as contemplated in Article 64, further enforcement shall be delegated to the Chief Judge of the District Court having jurisdiction to enforce it.

(2) An order of attachment may be made upon such assets and property of the party against whom the award was rendered as shall be requested in the application for such order.

(3) The procedure for seizure and attachment in enforcement of the award shall follow the procedures therefor asset out in the Code of Civil Procedure.

## **Chapter VII Annulment of Arbitration Awards**

**Article 70** An application to annul an arbitration award may be made if any of the following conditions are alleged to exist: (a) letters or documents submitted in the hearings are acknowledged to be false or forged or are declared to be forgeries after the award has been rendered; (b) after the award has been rendered documents are found which are decisive in nature and which were deliberately concealed by the opposing party; or (c) the award was rendered as a result of fraud committed by one of the parties to the dispute.

**Article 71** An application for annulment of an arbitration award must be submitted in writing within not more than thirty (30) days from the date such arbitration award was submitted for registration to the Clerk to the District Court.

**Article 72** (1) An application for annulment of an arbitration award must be submitted to the Chief Judge of the applicable District Court.

(2) If the application as contemplated in paragraph (1) above is granted the Chief Judge of the District Court shall determine further the consequences of the annulment of the whole, or a part, of the arbitration award.

(3) The decision on the application for annulment shall be made by the Chief Judge of the District Court within not more than thirty (30) days from receipt of the aforesaid application.

(4) An application for an appeal against the decision of the District Court may be made to the Supreme Court, which latter shall decide the matter as the court of final instance.

(5) The Supreme Court shall consider and decide upon any such application to appeal, as contemplated in paragraph (4) above, within not more than thirty (30) days after such application to appeal is received by the Supreme Court.

### **Chapter VIII The Termination of the Arbitrators' Mandate**

**Article 73** The mandate of the arbitrator(s) shall terminate under the following circumstances: a. An award has been rendered with respect to the matters in dispute; b. The time limitation, as determined in the arbitration agreement, including any extension thereto agreed upon by the parties, has expired; or c. The parties mutually agree to rescind the arbitrators' appointment.

**Article 74** (1) The death of one of the parties shall not cause the mandate of the arbitrators to terminate.

(2) The term of the mandate of the arbitrators, as contemplated in Article 48, may be postponed for a period of not greater than sixty (60) days from the death of one of the parties.

**Article 75** (1) In the event that one of the arbitrators passes away, or a demand for recusal or dismissal of one or more arbitrators is granted, the parties must appoint a replacement arbitrator.

(2) If the parties are unable to reach an agreement as to the appointment of the replacement arbitrator, as contemplated in paragraph (1) above, within thirty (30) days, the Chief Judge of the District Court shall, at the request of the interested party, appoint one or more replacement arbitrator(s).

(3) The replacement arbitrators shall have the duty to continue the resolution of the dispute concerned based on the most recent conclusions drawn.

### **Chapter IX Arbitration Fees**

**Article 76** (1) The arbitrators shall determine the arbitration fee.

(2) The fee contemplated in paragraph (1) above shall include: a. the arbitrators' honoraria; b. travel expenses and other costs incurred by the arbitrators; c. the

costs of witnesses and expert witnesses required in the hearings on the dispute; and  
d. administrative costs.

**Article 77** (1) The arbitration fees shall be charged to the losing party.

(2) In the event that a claim is only partially granted, the arbitration fees shall be charged to the parties equally.

## **Chapter X Transitional Provisions**

**Article 78** Disputes which have already been submitted to an arbitrator or arbitration tribunal by the time this Act comes into effect, but for which no hearings have as yet been held, shall be resolved based upon the provisions of this Act.

**Article 79** Disputes which have already been submitted to an arbitrator or arbitration tribunal and with respect to which hearings have already been held by the time this Act comes into effect, but for which no award has as yet been rendered, shall be resolved based upon the laws and regulations prevailing prior to the enactment hereof.

**Article 80** Disputes with respect to which an award has already been rendered by the time this Act comes into effect, which awards have been invested with permanent legal force, shall be implemented based upon the provisions of this Act.