

SUGGESTED CLAUSE PROVIDING FOR THE ICC AS APPOINTING AUTHORITY FOR EXPERT PROCEEDINGS

Set out below is a suggested clause for use by parties who wish to have the ICC appoint an expert for *ad hoc* expert proceedings that are not administered by the ICC.

In the event of any dispute arising out of or in connection with [clause X of the present contract], the parties agree to submit the dispute to ad hoc expert proceedings. The expert shall be appointed by the ICC International Centre for ADR in accordance with the Rules for the Appointment of Experts and Neutrals of the International Chamber of Commerce.

Notes: The above clause may be used where the parties have provided in their contract for *ad hoc* expert proceedings (i.e. expert proceedings that are not administered by the ICC) but wish to have the ICC International Centre for ADR appoint the expert. In order to use the above clause, the parties will need to replace the phrase “[clause X of the present contract]” with a reference to the relevant contractual provision(s), so as to identify clearly the type of dispute(s) to be referred to the expert proceedings.

Parties are also advised to take account of any factors, such as the requirements of mandatory law, that may have an impact on the effect of a clause or its enforceability under applicable law.

Notes on Drafting a Clause Providing for the ICC as Appointing Authority for Neutrals

Parties may wish to have the ICC appoint a neutral for *ad hoc* mediation, neutral evaluation, dispute boards or other similar dispute resolution proceedings. Given the broad range of situations in which parties may wish to have a neutral appointed, it is not possible to offer a suggested clause that easily fits every situation. These notes are therefore provided to assist parties in drafting their tailor-made clause.

The clause should:

- clearly describe the type of dispute which is to be the subject of the proceedings (e.g. any dispute arising out of or in connection with the present contract or disputes arising under specific provisions of the contract);
- clearly describe the type of proceedings that the neutral and the parties are to use (e.g. mediation, neutral evaluation or dispute board); and
- state that the neutral shall be appointed by the ICC International Centre for ADR in accordance with the Rules for the Appointment of Experts and Neutrals of the International Chamber of Commerce.

At all times, care must be taken to avoid any risk of ambiguity in the drafting of the clause. Unclear wording causes uncertainty and delay and can hinder or even compromise the dispute resolution process.