**IN THE MATTER OF AN ARBITRATION UNDER**

**THE RULES OF ARBITRATION OF THE**

**AUSTRALIAN CENTRE FOR INTERNATIONAL COMMERCIAL ARBITRATION**

**Case No. [***If a case number has been allocated, insert here***]**

**BETWEEN**

[insert full name of Claimant]

**Claimant**

**- and -**

[insert full name of Respondent]

**Respondent**

**NOTICE OF ARBITRATION**

**[Date]**

[*Note details of Counsel for the Claimant*]

[*Drafting Note: The length and level of detail of the Notice of Arbitration will depend on the nature and complexity of the claim. For example, a few pages may be sufficient to describe a simple debt claim. In more complex cases, it is not uncommon for counsel to draft a Notice of ten or more pages.* *Documents of more than ten pages in length will benefit from a Table of Contents. Pursuant to Article 5.4 of the ACICA Arbitration Rules, the Notice of Arbitration my also contain the Statement of Claim, which should set out the particulars of the claim as required by Article 25.*]

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1. **INTRODUCTION**
	* 1. This Notice of Arbitration dated [*date*] (***the Notice***) is submitted on behalf of C (***the Claimant***) pursuant to Article 5.3 of the 2016 Australian Centre for International Commercial Arbitration Rules (***the ACICA Rules***) and clause [ ] of the contract dated [*date*] between the Claimant and R (***the Respondent***) (referred to herein as ***the Contract***).
		2. The Claimant demands that the dispute described in Section III of the Notice be referred to Arbitration pursuant to the ACICA Rules.

[*Drafting Note: As provided in Article 5.3(a) of the ACICA Rules, the Claimant can also make a ‘demand’ that the dispute be referred to arbitration* *in this section. However, it is not necessary to do so expressly as the Notice will, in its entirety, represent a demand or request for arbitration.*

*The Introduction can be limited to what is set out in paragraph 1 above. The Claimant, however, could seek to set the tone of the arbitration by very briefly describing the essence of its case in one or two paragraphs in this section. For instance: ‘The Claimant brings this arbitration as a result of the Respondent’s numerous breaches of contract, culminating in its repudiation of the agreement, and the termination of the construction project on which the parties were engaged.’*]

1. **PROCEDURAL ISSUES**
	1. **The Parties**
		1. The Claimant in this arbitration is C[*set out full corporate name and incorporation/registration details*]. Its registered address is:

[Postal address]

[Telephone and facsimile numbers]

[Email address]

[*Drafting note: In some jurisdictions it is required and/or common practice to annex a copy of the certificate of incorporation or registration of parties who are not natural persons*].

* + 1. The Claimant is represented by:

[Name of Claimant’s counsel]

[Postal address]

[Telephone and facsimile numbers]

[Email address]

The Claimant confirms that the representatives named above are duly authorised to act on the Claimant’s behalf in this arbitration. [A Power of Attorney is attached.]

[*Drafting Note: Proof of authority to act is required and/or common practice in many jurisdictions. The Claimant should give due consideration to whether a Power of Attorney should be prepared and annexed to the Notice of Arbitration in order to evidence that its representatives are duly authorised. Requirements of the seat and/or any jurisdictions in which enforcement may be necessary should be taken into account in this regard. Please note that the ACICA Rules do not require the submission of a Power of Attorney.*]

* + 1. The Respondent in this arbitration is R [*set out full corporate name and incorporation/registration details*]. Its registered address is:

[Postal address]

[Telephone and facsimile numbers]

[Email address]

* + 1. Respondent is represented by:

[Name of Respondent’s counsel]

[Postal address]

[Telephone and facsimile numbers]

[Email address]

 [*Drafting Note: If the identity of who will represent the Respondent in the arbitration is not known by the Claimant at this stage, this may be noted here*.]

* 1. **The arbitration agreement and governing law**
		1. A copy of the Contract, including the arbitration agreement at [*clause*] is annexed at **C-1**.

[*Drafting Note: Articles 5.3(c) and (d) of the ACICA Rules require the Claimant to include with the Notice a copy of the arbitration agreement and a reference to the contract out of which the dispute arises*.]

* + 1. The Contract at [*clause*] contains an arbitration agreement in the following terms (***Arbitration Agreement***):

[*Drafting Note: Reproduce the terms of the arbitration clause here in full.*]

* + 1. Pursuant to [clause] of the Contract, the Contract is governed by [law].

*[Drafting Note: If the governing law of the Contract is specified in the arbitration agreement itself, this may be noted here.]*

* 1. **The seat and language of the arbitration**
		1. Pursuant to the Arbitration Agreement, which is reproduced above, the seat of the arbitration shall be [*seat*] and the language of the arbitration shall be [*language*].

[*Drafting Note: If the arbitration agreement does not specify the seat and/or language of the arbitration, note whether the parties have otherwise agreed on these matters or if they remain to be determined by the Tribunal. If no agreement has been reached, Claimant should propose a seat and/or language of the arbitration, stating the reasons for its proposal(s)*].

* 1. **Nomination of arbitrator**
		1. [*Option 1: if the arbitration agreement provides for a sole arbitrator*]. The Parties have agreed in the Arbitration Agreement that disputes arising out of the Contract shall be determined by a sole arbitrator. Pursuant to Articles 5.4(a) and 11.1 of the ACICA Rules, the Claimant proposes the following candidate(s) as the sole arbitrator for consideration and agreement by the Respondent:

[*List name(s) and contact details of candidate(s), indicate their nationalities and provide a description of their qualifications (eg. a copy of a CV) in accordance with Article 16.1 ]*

OR Claimant will attempt to confer with Respondent to reach agreement upon a suitable candidate for appointment as sole arbitrator in this matter within 40 days of the date of this Notice in accordance with Article 11.2, failing which Claimant requests that ACICA proceed to appoint the sole arbitrator.

[*Option 2: if the arbitration agreement provides for a tribunal of three*]. The parties have agreed in the Arbitration Agreement that disputes arising out of the Contract shall be determined by a three-person arbitral tribunal. Pursuant to Articles 5.4(b) and 12.1 of the ACICA Rules, the Claimant nominates [*name of proposed arbitrator*] as its party-nominated arbitrator. The contact details of [*name of proposed arbitrator*] are as follows:

 [Postal address]

 [Telephone and facsimile numbers]

 [Email address]

[Nationality]

[Description of qualifications]

[*Option 3: if the arbitration agreement does not specify the number of arbitrators*]. The Arbitration Agreement does not specify (and the Parties have not otherwise agreed upon) the number of arbitrators. The Claimant proposes that the disputes in this arbitration be determined by a [*sole arbitrator / panel of three arbitrators*.] [*State reasons for proposal*].

The Claimant will nominate a candidate for sole arbitrator or notify ACICA and the Respondent of its appointment of a co-arbitrator after ACICA’s determination in accordance with Article 10 of the ACICA Rules.

* 1. **Submission of this Notice**
		1. Two copies of this Notice are being submitted to ACICA in accordance with Article 5.1 of the ACICA Rules. The Notice is filed with a cheque in the sum of A$2,500 [*plus GST if applicable*], being the registration fee prescribed in Appendix A, Part 1 of the ACICA Rules and the 2016 Schedule of Fees.

[*Drafting note: Note that Article 5.2 of the ACICA Rules provides that the commencement date of the arbitration will be delayed until the registration fee received by ACICA*. *Payment of the registration fee may also be made by electronic funds transfer or credit card. Parties are advised to contact the ACICA Secretariat well in advance of the date on which they intend to file in order to make any necessary arrangements*]

* + 1. In accordance with Article 5.5 of the ACICA Rules, the Claimant confirms that a copy of this Notice has been served on the Respondent by [*specify the means by which service has been effected pursuant to Article 5.5 of the ACICA Rules, for example, by hand or by registered post/courier to the address stipulated at paragraph* 4 *above, and the date of service.*]

[*Drafting note: Article 4 of the ACICA Rules sets out requirements for notice which apply to Notices of Arbitration. Parties should ensure that service is effected in accordance with these requirements*].

1. **NATURE AND CIRCUMSTANCES OF THE DISPUTE**

[*Drafting Note: Article 5.3(e) requires the Claimant to describe briefly the general nature of the claim and provide an indication of the amount in dispute.*

*The description of the dispute need not be exhaustive as there will be an opportunity for the Claimant to explain the case in full in a Statement of Claim pursuant to Article 25 of the ACICA Rules. Nonetheless, the description should be sufficiently detailed to enable the Respondent to understand the case which it must answer in its Answer to the Notice of Arbitration*. *The information reflected in the Notice will also assist the Respondent when choosing its arbitrator and likewise ACICA should the institution be called upon to nominate and appoint an arbitrator.*

*The Claimant can elect to treat its Notice as its Statement of Claim or include a copy of its Statement of Claim with the Notice pursuant to Article 5.4 of the ACICA Rules. If the Claimant elects to do this, it should expressly say so and provide the particulars of the dispute as required by Article 25 of the ACICA Rules*.]

1. **PRELIMINARY REQUESTS**

[*Drafting Note: The Claimant could identify in the Notice any preliminary requests it may wish to direct to the tribunal such as applications for interim measures, including requests for an injunction or other protective relief pursuant to Article 33 of the ACICA Rules.]*

1. **RELIEF SOUGHT**

[*Drafting Note: Article 5.3(f) of the ACICA Rules requires the Claimant to identify the relief sought in the Notice. The terms of the relief sought will depend on the nature of the claim and the governing law of the contract in question. Examples of relief could include declarations, the award of damages for breach of contract, costs and interests. An example is set out below.*]

* + 1. The Claimant respectfully asks the Arbitral Tribunal to:
1. DECLARE (*for instance, ‘that the Respondent is in breach of clauses [ ] of the Contract’)*;
2. ORDER (*for instance, ‘the Respondent to do or refrain from doing certain things’*);
3. ORDER (*the Respondent to pay the Claimant A$[ ] amount in damages or such other amount as the Tribunal determines*);
4. ORDER the Respondent to pay all of the costs and expenses of the arbitration, including the administration charges of ACICA, the fees and expenses of the members of the Tribunal, the fees and expenses of the Respondent’s counsel and experts (if any);
5. ORDER the Respondent to pay interest on all amounts claim herein, as subsequently amended or supplemented, at rates and dates to be specified, as well as post-award interest; and
6. AWARD such other and further relief as the Arbitral Tribunal thinks fit.

Respectfully submitted on [*date*]

For and on behalf of the Claimant,

C

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[*Counsel for the Claimant*]

[*Drafting Note: If the Claimant is not legally represented, this Notice should be signed by an appropriately authorised representative of the Claimant.]*