**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**

**ANSWER TO NOTICE OF ARBITRATION**

**[Date]**

[*Note details of Counsel for the Respondent*]

[*Drafting Note: The length and level of detail of the Answer to Notice of Arbitration will depend on the nature and complexity of the case. For example, a few pages may be sufficient to describe a simple debt case. In more complex cases, it is not uncommon for counsel to draft an Answer to Notice of ten or more pages.* *Documents of more than ten pages in length will benefit from a Table of Contents. Note that pursuant to Rule 6.3 the Answer to Notice of Arbitration may also contain the Statement of Defence, which should contain the details required by Rule 26.*]

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1. **INTRODUCTION**
	* 1. This Answer to Notice of Arbitration dated [*date*] (***the Answer***) is submitted on behalf of R (***the Respondent***) in response to the Notice of Arbitration submitted on behalf of C (***the Claimant***) dated [*date*] (***the Notice***), pursuant to Article 6.2 of the 2016 Australian Centre for International Commercial Arbitration Rules (***the ACICA Rules***) and clause [ ] of the contract dated [*date*] between the Claimant and the Respondent (referred to herein as ***the Contract***).

*The Introduction can be limited to what is set out in paragraph 1 above. The Respondent, 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 Respondent submits this Answer based on the Claimant’s purported claims of the breach of the Contract, culminating in the termination of the Contract without reasonable grounds.’*]

1. **PROCEDURAL ISSUES**
	1. **The Respondent**
		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]

[*Drafting note: In some jurisdiction 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. Respondent is represented by:

[Name of Respondent’s counsel]

[Postal address]

[Telephone and facsimile numbers]

[Email address]

* 1. **Plea that Arbitral Tribunal does not have** **Jurisdiction [if applicable]**
		1. The Respondent submits that an Arbitral Tribunal constituted under the ACICA Rules does not have jurisdiction on the grounds that:
1. [*Ground 1: for instance, ‘The Contract at [Clause] contains an arbitration agreement specifying that any dispute in connection with this Contract shall be resolved by arbitration in accordance with [Other rules]’.*]
2. [*Ground 2*]
3. [*Ground 3*]

[*Drafting Note: The Respondent further explains each ground in detail by adding paragraphs below.*]

* 1. **The governing law [if applicable]**

[*Drafting Note: If the arbitration agreement does not specify the governing law, note whether the parties have agreed on this matter or if they remain to be determined by the Arbitral Tribunal. If no agreement has been reached or the Respondent disagrees with the Claimant’s proposal of the governing law, the Respondent could propose the rules of law to be applied to the substance of the dispute and the reasons for its proposal. Otherwise, this part should be deleted.*]

* 1. **The seat and language of the arbitration [if applicable]**

[*Drafting Note: If the arbitration agreement does not specify the seat and/or language of the arbitration, note whether the parties have agreed on these matters or if they remain to be determined by the Tribunal. If no agreement has been reached or the Respondent disagrees with the Claimant’s proposal of a seat and/or language of the arbitration, the Respondent could propose the seat and/or language of the arbitration and the reasons for its proposal. Otherwise, this part should be deleted.*]

* 1. **Nomination of arbitrator**
		1. [*Option 1: if the arbitration agreement provides for a sole arbitrator*]. The Parties have agreed that disputes arising out of the Contract shall be determined by a sole arbitrator. Pursuant to Articles 6.3(a) and 11.1 of the ACICA Rules, the Respondent proposes the following candidate(s) as the sole arbitrator for consideration and agreement by the Claimant:

[*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 The Respondent will attempt to reach agreement upon a suitable candidate for appointment as sole arbitrator in this matter within 40 days of the date of the Notice in accordance with Article 11.2, failing which the Respondent 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 that disputes arising out of the Contract shall be determined by a three-person arbitral tribunal. Pursuant to Articles 6.3(b) and 12.1 of the ACICA Rules, the Respondent has appointed [*name of arbitrator*] as its party-appointed arbitrator. The contact details of [*name of 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 Respondent proposes that the disputes in this arbitration be determined by a [*sole arbitrator / panel of three arbitrators*.] [*State reasons for proposal*].

The Respondent will nominate a candidate for sole arbitrator or notify ACICA and the Claimant 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 6.1 of the ACICA Rules.
		2. In accordance with Article 6.4 of the ACICA Rules, the Respondent confirms that a copy of this Answer has been served on the Claimant by [*specify the means by which service has been effected pursuant to Article 6.4 of the ACICA Rules, for example, by hand or by registered post/courier to the address stipulated at paragraph* 2 *above, and the date of service.*]

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

1. **COMMENTS ON THE PARTICULARS IN THE NOTICE**

[*Drafting Note: Article 6.2(c) requires the Respondent to provide comments on the particulars set forth in the Notice.*]

*The comments on the particulars need not be exhaustive as there will be an opportunity for the Respondent to explain the case in full in a Statement of Defence pursuant to Article 26 of the ACICA Rules. Nonetheless, the comments should be sufficiently detailed to enable the Claimant and ACICA to understand what disputes are to be dealt with before the Arbitral Tribunal.*

*The Respondent can elect to treat its Answer as its Statement of Defence or include a copy of its Statement of Defence with the Answer pursuant to Article 6.3 of the ACICA Rules This is unlikely to be appropriate unless the Notice of Arbitration contains the Claimant's Statement of Claim.*]

1. **ANSWER TO THE PRELIMINARY REQUESTS IN THE NOTICE**

[*Drafting Note: The Respondent could provide comments in the Answer on any preliminary requests the Claimant identified in its Notice such as applications for interim measures, including requests for an injunction or other protective relief pursuant to Article 33 of the ACICA Rules.]*

1. **ANSWER TO THE RELIEF SOUGHT IN THE NOTICE**

[*Drafting Note: Article 6.2(d) of the ACICA Rules requires the Respondent to answer to the relief sought in the Notice. The answers to the relief sought will depend on the nature of the claim. An example is set out below.*]

* + 1. The Respondent respectfully provides answers to the relief sought in the Notice:
1. The declaration sought in the Notice that (‘*the Respondent is in breach of clauses [ ] of the Contract’*) will not be available on the ground that [*specify the reason why the relief sought should not be granted*];
2. The order sought in the Notice that (‘*the Respondent to do or refrain from doing certain things’*) will not be available on the ground that [*specify the reason why the relief sought should not be granted*];
3. The order sought in the Notice that (‘*the Respondent to pay the Claimant A$[ ] amount in damages or such other amount as the Tribunal determines’*) will not be available on the ground that [*specify the reason why the relief sought should not be granted*];
4. The order sought in the Notice that 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) will not be available on the ground that [*specify the reason why the relief sought should not be granted*]; and
5. The order sought in the Notice that 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 will not be available on the ground that [*specify the reason why the relief sought should not be granted*].
6. **COUNTERCLAIM OR CLAIM FOR SET-OFF**

[*Drafting Note: The Respondent could describe briefly a counterclaim or claim for the purpose of a set-off, if any, including an indication of the amount in dispute and the relief sought. The counterclaim or claim for set-off needs not be exhaustive as there will be an opportunity for the Respondent to explain the case in full in a Statement of Defence pursuant to Article 26 of the ACICA Rules. As a general guide only, the Respondent should set out similar details as the Claimant is required to provide with its Notice of Arbitration. An example is set out below.*]

* + 1. The Respondent pursues a counterclaim/claim against the Complainant for the purpose of a set-off comprising of the following:
1. A$[ ] amount in damages suffered by the Respondent in [*Specify the reason*].
2. A$[ ] amount in respect of costs incurred by the Respondent in [*Specify the reason*].
3. A$[ ] amount in delay liquidated damages insofar as necessary for the Respondent to be entitled to set off against the relief sought in the Notice.

Respectfully submitted on [*date*]

For and on behalf of the Respondent, R

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[*Counsel for the Respondent*]

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