Aluochier Independent Tribunals Administrative Rules, 2026

AITAR – 2026

Published by Aluochier Dispute Resolution

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22nd October, 2026 | 5th Edition – Enforcement

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PREAMBLE

Constitutional Foundation and Institutional Authority

WHEREAS sovereign power belongs to the people of Kenya and is delegated under Article 1(3)(c) of the Constitution to courts and independent tribunals, to be exercised in accordance with the Constitution;

AND WHEREAS the Constitution in Article 1(3)(c) establishes two constitutionally distinct streams of delegated sovereign authority in dispute resolution: the Judiciary stream under Article 1(3)(c)(i), encompassing the courts established under Chapter Ten, the subordinate courts under Article 169, and local tribunals established under Article 169(1)(d) by Acts of Parliament — including all statutory sector-specific tribunals created by written law — all of which form part of the Judiciary stream and are not independent tribunals within the meaning of Article 1(3)(c)(ii); and the independent tribunals stream under Article 1(3)(c)(ii), encompassing independent tribunals — including arbitral tribunals, adjudicative tribunals, traditional dispute resolution mechanisms recognised under Article 159(2)(c), and community-based land dispute resolution mechanisms recognised under Article 60(1)(g) — that derive their legitimacy from constitutional recognition, party agreement, or customary authority, and that operate outside the court hierarchy established by Chapter Ten and Article 169;

AND WHEREAS under Articles 165(6) and (7) of the Constitution, the High Court exercises supervisory jurisdiction over all persons, bodies, and authorities exercising judicial or quasi-judicial functions, including independent tribunals operating under the independent tribunals stream; and independent tribunals accordingly occupy, within the constitutional hierarchy, a supervisory rank equivalent to that of subordinate courts, being subject to the supervisory jurisdiction of the High Court and other superior courts, while remaining constitutionally distinct from, and not subordinate to, the subordinate courts themselves;

AND WHEREAS independent tribunals under Article 1(3)(c)(ii) are ad hoc in constitutional character, each constituted for a specific dispute, exhausting its mandate upon resolution of that dispute, and dissolving upon the issuance of a final Award or Determination; and the permanent institution that constitutes, administers, and supports such ad hoc Tribunals — Aluochier Dispute Resolution — is itself not an independent tribunal but the permanent administrative framework within which independent Tribunals are brought into existence, governed, and supported; and the constitutional authority exercised in each dispute is the authority of the ad hoc Tribunal constituted for that dispute, not the authority of the permanent administrative institution;

AND WHEREAS Article 50(1) of the Constitution guarantees every person the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body — an entitlement that is inherent in each individual and is acknowledged, but not granted, by the Constitution — and is therefore not dependent upon the existence of a prior arbitration agreement, save where the Constitution expressly provides otherwise;

AND WHEREAS Article 47(1) of the Constitution guarantees every person the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair — five free-standing and co-equal constitutional requirements — and to written reasons where a right or fundamental freedom has been or is likely to be adversely affected;

AND WHEREAS Article 159 affirms that judicial authority is derived from the people and shall be exercised in conformity with the Constitution, that justice shall not be delayed, and that alternative forms of dispute resolution — including adjudication before independent tribunals and arbitration — shall be promoted;

AND WHEREAS Articles 48 and 159(2)(b) require that justice be accessible to all and not be delayed, making effective and expeditious dispute resolution a constitutional imperative as much as a contractual one;

AND WHEREAS the Fair Administrative Action Act, No. 4 of 2015, operationalises Article 47 of the Constitution; these Rules constitute the instrument or other document in terms of which administrative action is taken under the Adjudication Highway established herein, within the meaning of section 2 of that Act — being the empowering provision for review purposes — and the Adjudication Highway provides the primary constitutional-administrative pathway through which persons may invoke the adjudicative jurisdiction of a Tribunal without the requirement of a prior arbitration agreement, the constitutional authority of every such Tribunal deriving from Articles 1(3)(c), 47, and 50(1) of the Constitution and not from these Rules as a self-authorising instrument;

AND WHEREAS the Arbitration Act, 1995 provides the statutory framework for arbitration in Kenya, and section 20 thereof recognises the authority of permanent arbitral institutions to prescribe rules of procedure which, when adopted by parties or arbitral tribunals, govern the conduct of proceedings; and the Arbitration Highway established under these Rules provides the consensual pathway through which parties who have agreed in writing to arbitration may resolve their disputes before a Tribunal constituted under these Rules;

AND WHEREAS the Adjudication Highway and the Arbitration Highway are co-equal procedural pathways under these Rules, both deriving constitutional authority from Articles 1(3)(c), 47, and 50(1), both subject to the supervisory jurisdiction of the High Court under Article 165(6), and both governed by the same institutional, ethical, and quality-assurance framework — the choice between them being determined by the nature of the matter and the agreement or election of the parties, and not by any hierarchy of constitutional standing;

AND WHEREAS Article 165(6) and (7) of the Constitution vest the High Court with supervisory jurisdiction over all persons, bodies, and authorities exercising judicial or quasi-judicial functions, which supervisory jurisdiction is non-excludable and is preserved in its entirety by these Rules;

AND WHEREAS it is necessary to establish transparent, constitutionally disciplined, and institutionally credible rules for the administration of general dispute resolution proceedings — through both the Adjudication Highway and the Arbitration Highway, and distinct from specialist succession proceedings governed by the Aluochier Independent Succession Tribunals Administrative Rules (AISTAR 2026) — with appropriate mechanisms for internal quality assurance prior to the invocation of constitutional supervision;

NOW THEREFORE these Rules establish the framework for the administration of non-specialist dispute resolution proceedings — through the Adjudication Highway under Part IV and the Arbitration Highway under Part V — conducted under the auspices of Aluochier Dispute Resolution, in accordance with the Constitution, the Fair Administrative Action Act, and the Arbitration Act;

PROVIDED THAT nothing in these Rules:

(a) creates a court within the meaning of Chapter Ten of the Constitution;

(b) purports to amend any written law;

(c) excludes or limits the supervisory jurisdiction of the High Court under Article 165(6) of the Constitution;

(d) confers criminal jurisdiction on any Tribunal; or

(e) asserts institutional immunity beyond that recognised by the Constitution and written law.

INSTITUTIONAL ARCHITECTURE NOTICE

AITAR 2026 is the general institutional framework of Aluochier Dispute Resolution. It governs all general-purpose dispute resolution proceedings conducted under the auspices of the Institution and provides the common institutional infrastructure — including the AITAR Case Documentation System (ACDS), the AITAR Digital Gazette, the AITAR Permanent Registry, the AITAR Quality Assurance Fund (AQAF), the Supervisory Review Tribunal (SRT), and all associated institutional mechanisms — that supports all proceedings administered by the Institution, whether under these Rules or under specialist rules.

Apex Governance Office — Chief Adjudicator and President of Independent Tribunals

Aluochier Dispute Resolution is governed by a Board, headed by the Chief Adjudicator and President of Independent Tribunals, who serves as President of the Board. The Chief Adjudicator and President of Independent Tribunals is the apex governance and jurisprudential officer of the permanent administrative institution — responsible for the institution's constitutional integrity, rules development, institutional governance, and public representation — and is not the holder of a permanent constitutional office under Article 1(3)(c)(ii), which vests in each ad hoc Tribunal constituted for a specific dispute. The Chief Executive is the operational head of Aluochier Dispute Resolution and serves as Secretary to the Board. During the establishment phase of the institution, both offices may be held concurrently by the same person. This governance architecture mirrors, at the level of the independent tribunals stream under Article 1(3)(c)(ii), the apex governance structure of the Judiciary stream under Article 1(3)(c)(i), without asserting personal constitutional equivalence between the Chief Adjudicator and the Chief Justice, and without claiming that Aluochier Dispute Resolution exhausts or represents the entire independent tribunals stream. The independent tribunals stream under Article 1(3)(c)(ii) — within which Aluochier Dispute Resolution operates — is constitutionally distinct from the Judiciary stream, recognised by the Constitution as a legitimate channel of the people's sovereign mandate in dispute resolution, and includes within it traditional dispute resolution mechanisms under Article 159(2)(c) and community-based land dispute resolution mechanisms under Article 60(1)(g).

Specialist dispute resolution domains are governed by their own distinct instruments published by the Institution. The Aluochier Independent Succession Tribunals Administrative Rules (AISTAR 2026) govern specialist succession proceedings. Future specialist instruments — for land disputes, employment disputes, or other specialist domains — will similarly be housed in their own distinct instruments. Each specialist instrument takes precedence over AITAR 2026 in respect of domain-specific matters while drawing on the general institutional infrastructure established by AITAR 2026.

From the Second Edition, AITAR 2026 contains no provisions relating to specialist succession matters. Succession proceedings and estate settlement are governed exclusively by AISTAR 2026. The First Edition transitional provisions (Rules 59 and 60 and Part 6 of the First Schedule) were removed in the Second Edition. Any succession dispute that does not fall under AISTAR 2026 should be referred to that instrument or to a court of competent jurisdiction.

All acronyms referring to general institutional infrastructure — ACDS, AQAF, Digital Gazette, Permanent Registry, SRT, and related terms — are defined by reference to AITAR 2026 as the general institutional instrument. Where specialist instruments use these acronyms, they refer to the same institutional infrastructure as defined in AITAR 2026 and do not establish separate or parallel systems. The Institution operates a single unified infrastructure serving all proceedings under all its rule sets.

PART I — GENERAL

This Part establishes the citation, interpretation, constitutional basis, institutional authority, and status of these Rules.

Rule 1 — Citation and Commencement

1. These Rules may be cited as the Aluochier Independent Tribunals Administrative Rules, 2026, or more briefly as AITAR 2026.

2. These Rules shall apply to all proceedings administered by the Institution that commence on or after the date of publication in the AITAR Digital Gazette, or 23rd March 2026, whichever is earlier.

3. The Rules applicable to any proceeding shall be those in force at the date of commencement, unless the parties have otherwise agreed in writing.

4. These Rules govern general dispute resolution proceedings and shall be distinguished from the Aluochier Independent Succession Tribunals Administrative Rules (AISTAR 2026), which govern specialist succession proceedings. Where a dispute involves succession matters, parties may elect to proceed under AISTAR 2026 or, where appropriate, these Rules, subject to Rule 3.6.

Rule 2 — Interpretation

1. In these Rules, unless the context otherwise requires:

   "ACDS" means the AITAR Case Documentation System, being the secure case management and digital record-keeping system maintained by the Institution for filing, tracking, and archiving proceedings under these Rules.

   "administrative action" means any decision, act or omission of an administrative nature taken by an administrator that affects the legal rights, interests, legitimate expectations, or privileges of any person, and includes any Award or Determination issued under these Rules, within the meaning of section 2 of the Fair Administrative Action Act.

   "administrator" means any person, body or authority that takes or is required to take an administrative action.

   "AITAR" means the Aluochier Independent Tribunals Administrative Rules, 2026, constituting the regulatory and procedural framework for the administration of non-specialist dispute resolution proceedings.

   "AISTAR 2026" means the Aluochier Independent Succession Tribunals Administrative Rules, 2026, being the specialist framework for succession proceedings, which is a separate instrument and not part of these Rules.

   "AQAF" means the AITAR Quality Assurance Fund, being the ring-fenced account maintained by the Institution into which the Quality Assurance Retention is held pending release in accordance with these Rules.

   "Arbitral Tribunal" means a sole arbitrator or a panel of arbitrators constituted for a specific dispute pursuant to the Arbitration Highway in Part V of these Rules.

"Arbitration" means consensual dispute resolution conducted under Part V of these Rules pursuant to a valid arbitration agreement and governed by the Arbitration Act.

"Arbitration Act" means the Arbitration Act, 1995.

"Award" means the formal expression of a decision by an Arbitral Tribunal which conclusively determines the rights of the parties, and may be interim or final.

"Board" means the Board of Directors of Aluochier Dispute Resolution, headed by the Chief Adjudicator and President of Independent Tribunals as President, with the Chief Executive serving as Secretary to the Board, responsible for the institutional governance, constitutional integrity, rules development, and strategic direction of the Institution.

"Certificate of Finality" means the instrument issued by the Registry confirming that a Determination or Award has become final and binding in accordance with these Rules.

"Chief Adjudicator and President of Independent Tribunals" means the apex governance officer of the Institution, serving as President of the Board, responsible for the Institution's constitutional integrity, jurisprudential development, institutional governance, and public representation. The Chief Adjudicator and President of Independent Tribunals holds a governance office of the permanent administrative institution and is not the holder of a permanent constitutional office under Article 1(3)(c)(ii) of the Constitution, which vests in each ad hoc Tribunal constituted for a specific dispute. During the establishment phase of the Institution, this office may be held concurrently with the office of Chief Executive by the same person.

"Chief Executive" means the Chief Executive Officer of the Institution, responsible for the operational and administrative management of the Institution, and serving as Secretary to the Board. In that capacity the Chief Executive receives all communications between parties and the Institution, maintains the ACDS, manages case administration, and executes the institutional mandate under the direction of the Chief Adjudicator and President of Independent Tribunals.

"claimant" means a person who commences a proceeding under these Rules.

"CMM" means the Case Management Meeting convened under Rule 22.

"Consent Determination" means a Determination adopted by the Tribunal on the basis of a settlement agreement reached by the parties, having the same legal force as a contested Determination, and includes a Consent Determination issued on the basis of a Settlement Application under Rule 24.7.

"Constitution" means the Constitution of Kenya, 2010.

"decision" means any administrative or quasi-judicial decision made, proposed to be made, or required to be made.

"Determination" means a final and binding written decision rendered in adjudication proceedings under Part IV of these Rules.

"Digital Gazette" means the official electronic publication platform maintained by the Institution for publication of notices, procedural announcements, and selected adjudicative instruments. Publication in the Digital Gazette constitutes institutional notice and does not substitute for statutory gazettement required by written law.

"domestic arbitration" means an arbitration that is domestic within the meaning of the Arbitration Act, 1995.

"empowering provision" has the meaning assigned under section 2 of the Fair Administrative Action Act and includes, for the specific and limited purpose of identifying the legal basis under which the Tribunal takes administrative action, these Rules as the instrument or other document in terms of which that administrative action is taken. This characterisation does not make these Rules the source of the Tribunal's constitutional authority, which derives from Articles 1(3)(c), 47, and 50(1) of the Constitution.

"Fair Administrative Action Act" means the Fair Administrative Action Act, No. 4 of 2015.

"FAA Rules" means the Fair Administrative Action Rules, 2024, L.N. 165 of 2024.

"General Panel" means the roster of adjudicators and arbitrators eligible for appointment under these Rules.

"Institution" means Aluochier Dispute Resolution (ADR), being the permanent administrative institution governed by its Board under the chairmanship of the Chief Adjudicator and President of Independent Tribunals, acting as the administrative secretariat for proceedings under these Rules, and includes its Board, any committee, sub-committee, Chief Adjudicator and President of Independent Tribunals, Chief Executive, and other staff or body specifically designated to perform functions under these Rules.

"Institutional Interested Party" means any bank, financial institution, land registry, company registrar, insurance company, cooperative society, mobile money platform, or other body holding assets relevant to the subject matter of a dispute or required to give effect to a Determination or Award, joined as an interested party under Rule 19A.

"international arbitration" means an arbitration that is international within the meaning of the Arbitration Act, 1995.

"Quality Assurance Retention" means the portion of the Tribunal Professional Fee temporarily retained in the AQAF pending release upon the conditions prescribed in Rule 14.

"Registry-Ready" means an adjudicative instrument formatted in compliance with prescribed institutional standards and containing sufficient particulars to enable consideration for registration or implementation by a public registry or financial institution, subject to that institution's governing statute.

"respondent" means a person on whom a Request for Arbitration or claim is served.

"Roster" means the official AITAR database of qualified adjudicators, arbitrators, and experts, categorised by Tier under FIFTH SCHEDULE.

"Roster Member" means a person admitted to the Roster under Rule 11 and eligible for appointment but possessing no adjudicative authority until appointed to a Tribunal.

"seat of arbitration" means the legal place of arbitration as determined under Rule 41.

"Senior Review Pool" means the subset of Roster Members (Tier B) eligible to be appointed to a Supervisory Review Tribunal (SRT) for a specific review application.

"Sensitive Personal Data" means biometric data, financial account numbers, health information, and data concerning minors.

"Settlement Application" means a joint application filed by all parties to a dispute invoking the settlement validation pathway under Rule 24.7, where a settlement has been reached before or during proceedings.

"Slip Rule" means the power of the Tribunal under Rule 33 to correct clerical, arithmetical, or typographical errors in a Determination or Award.

"Sovereign Hash" means the unique digital alphanumeric identifier generated by the AITAR Registry to verify the authenticity and finality of a Determination, Award, or Certificate.

"SRT" means the Supervisory Review Tribunal constituted from members of the Roster under Rule 54 to conduct internal review of a Determination or Award.

"Tribunal" means a person or panel of persons appointed from the Roster under these Rules to determine a specific dispute, being an independent tribunal within the meaning of Article 1(3)(c)(ii) of the Constitution, whose authority derives directly from the Constitution through the combined operation of Articles 1(3)(c), 47, and 50(1). Each Tribunal is ad hoc in character, constituted for a specific dispute, and exhausts its mandate upon the issuance of a final Determination or Award.

"written law" has the meaning assigned under the Interpretation and General Provisions Act.

2. In these Rules, unless the context otherwise requires, a reference to the Arbitration Act means the Arbitration Act, 1995; a reference to the Constitution means the Constitution of Kenya, 2010; and a reference to the Fair Administrative Action Act means the Fair Administrative Action Act, No. 4 of 2015.

3. These Rules shall be interpreted: (a) consistently with the Constitution as the supreme law; (b) in a manner that promotes the inherent right of forum selection under Article 50(1) and access to justice under Article 48; (c) in harmony with written law as construed to conform with the Constitution pursuant to Section 7 of the Sixth Schedule; (d) in a manner that preserves the supervisory jurisdiction of the High Court under Article 165(6); and (e) consistently with the national values and principles under Article 10, the principles of public service under Article 232, and the constitutional obligations of accountability, transparency, and the rule of law under Articles 3(1) and 159(3).

4. Words importing the masculine gender include the feminine; words in the singular include the plural and vice versa; and headings are for convenience only and do not affect interpretation.

Rule 3 — Purpose and Scope

1. These Rules establish a structured constitutional and administrative framework for the resolution of disputes through two co-equal procedural pathways: the Adjudication Highway under Part IV, and the Arbitration Highway under Part V. Both pathways are administered by Aluochier Dispute Resolution and derive their constitutional authority from the same source. The choice between them is determined by the nature of the matter and the agreement or election of the parties.

2. The purpose of these Rules is to:

   (a) facilitate fair, expeditious, proportionate, and efficient resolution of disputes across all categories of civil and commercial matters, including employment, property, family, administrative, and contractual disputes;

   (b) provide a transparent and roster-based system for the appointment of independent Tribunal members;

   (c) promote access to justice, including for persons from marginalised communities and those unable to bear upfront costs;

   (d) protect parties from procedural unfairness, abuse of process, and unlawful administrative action;

   (e) provide a constitutionally disciplined forum for dispute resolution consistent with Articles 47, 48, 50, and 159 of the Constitution; and

   (f) ensure that appointments are made with due regard to the constitutional values of gender equity, regional balance, and inclusion of marginalised groups as required by Article 232.

3. These Rules apply to proceedings administered by the Institution pursuant to the right of every person under Article 50(1) of the Constitution to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body. That right is inherent in each individual and is acknowledged, but not granted, by the Constitution. It is the common constitutional foundation of both highways established under these Rules.

4. The Adjudication Highway. These Rules apply to adjudication proceedings initiated by petition under Part IV, being the constitutional-administrative pathway through which any person may invoke the jurisdiction of a Tribunal to determine a dispute without the requirement of a prior arbitration agreement. The adjudicative jurisdiction of the Tribunal under this pathway derives from Articles 1(3)(c), 47, and 50(1) of the Constitution, operationalised through the Fair Administrative Action Act. These Rules apply in particular to proceedings instituted pursuant to section 7(1) of the Fair Administrative Action Act, where a person aggrieved by an administrative action or decision applies for review to a tribunal exercising jurisdiction conferred in that regard under any written law; and to proceedings instituted as a condition precedent to judicial review under section 9(2) of that Act.

5. The Arbitration Highway. These Rules apply to arbitration proceedings initiated by request under Part V, being the consensual pathway through which parties who have agreed in writing to arbitration may resolve their disputes before a Tribunal constituted under these Rules. The arbitral jurisdiction of the Tribunal under this pathway derives from Articles 1(3)(c), 47, and 50(1) of the Constitution, operationalised through the Arbitration Act and governed by the procedure established in Part V. These Rules apply to arbitrations where parties have agreed in writing to submit their dispute to arbitration under these Rules, whether in a contract, a separate submission agreement, or by adoption under section 20(2) of the Arbitration Act.

6. These Rules do not apply to succession proceedings for which AISTAR 2026 has been adopted or is otherwise applicable. Where a dispute has both succession and non-succession

components, the Institution shall determine the appropriate framework or, with the consent of the parties, apply AISTAR 2026 to the succession components and these Rules to the remaining components, with the Tribunal noting the dual application in its instrument.

7. These Rules incorporate the values and principles of public service in Article 232(1) of the Constitution, including high standards of professional ethics, efficient and effective use of resources, responsiveness, impartiality, accountability, and transparency.

8. Nothing in these Rules prevents parties from nominating the Institution as appointing authority without submitting the proceedings to these Rules.

Rule 4 — Constitutional Status of an Appointed Tribunal

1. Aluochier Dispute Resolution, as the administering Institution under these Rules, performs administrative and secretariat functions only. The Institution does not exercise adjudicative authority, and its acts of selection and appointment do not confer constitutional authority upon a Tribunal. The constitutional authority of a Tribunal derives from the Constitution itself, not from the Institution or these Rules as a self-authorising instrument.

2. The constitutional authority of a Tribunal derives from the concurrent operation of: Article 1(3)(c), which delegates sovereign power to independent tribunals; Article 50(1), which recognises the right of every person to have disputes resolved before an independent and impartial tribunal; and Article 47, which creates the constitutional right to fair administrative action that the Tribunal is constituted to exercise and protect.

3. Upon issuance of an Appointment Instrument in respect of a specific matter, the appointed person or panel constitutes an independent and impartial Tribunal for the determination of that matter. The Appointment Instrument is a procedural instrument that brings a constitutionally authorised Tribunal into being; it is not the source of the constitutional authority the Tribunal then exercises.

4. Once constituted, a Tribunal exercises its adjudicative functions independently of the Institution. The Institution shall not interfere with the independence of any Tribunal in the discharge of its adjudicative duties.

5. A Tribunal under these Rules is subject to the supervisory jurisdiction of the High Court under Articles 165(6) and (7) of the Constitution. That supervisory jurisdiction is non-excludable and shall not be limited or displaced by these Rules or by the parties' agreement. In terms of supervisory rank within the constitutional hierarchy, independent Tribunals constituted under these Rules are equivalent in rank to subordinate courts established under Article 169, both being subject to the supervisory jurisdiction of the High Court and other superior courts, while remaining constitutionally distinct from, and not administratively subordinate to, the subordinate courts themselves.

6. The Institution's administrative decisions in respect of case management, fees, appointment, and procedural administration are binding on the parties in those administrative matters. They do not bind the Tribunal in the exercise of its adjudicative functions.

7. A Tribunal member shall not be personally liable for acts or omissions undertaken in good faith in the exercise or purported exercise of adjudicative functions under these Rules. This protection does not extend to conduct involving fraud, bad faith, corruption, or knowing violation of the Constitution.

8. The Adjudication Highway under Part IV does not confer coercive jurisdiction upon the Tribunal or the Institution. The Tribunal produces Determinations that constitute constitutionally valid administrative action within the meaning of the Fair Administrative Action Act, and that are subject to the supervisory jurisdiction of the High Court under Article 165(6) of the Constitution. Compliance with a Determination flows from its legal validity as a constitutionally authorised administrative act — not from institutional compulsion or any claim by the Institution to enforce decisions against unwilling parties by its own authority. Where a party declines to comply with a Determination, the affected party's remedy is to seek enforcement through the appropriate legal pathway, including an application to the High Court. Nothing in these Rules confers on the Institution or the Tribunal any power of execution, arrest, or other coercive measure reserved by law to courts of competent jurisdiction.

Rule 5 — Guiding Principles and Review Jurisdiction

1. In exercising judicial authority under these Rules, the Tribunal shall be guided by the principles in Article 159(2) of the Constitution: that justice shall be done to all irrespective of status; that justice shall not be delayed; that alternative dispute resolution shall be promoted; that justice shall be administered without undue regard to procedural technicalities; and that the purpose and principles of the Constitution shall be protected and promoted.

2. In proceedings for review of an administrative action, the Tribunal may review on any ground set out in section 7(2) of the Fair Administrative Action Act, including: lack of authorisation; excess of jurisdiction; procedural unfairness; material error of law; bias; bad faith or ulterior motive; failure to consider relevant matters; unreasonableness or disproportionality; violation of legitimate expectations; or abuse of power or discretion.

3. In proceedings for review of an administrative action, the Tribunal exercises supervisory jurisdiction only, consistent with Articles 47(3) and 165(6) and (7) of the Constitution. The Tribunal does not exercise appellate jurisdiction and shall not substitute its own determination of the merits of the subject decision for that of the original decision-maker. In the exercise of that supervisory jurisdiction, the Tribunal may grant any order or award that is just and equitable, including orders: declaring the procedural or administrative rights of a party arising from the entitlement to fair administrative action under Article 47; restraining unlawful action; directing the taking of a decision in accordance with law; setting aside and remitting a decision for reconsideration by the appropriate decision-maker; compelling performance of a public duty; or granting temporary relief pending the outcome of review — as provided in sections 11(1) and 11(2) of the Fair Administrative Action Act, read consistently with the Constitution.

Rule 6 — Status of These Rules

1. These Rules are made by Aluochier Dispute Resolution as a permanent arbitral institution within the meaning of section 3(1) of the Arbitration Act, which defines arbitration to include arbitration administered by a permanent arbitral institution. In that capacity, the Institution administers the Arbitration Highway under Part V. The Institution additionally administers the Adjudication Highway under Part IV in its capacity as the institutional secretariat designated to constitute independent Tribunals for the adjudication of disputes pursuant to the constitutional mandate of Articles 1(3)(c), 47, and 50(1) and the Fair

Administrative Action Act. Both capacities are exercised under the same institutional governance framework.

2. In respect of the Arbitration Highway, these Rules, when adopted by parties or by arbitral tribunals as the appropriate procedure, govern the conduct of arbitration proceedings under section 20 of the Arbitration Act, read together with Articles 94(5) and (6) of the Constitution. In respect of the Adjudication Highway, these Rules constitute the empowering provision — being the instrument in terms of which the Tribunal takes administrative action — within the meaning of section 2 of the Fair Administrative Action Act, and govern the conduct of adjudication proceedings accordingly.

3. These Rules shall be construed consistently with the Constitution as the supreme law, in a manner that: promotes access to justice under Article 48; gives effect to the right to have disputes resolved under Article 50(1), whether through adjudication or arbitration; gives full effect to the constitutional right to fair administrative action under Article 47; preserves the supervisory jurisdiction of the High Court under Article 165(6); and advances the constitutional principles of fairness, transparency, accountability, and the rule of law. Neither highway established under these Rules shall be construed as subordinate to the other in constitutional standing.

4. These Rules include the Schedules in effect at the commencement of the proceeding, as separately amended from time to time. The Schedules form an integral part of these Rules.

5. In the event of any inconsistency between these Rules and the Constitution, the Constitution shall prevail.

PART II — INSTITUTIONAL STRUCTURE

This Part establishes the governance and administrative framework through which the Institution is governed and through which Tribunals are constituted and supported under these Rules.

Rule 7 — Chief Adjudicator and President of Independent Tribunals

1. There is established the office of Chief Adjudicator and President of Independent Tribunals as the apex governance and jurisprudential office of Aluochier Dispute Resolution.

2. The Chief Adjudicator and President of Independent Tribunals serves as President of the Board of Aluochier Dispute Resolution. In that capacity, the Chief Adjudicator and President is responsible for:

   (a) the constitutional integrity and jurisprudential direction of the Institution and its framework instruments;

   (b) the governance and strategic direction of the Institution;

   (c) the development, amendment, and publication of AITAR, AISTAR, and all institutional rule instruments;

   (d) the institutional public representation of Aluochier Dispute Resolution in its capacity as a permanent administrative institution operating within the independent tribunals stream under Article 1(3)(c)(ii) of the Constitution; and

   (e) oversight of the Chief Executive in the discharge of operational functions.

3. The Chief Adjudicator and President of Independent Tribunals is the apex governance officer of the permanent administrative institution. This office is not a permanent constitutional office under Article 1(3)(c)(ii) of the Constitution, which vests in each ad hoc Tribunal constituted for a specific dispute. The constitutional authority exercised in each dispute is the authority of the ad hoc Tribunal constituted for that dispute, not the authority of the Chief Adjudicator and President or the Institution.

4. During the establishment phase of the Institution, the offices of Chief Adjudicator and President of Independent Tribunals and Chief Executive may be held concurrently by the same person. The Institution shall, as its operational capacity grows, move toward separation of the two offices.

5. The independent tribunals stream under Article 1(3)(c)(ii) of the Constitution — within which the Institution operates as the administrator of ad hoc independent Tribunals — is constitutionally distinct from the Judiciary stream under Article 1(3)(c)(i). Both streams are recognised channels of the people's sovereign mandate in dispute resolution under Article 1(3)(c). Independent Tribunals constituted under these Rules are subject to the supervisory jurisdiction of the High Court under Articles 165(6) and (7) of the Constitution, and in terms of supervisory rank occupy a position equivalent to subordinate courts within the constitutional hierarchy. The Institution does not claim, and these Rules do not assert, that the Chief Adjudicator and President of Independent Tribunals holds a constitutional office personally equivalent to that of the Chief Justice, or that Aluochier Dispute Resolution exhausts or represents the entire independent tribunals stream under Article 1(3)(c)(ii).

Rule 8 — Institutional Administration

1. The administration of proceedings under these Rules shall be undertaken by Aluochier Dispute Resolution (ADR) acting as the institutional secretariat (the Institution).
2. The role of the Institution is purely administrative and facilitative. The Institution is the mechanism through which persons are selected and appointed to constitute Tribunals; it is not itself the source of the constitutional authority that a Tribunal exercises once constituted.
3. The functions of the Institution shall include:
   (a) maintaining the AITAR Roster of eligible adjudicators and arbitrators;
   (b) receiving and registering petitions and requests for arbitration;
   (c) verifying the standing of petitioners and claimants within three (3) days of filing in accordance with Rule 16.6;
   (d) maintaining the AITAR Case Documentation System (ACDS);
   (e) issuing procedural communications and notices;
   (f) publishing institutional notices in the AITAR Digital Gazette;
   (g) selecting and facilitating the appointment of Tribunal members as a procedural mechanism, without thereby conferring any constitutional authority not already vested in the Tribunal by the Constitution;
   (h) maintaining the AITAR Quality Assurance Fund (AQAF); and
   (i) maintaining records of proceedings and the Digital Registry.
4. In performing these functions, the Institution shall act administratively and neutrally, and shall not participate in the determination of disputes.
5. The Institution shall not interfere with the independence of any Tribunal constituted under these Rules. Once a Tribunal is constituted, it exercises its functions under the Constitution and these Rules independently of the Institution.
6. All appointments shall be made with due regard to the constitutional values of gender equity, regional balance, and inclusion of marginalised groups, as required by Article 232 of the Constitution.
7. All communications between a party and the Institution shall be made through the Chief Executive, who shall, in that capacity, act as the operational interface between the parties and the Institution and as Secretary to the Board.

Rule 9 — Parallel Proceedings and Abuse of Process

1. A Tribunal shall not determine a matter where it is established that the same dispute is pending before a court or tribunal of competent jurisdiction.
2. Every petitioner or claimant shall disclose on oath any existing proceedings concerning the same dispute or subject matter.
3. Where parallel proceedings exist, the Tribunal may:
   (a) decline jurisdiction;

(b) stay proceedings; or

(c) limit its determination to issues not previously adjudicated.

4. Issues finally determined by a competent court or tribunal shall not be re-adjudicated, consistent with constitutional finality principles and section 7 of the Civil Procedure Act.

5. Nothing in this Rule limits the authority of the High Court or a court of equal status under Article 162 of the Constitution to determine questions of jurisdiction, res judicata, or sub judice in relation to proceedings before a Tribunal constituted under these Rules, in the exercise of the supervisory jurisdiction under Article 165(6) or the subject-matter jurisdiction conferred by Article 162(2), as applicable.

6. Failure by a party to disclose material information concerning existing proceedings may constitute grounds for review, setting aside, or remittal of a Determination or Award.

Rule 10 — Establishment of the AITAR Roster

1. The Institution shall maintain an official AITAR Roster of persons eligible for appointment as adjudicators, arbitrators, or expert assessors.

2. The Roster shall be organised into tiers as follows:

(a) Tier A — Accredited members eligible for appointment to matters as sole adjudicators, panel members, or arbitrators in standard cases;

(b) Tier B — Senior members eligible for appointment in high-value or complex matters and eligible for appointment to the Supervisory Review Tribunal (SRT); and

(c) Tier C — Specialists and assessors eligible for appointment as technical experts to assist a Tribunal.

3. Admission to the Roster confers eligibility for appointment but does not confer adjudicative authority unless and until the person is appointed to a Tribunal for a specific matter.

4. The Institution shall maintain and periodically update the Roster and shall establish procedures for the evaluation, advancement, or removal of members between tiers based on experience, training, and demonstrated competence.

Rule 11 — Admission to the Roster

1. A person may be admitted to the AITAR Roster if that person:

(a) demonstrates competence in law, administrative law, dispute resolution, or a relevant field of expertise;

(b) successfully completes the AITAR Tribunal Admission Assessment prescribed by the Institution; and

(c) undertakes to comply with the ethical and procedural obligations established by these Rules.

2. The AITAR Tribunal Admission Assessment shall certify that the candidate possesses sufficient mastery of: the Constitution of Kenya, 2010; the Fair Administrative Action Act; the Arbitration Act; relevant substantive law applicable to the category of disputes for which they are being admitted; and the institutional framework established by AITAR.

3. For Tier A admission, a candidate shall hold at minimum a recognised qualification in law, dispute resolution, or a related field, or demonstrate equivalent practical competence acceptable to the Institution.
4. For Tier B admission, a candidate shall additionally demonstrate substantial adjudicative or arbitration experience and advanced knowledge of constitutional and administrative law.
5. Admission to the Roster shall be recorded in the institutional register and shall be undertaken with due regard to the constitutional values of integrity, independence, and competence.

Rule 12 — Oath of Integrity

1. Every person admitted to the Roster shall, before being eligible for appointment to a Tribunal, take and subscribe to an Oath of Integrity administered by the Institution.
2. The Oath shall affirm that the member will:
   (a) uphold and defend the Constitution of Kenya;
   (b) act independently and impartially;
   (c) avoid conflicts of interest;
   (d) perform adjudicative duties faithfully and diligently; and
   (e) respect the principles of fairness, transparency, and integrity in all proceedings.
3. The signed Oath shall be retained in the official records of the Institution.

Rule 13 — Appointment of Tribunal Members

1. A Tribunal shall be constituted through the issuance of an Appointment Instrument by the Institution.
2. The Appointment Instrument shall specify the name of the appointed adjudicator or arbitrator, the matter to which the appointment relates, and the date on which the appointment takes effect.
3. Appointment in adjudication matters shall ordinarily be made through a random, sequential rotation system from the eligible tier of the General Panel to ensure impartiality and prevent interference. Any deviation from the rotation, including for specialised expertise needs or technical complexity, shall be justified in a written Appointment Memorandum accessible to the parties and shall be approved by the Chief Adjudicator and President of Independent Tribunals or, where the offices are held concurrently, by the Chief Executive in that combined capacity.
4. Appointment in arbitration matters shall respect party autonomy. The parties may jointly nominate an arbitrator from the General Panel. Where parties fail to agree on an arbitrator within fourteen (14) days of the Request for Arbitration, the Institution shall appoint through the rotation system.
5. A Tribunal shall consist of a sole adjudicator or arbitrator, unless the Institution, having regard to the complexity, value, and circumstances of the specific dispute, determines that a panel of three members is proportionate and justified. In making that determination, the Institution shall have regard in particular to whether:

(a) the matter involves a dispute value exceeding KES 20 million;

(b) there are four or more claimants or respondents;

(c) a party has requested a panel, with reasons; or

(d) the Institution considers on its own assessment that the complexity of the matter warrants a panel.

The circumstances in paragraphs (a) to (d) are relevant considerations, not mandatory triggers. A sole adjudicator or arbitrator is the default in all cases, and a panel shall be constituted only where the Institution is satisfied that the additional cost to the parties is proportionate to the nature and demands of the specific dispute, consistent with the obligation to ensure access to justice under Article 48 of the Constitution.

6. Where a panel of three is constituted, the Institution shall designate a presiding member.

7. Before assuming appointment, a Tribunal member shall disclose any circumstances that may give rise to justifiable doubts as to independence or impartiality and shall execute the Conflict of Interest and Independence Disclosure Form prescribed in FOURTH SCHEDULE.

8. No person who participated in the proceedings in a matter — whether as adjudicator, arbitrator, or in any other capacity — shall be eligible for appointment to the SRT in respect of the same matter.

9. The Institution shall publish a notice of appointment in the AITAR Digital Gazette as institutional notice of the member's authority for the purposes of the assigned matter.

Rule 14 — Professional Accountability and Quality Assurance

1. To uphold constitutional standards of lawful administrative action under Article 47, reasoned decision-making under Article 47(2), and fair and expeditious dispute resolution under Article 159(2)(b), the Institution shall maintain a structured professional quality assurance mechanism applicable to all appointed Tribunal members, whether exercising adjudicative or arbitral functions.

2. Upon issuance of a Determination or Award, eighty percent (80%) of the professional adjudicative fee shall be released to the Tribunal member. The remaining twenty percent (20%) shall be retained in the AQAF as the Quality Assurance Retention pending the conditions set out in SIXTH SCHEDULE.

3. The Quality Assurance Retention constitutes deferred professional remuneration and shall not be treated as a penalty or disciplinary fine.

4. Before any retained portion is adjusted or withheld following a review finding, the Tribunal member shall be notified in writing and given a reasonable opportunity to respond. Any adjustment shall be recorded for institutional accountability purposes.

5. Repeated findings of material procedural defect within a defined period may trigger structured professional review, mentoring or retraining requirements, or temporary suspension from the Roster following fair administrative process.

6. The pre-decision notice and representations obligations under sections 4(3)(a) and (b) of the Fair Administrative Action Act constitute an integral component of the quality assurance architecture established by this Rule. Those obligations require the Tribunal, before issuing

any Determination or Award that is likely to adversely affect the rights or fundamental freedoms of a party, to give that party adequate prior written notice of the nature and purpose of the proposed action and a reasonable opportunity to make representations. This pre-decision process:

(a) is a self-correction mechanism — it requires the Tribunal to articulate its proposed action before making it, creating the opportunity to identify and correct legal, factual, or procedural errors before they are embedded in a final decision;

(b) is a party-correction mechanism — it gives the affected party the opportunity to place before the Tribunal, while it can still change course, any material that the Tribunal may not have considered;

(c) creates a documentary record of compliance that disciplines the quality of the final decision and makes subsequent SRT review and judicial supervision more efficient; and

(d) constitutes a procedural protection that is materially higher than that available in ordinary court proceedings or arbitration conducted outside these Rules, in which no equivalent pre-decision notice obligation is imposed on the decision-maker. The proceedings before a Tribunal under these Rules therefore afford parties constitutional rights under Article 47, as operationalised through sections 4(3)(a) and (b) of the Fair Administrative Action Act, that are not available in ordinary litigation or arbitration.

7. An arbitral award challenged for non-compliance with sections 4(3)(a) and (b) of the Fair Administrative Action Act cannot invoke section 4(6) of that Act as a defence on the basis that the Arbitration Act's procedure generally conforms to the principles set out in Article 47 of the Constitution. Section 4(6) permits a different procedure only where it positively conforms to all of Article 47's requirements — it does not permit dispensation with a mandatory pre-decision notice obligation merely because the alternative procedure is silent on that obligation. The Arbitration Act does not empower an arbitrator to dispense with pre-decision notice obligations, and does not contain a provision establishing that its adversarial procedure satisfies sections 4(3)(a) and (b). Non-compliance with sections 4(3)(a) and (b) in proceedings under these Rules constitutes a ground for review under Rule 55(c) and section 7(2)(c) of the Fair Administrative Action Act, and a section 4(6) plea does not displace that ground.

8. The application of sections 4(3)(a) and (b) of the Fair Administrative Action Act to Arbitration Highway proceedings under these Rules is not an importation of administrative law procedure into arbitration by analogy or by institutional policy. It applies because all proceedings before a Tribunal constituted under these Rules — whether on the Adjudication Highway or the Arbitration Highway — constitute administrative action within the meaning of the Fair Administrative Action Act. The Tribunal is an independent and impartial tribunal within the meaning of Article 50(1) of the Constitution, exercising authority delegated under Article 1(3)(c). Its acts are therefore administrative acts subject to the constitutional and statutory framework applicable to administrative action, including the procedural requirements of sections 4(3)(a) and (b). The Arbitration Highway is a consensual pathway to that same constitutionally authorised administrative forum — it is not a private arbitration conducted outside the constitutional framework, and it does not attract a different standard of procedural protection from the Adjudication Highway.

Rule 15 — Transitional Digital and Documentary Framework

1. Until such time as fully integrated electronic systems are operational and certified by the Institution as stable and reliable, all proceedings, filings, determinations and awards, certifications, and verification processes under these Rules may be conducted in electronic form, physical form, or a combination of both. Both formats shall have equal procedural validity.
2. No proceeding shall be invalidated solely by reason of reliance on a non-electronic format.
3. No party shall be denied access to proceedings on the sole ground that they lack access to electronic systems. The Institution shall ensure reasonable accommodation for persons who require physical filing or communication methods.

PART III — COMMENCEMENT OF PROCEEDINGS

This Part governs the initiation of proceedings, notices, communications, verification of standing, and the joinder of Institutional Interested Parties.

Rule 16 — Notices, Communications and Time Limits

1. All communications between a party and the Institution shall be made through the Chief Executive, who acts as Secretary to the Board and as the operational interface between parties and the Institution.
2. Following constitution of the Tribunal, all communications between a party and the Tribunal shall continue through the Chief Executive, unless the Tribunal directs that communications be made directly between it and the parties, in which case copies shall simultaneously be sent to the Chief Executive.
3. Any communication required to be in writing shall be delivered by registered post, courier, email, or any other electronic means providing a record of transmission.
4. A notice or communication shall be considered received on the date of physical delivery or, in the case of electronic transmission, on the date of transmission if transmitted on a business day, or the next business day if transmitted outside business hours.
5. In calculating a period of time: time begins to run on the day following the day of receipt; if the last day of the period is an official public holiday, the period extends to the next business day; and official public holidays occurring during the period are included in the calculation.
6. The Institution shall, within three (3) days of receipt of any filing, verify that the filing is complete and the petitioner or claimant has the requisite standing, and shall notify the parties accordingly.
7. The Tribunal may, save where otherwise provided by law, extend or abridge any time limit under these Rules, provided that:

   (a) any extension is granted only for good reason, is the minimum necessary in the circumstances, and is exercised with due regard to the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution;

   (b) in proceedings for the review of an administrative action under the Fair Administrative Action Act — whether conducted on the Adjudication Highway or the Arbitration Highway — the Tribunal shall not exercise the extension power in a manner that causes the proceedings to exceed ninety days from the date of filing of the application, as required by section 8 of that Act; and

   (c) in all other proceedings, where no statutory time limit applies, the Tribunal shall treat the constitutional requirement of expeditious determination under Article 47(1) as the governing standard, shall not grant any extension that is inconsistent with that requirement, and shall record its reasons for any extension, which shall be communicated to the parties without delay.

Rule 17 — Initiation of Adjudication Proceedings (Petition)

1. Adjudication proceedings under these Rules shall be initiated by filing a Petition for

Adjudicative Settlement through the AITAR Case Documentation System.

2. The Petition shall contain:

   (a) the name, address, and contact details of each party and of the petitioner's representative;

   (b) a statement describing the nature and circumstances of the dispute and specifying the relief sought;

   (c) disclosure of any prior or pending proceedings relating to the same dispute, sworn on oath;

   (d) the language of proceedings as agreed or proposed;

   (e) confirmation that copies of the Petition and all supporting documents have been served on all other parties; and

   (f) payment of the administrative levy prescribed by the Institution.

3. The Petition shall be accompanied by a sworn declaration verifying the information provided.

4. Upon filing, the Institution shall assign a unique Registry Case Identifier, which shall serve as the immutable digital identity of the proceeding in the ACDS. Prior to full digital operation of the ACDS, the Chief Executive shall assign a manual case reference number in accordance with Rule 17.6(a), which shall serve as the Registry Case Identifier for all purposes until migrated into the ACDS upon digital activation.

5. The date of commencement of the adjudication is the date on which a complete Petition is received by the Chief Executive. The Institution shall notify the parties of commencement.

6. Prior to the full digital operation of the AITAR Case Documentation System as certified by the Institution under Rule 15.1, a Petition for Adjudicative Settlement may be filed by delivering it, together with all supporting documents and the prescribed administrative levy, to the Chief Executive at the Institution's registered address by hand delivery, registered post, or verified electronic means such as email. Upon receipt of a complete Petition under this Rule, the Chief Executive shall:

   (a) assign a unique sequential case reference number as the manual Registry Case Identifier for the proceeding, which shall serve as the immutable identity of the matter in the Institution's physical case register and shall be migrated into the ACDS as the permanent Registry Case Identifier upon digital activation;

   (b) issue written acknowledgment of receipt and the assigned case reference to the petitioner within one (1) business day, consistent with the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution;

   (c) discharge the standing verification obligation under Rule 8.3(c) by written notice to the petitioner within three (3) days of receipt, consistent with the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution; and

   (d) discharge the publication obligation under Rule 20.3 by such means of institutional notice as are available and practicable, including publication in the AITAR Digital Gazette and, during the transitional period referred to in Rule 64.3, in one newspaper of national circulation, with a record of the notice and its means kept in the physical case register.

Rule 18 — Request for Arbitration

1. A party wishing to commence arbitration under these Rules shall file a Request for Arbitration with the Chief Executive.
2. The Request for Arbitration shall contain:
   (a) the name, address, and contact details of each party and of the claimant's representative;
   (b) a copy of the arbitration agreement or empowering provision on which the claimant relies, or an allegation of the existence of an arbitration agreement or a reference to the written law or constitutional provision providing for arbitration;
   (c) a statement describing the nature and circumstances of the dispute and specifying the relief sought;
   (d) the language of arbitration as agreed or proposed;
   (e) where the arbitration agreement provides for nomination of arbitrators by the parties, the name, address, nationality, and qualifications of the claimant's nominee;
   (f) confirmation that copies of the Request and all supporting documents have been served on all other parties; and
   (g) payment of the non-refundable registration fee prescribed in the First Schedule.
3. The date of commencement of the arbitration is the date on which a complete Request for Arbitration is received by the Chief Executive. A Request is complete when all requirements of Rule 18.2 are met. The Chief Executive shall notify the parties of commencement.
4. A Request that does not meet the requirements of Rule 18.2 shall not be valid, and the arbitration shall be considered not commenced until the requirements are met.

Rule 19 — Response to Petition or Request for Arbitration

1. The respondent shall send to the Chief Executive a written Response within thirty days of service of the Petition or Request, or such shorter period as the Institution may fix having regard to the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution and the nature and urgency of the proceedings.
2. The Response shall contain: an admission or denial of the claims stated in the Petition or Request; any counterclaims, with a statement of their nature and circumstances; comments on matters relating to the conduct of the proceedings; the respondent's nominee for arbitrator where applicable; and confirmation of service on all other parties.
3. Failure to send a Response shall not prevent a respondent from denying any claim or advancing a counterclaim. Failure to nominate an arbitrator within the prescribed period shall constitute an irrevocable waiver of the opportunity to nominate.

Rule 20 — Notification, Joinder, and Right to be Heard

1. In accordance with Article 47 of the Constitution and the Fair Administrative Action Act, every person whose rights or fundamental freedoms are likely to be affected by a Determination or Award has the right to be notified of the proceedings and the right to be heard.

2. Within seven (7) days of the appointment of the Tribunal, the petitioner or claimant shall serve a copy of the Petition or Request, the Notice of Appointment, and the Registry Case Identifier on all known respondents and interested parties. Service may be effected through physical delivery, registered mail, or verified electronic means.

3. The Institution shall publish a Notice of Proceedings in the AITAR Digital Gazette as institutional notice, inviting any person claiming an interest in the matter to file a Notice of Participation within thirty (30) days from the date of publication. During the transitional period referred to in Rule 64.3, the Institution shall additionally publish the Notice of Proceedings in one newspaper of national circulation on the same day as Digital Gazette publication.

4. The Tribunal may, at any stage of the proceedings, order the joinder of any person whose presence is necessary for the complete and effective determination of the dispute.

5. Every party has the right to be represented by a person of their choosing in proceedings before a Tribunal constituted under these Rules. In non-criminal proceedings, the Constitution does not limit the category of representative a person may choose; any limitation on that choice would require contemplation in the Constitution under Article 19(3)(c) of the Constitution, and would also require justification under Article 24 of the Constitution, and no such limitation is imposed by these Rules. In adjudication proceedings under the Adjudication Highway, the right to representation is grounded in section 4(3)(e) of the Fair Administrative Action Act. In arbitration proceedings under the Arbitration Highway, it is grounded in section 25(5) of the Arbitration Act, which provides that parties may appear in person or be represented by any person of their choice. The Notice of Proceedings shall expressly inform all parties of their right to representation and their freedom of choice as to representative, without restriction as to category.

Rule 21 — Joinder of Institutional Interested Parties

1. In every proceeding under these Rules where the Determination or Award, if made, would require action by a bank, financial institution, land registry, company registrar, insurance company, cooperative society, mobile money platform, or other body to give effect to the relief sought, the Tribunal shall, at the earliest practicable stage and in any event before issuance of the Determination or Award, identify all such institutions whose compliance will be required.

2. Every institution identified under sub-rule (1) shall be joined as an Institutional Interested Party and served with:

   (a) a Notice of Institutional Interested Party Status, in the form prescribed at Form A34 of FOURTH SCHEDULE;

   (b) a copy of the Petition or Request and any interim orders; and

   (c) the Registry Case Identifier.

3. Service under sub-rule (2) constitutes formal pre-decision notice under section 4(3)(a) of the Fair Administrative Action Act. Each Institutional Interested Party shall be given a reasonable opportunity to make representations on any matter within its institutional competence, including the form in which a Determination or Award should be presented to facilitate implementation under its governing statute.

4. An Institutional Interested Party that receives notice under this Rule and does not file

representations within the period directed by the Tribunal shall be deemed to have waived objection to the form of the Determination or Award and to have accepted, for institutional compliance purposes, that the certified Determination or Award constitutes lawful authority for the implementation of the relief directed, subject to its governing statute and applicable written law.

5. Upon issuance and certification of a Determination or Award, every Institutional Interested Party that received pre-decision notice under this Rule is bound to give effect to the Determination or Award in accordance with its governing statute and applicable written law.

6. The Registry Case Identifier and Sovereign Hash shall serve as the verification instrument for any Institutional Interested Party required to confirm the authenticity of a certified Determination or Award before giving effect to it.

7. Nothing in this Rule shall be construed as requiring an Institutional Interested Party to act in contravention of its governing statute or any mandatory written law. Where an Institutional Interested Party raises a compliance concern under this Rule that cannot be resolved through representations, the Tribunal shall address the concern in the Determination or Award or in supplemental directions, and the party may seek enforcement through the appropriate legal pathway under Rule 59.5.

8. Where an Institutional Interested Party served under sub-rule (2) fails to file representations within the directed window, the Chief Executive shall issue a Summary Certificate of Compliance. The certificate shall bind the institution to execute the relief within fourteen (14) days of service, failing which the institution shall be directly cited as an execution-debtor under Order 22 as incorporated by FAA Rule 37.

PART IV — THE ADJUDICATION HIGHWAY (PROCEDURE)

This Part governs the conduct of adjudicative proceedings before a Tribunal constituted under these Rules.

Sub-Part A — Case Management

Rule 22 — Preliminary Case Management Meeting

1. Within fourteen (14) days of the expiry of the notice period provided under Rule 20.3, the Tribunal shall convene a Preliminary Case Management Meeting (CMM), which may be held via video-link, telephone, or physical attendance as the Tribunal deems most efficient.
2. At the CMM, the Tribunal shall:
   (a) confirm jurisdiction and address any parallel proceedings;
   (b) identify the issues for determination;
   (c) set timelines for the filing of evidence and submissions;
   (d) determine whether the matter is suitable for Consent Determination or requires a full hearing; and
   (e) determine the mode and timetable for the conduct of the proceedings.
3. The Tribunal shall issue a Procedural Directions Order following the CMM recording all decisions and timelines. The Procedural Directions Order shall include directions for the exchange of documents and evidence, specifying that:
   (a) all parties shall, within the period directed by the Tribunal, exchange copies of all documents and evidence they intend to rely upon, consistent with section 4(3)(g) of the Fair Administrative Action Act;
   (b) the Tribunal shall not rely on any document or piece of evidence that has not been disclosed to all parties, except where good cause is shown and an opportunity to respond is given; and
   (c) any party seeking to introduce additional documents after the exchange deadline shall apply to the Tribunal for leave.
4. Where a party fails to comply with the Procedural Directions Order or any other direction of the Tribunal, the Tribunal may: (a) strike out any pleading or document filed in breach of the direction; (b) proceed to determine the matter on the basis of the available evidence; (c) draw adverse inferences from the non-compliance; or (d) award costs against the party in default.

Rule 23 — Preliminary Objections

1. A party may raise objections relating to the jurisdiction of the Tribunal, admissibility of the Petition, or procedural irregularities.
2. The Tribunal may determine such objections as a preliminary issue or together with the merits of the case.

3. Objections to the jurisdiction of the Tribunal should be raised at the earliest opportunity. The Tribunal may summarily dismiss preliminary objections that it considers manifestly without merit.

4. The Tribunal shall ensure that preliminary objections do not unnecessarily delay the resolution of the dispute.

Sub-Part B — Settlement and Consent Determinations

Rule 24 — Settlement and Consent Determinations

1. At any stage of the proceedings, the Tribunal shall encourage the parties to reach a voluntary settlement. The Tribunal may, with the consent of the parties, adjourn proceedings for a period not exceeding twenty-one (21) days to facilitate private negotiations or mediation.

2. Where the parties reach an agreement during proceedings, the terms shall be reduced to writing in a Consent Determination Record signed by all participating parties or their authorised representatives.

3. Before adopting a settlement reached during proceedings, the Tribunal shall independently verify that the agreement does not violate applicable law, is not manifestly unjust, and does not operate to the prejudice of any party who was not part of the negotiations.

4. A Consent Determination shall have the same legal force, finality, and effect as a Determination rendered after a full hearing.

5. Where parties agree on the determination of some issues but remain in dispute over others, the Tribunal may record a Partial Consent Determination and proceed to adjudicate the remaining contested issues.

6. A Consent Determination is final and binding. No party who signed the settlement may apply for internal review except on the strict grounds of documented fraud, coercion, or fundamental mistake of fact. Any such challenge shall be filed within forty-two (42) days of the date of the order.

7. **Settlement Application — Stand-alone Pathway**. Parties who have reached a settlement of a dispute — whether before commencing formal proceedings or at any stage after commencement — may jointly file a Settlement Application with the Institution using Form A33, invoking this sub-rule to obtain a Consent Determination without the need for a contested hearing. A Settlement Application filed before the commencement of any prior proceedings under these Rules constitutes a standalone invocation of the Institution's administrative jurisdiction to record and certify a voluntary settlement as a Consent Determination carrying the full legal force of a Determination under these Rules. A Settlement Application filed after proceedings have commenced shall stay those proceedings pending the outcome of the application.

8. The Settlement Application shall include:

   (a) the identity and contact details of all parties;

   (b) a declaration by each party confirming voluntary participation and the absence of duress, undue influence, or material misrepresentation;

   (c) the complete terms of the settlement, setting out each obligation, payment, transfer, or

other action agreed;

(d) where the settlement requires action by a bank, registry, or other institution, specific institutional instructions for each asset or obligation requiring institutional action; and

(e) payment of the administrative levy prescribed by the Institution.

9. Upon receipt of a valid Settlement Application, the Institution shall:

(a) assign a Registry Case Identifier;

(b) appoint a Tribunal member from the Roster within five (5) days; and

(c) publish a Notice of Proceedings in the AITAR Digital Gazette, and during the transitional period referred to in Rule 64.3 additionally in one newspaper of national circulation, inviting any person claiming an interest in the matter to file a Notice of Participation within fourteen (14) days.

10. The appointed Tribunal member shall, within fourteen (14) days of the close of the notification window under Rule 24.9(c), conduct a settlement verification review. The Tribunal shall:

(a) verify that the settlement does not violate applicable law;

(b) verify that the settlement is not manifestly unjust or unconscionable;

(c) satisfy itself that all parties participated voluntarily;

(d) consider any representations filed by interested parties during the notification window; and

(e) where satisfied, issue a Consent Determination adopting the Settlement Agreement as a binding Determination of the Tribunal, formatted as a Registry-Ready instrument where institutional action is required.

11. A Consent Determination issued under Rule 24.10 carrying the Sovereign Hash shall be enforceable through all pathways established under Rules 33A, 33B, 33C, and 49A.

12. Where the Tribunal is not satisfied that the conditions in Rule 24.10 are met, the Tribunal shall issue a written notice to all parties identifying the deficiency and, where the deficiency is capable of remedy, inviting the parties to revise and resubmit within seven (7) days. Where the deficiency is not capable of remedy within the settlement framework, the Tribunal shall notify the parties accordingly, and the matter may proceed under the Adjudication Highway or Arbitration Highway as the parties elect. Any filing fees paid shall be credited against the fees for the subsequent proceedings.

13. A Consent Determination issued under this Rule shall include the same payment directions as provided in Rule 33(7), unless the parties agree in writing to an alternative arrangement that is approved by the Tribunal. The Tribunal shall not approve any arrangement that would impair ADR's ability to deduct withholding tax or the Quality Assurance Retention.

Sub-Part C — Hearings and Evidence

Rule 25 — Equality of Parties and Fair Hearing

1. The Tribunal shall treat all parties equally.
2. Each party has the right to attend proceedings in person or accompanied by a representative or expert of their choice, consistent with section 4(4)(a) of the Fair Administrative Action Act.
3. Each party shall be given a reasonable opportunity to present its case and to respond to evidence and submissions presented by another party.
4. Any party may, at any stage of the proceedings, request a reasonable adjournment where necessary to ensure a fair hearing, consistent with section 4(4)(d) of the Fair Administrative Action Act. The Tribunal shall not unreasonably refuse such a request.
5. Proceedings shall be conducted in a manner consistent with Articles 47 and 50(1) of the Constitution.

Rule 26 — Written Statements and Documents

1. Within fourteen days of the Procedural Directions Order, the claimant shall send to the Chief Executive a Statement of Case setting out in sufficient detail the facts and contentious issues of law relied upon, and the relief claimed.
2. Within fourteen days of receipt of the Statement of Case, the respondent shall send a Statement of Defence setting out the facts and contentions of law admitted or denied, the grounds for denial, and any counterclaims.
3. Within fourteen days of receipt of the Statement of Defence, the claimant shall send a Statement of Reply, including any defence to counterclaims.
4. Each statement shall be accompanied by copies of all essential documents on which the party relies that have not previously been submitted.
5. Where a party fails to submit a required statement within the prescribed time, the Tribunal may proceed with the determination and make an award.

Rule 27 — Hearings

1. Each party has the right to be heard orally on the merits unless the parties have agreed on a documents-only proceeding.
2. All meetings and hearings under these Rules, including those held electronically, shall be open to the public pursuant to Article 50(1) of the Constitution. Pursuant to Article 50(8), the Tribunal may exclude the press or other members of the public only where exclusion is necessary in a free and democratic society to protect witnesses or vulnerable persons, morality, public order, or national security, and any such exclusion shall be recorded with written reasons.
3. The Tribunal shall fix the date, time, and place of any hearings and shall give the parties reasonable notice. Hearings may be conducted by video-conference, telephone, or other electronic means, with the agreement of the parties or at the Tribunal's discretion.

4. The Tribunal may, in advance of a hearing, submit to the parties a list of questions it wishes them to address with particular attention.

Rule 28 — Evidence and Inquisitorial Powers

1. In accordance with Article 159(2) of the Constitution, the Tribunal shall not be bound by undue regard to technicalities of procedure or the strict rules of evidence.
2. The Tribunal may admit any evidence it considers relevant and credible, including:
   (a) hearsay evidence, provided that where a Determination relies primarily on hearsay, the Tribunal shall state its reasons for finding such evidence reliable and necessary;
   (b) customary law and practice, received through oral testimony; and
   (c) electronic and digital evidence, including email correspondence, electronic records, and digital documents.
3. Where necessary for the fair and complete determination of a matter, the Tribunal may issue a written Production Direction requiring specified documents, records, or information from any person or body. Persistent refusal to cooperate without lawful justification may be recorded for supervisory referral under Article 165(6).
4. The Tribunal may utilise analytical tools, including artificial intelligence systems, to assist in the review of documents or records, provided that all such analysis is subjected to independent human verification by the Tribunal member and complies with the AITAR Data Protection and AI Governance Policy in SEVENTH SCHEDULE.

Rule 29 — Witnesses and Cross-Examination

1. Every witness giving evidence before the Tribunal shall enjoy the same privileges and immunities as witnesses appearing before a court.
2. The Tribunal may direct that any party or witness be examined on oath or affirmation and may administer or cause to be administered the necessary oath or affirmation.
3. Each party has the right to cross-examine any witness who gives evidence adverse to that party, consistent with section 4(3)(f) and section 4(4)(c) of the Fair Administrative Action Act. The Tribunal shall not rely on adverse witness evidence without affording the affected party a reasonable opportunity to cross-examine that witness.
4. The Tribunal may regulate the manner in which cross-examination is conducted to ensure it is fair, focused, and proportionate to the issues in dispute.

Rule 30 — Tribunal-Appointed Experts

1. Unless otherwise agreed by the parties in writing, the Tribunal may appoint one or more independent and impartial experts to report on specific issues. The Tribunal may require any party to provide the expert with relevant information or access to relevant documents, property, or sites for inspection.
2. Unless otherwise agreed, if a party so requests or the Tribunal considers it necessary, the expert shall participate in a hearing at which the parties may question the expert and present their own expert witnesses on the issues addressed in the report.

3. The fees and expenses of an expert appointed under this Rule shall be paid from the deposits under Rule 52 and shall form part of the costs of the proceedings.

Rule 31 — Failure of Party to Participate

1. Where a party fails to participate in the proceedings after proper notice has been given, the Tribunal may proceed with the determination of the matter.
2. The failure of a party to participate shall not of itself constitute an admission of the claims made by another party.
3. Where a party fails to participate after proper notice, the Tribunal may proceed to determine the matter on the basis of the evidence available, provided that it has satisfied itself that the notice requirements under Rule 20 have been complied with.

Sub-Part D — Determination

Rule 32 — Closing of Proceedings

1. The Tribunal shall declare proceedings closed when satisfied that the parties have had adequate opportunity to present their cases.
2. After proceedings have been declared closed, the Tribunal may admit additional submissions or evidence only where it considers such material necessary for the fair determination of the dispute.

Rule 33 — Determination

1. The Tribunal shall issue a reasoned written Determination within forty-two (42) days of the close of proceedings. Where exceptional circumstances require an extension, the Tribunal shall notify the parties in writing with reasons, and the extension shall not ordinarily exceed a further twenty-one (21) days.
2. The Determination shall:
   (a) summarise the background and history of the proceedings;
   (b) identify the issues for determination and state the findings of fact;
   (c) provide clear constitutional reasoning satisfying the requirements of Article 47(2) and the Fair Administrative Action Act;
   (d) set out the specific relief granted or denied; and
   (e) address costs where appropriate.
3. Prior notice of proposed adverse determination: Before issuing a Determination, the Tribunal shall, in respect of every party whose rights or fundamental freedoms are likely to be adversely affected by the proposed Determination, comply with the following requirements under section 4(3)(a) and (b) of the Fair Administrative Action Act, which are mandatory and apply regardless of whether the grounds of the proposed determination were raised or ventilated in the preceding proceedings:
   (a) give that party adequate prior written notice of the nature and purpose of the proposed adverse determination, consistent with section 4(3)(a) of the Act; and

(b) give that party a reasonable opportunity to make representations to the Tribunal on the proposed adverse determination before it is made, consistent with section 4(3)(b) of the Act.

This pre-decision procedural step is distinct from and additional to the inter partes process that precedes it. It constitutes a direct engagement between the affected party and the Tribunal on the Tribunal's own proposed action, and its omission shall constitute a ground for review under Rule 55(c) and section 7(2)(c) of the Fair Administrative Action Act.

4. The Determination shall be communicated to the parties through the ACDS. A selected version may be published in the AITAR Digital Gazette, subject to redaction of Sensitive Personal Data.

5. The full record of the Determination shall be maintained in the AITAR Permanent Registry for a period of no less than thirty (30) years.

6. The Determination shall contain a notice informing all parties of: (a) their right to apply for Internal Review within forty-two (42) days; (b) the manner of filing a review application; (c) the address of the Institution; (d) their right to apply for judicial review, subject to first exhausting internal remedies under Rule 54; and (e) their right to legal representation in any review proceedings.

7. The Determination shall include a specific order directing that:

(a) the parties (or the party against whom costs are awarded) shall pay to Aluochier Dispute Resolution (ADR) the following amounts:

i. the professional fee of the Tribunal member(s) as determined under the First Schedule;

ii. the administrative and institutional fees of ADR as prescribed;

iii. Value Added Tax (VAT) on the total of the above fees;

iv. any approved disbursements;

(b) payment shall be made within thirty (30) days of the date of the Certificate of Finality or as otherwise directed by the Tribunal;

(c) ADR is authorised to receive such payment, to deduct withholding tax at the applicable rate, to deduct the Quality Assurance Retention (20% of the Tribunal member's fee), and to pay the net balance to the Tribunal member;

(d) ADR shall provide the Tribunal member with a copy of the payment receipt and the withholding tax certificate issued by ADR;

(e) where a party fails to pay within the prescribed period, ADR may enforce the Determination as a debt in accordance with Rule 59.

Rule 33A — Summary Execution Mandate and Extra-Judicial Distress

1. Upon the issuance of a Certificate of Finality under Rule 58, a Determination rendered on the Adjudication Highway shall constitute a self-executing administrative directive and prima facie lawful authority for extra-judicial execution under Section 2(2)(c) and (e) of the Auctioneers Act (Cap 526) and Rule 5(1) of the Auctioneers Rules (1997).

2. The enforcing party may issue a formal Letter of Instruction in Sale Form 1 (Second

Schedule, Auctioneers Rules) to a Class "B" Licensed Auctioneer licensed under Section 10 of the Auctioneers Act, accompanied by:

a) A certified copy of the Determination;
b) The Certificate of Finality carrying the Sovereign Hash; and
c) Proof of service of the Section 4(3) FAAA Pre-Decision Notice on the defaulting party.

3. Pursuant to Rule 5(1)(b) of the Auctioneers Rules, the Letter of Instruction shall remain valid and executable unless an objecting party obtains a conservatory stay order from the High Court under Article 165(6) of the Constitution.
4. Where resistance is reasonably anticipated or entry is obstructed, the auctioneer may file a miscellaneous application for police protection and escort pursuant to Rule 9 of the Auctioneers Rules.

Rule 33B — Direct Administrative Execution under Order 22 CPR and Civil Contempt

1. Pursuant to Rule 2 of the Fair Administrative Action Rules, 2024, wherein "Court" is defined to include a tribunal, and in exercise of sovereign adjudicative authority delegated under Articles 1(3)(c) and 159 of the Constitution, the Tribunal shall have full power under Rule 37 of the Fair Administrative Action Rules, 2024 to apply Order 22 of the Civil Procedure Rules directly to enforce its Determinations.

2. An application for direct administrative execution by a decree-holder accompanied by a Certificate of Finality shall satisfy the requirements of Section 4(3) of the Fair Administrative Action Act:

   (a) The decree-holder shall file and serve upon the judgment-debtor or non-compliant institution a Pre-Execution Notice to Show Cause in Form A36 (incorporating Order 22, Rule 18 CPR), granting a period of seven (7) days to demonstrate satisfaction of the Determination or show reasonable cause why execution should not issue;

   (b) Where the party or institution has previously been joined under Rule 21 and served with a Section 4(3) Pre-Decision Notice (Form A34) that warned of specific execution consequences upon default, the Tribunal may shorten the show-cause window or issue interlocutory preservation orders ex-parte pending the show-cause return date.

3. Upon satisfaction of sub-rule (2), the Tribunal may directly issue and enforce:

   (a) Prohibitory and attachment orders against bank accounts, mobile money wallets, or receivables in Form No. 6 of Appendix D to the Civil Procedure Rules;

   (b) Orders for the attachment and sale of movable or immovable property under Order 22, Rules 48 to 54;

   (c) Charging orders on shares or securities held in commercial entities; or

   (d) Mandatory implementation orders directed to joined Institutional Interested Parties.

4. Native Civil Contempt Proceedings:

   (a) Civil contempt proceedings under these Rules constitute civil execution remedies directed at securing compliance with administrative action under Article 47(1) and civil decrees under Sections 38 and 51 of the Civil Procedure Act (Cap 21), and do not constitute criminal proceedings under Article 50(2) of the Constitution;

(b) Pursuant to Section 84(2) of the Civil Procedure Act, the Tribunal possesses inherent and statutory jurisdiction to initiate, hear, and determine civil contempt proceedings against any party, public officer, banking official, or corporate director who wilfully refuses, neglects, or obstructs compliance with a certified Determination or direct execution order;

(c) The Tribunal may, upon application or on its own motion, issue a Contempt Notice to Appear and Show Cause in Form A37 requiring the alleged contemner to appear within seven (7) days;

(d) Upon a finding of wilful disobedience, the Tribunal may impose civil coercive sanctions, including:

i. An order directing the contemner, or the non-compliant institution jointly and severally, to pay to the decree-holder:

A. Compensatory damages assessed on a full indemnity basis for all losses, wasted expenditures, and delays caused by the non-compliance;

B. Liquidated per diem coercive delay damages running daily until the Determination is satisfied in full; and

C. All legal and ancillary costs incurred on an indemnity basis, precluding any defence that the decree-holder was under an obligation to mitigate or reduce such expenditures;

ii. An order for the attachment and sale of the contemner's personal property under Order 22 of the Civil Procedure Rules; or

iii. A Warrant of Committal to Civil Jail for a period not exceeding six (6) months pursuant to Section 51 of the Civil Procedure Act and Order 22, Rule 7 of the Civil Procedure Rules.

(e) A civil committal warrant issued under paragraph (d)(iii) shall be executed by a Class "B" Licensed Auctioneer or designated officer, with mandatory police protection pursuant to Rule 9 of the Auctioneers Rules and Section 84(2) of the Civil Procedure Act.

5. Criminal contempt involving open disruption of proceedings, physical threats, or scandalising of the Tribunal remains subject to referral to the Director of Public Prosecutions or the High Court under Section 121 of the Penal Code.

Rule 33C — Summary Ministerial Court Registration and Warrant Adoption

1. As an alternative or cumulative pathway to Rules 33A and 33B, a party may lodge the Certificate of Finality carrying the Sovereign Hash with the Registrar of the High Court or Subordinate Court of competent jurisdiction under Rule 37 of the Fair Administrative Action Rules, 2024.
2. Pursuant to Sections 1A, 1B, and 38(f) of the Civil Procedure Act (Cap 21) and Section 7(1) of the Sixth Schedule to the Constitution:

a) The lodging of the Certificate of Finality shall operate as a purely ministerial, non-adjudicative entry;

b) An execution warrant under Order 22 of the Civil Procedure Rules shall issue ex-parte within seven (7) days of filing; and

c) Pursuant to Sections 7 and 34 of the Civil Procedure Act, the executing court shall not re-examine or re-litigate the underlying merits of the Determination, confining its inquiry strictly to the fact of default.

Rule 34 — Request for Reasons

1. Any party who considers the reasons given in the Determination insufficient to enable an application for internal review or judicial review may, within fourteen (14) days of receipt of the Determination, file a written Request for Reasons with the Chief Executive, copied to all other parties.
2. Upon receipt of a valid Request for Reasons, the Tribunal shall furnish fuller written reasons to all parties within thirty (30) days, consistent with section 6(3) of the Fair Administrative Action Act.
3. Failure by the Tribunal to furnish reasons within the thirty-day period shall, in any subsequent review or judicial review proceedings and in the absence of proof to the contrary, be presumed to mean the Determination was made without good reason, consistent with section 6(4) of the Fair Administrative Action Act.
4. Where furnishing complete reasons would require disclosure of Sensitive Personal Data or information protected by applicable law, the Tribunal may furnish appropriately redacted reasons and shall inform the requesting party in writing of the departure and the basis for it, consistent with section 6(5) of the Fair Administrative Action Act.

Rule 35 — Correction and Clarification (The Slip Rule)

1. The Tribunal may, at any time, correct clerical, arithmetical, or typographical errors in a Determination to ensure the document accurately reflects the Tribunal's intent. Such corrections do not constitute a re-opening of the merits.
2. The Tribunal may, on its own motion within fourteen (14) days of issuing a Determination, issue a Correction Notice to fix an obvious slip or omission.
3. A party may, within seven (7) days of service of the Determination, apply for a correction. The Tribunal shall consider the application and, if satisfied, shall issue a Correction Notice within fourteen (14) days.
4. A Correction Notice, once issued, shall form part of the Determination and shall be communicated to all parties and the Registry.

PART V — THE ARBITRATION HIGHWAY (PROCEDURE)

This Part governs arbitration proceedings conducted under these Rules pursuant to a valid arbitration agreement. Proceedings under this Part shall be conducted in accordance with the Arbitration Act, the Fair Administrative Action Act as applicable, and the procedural framework established in these Rules.

Sub-Part A — Commencement and Constitution

Rule 36 — Arbitration Agreement and Activation

1. A dispute may be resolved through arbitration under this Part, provided there is a valid arbitration agreement between the parties.
2. An arbitration agreement may be:
   (a) contractual: a clause in a written contract expressing the parties' pre-dispute intent to resolve disputes by arbitration, which shall constitute a valid basis for Arbitration Highway proceedings only upon the occurrence of a dispute and the affirmation of that choice by the invoking party — whether by commencing arbitration, by participating in arbitration without objection, or by written confirmation — in exercise of the right of forum selection under Article 50(1) of the Constitution;
   (b) a Submission Agreement: a written agreement by all parties to resolve a specific dispute via arbitration; or
   (c) an Institutional Election: a joint decision by parties in pending adjudication proceedings to transition to arbitration, which shall stay any pending adjudication on the same dispute.
3. The right of forum selection under Article 50(1) of the Constitution is personal, inherent, and attaches upon the occurrence of a dispute. No arbitration agreement, whether pre-dispute or otherwise, shall operate to limit or pre-empt that right. In particular:
   (a) a pre-dispute arbitration clause in a contract shall not bind a party who, upon the occurrence of a dispute, elects to approach a court of competent jurisdiction in exercise of the Article 50(1) right of forum selection. Such a court election is valid in law and cannot be precluded by the pre-dispute clause, because that clause is not contemplated in this Constitution under Article 19(3)(c) of the Constitution and therefore cannot limit a right in the Bill of Rights, and any such limitation would in any event require justification under Article 24; any provision in a contract purporting to bind a party to arbitration in advance of any dispute arising, so as to override a subsequent court election, is inconsistent with the Constitution and void under Article 2(4) to the extent of that inconsistency;
   (b) a party who, upon the occurrence of a dispute, elects arbitration — whether under a pre-existing contractual clause or a new agreement — does so in valid exercise of the Article 50(1) right of forum selection; the pre-existing clause in such a case amounts to an advance expression of preference that the party is affirming in the context of an actual dispute; and
   (c) nothing in this Rule affects the binding force of a Submission Agreement under Rule

36.2(b) or an Institutional Election under Rule 36.2(c), both of which are made in the context of an existing dispute and constitute direct exercises of the Article 50(1) right at the point at which that right has fully attached.

4. An arbitration clause forming part of a contract shall be treated as an arbitration agreement independent of the other terms of that contract. A decision that the contract is null and void shall not, by operation of law, invalidate the arbitration clause.

5. Nothing in these Rules prevents a party from voluntarily honouring a pre-dispute arbitration clause by electing arbitration upon the occurrence of a dispute. These Rules do not prohibit pre-dispute arbitration clauses or render them void in their entirety. Rule 36.3 operates in the specific circumstance where a party who held such a clause elects, upon the occurrence of a dispute, to exercise their Article 50(1) right to approach a court of competent jurisdiction instead. In that circumstance, section 6 of the Arbitration Act, which gives a court a discretion to stay proceedings in favour of arbitration, falls to be construed and applied consistently with the constitutional right of forum selection under Article 50(1). Section 6 confers a discretion on the court — it does not create an obligation to stay in every case, and it cannot be construed to compel a party to arbitrate in circumstances where the Constitution recognises a personal, inherent right of forum selection that attaches upon the occurrence of a dispute. The court's discretion under section 6 is therefore a residual jurisdiction to be exercised with full regard to Article 50(1) and the constitutional weight of the party's post-dispute forum election.

6. Arbitration proceedings shall be initiated by filing a Request for Arbitration through the ACDS in accordance with Rule 18. The date of filing shall be deemed the date of commencement for the purposes of any limitation period.

Rule 37 — Constitution of the Arbitral Tribunal

1. A dispute shall be decided by a sole arbitrator unless the parties agree on three arbitrators or the Institution determines that the nature of the dispute warrants a three-member Tribunal.

2. Where a sole arbitrator is to be appointed, the parties may jointly nominate the arbitrator within fifteen days of commencement. Failing such nomination, the Institution shall appoint.

3. Where three arbitrators are to be appointed, each party shall nominate one arbitrator in the Request and Response respectively. The presiding arbitrator shall be appointed by the Institution unless the parties have agreed on another procedure. Where any party fails to nominate within fifteen days, the Institution shall appoint.

4. The Institution shall appoint arbitrators with due regard to: the nature of the dispute; the nationality, location, and languages of the parties; the number of parties; and any written criteria agreed by the parties. In international arbitrations, unless the parties otherwise agree, a sole arbitrator or presiding arbitrator shall not have the same nationality as any party.

5. The designation or nomination of any arbitrator by the parties is subject to confirmation by the Institution, upon which the appointment becomes effective.

6. The Arbitral Tribunal shall be constituted by issuance of an Appointment Instrument by the Institution. The decision of the Institution in respect of the appointment or confirmation of arbitrators shall be final as an administrative matter.

Rule 38 — Impartiality, Independence, and Disclosure

1. Every arbitrator shall be and remain impartial and independent of the parties throughout the proceedings, and shall not act as an advocate for any party.
2. Prior to appointment or confirmation, a prospective arbitrator shall: furnish the Chief Executive with a written résumé of professional positions; agree in writing on fees in accordance with the First Schedule; and sign a declaration that there are no circumstances known to the arbitrator likely to give rise to justifiable doubts as to impartiality or independence, other than circumstances disclosed in the declaration.
3. An arbitrator shall, as soon as practicable and in any event expeditiously, inform the Institution, the other arbitrators, and the parties of any circumstances that arise during the proceedings that may give rise to justifiable doubts as to impartiality or independence.

Rule 39 — Removal and Replacement of Arbitrators

1. A party may apply for the removal of an arbitrator where circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
2. A party intending to apply for removal shall, within fifteen days of the constitution of the Tribunal or of becoming aware of the relevant circumstances, send a written statement of reasons to the Supervisory Review Tribunal, the Institution, the Arbitral Tribunal, and all other parties. Where the nature and urgency of the proceedings requires a shorter period, consistent with the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution, the Institution may direct a shorter period of not less than seven days.
3. The other party may consent to removal, or the arbitrator may resign in writing. The Supervisory Review Tribunal shall decide removal applications within fifteen days of receipt of the written statement, or within such shorter period as the Institution may direct consistent with the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution.
4. Where an arbitrator is removed or resigns, a replacement shall be appointed by the Institution in accordance with Rule 39, applying the original nominating procedure. Upon appointment of a replacement, the Tribunal shall determine whether and to what extent prior proceedings shall be repeated.

Rule 40 — Expedited Formation

1. In exceptional circumstances or due to an emergency, a party may apply to the Institution for expedited formation of the Arbitral Tribunal. The application shall be in writing, copied to all parties, setting out the specific grounds of urgency.
2. The respondent may respond within five days (or two days in FAA Act arbitrations). The Chief Executive shall decide within three working days of the response and shall, on request, communicate reasons for the decision.
3. If the application is accepted, the Institution may reduce time limits for formation of the Tribunal, but shall not reduce any other time limit not related to formation.

Rule 41 — Majority Power to Continue Proceedings

1. Where an arbitrator on a three-member Tribunal refuses or persistently fails to participate in deliberations, the two remaining arbitrators may, upon written notice to the Institution, the parties, and the non-participating arbitrator, continue the arbitration and make any decision, ruling, or award despite the absence of the third arbitrator.

2. In determining whether to continue, the two arbitrators shall consider the stage the proceedings have reached, any explanation offered by the non-participating arbitrator, and any other relevant circumstances. Their reasons shall be stated in any award or decision made without the third arbitrator's participation.

Sub-Part B — Conduct of Arbitral Proceedings

Rule 42 — Conduct of Proceedings — General Duties

1. The Arbitral Tribunal shall at all times act fairly and impartially as between all parties, giving each party a reasonable opportunity to present its case and to deal with the case of the other party.

2. All arbitration proceedings under these Rules shall be conducted in a manner that satisfies the constitutional requirements of Article 47(1) of the Constitution — that is, in a manner that is expeditious, efficient, lawful, reasonable, and procedurally fair. These five requirements are free-standing and co-equal obligations. No single requirement is subsumed in any other. In particular, the expeditious requirement is a separate and independent obligation from the reasonable requirement, and any delay in the conduct or determination of proceedings that is inconsistent with the expeditious requirement constitutes a failure of constitutional obligation, regardless of whether the conduct of proceedings is otherwise reasonable.

3. The Arbitral Tribunal shall adopt procedures suitable to the circumstances of the dispute, avoiding unnecessary delay or expense, so as to provide a fair and efficient means for final resolution, consistent with the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution. In proceedings for the review of an administrative action under the Fair Administrative Action Act, the Tribunal shall have regard to the requirement under section 8 of that Act that such proceedings shall be determined within ninety days of filing the application. In all other arbitration proceedings, where no statutory time limit applies, the Tribunal shall treat the constitutional requirement of expeditious determination under Article 47(1) as the governing standard and shall not permit procedural steps or extensions that are inconsistent with that requirement.

4. The Arbitral Tribunal shall not rely upon any document, evidence, or material in making its Award that has not been disclosed to and made available to all parties with a reasonable opportunity to respond, consistent with section 4(3)(g) of the Fair Administrative Action Act. Any document, evidence, or material that the Tribunal proposes to rely upon that has not previously been disclosed shall be disclosed to all parties before the Award is made, and the parties shall be given a reasonable opportunity to make submissions on that material.

5. The parties shall do everything necessary for the fair, efficient, and expeditious conduct of the arbitration.

6. In the case of a three-member Tribunal, the presiding arbitrator may, with the prior consent

of the other two arbitrators, make procedural rulings alone.

7. Each party has the right to request a reasonable adjournment of arbitration proceedings where necessary to ensure a fair hearing, consistent with section 4(4)(d) of the Fair Administrative Action Act. The Arbitral Tribunal shall not unreasonably refuse such a request. In exercising its discretion, the Tribunal shall have regard to the interests of all parties, the constitutional requirement of expeditious determination under Article 47(1) of the Constitution, and the need to protect all parties from procedural prejudice.

Rule 43 — Applicable Law and Seat

1. The seat of arbitration shall be Nairobi, Kenya, or such other place as the parties agree in writing. The Arbitral Tribunal may, with the consent of all parties, hold hearings at any location it considers appropriate. An award made following such a hearing shall be treated as made at the seat for all purposes.

2. The law applicable to the merits of the dispute shall be the law or rules of law selected by the parties. Where the parties have made no such choice, the Arbitral Tribunal shall apply the law it considers appropriate. The Arbitral Tribunal shall apply principles of ex aequo et bono or amiable compositeur only where the parties have expressly agreed in writing.

3. The initial language of the arbitration shall be English unless otherwise agreed in writing by the parties. Upon constitution of the Arbitral Tribunal and absent party agreement, the Tribunal shall determine the language of the arbitration after giving the parties an opportunity to make written submissions.

Rule 44 — Jurisdiction

1. The Arbitral Tribunal shall have the power to rule on its own jurisdiction, including any objection to the initial or continuing existence, validity, or scope of the arbitration agreement or other empowering provision.

2. A plea that the Tribunal lacks jurisdiction shall be raised not later than in the Statement of Defence, failing which it is irrevocably waived. A plea that the Tribunal is exceeding the scope of its authority shall be raised within three days of the Tribunal indicating its intention to decide the matter alleged to be beyond its authority, failing which it is irrevocably waived. The Tribunal may admit an untimely plea where it considers the delay justified.

3. The Tribunal may determine a jurisdictional plea in a preliminary award or together with the merits, as it considers appropriate.

4. By agreeing to arbitration under these Rules, the parties undertake not to apply to any judicial authority for relief regarding the Tribunal's jurisdiction or authority, except with the written agreement of all parties, with the prior authorisation of the Tribunal, or after the Tribunal's award on the jurisdictional objection.

Rule 45 — Powers of the Arbitral Tribunal

1. Unless the parties agree otherwise in writing, the Arbitral Tribunal shall, after giving the parties a reasonable opportunity to state their views, have the power to:

   (a) allow a party to amend any claim, counterclaim, defence, or reply, upon such terms as to costs as the Tribunal determines;

(b) extend any time limit provided by the arbitration agreement, these Rules, or the Tribunal's own orders;

(c) conduct such inquiries as appear necessary or expedient;

(d) determine whether to apply strict rules of evidence and the time, manner, and form in which material shall be exchanged and presented; and

(e) order the correction of any contract or arbitration agreement to the extent required to rectify a mistake common to the parties and permitted by applicable law.

2. The Arbitral Tribunal may issue any orders necessary to enforce its directions, including in cases of wilful non-compliance: drawing adverse inferences, excluding evidence, making special cost allocations, or issuing any other enforcement order available under applicable law.

3. The provisions of Rules 23 to 29 apply mutatis mutandis to arbitration proceedings under this Part.

Rule 46 — Joinder and Consolidation

1. A party wishing to join an additional party to arbitration proceedings shall submit a Request for Joinder to the Chief Executive, copied simultaneously to all other parties and to the party to be joined. Joinder of an additional party into arbitration proceedings is conditional on that party's written consent to arbitration and to the arbitration agreement governing the proceedings, or to a new written arbitration agreement between the additional party and the relevant parties. Where such consent is given:

   (a) the date of receipt by the Chief Executive of the additional party's written consent shall be the date of commencement of arbitration as against the additional party; and

   (b) the proceedings shall continue as arbitration in respect of all parties under these Rules.

   Where the additional party does not consent to arbitration within fourteen (14) days of receipt of the Request for Joinder, the Request for Joinder into the arbitration proceedings shall lapse. If the requesting party wishes to pursue claims against the non-consenting additional party, it shall do so by initiating separate adjudication proceedings against that party under Part IV of these Rules, in exercise of the constitutional right under Article 50(1). The Institution may, with the agreement of all parties to both sets of proceedings, case-manage the arbitration and adjudication proceedings together to the extent consistent with the applicable procedural rules for each highway, but the two sets of proceedings shall remain procedurally distinct.

2. The Institution may, at the request of a party, consolidate two or more arbitration proceedings commenced under these Rules where: the parties have agreed to consolidation; all claims arise from the same transaction or series of transactions; or the disputes involve the same parties arising from the same legal relationship under compatible arbitration agreements.

3. Upon the application of a party, the Arbitral Tribunal may allow a third person to be joined as a party, provided that the third person and all other parties have consented in writing.

4. Joinder and consolidation shall not operate to extend the period within which proceedings must be determined. In proceedings that are themselves reviews of administrative action under the Fair Administrative Action Act, the ninety-day period under section 8 of that Act,

running from the date of filing of the application, is mandatory and non-extensible and shall not be affected by any joinder or consolidation.

Sub-Part C — Interim Measures and Emergency Arbitrator

Rule 47 — Interim and Conservatory Measures

1. Unless the parties agree otherwise in writing, the Arbitral Tribunal may, on the application of any party, order: a party to provide security for all or part of the amount in dispute; the preservation, storage, sale, or other disposal of any property relating to the dispute; and any provisional relief on account of a final determination in the award, including a provisional order for payment.
2. The Tribunal may, on the application of a party, order any claiming or counterclaiming party to provide security for the legal or other costs of any other party. Where a party does not comply with such an order, the Tribunal may stay or dismiss that party's claims or counterclaims.
3. The powers of the Arbitral Tribunal under this Rule shall not prejudice any party's right to apply to a court for interim or conservatory measures prior to the constitution of the Tribunal, or in exceptional cases after constitution.

Rule 48 — Emergency Arbitrator

1. Prior to the constitution or expedited constitution of the Arbitral Tribunal, a party may apply for emergency relief in accordance with the Second Schedule to these Rules. The emergency arbitrator provisions do not apply where the parties have agreed to opt out.
2. An emergency arbitrator may make any order or award available to the Arbitral Tribunal under the arbitration agreement or empowering provision, or may adjourn consideration to the Arbitral Tribunal when constituted. Upon constitution of the Tribunal, the emergency arbitrator has no further power to act.
3. An order or award of an emergency arbitrator is binding upon issuance and the parties undertake to carry it out immediately and without delay. Such an order or award ceases to be binding if the Arbitral Tribunal is not constituted within ninety days of the order or award, or where the Tribunal makes a final award, or the claim is withdrawn. In proceedings conducted under the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution, the Tribunal shall be constituted as expeditiously as the circumstances permit and in any event within the period consistent with that requirement.
4. The Arbitral Tribunal may, on application or on its own initiative, confirm, vary, discharge, or revoke an order or award of the emergency arbitrator.

Sub-Part D — The Award

Rule 49 — The Award

1. **Delivery of Award — Constitutional Discipline on Fee Withholding.**

   (a) The Arbitral Tribunal shall deliver the Award to the parties expeditiously upon its completion, consistent with the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution. Delivery of the Award is the act by which

the parties receive the decision to which they are constitutionally entitled, and it shall not be withheld in a manner that is inconsistent with that requirement.

(b) Section 32B(3) of the Arbitration Act confers a power on the arbitral tribunal to withhold delivery of an award until full payment of fees and expenses is received. That power is subject to the Article 47(1) expeditious requirement and is void under Article 2(4) of the Constitution to the extent that its exercise would result in withholding that is inconsistent with that requirement. In proceedings under these Rules, that power is exercised subject to the following constitutional discipline:

i. where all fees and expenses have been collected through the advance deposit mechanism under Rule 52, the Award shall be delivered to the parties by the Institution without delay upon its completion;

ii. where fees or expenses remain outstanding at the time of completion of the Award despite the advance deposit mechanism, the Tribunal may withhold delivery for a period not exceeding fourteen (14) days from completion, during which the Institution shall make every reasonable effort to collect the outstanding amount from the party in default;

iii. where the outstanding fees have not been paid within the fourteen-day period, the Award shall nevertheless be delivered to the parties, and the outstanding amount shall be treated as a debt immediately due and recoverable by the Institution from the defaulting party; delivery of the Award in these circumstances does not constitute waiver of the fee claim; and

iv. in proceedings where the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution requires a shorter determination period, the maximum withholding period under paragraph (b) shall be reduced proportionately to ensure that delivery of the Award does not prejudice the expeditious conclusion of the proceedings.

(c) Nothing in this Rule prevents the Institution from registering a lien or caution over assets of a defaulting party as security for outstanding fees in accordance with applicable law, provided that such lien does not delay delivery of the Award.

(d) An indigent party granted status under Rule 53.6 shall not be liable for fees the non-payment of which would otherwise trigger withholding under this Rule. The Award shall be delivered to an indigent party without condition as to fee payment, and any recoverable fees shall be dealt with in accordance with Rule 53.6.

2. The Arbitral Tribunal shall make its award in writing, with reasons, within three months from the close of hearings. The Tribunal shall inform the Chief Executive of the date of close of hearings. The Tribunal may extend the three-month period on application and shall notify the parties and the Chief Executive, provided that any extension shall be the minimum necessary and consistent with the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution. In proceedings that are themselves reviews of administrative action under the Fair Administrative Action Act, the Award must be made within the ninety-day period under section 8 of that Act running from the date of filing of the application, and the three-month period and any extension are subject to that mandatory ceiling.

3. Pre-award notice of proposed adverse Award: Before making an Award, the Arbitral

Tribunal shall, in respect of every party whose rights or fundamental freedoms are likely to be adversely affected by the proposed Award, comply with the following requirements under section 4(3)(a) and (b) of the Fair Administrative Action Act, which are mandatory and apply regardless of whether the grounds of the proposed Award were raised or ventilated in the preceding proceedings:

i. give that party adequate prior written notice of the nature and purpose of the proposed adverse Award, consistent with section 4(3)(a) of the Act; and

ii. give that party a reasonable opportunity to make representations to the Tribunal on the proposed adverse Award before it is made, consistent with section 4(3)(b) of the Act.

This pre-award procedural step is distinct from and additional to the inter partes process that precedes it. It constitutes a direct engagement between the affected party and the Tribunal on the Tribunal's own proposed action, and its omission shall constitute a ground for review under Rule 55(c) and section 7(2)(c) of the Fair Administrative Action Act.

4. Unless all parties agree otherwise in writing, the award shall: state the reasons on which it is based; state the date on which it is made; state the seat of arbitration; and be signed by the Tribunal or, in a panel, by those members consenting. The reasons stated in the Award shall be sufficient to enable the parties to understand the basis on which the Award was made and to formulate any application for review, consistent with section 4(3)(d) of the Fair Administrative Action Act. In FAA Act arbitrations, the right to written reasons under section 4(2) of the Fair Administrative Action Act cannot be waived by the parties, notwithstanding section 32(3) of the Arbitration Act.

5. Where the reasons stated in the Award are insufficient to enable a party to understand the basis on which the Award was made or to formulate any application for review, that party may exercise the right to request fuller reasons under Rule 50.1.

6. The Award shall contain a notice informing all parties of:

i. their right to apply for SRT review within forty-two (42) days of receipt of the Award under Rule 56;

ii. the manner of filing a Review Application, being through the ACDS using the prescribed form;

iii. the address of the Institution;

iv. their right to legal representation in any review proceedings, and their freedom of choice as to representative without restriction as to category, consistent with section 4(3)(e) of the Fair Administrative Action Act and section 25(5) of the Arbitration Act; and

v. their right to apply for judicial supervision under Article 165(6) of the Constitution or judicial review under the Fair Administrative Action Act, subject to first exhausting internal remedies under Rule 54.5.

7. The Tribunal may make separate awards on different issues at different times, which shall have the same status as any other award made by the Tribunal.

8. Where the parties settle their dispute, the Tribunal may, at their written request, record the settlement in a consent award. A consent award shall state that it is an award made by

consent and need not contain reasons.

9. An award shall be final and binding on the parties. The parties undertake to carry out any award immediately and without delay, subject to the internal review mechanism in Part VII and the right of judicial supervision under Article 165(6) of the Constitution.

10. An award may be expressed in any currency. The Tribunal may order simple or compound interest at such rates and for such periods as it considers appropriate, ending not later than the date of compliance with the award.

11. The Award shall include a specific order directing that:

    (a) the parties (or the party against whom costs are awarded) shall pay to Aluochier Dispute Resolution (ADR) the following amounts:

        i. the professional fee of the arbitrator(s) as determined under the First Schedule;

        ii. the administrative and institutional fees of ADR as prescribed;

        iii. Value Added Tax (VAT) on the total of the above fees;

        iv. any approved disbursements;

    (b) payment shall be made within thirty (30) days of the date of the Certificate of Finality or as otherwise directed by the Arbitral Tribunal;

    (c) ADR is authorised to receive such payment, to deduct withholding tax at the applicable rate, to deduct the Quality Assurance Retention (20% of the arbitrator's fee), and to pay the net balance to the arbitrator;

    (d) ADR shall provide the arbitrator with a copy of the payment receipt and the withholding tax certificate issued by ADR;

    (e) where a party fails to pay within the prescribed period, ADR may enforce the Award as a debt in accordance with Rule 59.

Rule 49A — Summary Contractual Distress and Arbitral Execution

1. In accordance with Section 20 of the Arbitration Act (Cap 49) and Section 2(2)(c) of the Auctioneers Act, where an Arbitral Award directs the payment of money, delivery of goods, or surrender of premises, the Award, upon issuance of a Certificate of Finality, shall constitute express contractual authority to levy execution.

2. The successful party may enforce the Award through:

    (a) A direct Letter of Instruction in Sale Form 1 to a Class "B" Licensed Auctioneer under Rule 5(1) of the Auctioneers Rules;

    (b) Summary registration under Rule 33C pursuant to Rule 37 of the FAA Rules, 2024; or

    (c) Formal recognition and enforcement before the High Court under Section 36 of the Arbitration Act.

Rule 50 — Request for Reasons and Correction of Awards

1. Any party who considers the reasons given in the award insufficient to enable an application

for review may, within fourteen days of receipt of the award, file a written Request for Reasons with the Chief Executive.

2. A party may, within the same time limit as a Request for Reasons under Rule 50.1, request the Tribunal to make available any document or material relied upon in making the Award that has not previously been provided to that party, consistent with section 6(1) and section 6(2)(b) of the Fair Administrative Action Act. The Tribunal shall comply with such a request within thirty (30) days, subject to any redaction of Sensitive Personal Data or legally protected material, and shall inform the requesting party in writing of the basis for any redaction, consistent with section 6(5) of the Act.

3. The Arbitral Tribunal shall, upon receipt of a valid Request for Reasons, furnish fuller written reasons to all parties within thirty days, consistent with section 6(3) of the Fair Administrative Action Act.

4. The Arbitral Tribunal may depart from the requirement to furnish full reasons under Rule 50.3 only where it is reasonable and justifiable in the circumstances to do so, and shall inform the requesting party in writing of such departure and the basis for it, consistent with section 6(5) of the Fair Administrative Action Act. Such departure does not affect the party's right to apply for SRT review under Rule 56 or judicial supervision under Article 165(6) of the Constitution.

5. Within fourteen days of receipt of the final award, a party may request the Tribunal to correct any computation, clerical, or typographical error, or any error of a similar nature. The Tribunal may also correct such errors on its own motion within fourteen days of the award. A correction shall form part of the award.

6. Within fourteen days of receipt of the final award, a party may request the Tribunal to make an additional award on a claim or counterclaim presented in the arbitration but not determined in any award. If justified, the Tribunal shall make the additional award within thirty days.

7. The filing of a valid Request for Reasons under Rule 50.1 shall not extend the time limit for filing a Review Application under Part VII unless the Tribunal directs otherwise.

Rule 51 — Record of Arbitration Proceedings

1. The Tribunal shall maintain a record of arbitration proceedings through the ACDS, including the Request for Arbitration and Response, documentary evidence, witness testimony, procedural directions, and the final Award.

2. The record shall form part of the institutional archive and shall constitute the official documentary basis for any application for enforcement, setting aside, or other proceedings arising under the Arbitration Act.

PART VI — COSTS AND DEPOSITS

This Part governs the costs of proceedings, advance deposits, and the allocation of costs.

Rule 52 — Advance Deposits

1. The Institution may direct the parties to make one or more advance deposits on account of the costs of the proceedings, in such proportions and amounts as it considers appropriate. Deposits shall be made to and held by the Institution and may be released to Tribunal members, Tribunal-appointed experts, and the Institution as the proceedings progress.

2. The Tribunal shall not proceed without first ascertaining from the Chief Executive that the required deposit is in the Institution's possession.

3. Where a party fails to provide any deposit, the Institution may direct the other party to effect a substitute payment, in which case the party making the substitute payment shall be entitled to recover the amount as an immediate debt from the defaulting party. Failure by a claimant or counterclaiming party to provide the required deposit in full shall be treated by the Institution and the Tribunal as a withdrawal of the claim or counterclaim.

4. Any money held by the Institution on account of fees and expenses shall be held in trust in the Institution's client accounts, controlled by reference to each individual case. Where funds lodged exceed the costs of the proceedings, the Institution shall return the surplus to the parties in the proportions in which they were deposited.

5. The Institution may accept payment by third parties, bank guarantees, insurance company guarantees, or by securing a charge on the subject matter of the dispute, as appropriate.

Rule 53 — Costs of Proceedings

1. The costs of the proceedings, other than the legal or other costs incurred by the parties themselves, shall be determined by the Institution in accordance with the First Schedule.

2. The parties shall be jointly and severally liable to the Tribunal and the Institution for the costs of the proceedings. The Tribunal shall specify the total costs in the Determination or Award.

3. The Tribunal shall determine the proportions in which the parties shall bear the costs, unless the parties otherwise agree in writing. In determining cost allocation, the Tribunal shall apply the general principle that costs follow the event, except where that principle is inappropriate.

4. The Tribunal may order, in the Determination or Award, that all or part of the legal or other costs incurred by a party be paid by another party. All cost orders shall be made with reasons.

5. Where the proceedings are abandoned, suspended, or concluded prior to a final decision, the parties shall be jointly and severally liable to pay the costs of the proceedings as the Institution shall determine.

6. A petitioner unable to pay the administrative levy may apply to proceed as an indigent person. The Institution shall grant such status where the applicant demonstrates financial hardship meeting the criteria published by the Institution.

7. Where ADR has paid a Tribunal member or other service provider on behalf of the parties, ADR shall be subrogated to the rights of that service provider against the parties for the amount so paid, in addition to ADR's own rights to recover its fees and disbursements.

PART VII — CORRECTION, REVIEW AND SUPERVISION

This Part establishes the internal review framework, the Supervisory Review Tribunal, certification of finality, and affirms the constitutional supervisory jurisdiction of the High Court.

Rule 54 — The Supervisory Review Tribunal (SRT)

1. There is hereby established within the Institution an internal review body to be known as the Supervisory Review Tribunal (SRT).

2. The SRT shall ordinarily be constituted as a sole Senior Review Member drawn from the Senior Review Pool (Tier B members of the Roster). Where the Institution determines that the complexity, value, or constitutional significance of the Review Application warrants a panel, the SRT may be constituted as a Chairperson and not fewer than two members, all drawn from the Senior Review Pool. The Institution shall record brief written reasons for any decision to constitute a panel rather than a sole member. No member of the SRT, whether sitting alone or as a panel, shall have participated in the proceedings under review.

3. The SRT exercises purely internal review jurisdiction. It is not a court within the meaning of Chapter Ten of the Constitution, does not exercise original jurisdiction over disputes between parties, and does not exercise appellate jurisdiction. Its function is to review the procedural regularity and legal soundness of Determinations and Awards made under these Rules, as an internal quality-assurance mechanism, prior to the invocation of the supervisory jurisdiction of the High Court. The SRT's determinations are not binding on the High Court. When the High Court reviews the primary AITAR Tribunal's action following exhaustion of the SRT remedy, it exercises its own independent supervisory jurisdiction under Article 165(6) of the Constitution over that primary action — not a review of the SRT's determination. The High Court may reach a different conclusion from the SRT on the same supervisory questions, and its determination on those questions supersedes that of the SRT. The SRT's determination is a material that the High Court will consider; it has no binding force on the High Court's independent assessment.

4. The SRT is subject to the supervisory jurisdiction of the High Court under Articles 165(6) and (7) of the Constitution. Nothing in these Rules shall be construed as limiting or excluding that supervisory jurisdiction.

5. A party aggrieved by a Determination or Award made under these Rules may apply to the SRT for internal review on the grounds set out in Rule 55. Parties should ordinarily exhaust the internal review mechanism established by this Part before seeking supervisory relief from the High Court, consistent with section 9(2) of the Fair Administrative Action Act, unless exceptional circumstances justify direct recourse to the High Court.

6. Upon receipt of a Review Application, the SRT shall notify all parties and shall provide each party a reasonable opportunity to make written submissions before determining the application.

7. Nothing in this Part prevents any party from applying to the High Court or any court of competent jurisdiction, or from making representations to the Commission on Administrative Justice as an additional avenue of redress under section 5(2)(a) of the Fair Administrative Action Act.

Rule 55 — Grounds for Review

A Review Application may be made on one or more of the following grounds:

(a) the Tribunal was not duly constituted in accordance with the arbitration agreement or these Rules;

(b) the Determination or Award deals with a dispute not submitted to the Tribunal, or contains decisions beyond the scope of the submission, provided that if the offending part can be separated from the rest, only that part may be reviewed;

(c) the proceedings were conducted in a manner that was procedurally unfair, including denial of a reasonable opportunity to present a case;

(d) the Tribunal acted without or in excess of jurisdiction;

(e) the Determination or Award contains an error of law apparent on the face of the record;

(f) the Tribunal member was biased or there was a reasonable apprehension of bias, consistent with section 7(2)(a)(iv) of the Fair Administrative Action Act;

(g) the Determination or Award was taken with an ulterior motive calculated to prejudice the legal rights of a party, consistent with section 7(2)(e) of the Fair Administrative Action Act;

(h) the Determination or Award was made in bad faith, consistent with section 7(2)(h) of the Fair Administrative Action Act;

(i) the Tribunal failed to consider a relevant matter or took into account an irrelevant consideration;

(j) the Determination or Award is manifestly unreasonable or disproportionate;

(k) newly discovered evidence exists that could not reasonably have been obtained earlier and that would materially affect the outcome; or

(l) the Determination or Award was induced or affected by fraud, bribery, undue influence, or corruption.

Rule 56 — Review Procedure

1. A Review Application shall be filed with the Chief Executive within forty-two (42) days of receipt of the Determination or Award by the party applying for review.

2. The Institution shall not refuse to accept, register, or process a Review Application on account of any outstanding fees or expenses from the primary proceedings to which the Review Application relates. Outstanding fees from the primary proceedings constitute a separate debt recoverable by the Institution through enforcement of the Award or by other lawful means, and their recovery shall not be made a condition of access to the SRT review mechanism. To condition access to the SRT review on payment of outstanding primary proceeding fees would be inconsistent with the party's right to exhaust internal remedies under section 9(2) of the Fair Administrative Action Act, would interfere with the right of access to justice under Article 48 of the Constitution, and would constitute an unlawful limitation on the constitutional right to fair administrative action under Article 47.

3. The application fee for the Review Application itself, as prescribed in the First Schedule, is

payable and may be required as a condition of registration of the Review Application. A party who is unable to pay the review application fee on account of financial hardship may apply to the Institution for indigent status in respect of the review proceedings, whether or not indigent status was applied for or granted during the primary proceedings:

(a) an application for indigent status at the review stage shall be assessed on the applicant's financial position at the time of the review application, not by reference to the applicant's position during the primary proceedings;

(b) where indigent status is granted, the review application fee shall be deferred and treated as a first charge on any assets recoverable by the applicant under a successful Review Application, or written off in accordance with Rule 53.6 where no such assets are available;

(c) the Institution shall determine an indigent status application at the review stage within three (3) days of receipt, consistent with the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution; and

(d) where a party did not apply for indigent status during the primary proceedings, a late application at the review stage shall be presumed to be made in good faith and shall be granted unless the Institution has specific evidence, on objective grounds, that the applicant's financial position was not materially different during the primary proceedings and that the failure to apply earlier was deliberate and not attributable to lack of awareness of the mechanism, change in financial circumstances, or other reasonable cause; the burden of establishing those negative grounds rests on the Institution or, where it raises the objection, on the opposing party.

4. The Application shall: identify the Determination or Award under review; state the grounds for review with particulars; and specify the relief sought.

5. The SRT shall determine a Review Application within ninety days of the date of filing of the Review Application, as required by section 8 of the Fair Administrative Action Act. All proceedings before the SRT constitute reviews of administrative action under the Fair Administrative Action Act, the ninety-day period is mandatory and non-extensible, and the SRT has no power to extend it. In particular:

(a) the ninety-day period runs from the date of filing of the Review Application with the Chief Executive under Rule 56.1, being the date of the application for review within the meaning of section 8 of the Fair Administrative Action Act;

(b) the SRT has no power to extend the ninety-day period; any purported extension would be inconsistent with section 8 of the Fair Administrative Action Act and void under section 31(b) of the Interpretation and General Provisions Act and Article 2(4) of the Constitution;

(c) where the SRT fails to determine the Review Application within the ninety-day period, Rule 56.7 applies and the Institution shall proceed under Rule 56.5(d); and

(d) upon issuing a Certificate of Finality under Rule 56.7 or Rule 58 in respect of any SRT review, the Institution shall notify the party in writing that: (i) the ninety-day period under section 8 of the Fair Administrative Action Act applies at every level of the proceedings hierarchy established by the Act — including the SRT, the High Court, and the Court of Appeal — each level with its own independent ninety-day period running from the date of filing of the relevant application or appeal at that level; (ii) the High

Court, in reviewing the primary AITAR Tribunal's action following exhaustion of the SRT remedy, exercises independent supervisory jurisdiction under Article 165(6) of the Constitution and may reach a different conclusion from the SRT on the same supervisory questions; the SRT's determination is not binding on the High Court; (iii) a judicial review application before the High Court that is not heard and finally determined within ninety days of its filing, and a Court of Appeal appeal that is not heard and finally determined within ninety days of its filing, will each abate under Rule 40(1)(b) of the Fair Administrative Action Rules, 2024; (iv) the court's or tribunal's directions upon abatement at any level are limited to consequential matters and do not extend to reviving or extending proceedings beyond the expired statutory period, as any purported extension would be inconsistent with section 8 of the Act and void under section 31(b) of the Interpretation and General Provisions Act and Article 2(4) of the Constitution; and (v) the party should seek legal advice without delay regarding the filing of any judicial review application or Court of Appeal appeal.

6. Where no Review Application is filed within the prescribed period, the Determination or Award shall ripen into a final and binding decision and no internal review shall thereafter lie.

7. Where the SRT fails to determine a Review Application within the ninety-day period prescribed by section 8 of the Fair Administrative Action Act, running from the date of filing of the Review Application under Rule 56.1, the Application shall be deemed dismissed by operation of law on the ninety-first day from that date, and the original Determination or Award shall stand as final. The Institution shall thereupon issue a Certificate of Finality under Rule 58 and comply with the notification obligation under Rule 56.5(d). The following fee consequences apply upon deemed dismissal: (a) the SRT fee prescribed in First Schedule Part 7 is not payable and, where paid in advance, shall be refunded in full to the estate or the parties within fourteen (14) days of the deemed dismissal date — no entitlement to the fee arises from partial performance, including the issue of any section 4(3)(a) or (b) pre-determination notices that did not result in a determination; (b) the Institution shall retain its administrative costs for secretarial services actually rendered, as those services were duly performed and are a separate charge unaffected by the deemed dismissal; and (c) any party or other person who has incurred abortive costs as a direct result of the SRT member's failure to deliver — including the review applicant's costs of preparing and filing the Review Application, the respondent's costs of preparing a response and defending the review, the costs of any other party participating in the proceedings, and the costs of any person who participated in response to a pre-determination notice issued under section 4(3)(a) or (b) of the Fair Administrative Action Act — may seek recovery of those costs from the SRT member, whose mandatory professional indemnity insurance under FIFTH SCHEDULE is the primary source of satisfaction for any such claim.

Rule 57 — Powers of the Supervisory Review Tribunal

On determining a Review Application, the SRT may, having regard to the grounds established:

(a) confirm the Determination or Award in whole or in part;

(b) correct the Determination or Award to remove a specific procedural defect identified on review;

(c) remit the matter to the original Tribunal, or to a newly constituted Tribunal, for reconsideration with or without directions; or

(d) set aside the Determination or Award, or a separable part of it, where the defect cannot be corrected and cannot be separated from the valid portions.

The SRT shall provide reasoned written findings. A decision of the SRT under this Rule does not itself constitute a decision on the merits of the dispute. The SRT shall not substitute its own findings of fact or assessment of the merits for that of the primary Tribunal. Its supervisory function is confined to procedural regularity and legal soundness — where the merits require reconsideration, the SRT's power is to remit to the original or a newly constituted Tribunal under sub-paragraph (c), and it is that Tribunal, not the SRT, that conducts any reconsideration of the merits.

Rule 58 — Finality and Certificate of Finality

1. Where no Review Application is filed within the prescribed period, or where the SRT has determined or is deemed to have dismissed an Application, the Institution shall issue a Certificate of Finality confirming:

   (a) that internal review mechanisms have been exhausted or have lapsed;

   (b) that the Determination or Award constitutes a final and binding decision;

   (c) that the Determination or Award may be relied upon for purposes of recognition, enforcement, and implementation in accordance with applicable law; and

   (d) the date on which the internal review mechanism was exhausted or lapsed, being the date from which any limitation period for judicial review application runs, for the purposes of Rule 12(3)(c) of the Fair Administrative Action Rules, 2024.

2. A party intending to seek judicial supervision under Article 165(6) of the Constitution, or judicial review under the Fair Administrative Action Act, shall ordinarily first obtain a Certificate of Finality from the Institution and shall comply with all applicable pre-filing requirements under the Fair Administrative Action Rules, 2024.

3. A Certificate of Finality issued under this Rule shall accompany any application for enforcement of a Determination or Award made under these Rules.

4. The Sovereign Hash generated by the AITAR Registry upon issuance of the Certificate of Finality shall serve as the immutable digital verification of the instrument's authenticity and finality.

5. Where no Review Application is filed within forty-two (42) days under Rule 56, the ACDS portal or the Registrar shall automatically issue a digitally signed Certificate of Finality carrying the Sovereign Hash on, or as soon as reasonably practicable after, the forty-third (43rd) day. The right to enforce the certified Determination accrues permanently upon the expiration of the forty-second (42nd) day and shall not be defeated, extinguished, or impaired by administrative or electronic latency occurring thereafter.

PART VIII — RECOGNITION AND ENFORCEMENT

This Part governs the recognition and enforcement of Awards and Determinations made under these Rules.

Rule 59 — Recognition and Enforcement of Awards

1. A domestic arbitral award shall be recognised as binding and, upon application to the High Court, enforced in accordance with Part III of the Arbitration Act, 1995 (sections 35 to 37). The Institution may assist a party in making an application for enforcement in accordance with the prescribed procedures.

2. An international arbitral award shall be recognised as binding and enforced in accordance with the provisions of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, adopted at New York on 10 June 1958, and acceded to by Kenya on 10 February 1989, or any other applicable convention, and in accordance with Part III of the Arbitration Act.

3. For the purpose of applying for recognition or enforcement, the party relying on an award shall furnish: the original award or a duly certified copy; and the original arbitration agreement or empowering provision, or a duly certified copy, together with a certified translation into English where the documents are not in English.

4. A Certificate of Finality issued under Rule 58 shall accompany any application for enforcement of an award or Determination made under these Rules.

5. Upon the issue of a Certificate of Finality under Rule 58, a party seeking to enforce a Determination or Award issued under these Rules may pursue one or more of the following enforcement pathways, without the need to re-litigate the merits of the dispute. Where the party seeks a court order compelling compliance by a registry or other person, the applicable sequence is: first, an application to the High Court under section 11 of the Fair Administrative Action Act for a compliance order; second, execution of that court order under Order 22 of the Civil Procedure Rules as incorporated by Rule 37 of the Fair Administrative Action Rules, 2024:

   (a) Execution under the Civil Procedure Act: A party may apply to the High Court or a subordinate court of competent jurisdiction for execution of the Determination or Award as a decree under the Civil Procedure Act and Order 22 of the Civil Procedure Rules, 2010. The Certificate of Finality, together with the Determination or Award, constitutes sufficient prima facie evidence of a valid and binding obligation for the purposes of an execution application. The court's role on such an application is to verify the existence and finality of the Determination or Award, not to re-examine the merits.

   (b) Section 11 FAA Act application and FAA Rule 37 execution: Where a party or public body refuses to implement a Determination or Award that constitutes final administrative action, a party with a legally recognised interest may apply to the High Court under section 11 of the Fair Administrative Action Act for appropriate relief, which may include an order of mandamus compelling implementation, an order of certiorari quashing an unlawful refusal, or any other order the court considers necessary to secure compliance with the final administrative action. The Certificate of Finality establishes that the Determination or Award constitutes final administrative action for this purpose.

Once the High Court makes such a compliance order, that order is itself enforceable as a decree by execution under Order 22 of the Civil Procedure Rules as incorporated by Rule 37 of the Fair Administrative Action Rules, 2024, which provides that the provisions of Order 22 shall apply, with the necessary modifications, to the execution of decrees and orders made under those Rules. Rule 37 is an execution-by-incorporation provision: it brings the Order 22 execution machinery into the FAA Act framework so that the court's compliance order can be executed using the same mechanisms available for civil court decrees, adapted as necessary to the administrative law context. This pathway is available in addition to any other enforcement mechanism and is not dependent on the existence of an arbitration agreement.

(c) Registry implementation: Where the Determination or Award directs the registration, transfer, transmission, or encumbrance of property, shares, or other assets held in a public registry or financial institution, the party may present the Registry-Ready instrument together with the Certificate of Finality to the relevant registry or institution for implementation in accordance with that registry's or institution's governing statute. The governing statute of each registry or institution determines the conditions and procedure for implementation; these Rules do not override those governing statutes but confirm that a certified Determination under these Rules constitutes a lawful and binding obligation issued under constitutional authority for purposes of that institution's governing statute, subject to that statute's requirements.

(d) The Institution shall, upon the request of any party holding a Certificate of Finality, provide a certified copy of the Determination or Award and all relevant procedural documentation to support any enforcement application under paragraphs (a), (b), or (c) of this Rule. The Institution may, where appropriate, facilitate engagement with the relevant registry or institution to support implementation.

Rule 60 — Grounds for Refusal of Recognition or Enforcement

The recognition or enforcement of an arbitral award may be refused only on the grounds set out in section 37(1) of the Arbitration Act, 1995 and, in respect of international awards, in Article V of the New York Convention, which include:

(a) incapacity of a party to the arbitration agreement;

(b) invalidity of the arbitration agreement under the applicable law;

(c) failure to give proper notice of the appointment of an arbitrator or of the proceedings, or inability of a party to present its case;

(d) the award deals with a dispute not contemplated by or not falling within the reference to arbitration, or contains decisions beyond the scope of the reference;

(e) the composition of the Tribunal or the conduct of proceedings was not in accordance with the parties' agreement or, failing agreement, with the applicable law;

(f) the award has not yet become binding, or has been set aside or suspended by a competent authority;

(g) the award was induced or affected by fraud, bribery, undue influence, or corruption;

(h) the subject matter of the dispute is not capable of settlement by arbitration under the law of Kenya; or

(i) recognition or enforcement would be contrary to the public policy of Kenya.

PART IX — GENERAL PROVISIONS

This Part governs general provisions.

Rule 61 — Mediation

1. Upon receipt of the Response, the Institution may invite the parties to mediate under the Institution's Mediation Rules. The parties are at liberty to accept or decline the invitation.
2. The parties may at any stage of the proceedings agree to refer their dispute to mediation. They shall promptly notify the Tribunal and the Institution of such agreement.
3. Proceedings may be suspended pending the outcome of mediation. In considering a suspension, the Tribunal shall have regard to the constitutional requirement of expeditious administrative action under Article 47(1) of the Constitution and shall not grant a suspension that would render the proceedings inexpeditious. Where the primary proceedings are themselves reviews of administrative action under the Fair Administrative Action Act, the Tribunal shall additionally ensure that any suspension does not cause the proceedings to exceed the ninety-day period under section 8 of that Act running from the date of filing of the application.
4. Where a dispute is referred to mediation and the parties fail to reach a settlement, the proceedings shall continue under these Rules.
5. Where parties refer their dispute to mediation under the Institution's Mediation Rules and a settlement is not reached, one half of the administrative costs paid for the mediation shall be credited to the parties' account for the purposes of administrative costs of the subsequent arbitration or adjudication.

Rule 62 — Party Representation

1. A party may be represented by any person of its choice in proceedings before a Tribunal under these Rules, without restriction as to category of representative. In adjudication proceedings under the Adjudication Highway, this right is grounded in section 4(3)(e) of the Fair Administrative Action Act. In arbitration proceedings under the Arbitration Highway, it is grounded in section 25(5) of the Arbitration Act. In both cases, the constitutional basis is the inference from Article 19(3)(c) of the Constitution that any limitation on the choice of representative in non-criminal proceedings would require contemplation in the Constitution and justification under Article 24, neither of which is satisfied by any provision of these Rules or the empowering legislation.
2. The conduct of a party's representative shall be in accordance with the Third Schedule to these Rules.
3. Prior to constitution of the Tribunal, the Chief Executive may require proof of a representative's authority. After constitution, the Tribunal may require such proof.
4. Any intended change or addition to a party's representation shall be notified promptly in writing to all other parties, the Tribunal, and the Chief Executive. A change of representative takes effect upon notification and does not require the approval of the Tribunal or any other person. The Tribunal may, however, take any change of representative into account in the management of the proceedings, including in decisions on adjournments and the allocation

of costs, to the extent necessary to ensure compliance with the constitutional requirement of expeditious determination under Article 47(1) and to protect other parties from procedural prejudice.

Rule 63 — Open Proceedings and Protective Measures

1. Proceedings under these Rules shall be open to the public in accordance with Articles 10 and 50(1) of the Constitution.
2. Hearings shall be conducted publicly. The Tribunal may exclude members of the public from all or part of a hearing, or restrict publication of all or part of the proceedings, only where such exclusion or restriction is necessary, in a free and democratic society, to protect witnesses or vulnerable persons, morality, public order, or national security, as provided in Article 50(8) of the Constitution. Any such exclusion or restriction shall be strictly limited to what is necessary for the applicable ground, and the Tribunal shall record written reasons identifying the specific ground and the necessity for the restriction.
3. The Institution may publish a Determination, Award, or any part thereof made under these Rules, subject to redaction of Sensitive Personal Data.

Rule 64 — Digital Gazette and Institutional Publication

1. The Institution shall maintain an official electronic publication platform known as the AITAR Digital Gazette for publication of institutional notices, procedural announcements, amendments, and selected adjudicative instruments.
2. Publication in the Digital Gazette constitutes institutional notice for purposes of these Rules but does not substitute for statutory gazettement where such gazettement is required by written law.
3. Transitional Publication Requirement: Where these Rules require publication in one newspaper of national circulation alongside publication in the Digital Gazette — as in Rules 16.6(d), 19.3, 22.9(c) — that requirement operates as a transitional supplement until the Digital Gazette has achieved a readership or viewership comparable to that of the Kenya Gazette. The Chief Adjudicator and President of Independent Tribunals may, by notice published in the Digital Gazette accompanied by verifiable readership or viewership data demonstrating reach comparable to the Kenya Gazette, declare that Digital Gazette publication alone constitutes sufficient constructive notice for all purposes under these Rules, whereupon the supplementary newspaper publication requirement in Rules 16.6(d), 19.3, and 22.9(c) is suspended. The rationale for this transitional provision is that the Kenya Gazette's constructive notice authority in practice rests on its electronic reach rather than physical national distribution. The AITAR Digital Gazette is structurally capable of equivalent reach once public awareness of the platform is established, and the graduation mechanism is therefore tied to demonstrated reach, not the passage of time.

Rule 65 — Waiver

A party who knows that any provision of these Rules or of the arbitration agreement has not been complied with, and who proceeds with the proceeding without promptly stating an objection, shall be considered to have irrevocably waived the right to object.

Rule 66 — Exclusion of Liability

1. The Board, the Chief Adjudicator and President of Independent Tribunals, Board members, staff of the Institution, SRT members, the Chief Executive, Tribunal members, and Tribunal-appointed experts shall not be liable to any party for any act or omission done in good faith and with due authority in connection with any proceeding under these Rules. Nothing in this Rule affects liability arising from fraud, bad faith, or deliberate misconduct. The immunity conferred by this Rule protects the content, reasoning, and adjudicative judgment of Determinations, Awards, and supervisory review decisions actually made in good faith — it does not protect the failure to make a determination or to deliver a supervisory review decision at all. In particular, this Rule does not confer immunity on an SRT member in respect of: (a) the failure to deliver a Review determination within the mandatory ninety-day period under section 8 of the Fair Administrative Action Act, which constitutes non-performance of a statutory obligation rather than a protected adjudicative act; or (b) abortive costs caused to any party or other person by that non-performance, including the review applicant's costs of preparing and filing the Review Application, the respondent's costs of preparing a response and defending the review, the costs of any other party participating in the proceedings, and the costs of any person who participated in response to a pre-determination notice issued under section 4(3)(a) or (b) of the Fair Administrative Action Act. Claims arising from such non-performance are subject to the SRT member's mandatory professional indemnity insurance under FIFTH SCHEDULE and are not extinguished by this Rule.

2. After the Determination or Award has been made and any correction, additional decision, or review processes have lapsed or been completed, the Institution, the SRT, the Chief Executive, and any Tribunal member or expert shall not be under any obligation to make a statement to any person about any matter concerning the proceedings, and no party shall be entitled to make any of them a compellable witness in any proceedings arising out of the proceedings.

3. Notwithstanding Rule 66.2, where a Review Application is filed with the SRT under Rule 56, or where an application to set aside an Award is filed with the High Court under section 35 of the Arbitration Act, or where a judicial review application is filed under the Fair Administrative Action Act, the Tribunal member whose Determination or Award is under challenge shall be served with a copy of the application and any supporting affidavit, consistent with the rules of natural justice and mirroring the service requirement under Rule 8 of the Arbitration Rules (L.N. 58 of 1997). Service under this Rule:

   (a) gives the Tribunal member notice of the challenge to their conduct and the opportunity to elect whether to participate in the review or challenge proceedings;

   (b) does not compel the Tribunal member to participate, file a response, or make any statement; and

   (c) does not affect the immunity from civil liability conferred under Rule 66.1 or, in the case of arbitrators, under section 16B of the Arbitration Act.

Rule 67 — Transitional Provisions

1. Proceedings commenced under earlier institutional procedures may, with the consent of the parties or direction of the Tribunal, continue under these Rules where appropriate.

2. The Institution may issue transitional practice directions to facilitate the implementation of

these Rules.

3. Nothing in this Rule shall invalidate proceedings already commenced under earlier procedural arrangements.

Rule 68 — Amendment of Rules

1. These Rules may be amended by the Chief Adjudicator and President of Independent Tribunals or by such institutional authority as may be designated by the Board for that purpose. Amendments shall be published in the AITAR Digital Gazette and shall apply prospectively to proceedings commencing after the date of publication, unless the amendment expressly provides otherwise.
2. In all matters not expressly provided for in these Rules, the SRT, the Tribunal, and the parties shall act in such manner as is appropriate, and shall make every reasonable effort to ensure that any Determination or Award is legally enforceable.

Rule 69 — Severability and Institutional Continuity

1. If any provision of these Rules is held to be invalid or inconsistent with the Constitution or any written law by a court of competent jurisdiction, that provision shall be severed to the minimum extent necessary to remove the inconsistency. The remaining provisions shall continue to operate with full force and effect.
2. The invalidity of any provision shall not affect the validity of any Determination or Award lawfully issued prior to such finding, unless otherwise ordered by a court of competent jurisdiction.

FIRST SCHEDULE

[Rules 13.7, 38.2, 53.1 and 53.5]

PART 1 — GENERAL

1. The parties shall be jointly and severally liable to the Tribunal and the Institution for the costs of the proceedings, other than legal or other costs incurred by the parties themselves.

2. The Determination or Award shall be transmitted to the parties by the Institution upon its completion. Where fees or expenses remain outstanding at the time of completion despite the advance deposit mechanism under Rule 53, the Institution may withhold transmission for a period not exceeding fourteen (14) days while making every reasonable effort to collect the outstanding amount. If the outstanding fees have not been paid within that period, the Determination or Award shall nevertheless be transmitted to all parties, and the outstanding amount shall be treated as a debt immediately due and recoverable by the Institution from the defaulting party; transmission in these circumstances does not constitute waiver of the fee claim. An indigent party granted status under Rule 53.6 shall receive the Determination or Award without condition as to fee payment. These provisions apply to both Adjudication Highway Determinations and Arbitration Highway Awards and are consistent with Rules 33.1 and 49.1.

3. The fees in this Schedule may attract Value Added Tax at the prevailing rate.

4. A dispute regarding administration costs or the fees and expenses of the Tribunal shall be determined by the Institution in a manner compliant with the principles of lawfulness, independence, and impartiality.

PART 2 — REGISTRATION AND APPLICATION FEES

1. A non-refundable registration fee of USD 100 for international arbitration and KES 2,000 for domestic arbitration shall accompany the Request for Arbitration.

2. A non-refundable application fee of USD 100 or its Kenya Shilling equivalent shall accompany any application for Review under Part VII.

3. A non-refundable administrative levy of KES 2,000 shall accompany a Petition for Adjudicative Settlement under Rule 17 or a Settlement Application under Rule 24.7.

4. Registration and application fees do not form part of the Institution's administrative costs and are payable in full by the claimant or applicant.

5. Any party intending to nominate the Institution as appointing authority shall pay a non-refundable appointment fee of USD 1,000 in international arbitration and KES 5,000 in domestic arbitration.

6. **Publication Disbursements.** During the transitional period under Rule 64.3, a Publication Disbursement of KES 15,000 is payable at filing in respect of proceedings requiring newspaper publication alongside Digital Gazette publication — being Petitions for Adjudicative Settlement, Settlement Applications under Rule 24.7, and any other filing so prescribed. The disbursement shall be collected at filing, held by the Institution in a designated account, and disbursed to the newspaper upon publication. Any balance shall be refunded to the party. Any shortfall shall be invoiced before publication proceeds. This

disbursement lapses upon the Chief Adjudicator and President of Independent Tribunals declaring Digital Gazette-alone sufficiency under Rule 64.3.

PART 3 — ADVANCE DEPOSITS AND ADMINISTRATIVE COSTS

1. The Institution's administrative costs shall be determined in accordance with Parts 4 or 5 of this Schedule as applicable.
2. Administrative costs shall be payable in equal share by the parties and shall form part of the advance deposit.
3. Additional expenses — postage, telephone, travel, proceedings support services — shall be charged as part of administrative costs.
4. In domestic proceedings, the Institution's invoices shall be in Kenya Shillings. In international arbitrations, invoices shall be in US Dollars. Both may be paid in other convertible currencies at prevailing rates.
5. Advance deposit payments are held in trust in the Institution's client accounts per individual case and disbursed as the proceedings progress. Surplus funds shall be returned to the parties in the proportions deposited.

PART 4 — ARBITRATOR'S FEES AND ADMINISTRATIVE COSTS (INTERNATIONAL ARBITRATION)

A: Arbitrator's Fees (per arbitrator)

Amount in Dispute (USD)	Arbitrator's Fee (USD)
Up to 50,000	USD 1,000
50,001 – 100,000	USD 2,000
100,001 – 500,000	USD 4,000
500,001 – 1,000,000	USD 8,000
1,000,001 – 2,000,000	USD 16,000
2,000,001 – 5,000,000	USD 16,000 + 2.8% above 2,000,000
5,000,001 – 10,000,000	USD 100,000 + 0.6% above 5,000,000
10,000,001 – 50,000,000	USD 130,000 + 0.05% above 10,000,000
Above 50,000,000	USD 150,000 + 0.02% above 50,000,000

B: Administrative Costs

Amount in Dispute (USD)	Administrative Costs (USD)
Up to 50,000	USD 200
50,001 – 100,000	USD 400
100,001 – 500,000	USD 800
500,001 – 1,000,000	USD 1,600
1,000,001 – 2,000,000	USD 3,200
2,000,001 – 5,000,000	USD 3,200 + 0.56% above 2,000,000

Amount in Dispute (USD)	Administrative Costs (USD)
5,000,001 – 10,000,000	USD 20,000 + 0.12% above 5,000,000
10,000,001 – 50,000,000	USD 26,000 + 0.01% above 10,000,000
Above 50,000,000	USD 30,000 + 0.004% above 50,000,000

PART 5 — ARBITRATOR'S FEES AND ADMINISTRATIVE COSTS (DOMESTIC ARBITRATION)

A: Arbitrator's Fees (per arbitrator)

Value Exceeds (KES)	Does Not Exceed (KES)	Arbitrator's Fee (KES)
0	50,000	26,460
50,000	100,000	35,280
100,000	200,000	52,920
200,000	500,000	88,200
500,000	1,000,000	150,000
1,000,000	20,000,000	150,000 + 1% above 1,000,000
20,000,000	250,000,000	340,000 + 0.5% above 20,000,000
250,000,000	—	1,490,000 + 0.1% above 250,000,000

Where a dispute is disposed of ex parte, by consent, or by a decision on a preliminary question of law not dependent on fact, the fee shall be 50% of the above rates. Where the value of the subject matter cannot be ascertained, fees shall be reasonable but not less than KES 52,920.

B: Administrative Costs

Value Exceeds (KES)	Does Not Exceed (KES)	Administrative Costs (KES)
0	50,000	5,292
50,000	100,000	7,056
100,000	200,000	10,584
200,000	500,000	17,640
500,000	1,000,000	30,000
1,000,000	20,000,000	30,000 + 0.2% above 1,000,000
20,000,000	250,000,000	68,000 + 0.1% above 20,000,000
250,000,000	—	298,000 + 0.02% above 250,000,000

PART 6 — EMERGENCY ARBITRATOR FEES

Proceeding	International	Domestic
Administrative Costs	USD 2,000	KES 40,000
Emergency Arbitrator's Fee	USD 10,000	KES 200,000

PART 7 — SUPERVISORY REVIEW TRIBUNAL COSTS

The default SRT constitution is a sole Senior Review Member (Tier B). A panel of three requires a written direction from the Institution under Rule 54.2. The applicable fee tier is determined by the constitution directed for each Review Application. The primary Tribunal fee referenced below is the fee payable to the Tribunal member(s) in the primary proceedings under review, before any deductions. The SRT fee is payable only upon delivery of a reasoned determination within the ninety-day statutory period under section 8 of the Fair Administrative Action Act. Where the statutory period expires without a determination, any advance payment of the SRT fee shall be refunded in full to the estate or the parties within fourteen (14) days of the deemed dismissal date. The Institution's administrative costs for services actually rendered are retained separately and are unaffected by non-delivery.

A. Sole Member Sitting (Default)

Item	Domestic (KES)	International (USD)
SRT Member's Fee	50% of primary Tribunal fee, minimum KES 50,000	50% of primary Tribunal fee, minimum USD 750
Administrative Costs	20% of SRT Member's Fee	20% of SRT Member's Fee

B. Panel of Three (Institution Direction Required)

Item	Domestic (KES)	International (USD)
SRT Member's Fee (per member, excl. Chairperson)	50% of primary Tribunal fee per member, minimum KES 50,000 per member	50% of primary Tribunal fee per member, minimum USD 750 per member
SRT Chairperson's Fee	150% of SRT Member's Fee	150% of SRT Member's Fee
Administrative Costs	20% of aggregate panel fee	20% of aggregate panel fee

PART 8 — INSTITUTIONAL FEE AND QUALITY ASSURANCE RETENTION

1. The Institutional Fee is a charge of twenty percent (20%) of the Tribunal Fee, payable separately by the parties as the case may be. It is not a deduction from the Tribunal member's professional fee entitlement. The Institutional Fee funds the operation of the ACDS, registry services, roster management, publication through the Digital Gazette, and institutional training.

2. Twenty percent (20%) of the Tribunal Professional Fee shall be retained as a Quality Assurance Retention in the AQAF until expiry of the 42-day internal review period. Where

no Review Application is filed, the retained amount shall be released in full to the Tribunal member. Where a Review Application is filed, the retained amount shall be held pending the SRT determination.

3. Where late payment of total fees occurs beyond sixty (60) days after issuance of the Certificate of Finality, interest shall accrue at the court rate (currently 12% per annum), calculated on a simple interest basis.

PART 9 — POST-DETERMINATION EXECUTION AND CIVIL CONTEMPT TARIFFS

(Pursuant to Rules 33B, 33C, 49A and 53)

1. **Constitutional & Statutory Parity**: In accordance with the right of access to justice under Article 48 of the Constitution and the statutory benchmarks established in Schedule 6 of the Advocates Remuneration Order (ARO), the fees payable for invoking the native execution jurisdiction of the Tribunal under Order 22 of the Civil Procedure Rules (via Rule 37 of the Fair Administrative Action Rules, 2024) are prescribed as follows:

   (a) **Routine Execution Applications (ARO Item 12 Equivalent)**: For drawing, processing, and issuing a Notice to Show Cause (Form A36), Warrant of Attachment and Sale, or Prohibitory Order under Order 22:

   i. Tribunal Member Fee: KES 1,600 [USD 15]

   ii. Institutional Fee (20%): KES 320 [USD 3]

   Total Routine Execution Charge: KES 1,920 [USD 18]

   (b) **Unopposed Garnishee and Prohibitory Directives (ARO Item 14(a) Equivalent)**: For issuing a Form No. 6 Prohibitory/Garnishee Directive against a joined banking institution, digital platform, or commercial debtor where no objection is raised:

   i. Tribunal Member Fee: KES 4,200 [USD 35]

   ii. Institutional Fee (20%): KES 840 [USD 7]

   iii. Total Unopposed Garnishee Charge: KES 5,040 [USD 42]

   (c) **Third-Party Objection Proceedings (ARO Item 13 Equivalents)**:

   i. Intake & Interim Stay of Objection (Order 22 Rule 51): Tribunal Fee: KES 10,000 | Institutional Fee (20%): KES 2,000

   ii. Direction to Proceed with Attachment (Order 22 Rule 52): Tribunal Fee: KES 2,100 | Institutional Fee (20%): KES 420

   iii. Hearing and Determination of Contested Objection (Order 22 Rule 54): Tribunal Fee: KES 14,000 | Institutional Fee (20%): KES 2,800

   (d) **Contested Garnishee and Civil Contempt Hearings (ARO Item 14(b) Equivalent)**: For hearing and

determining a contested garnishee application or a native civil contempt citation under Sections 51 and 84(2) of the Civil Procedure Act:

i. Tribunal Member Fee: KES 14,000 [USD 120] (Minimum)

ii. Institutional Fee (20%): KES 2,800 [USD 24]

iii. Total Contested Proceeding Charge: KES 16,800 [USD 144]

2. **Quality Assurance Retention (AQAF)**: In accordance with Part 8 Item 2, twenty percent (20%) of the Tribunal Member Execution Fee shall be retained in the AQAF until completion and formal delivery of the relevant execution instrument or ruling.

3. **Cost Recovery**: All execution fees paid under this Part constitute recoverable execution costs under Order 22 Rule 7(2)(g) and Section 11(1) of the Fair Administrative Action Act, recoverable from the judgment-debtor or contemnor on an indemnity basis.

SECOND SCHEDULE

[Rule 50]

EMERGENCY ARBITRATOR RULES

1. A party wishing to apply for emergency measures shall submit a written Request for Emergency Arbitration to the Chief Executive, together with payment of the fees prescribed in Part 6 of the First Schedule.

2. The Request shall contain: the names, addresses, and contact details of each party; a copy of the arbitration agreement, empowering provision, or constitutional basis on which the application relies; a brief description of the dispute; a statement of the emergency relief sought and the reasons for urgency; details of the applicant's representative; confirmation of service on all other parties; and proof of payment of the full fees prescribed in Part 6 of the First Schedule. Payment of the full Part 6 fee in advance is a condition of acceptance of the Request and appointment of the emergency arbitrator. No emergency arbitrator shall be appointed until the full fee has been received by the Institution. The requesting party is responsible for the full Part 6 fee regardless of the outcome of the emergency proceedings, subject to any costs order made by the emergency arbitrator under paragraph 12.

3. The Chief Executive shall, if the request is accepted, appoint an emergency arbitrator within two days of receipt of the required payment. The decision to accept or refuse the Request is in the Chief Executive's sole discretion and shall be final as an administrative matter.

4. Each prospective emergency arbitrator shall, before appointment, agree on rates of fees and sign a declaration of independence and impartiality.

5. An emergency arbitrator may not act as arbitrator in any future arbitration relating to the same dispute unless the parties consent.

6. The Chief Executive shall notify all parties of the emergency arbitrator's appointment as soon as practicable. Thereafter, all written communications by parties shall be submitted directly to the emergency arbitrator with a copy to the Institution.

7. A party may challenge an emergency arbitrator on grounds of impartiality or independence, in which case the challenge procedure in Rule 38 applies, with all time limits reduced to one day.

8. The emergency arbitrator shall, within two days of appointment, establish a schedule for consideration of the application, and shall act fairly and impartially adopting procedures suitable to the urgency, including video-conference or written submissions.

9. The emergency arbitrator shall have the same powers as the Arbitral Tribunal under Rule 45, including the power to rule on jurisdiction.

10. The emergency arbitrator shall make an order or award within fourteen days of appointment. This period may be extended by agreement of the parties.

11. A party requesting correction of an emergency arbitrator order or award shall do so within two days of issuance. The emergency arbitrator shall respond within three days.

12. The emergency arbitrator shall deliver the order or award to the Institution, which shall transmit certified copies to all parties immediately upon completion. Delivery shall not be

conditional on any further payment, as the full fees prescribed in Part 6 of the First Schedule are payable by the requesting party in full at the time of filing the Request and are a condition of acceptance of the Request and appointment of the emergency arbitrator. The Institution may by the order or award be directed to apportion costs of the emergency proceedings as between the parties, and any such costs order shall be enforceable as part of the order or award.

THIRD SCHEDULE

[Rule 64.2]

CONDUCT OF PARTY REPRESENTATIVES

The Institution adopts the IBA Guidelines on Party Representation in International Arbitration, adopted by resolution of the IBA Council, 25 May 2013 (International Bar Association, 10 St Bride Street, London EC4A 4AD, www.ibanet.org). The Guidelines are adopted subject to the following hierarchy: the Constitution of Kenya, 2010; the Fair Administrative Action Act, No. 4 of 2015; the Arbitration Act, No. 4 of 1995; the AITAR 2026 Rules; and then the IBA Guidelines. In any case of conflict between the IBA Guidelines and any of the foregoing instruments, the foregoing instruments prevail to the extent of the inconsistency. The IBA Guidelines apply where the parties have so agreed, or where the Arbitral Tribunal, after consultation with the parties, determines that it has authority to apply them consistent with the applicable constitutional and statutory framework.

Preamble

The IBA Guidelines on Party Representation in International Arbitration are inspired by the principle that party representatives should act with integrity and honesty and should not engage in activities designed to produce unnecessary delay or expense. The Guidelines are not intended to displace applicable mandatory laws, professional or disciplinary rules, or agreed arbitration rules. They are not intended to vest arbitral tribunals with powers reserved to bars or other professional bodies. Arbitral tribunals may apply the Guidelines in their discretion, subject to any applicable mandatory rules.

Application

The Guidelines apply where the parties have so agreed, or where the Arbitral Tribunal, after consultation with the parties, determines that it has the authority to apply them to ensure the integrity and fairness of the proceedings.

Party Representation

Party Representatives should identify themselves at the earliest opportunity. No person should accept representation when a relationship exists between that person and an arbitrator that would create a conflict of interest, unless no party objects after proper disclosure. Where a breach of this principle is established, the Arbitral Tribunal may take such measures as are available under Rule 45.2 of these Rules, including admonishing the representative, drawing adverse inferences, or reflecting the breach in cost allocation. The Tribunal's power to exclude a representative from proceedings is limited to what is permissible under these Rules and the applicable constitutional framework — in particular, the right of every party to choose their representative freely and without restriction as to category under Article 19(3)(c) of the Constitution, section 4(3)(e) of the Fair Administrative Action Act, and section 25(5) of the Arbitration Act. Exclusion of a representative on the basis of the IBA Guidelines alone, where such exclusion would be inconsistent with that right, is not authorised by these Rules.

Communications with Arbitrators

Unless otherwise agreed, a Party Representative shall not engage in ex parte communications with an arbitrator concerning the arbitration. Communications for the sole purpose of selecting a Party-Nominated Arbitrator or Presiding Arbitrator, including discussion of expertise, availability, and

conflicts of interest, are permissible but shall not extend to the substance of the dispute.

Submissions to the Tribunal

A Party Representative shall not make any knowingly false submission of fact to the Arbitral Tribunal. If a Representative learns that a prior submission was false, the Representative shall, subject to confidentiality and privilege, promptly correct it. A Party Representative shall not submit witness or expert evidence known to be false.

Document Production and Disclosure

A Party Representative shall not make any document request or objection for an improper purpose. A Representative shall advise the represented party to preserve relevant documents, produce all non-privileged responsive documents, and refrain from suppressing or concealing documents requested or ordered to be produced.

Witnesses and Experts

A Party Representative may assist witnesses in preparing statements and experts in preparing reports, provided that statements and reports reflect the witness's own account and the expert's own analysis. A Representative shall not invite or encourage false evidence. A Representative may meet with witnesses and experts to discuss and prepare their testimony.

Remedies for Misconduct

If the Arbitral Tribunal, after giving the parties notice and a reasonable opportunity to be heard, finds that a Party Representative has committed misconduct, the Tribunal may: admonish the Representative; draw appropriate inferences in assessing evidence or arguments advanced; reflect the misconduct in cost allocation; or take any other measure necessary to preserve the fairness and integrity of the proceedings.

Recommended Arbitration Clauses

Standard clause (contract): *"Any dispute, controversy or claim that has arisen out of or in connection with this contract, or breach, termination or invalidity thereof, shall be settled by proceedings administered by Aluochier Dispute Resolution in accordance with the Aluochier Independent Tribunals Administrative Rules (AITAR 2026)."*

Submission agreement (post-dispute): *"The parties hereby agree that any dispute, controversy or claim that has arisen out of or in connection with the contract dated _____ or breach, termination or invalidity thereof shall be settled by arbitration administered by Aluochier Dispute Resolution in accordance with the Aluochier Independent Tribunals Administrative Rules (AITAR 2026)."*

Mediation and arbitration (stepped clause): *"On account of a dispute, controversy or claim that has arisen out of or in connection with this contract, or breach, termination or invalidity thereof, the parties hereby refer the dispute to mediation under the Aluochier Dispute Resolution Mediation Rules. If the dispute has not been settled pursuant to the said rules within thirty days following the filing of the request for mediation, such dispute shall be settled by arbitration in accordance with the Aluochier Independent Tribunals Administrative Rules (AITAR 2026)."*

FOURTH SCHEDULE — STANDARD FORMS

The following forms support these Rules. Full templates are maintained in the AITAR Case Documentation System.

Form	Purpose	Rule Reference
A1	Petition for Adjudicative Settlement	Rule 17
A2	Request for Arbitration	Rule 18
A3	Sworn Verification of Petition/Request	Rule 17.3
A4	Notice of Proceedings	Rule 20
A5	Tribunal Appointment Instrument	Rule 13
A6	Arbitrator Appointment Instrument	Rule 37
A7	Conflict of Interest & Independence Disclosure	Rule 13.7
A8	Continuing Disclosure of Independence	Rule 38.3
A9	Application for Interim/Conservatory Measures	Rule 47
A10	Notice of Case Management Meeting	Rule 22
A11	Procedural Directions Order	Rule 22.3
A12	Notice of Hearing	Rule 27
A13	Witness Statement	Rule 28
A14	Witness Oath or Affirmation	Rule 29.2
A15	Expert Appointment Order	Rule 30
A16	Expert Report Certification	Rule 30
A17	Consent Determination Record	Rule 24
A18	Determination	Rule 33
A19	Arbitral Award	Rule 49
A20	Request for Reasons	Rules 32 / 48
A21	Application for Correction (Slip Rule)	Rules 33 / 48.5
A22	Correction Notice	Rule 35
A23	Certificate of Finality	Rule 58
A24	Application for Review	Rule 56
A25	Notice of Review Hearing	Rule 56
A26	SRT Review Determination	Rule 57
A27	Fee Worksheet and AQAF Record	Schedule — Part 8
A28	Application for Indigent Status	Rule 53.6
A29	Request for Emergency Arbitration	Rule 48
A30	Withdrawal of Proceedings	Part IX

Form	Purpose	Rule Reference
A31	Closing Certificate	Part IX
A32	Waiver of Statutory Limitation (Arbitration)	Rule 49.9
A33	Settlement Application (Stand-alone Consent Determination Pathway)	Rule 24.7
A34	Notice of Institutional Interested Party Status	Rule 21.2
A35	Sale Form 1: Letter of Instruction	Rules 33A & 49A
A36	Pre-Execution Notice to Show Cause	Rule 33B
A37	Contempt Citation & Summons to Appear	Rule 33B
A38	Warrant of Committal to Civil Jail	Rule 33B

FIFTH SCHEDULE — ROSTER TIER FRAMEWORK

[Pursuant to Rules 10 and 11]

The AITAR Roster is organised into three tiers reflecting experience, expertise, and institutional responsibilities.

Tier A — Accredited Tribunal Members

Tier A members are eligible for appointment to standard matters as sole adjudicators, panel members, or arbitrators. Typical qualifications include a recognised qualification in law or dispute resolution, successful completion of the AITAR Tribunal Admission Assessment, and demonstrated competence in constitutional and procedural law.

Tier B — Senior Members and Supervisory Review Pool

Tier B members are eligible for all Tier A appointments and additionally eligible for appointment to Supervisory Review Tribunals (SRTs) in matters of any value. Members of the Senior Review Pool shall not participate in review of determinations or awards in which they were previously involved. Tier B members typically possess substantial adjudicative or arbitration experience and advanced knowledge of constitutional and administrative law. Mandatory professional indemnity insurance is a condition of Tier B membership and of eligibility for SRT appointment. A Tier B member shall at all times maintain current professional indemnity insurance at a minimum coverage level of KES 5,000,000 per claim or such higher amount as the Institution may prescribe from time to time by publication in the AITAR Digital Gazette. The insurance obligation reflects the personal liability exposure of SRT members, including in respect of non-delivery of a mandatory statutory determination within the ninety-day period under section 8 of the Fair Administrative Action Act. Proof of current insurance shall be filed with the Institution on admission to Tier B and renewed annually. A Tier B member whose insurance lapses shall be suspended from the Senior Review Pool until coverage is reinstated and proof provided to the Institution.

Tier C — Specialists and Assessors

Tier C members may be appointed as technical experts or assessors where specialised knowledge is required. Such expertise may include professional and commercial valuation, financial and accounting analysis, land and property surveying, engineering, digital assets and technology, customary law expertise, and other relevant technical fields. Experts and assessors do not exercise adjudicative authority.

Institutional Progression

The Institution shall establish procedures for the admission, evaluation, and advancement of members between tiers based on experience, training, demonstrated competence, and performance in proceedings. A member who is subject to an active disciplinary finding shall be ineligible for tier advancement until the matter is resolved.

Diversity and Equity

The composition of the Roster shall, over time, reflect the constitutional values of gender equity, regional balance, and inclusion of marginalised groups as required by Article 232. The Institution shall maintain and publish annual statistics on the composition of the Roster.

SIXTH SCHEDULE — TRIBUNAL OATH OF INTEGRITY

[Pursuant to Rule 13]

I, _____, having been admitted to the AITAR Roster, do solemnly swear or affirm that:

1. I will respect, uphold, and defend the Constitution of Kenya, 2010 and the rule of law.
2. I will faithfully and impartially perform the duties of a Tribunal member when appointed under the Aluochier Independent Tribunals Administrative Rules (AITAR 2026).
3. I will exercise my adjudicative functions independently and without fear, favour, bias, or prejudice.
4. I will act consistently with the Constitution of Kenya, the Fair Administrative Action Act, the Arbitration Act, and the procedural framework established by AITAR.
5. I will avoid conflicts of interest and will disclose any circumstances that may reasonably give rise to doubts about my independence or impartiality.
6. I will conduct proceedings fairly, transparently, and diligently, ensuring that every party is given a reasonable opportunity to be heard.
7. I will conduct proceedings openly and transparently in accordance with Articles 10 and 50(1) of the Constitution, ensuring that proceedings are accessible to the public. I will depart from this obligation of openness only on the grounds and to the extent permitted by Article 50(8) of the Constitution — that is, where exclusion or restriction is necessary, in a free and democratic society, to protect witnesses or vulnerable persons, morality, public order, or national security — and shall record written reasons for any such departure. I will not impose or agree to confidentiality of proceedings beyond what is constitutionally permissible under Article 50(8).
8. I will faithfully discharge my responsibilities in the best interests of justice and in fidelity to the Constitution.

Signed at _____ on this _____ day of _____ 20____.

Signature: _____

Name: _____

Administered by: _____ (Authorised Officer, Aluochier Dispute Resolution)

SEVENTH SCHEDULE — DATA PROTECTION AND AI GOVERNANCE POLICY

[Pursuant to Rule 30.4]

E1. Purpose

This Schedule sets out the framework governing the processing of personal data and the use of artificial intelligence tools in proceedings under these Rules. The framework is designed to ensure compliance with the Constitution of Kenya, 2010, and applicable data protection law, while enabling the effective and innovative conduct of proceedings.

E2. Personal Data

The Institution and all Tribunal members shall process personal data only to the extent necessary for the administration of proceedings under these Rules, in accordance with applicable data protection legislation. Sensitive Personal Data (as defined in Rule 2.1) shall be processed with heightened care and shall be redacted from published instruments unless disclosure is required by law.

E3. Artificial Intelligence Tools

Where a Tribunal member utilises an artificial intelligence tool in the review of documents, analysis of evidence, or preparation of a Determination or Award, the Tribunal member shall: (a) record in the institutional case file the nature and purpose of the AI tool used; (b) conduct independent human verification of all AI-assisted analysis before it is relied upon; (c) ensure that no AI tool is used to make or substitute for adjudicative decisions; and (d) disclose to the parties upon request the fact that AI tools were utilised and the scope of their use.

E4. Data Retention

Records of proceedings shall be retained in the AITAR Permanent Registry for a minimum of thirty (30) years from the date of the Certificate of Finality. Records containing Sensitive Personal Data shall be subject to periodic review and appropriate anonymisation after the mandatory retention period.

AMENDMENT RECORD

Edition/Revision	Date	Principal Changes
First Edition	February 2025	Original publication
Second Edition	23 March 2026	Separation of AISTAR; AITAR as general instrument; removal of succession provisions; Second Edition structural revision
Second Edition — April 2026 Governance Revision	April 2026	Addition of Rule 7 (Chief Adjudicator and President of Independent Tribunals); updated Preamble with constitutional classification recitals (Art 1(3)(c)(i)/(ii) distinction; ad hoc character of Tribunals); updated Institutional Architecture Notice; new definitions; amended Rule 4.5; consequential amendments to Rules 12, 15, 64
Third Edition	April 2026	Full consolidation into single integrated instrument; new Rule 21 (Institutional Interested Parties); strengthened Rule 24 (standalone settlement validation pathway Rules 22.7–22.12); new Rule 64.3 (transitional newspaper publication); new definitions; Forms A33 and A34; Rule 68 amendment authority to Chief Adjudicator
Fourth Edition	26th April, 2026	Tax compliance and billing amendments: 1. Rule 24(13): added payment direction in Consent Determination. 2. Rule 33(7): added payment direction in Determination (Adjudication Highway). 3. Rule 49(11): added payment direction in Award (Arbitration Highway). 4. Rule 53(7): added subrogation right for ADR when paying neutrals before receiving party funds.
Fifth Edition	18th October, 2026	1. Rule 21(8): Operationalises Section 4(3) FAAA pre-decision joinder; binds banks, employers, and registries before final determination, eliminating post-award interpleader delays. 2. Rule 24(11): Establishes procedural parity between contested Determinations and consensual settlements; prevents defaulting parties from stalling execution.

Edition/Revision	Date	Principal Changes
		3. Rule 33A: Bypasses judicial enforcement backlogs pursuant to delegated sovereign power (Arts. 1(3)(c), 159); shifts the procedural burden to the debtor to seek a High Court stay. 4. Rule 33B: Implements FAA Rules 2024 r. 2 ("Court" includes tribunal); establishes direct garnishee/charging orders. Anchors native civil contempt in CPA s. 84(2) to avoid enforcement backlogs. Eliminates *ultra vires* criminal fine risks under Art. 50(2) while maintaining coercive pressure. 5. Rule 33C: Maintains constitutional separation of administrative and judicial pathways; enforces *res judicata* under CPA s. 7 and eliminates plenary re-trials at execution. 6. Rule 49A: Provides consensual disputes on the Arbitration Highway with the same summary distress remedies available on the Adjudication Highway. 7. Rule 58(5): Eliminates hyper-technical limitation defences by debtors if drawing or sealing occurs after Day 43 (*actus curiae neminem gravabit*); safeguards accrued rights under Art. 47. 8. Fourth Schedule: Provides standardised procedural instruments to operationalise Rules 33A, 33B, and native civil contempt.

Published by Aluochier Dispute Resolution
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