



WFO EXPERT RULES 2022

PREAMBLE

- (A) The World Forum Offshore Wind e.V. ("**WFO**") is a registered non-profit organization representing the entire offshore wind value chain including utility companies, developers, manufacturers, service providers as well as non-profit organizations. The WFO carries out its work through various committees. The Offshore Dispute Resolution Committee ("**ODRC**") is the committee dedicated to developing alternative dispute resolution mechanisms to resolve offshore wind disputes faster and in a more cost-effective manner. The ODRC holds regular meetings during which members discuss and establish the WFO's dispute resolution mechanisms.
- (B) These WFO Expert Rules (the "**Rules**") are established by the WFO and the ODRC. They are intended to serve as a supplement to traditional dispute resolution measures in the field of offshore wind projects and can either be contractually agreed from the outset through a suitable reference in the Parties' contract (the "**Contract**"), or by a separate ad hoc agreement (any of them the "**Conflict Resolution Agreement**").
- (C) To guarantee an effective management of activities and to administer proceedings and services under the Rules, the WFO has created its Secretariat for Dispute Resolution Services (the "**Secretariat**"). The Parties may use the services of the Secretariat in different ways under these Rules. They may request the Secretariat to propose an Expert from the WFO's List of Approved Experts in the context of formal or non-formal proceedings ("**Proposal Proceedings**", as further defined below), or they may request the appointment of an Expert from the WFO's List of Approved Experts for formal proceedings which are administered by the WFO ("**Administered Proceedings**", as further defined below). The WFO performs administrative and/or coordinative tasks, the extent of which depend on the requested proceedings.
- (D) The Expert proposed or appointed by the Secretariat may perform a variety of tasks. The Parties retain the right to determine whether the Expert shall, for example, assess specific issues, act as a neutral conciliator or mediator, serve as adjudicator, give formal or informal advice or act as an advisor in any kind of procedure, each in either binding or non-binding capacity.
- (E) The use of an Expert is not intended to limit or modify any options for legal relief, either before, during or after the proceedings, and has no influence on any claims procedures under the Contract unless the Parties so agree. In principle, the Expert's findings are not intended to be binding, but are admissible as evidence in any subsequent legal proceedings unless the Parties agree otherwise and subject to the rules applicable therein. The Parties shall ultimately only be bound by the Expert Proceedings and their outcome to the extent provided for in the Conflict Resolution Agreement.

1. DEFINITIONS

In these Rules:

- (a) "**Administration Fee**" means the fee charged for the administration of Administered Proceedings as set out in Clause 5.2 (*Fees and Costs*).
- (b) "**Administered Proceedings**" has the meaning ascribed to it in Preamble (C) and further specified in Clause 2.3(b) (*Request*).
- (c) "**Clause**" means a clause in these Rules.
- (d) "**Conflict Resolution Agreement**" has the meaning as set out in Preamble (B).
- (e) "**Contract**" means the contract concluded between the Parties as set out in Preamble (B).
- (f) "**Decision on Admissibility**" means the decision on the admissibility of a Request as set out in Clause 2.6 (*Request*).
- (g) "**Dispute**" has the meaning as set out in Clause 2.1 (*Request*).
- (h) "**Expert**" means a knowledgeable person appointed or proposed as an expert under these Rules.
- (i) "**Expert Fee**" means the fee payable to the Expert as set out in Clause 5.3 (*Fees and Costs*).
- (j) "**Expert Proceedings**" means any type of proceedings under these Rules.
- (k) "**Expert Report**" means the written opinion issued by the Expert under Clause 4.5(a) (*Expert Report*).
- (l) "**Filing Fee**" means the non-refundable fee payable upon filing a request as set out in Clause 5.1 (*Fees and Costs*).
- (m) "**List of Approved Experts**" means an up-to-date list of approved experts maintained by the WFO as set out in Clause 7.4(a) (*List of Approved Experts*).
- (n) "**Mandate Agreement**" means the agreement between an Expert and the Parties as specified in Clause 4.2(a) (*Mandate Agreement*).
- (o) "**Notice of Objection**" has the meaning as set out in Clause 4.5(e) (*Expert Report*).
- (p) "**Objection Fee**" means a fee for an objection or challenge or any request for replacement of an Expert as set out in Clause 5.4 (*Fees and Costs*).
- (q) "**ODCR**" has the meaning as set out in Preamble (A).
- (r) "**Party**" means a party to a Dispute administered under the WFO Rules.
- (s) "**Proposal Proceedings**" has the meaning as set out in Preamble (C) and further specified in Clause 2.3(b) (*Administered Proceedings*).
- (t) "**Request**" means a written request to initiate proceedings under these Rules as set out in more detail Clause 2.1 (*Request*).

- (u) **"Rules"** means these WFO Expert Rules.
- (v) **"Secretariat"** means the WFO's Secretariat for Dispute Resolution Services as set out in Preamble (C).
- (w) **"Selection Fee"** means the fee payable for the selection of an expert under the Selection Procedure as set out in Clause 5.2 (*Fees and Costs*).
- (x) **"Selection Procedure"** means the procedure for selecting an expert under Clause 2.1 (*Request*).
- (y) **"WFO"** has the meaning as set out in Preamble (A).

2. **REQUEST**

2.1 Either Party may at any time submit a request to the Secretariat (the **"Request"**) in order to initiate the procedure for the selection of an Expert for any type of Expert Proceedings as listed in Clause 2.3 (*Request*) (the **"Selection Procedure"**). The Request shall specify the issues to be brought to the Expert's attention. The subsequent Expert Proceedings and the issues to be addressed therein shall be limited to the subject matter described in the Request and to the factual circumstances presented in support thereof (the **"Dispute"**).

2.2 The Request shall be made by using the form in Annex 1 of the Rules and shall contain all information required therein. Upon submission of the Request, the requesting Party shall pay the Filing Fee of the Rules and submit proof thereof to the Secretariat.

2.3 A Request shall be made for one of the following two types of proceedings:

(a) **Proposal Proceedings**

A Party may request the proposal of an Expert by the Secretariat if the Expert is required in the context of any kind of formal or non-formal proceedings; in this case, the Selection Procedure shall be governed by these Rules and administered by the Secretariat, but the Expert's mandate and the Expert Proceedings shall be governed solely by the Parties' Conflict Resolution Agreement.

(b) **Administered Proceedings**

A Party may request the appointment and confirmation of an Expert by the Secretariat if the Expert is required in the context of formal proceedings which are to be administered entirely by the WFO and the Secretariat. In this case, the Selection Procedure as well as the Expert's mandate and the Expert Proceedings shall be governed by these Rules (supplemented by the Conflict Resolution Agreement) and shall be administered by the Secretariat.

Both types of proceedings may be conducted as expedited proceedings in accordance with Clause 6 (*Expedited Proceedings*).

2.4 Whenever possible, a Request shall be submitted jointly by the Parties. If the Request is not submitted jointly by all Parties, the Secretariat shall send a copy of the Request to the other Party concerned who shall have one (1) week from receipt of the Request to comment on or object to the Request. Upon receipt by the Secretariat, such comments shall be forwarded to the requesting Party for reply within one (1) further week of receipt. Upon receipt of the counter comments (if any), the Secretariat shall decide on the admissibility of the Request, taking into account the comments of both sides. The Secretariat shall not be

bound by the comments made by any of the Parties and shall decide on the comments and the Request at its sole discretion.

- 2.5 Any Request shall only be admissible and further processed by the Secretariat if:
- (a) its submission to the WFO is based on an agreement of the Parties (in their Contract or ad hoc), or if the non-requesting Party fails to object to the Request within the time limits set forth in Clause 2.4 (*Request*); and
 - (b) the Filing Fee has been received by the WFO; and
 - (c) the deposit pursuant to Clause 5.2 (*Fees and Costs*) has been received by the WFO.

The Secretariat shall determine at its sole discretion whether these requirements are met. The Secretariat shall acknowledge receipt of the Request, the Filing Fee and the deposits in writing to the Parties.

- 2.6 The Secretariat shall make a decision on the admissibility of the Request within three (3) weeks after receipt of the Request (the "**Decision on Admissibility**"). This period shall be reduced to one (1) week if the Request is made jointly pursuant to Clause 2.4 (*Request*). The Secretariat may, at its sole discretion, extend these time limits by one (1) week.
- 2.7 The date on which the Request is received by the Secretariat is the date of the commencement of the Expert Proceedings.
- 2.8 The receipt of an admissible Request by the Secretariat shall suspend the running of the limitation period under the contract or applicable law for any claims arising out of or in connection to the Dispute. The suspension shall end upon conclusion or termination of the proceedings under these Rules.

3. **SELECTION PROCEDURE**

- 3.1 If the Request is admissible, the Selection Procedure shall be conducted by the Secretariat in accordance with this Clause 3 (*Selection Procedure*).
- 3.2 Within two (2) weeks after the Decision on Admissibility, the Secretariat shall:
- (a) in case of Proposal Proceedings, propose an Expert to the Parties; or
 - (b) in case of Administered Proceedings, appoint an Expert,
- in each case from the WFO's List of Approved Experts.
- 3.3 At any time prior to the proposal or appointment of an Expert by the Secretariat under Clause 3.2 (*Selection Procedure*), both Parties may jointly propose to the Secretariat an Expert for consideration or confirmation. Regarding this Party proposal, the Secretariat shall consider if it finds the proposed Experts to be suitably qualified in terms of the criteria set out in Clause 3.4 (*Selection Procedure*), and, at the discretion of the Secretariat, propose or appoint such Expert or reject the Party's proposal.
- 3.4 In proposing or appointing an Expert, the Secretariat shall consider in particular:
- (a) the Expert's specific qualifications, including training and experience;

- (b) the Expert's neutrality, independence and impartiality;
 - (c) the Expert's suitability regarding the specific issues or Dispute in question;
 - (d) the Expert's availability to carry out the procedure efficiently;
 - (e) any additional requirements set out in the Request.
- 3.5 The Secretariat shall use all reasonable efforts to propose an Expert who is competent for the specific Dispute and meets as closely as possible the criteria set out in Clause 3.4 (*Selection Procedure*). The decision as to which Expert is most competent is at the sole discretion of the WFO. The Expert must in any case be neutral and impartial and independent of the Parties involved in the proceedings, unless otherwise agreed in writing by the Parties.
- 3.6 Upon proposing or appointing an Expert, the Secretariat shall send its proposal or appointment, together with the Request, a curriculum vitae and further information (if any) simultaneously to the Parties and the prospective Expert. Within one (1) week, the Expert shall submit a statement declaring his or her independence from the Parties and their legal advisors, and disclosing in writing any prior involvement with any of the Parties as well as any circumstances that may call into question or raise reasonable doubts as to his or her qualification, competence, availability, neutrality, impartiality and independence. The Secretariat shall without undue delay provide this information to the Parties.
- 3.7 Within ten (10) days after the proposal or appointment of the Expert by the Secretariat pursuant to Clause 3.2 or 3.3 (*Selection Procedure*), either Party may file an objection in writing with the Secretariat that the Expert does not have the required qualifications, is not neutral, independent and impartial, or is not suitable for confirmation for any other reason. For assessment of the objection, the Secretariat may at any time request a statement from the prospective Expert. If, after assessing the objection, the Secretariat considers the objection to be justified, it may withdraw its proposal or appointment and propose or appoint another Expert. The Selection Procedure of this Clause 3 (*Selection Procedure*) shall apply *mutatis mutandis* to the second and any subsequent proposals or appointments. Otherwise, if the Secretariat considers the objection not to be justified, it shall promptly confirm the proposed or appointed Expert.
- 3.8 If a proposal or appointment is agreed by both Parties in writing or if no objection is raised by either of the Parties within the time limits set out in Clause 3.7 (*Selection Procedure*), the Secretariat shall confirm the proposed or appointed Expert.
- 3.9 Upon confirmation of the Expert, the Secretariat shall promptly notify the Expert and the Parties of the confirmation, and request the Expert to consult with the Parties in order to agree on a Mandate Agreement and to initiate the Expert Proceedings, always in accordance with the Parties' agreement or these Rules.
- 3.10 The Secretariat shall propose, appoint and confirm only one Expert unless the Parties request otherwise. If the Secretariat deems it appropriate to appoint more than one Expert, it may propose this to the Parties for their agreement.
- 3.11 The Secretariat shall have the sole discretion to discontinue the proceedings under these Rules at any time if it finds itself unable to propose, appoint or confirm an Expert.

4. ADMINISTERED PROCEEDINGS

4.1 Scope of Application

This Clause 4 (*Administered Proceedings*) shall only apply to Administered Proceedings.

4.2 Mandate Agreement

- (a) As soon as the Expert has been confirmed by the Secretariat, the Expert and the Parties shall agree on an Expert Fee. As soon as the Expert has received the deposit for the Expert Fee pursuant to Clause 5.3 (*Fees and Costs*), the Expert shall consult with the Parties to define and set out his mandate in writing (the "**Mandate Agreement**"). The draft of the Mandate Agreement shall be sent to the Parties and to the Secretariat which shall at least include:
- (i) the contact details of the Expert and of any other involved parties, including names, positions, addresses;
 - (ii) official communication addresses to which the Secretariat, the Parties and the Expert shall address all written communication;
 - (iii) a description of the Dispute and a list of the issues on which the Expert shall make findings in his or her report;
 - (iv) the procedure which the Expert proposes to follow until the preparation of his or her report, including the language.
 - (v) whether physical meetings are to be held, e.g. for site visits, meetings or hearings, and if so, the venues;
 - (vi) the agreed hourly rate and any surcharges, if applicable, in accordance with Annex 2.
- (b) If no objection to the draft Mandate Agreement is made within one (1) week after it has been received by the Parties, the draft Mandate Agreement shall be deemed agreed. Amendments to the draft Mandate Agreement may only be made in writing and only with the consent of both Parties as well as of the Expert. Such written amendments shall be communicated to the Secretariat.
- (c) In the event that the Parties and the Expert fail to agree on the Mandate Agreement, the Expert may at his discretion still continue with the next steps of the Administered Proceedings, provided that the disagreement does not directly relate to these steps. Any disagreement shall then be discussed in due course by the Expert with the Parties. If no amicable solution can be reached, the Secretariat shall decide on the matter at its own discretion.

4.3 Challenges and Resignation

- (a) The Expert shall be and remain neutral, impartial and independent of the Parties and their advisors, unless otherwise agreed in writing by the Parties. The Expert shall disclose in writing to the Secretariat and to the Parties any facts or circumstances which may impede his or her neutrality, impartiality or independence as soon as such fact or circumstance arises.
- (b) If during any stage of the Administered Proceedings:

- (i) an Expert becomes unable to carry out his or her mandate; or
- (ii) all Parties so request in writing; or
- (iii) the Expert has lost the required qualifications, neutrality, independence or impartiality, or is no longer suitable for conducting the Administered Proceedings for a similar reason,

either of the Parties may challenge the Expert. The challenging Party shall immediately notify the Secretariat of its challenge. The Secretariat shall assess such challenge and, if in its sole discretion it considers the challenge to be justified, it shall release the Expert from his or her duties. The Secretariat shall then promptly communicate – with an explanation of the reasons – in writing the release and, if so requested by the Parties, shall propose, appoint or confirm a new Expert. Clause 3 (*Selection Procedure*) shall apply for such new proposal, appointment or confirmation.

- (c) An Expert may (after notice to the Parties) seek to resign by submitting a request to the Secretariat to relieve him or her of his or her obligations and to make such orders as it deems appropriate with respect to his or her entitlement (if any) to fees or expenses.

4.4 **The proceedings**

- (a) Subject to the Parties' rights to a due process or any agreement of the Parties, the Expert may conduct and organise the Administered Proceedings as he or she sees fit. The Expert and the Parties shall make every effort to conduct the Administered Proceedings in an expeditious and cost-effective manner, without impeding any procedural rights of the Parties.
- (b) As soon as possible after the agreement on the Mandate Agreement, the Expert shall consult with the Parties and set out a procedural timetable for the Administered Proceedings.
- (c) The Parties have a general duty to cooperate. If, at any time, a Party unjustifiably fails to comply with its duties and obligations under these Rules, and thereby culpably prevents or impedes the Expert's ability to assess a material fact, the Expert may conclude that the assessment of such circumstance would have led to a result unfavourable to that Party.
- (d) To the extent relevant to the Expert opinion, the Expert may request any Party to provide access to any information, data, documents, or similar, or to the plant or site for inspection. When making such request, the Expert shall consider the availability of information, data, documents, plant, site, or similar, and the effort and burden to produce it. He or she shall as well have regard to matters of efficiency, proportionality, equality, privilege, and to grounds of commercial, technical and political confidentiality or sensitivity. At any stage of the Administered Proceedings, the Expert shall observe any principles of due process and shall ensure that the Parties are treated equally and that each Party is given the fullest opportunity to present its case. In the event of a disagreement in this respect, the Secretariat may be consulted by the Parties for a statement.
- (e) If a Party fails to participate in the Administered Proceedings, the Expert may nevertheless make findings and issue an opinion, if necessary solely on the basis of the Request and the information submitted by the non-defaulting Party, provided

that the defaulting Party has been given a reasonable opportunity to participate in the Administered Proceedings.

- (f) In the absence of agreement between the Parties, the default language shall be English, and the default place for any oral hearing shall be the seat of the non-requesting Party.
- (g) The Administered Proceedings are concluded upon:
 - (i) the communication of the Expert Report to the Parties by the Secretariat in accordance with Clause 4.5(c) (*Expert Report*); or
 - (ii) if the Expert fails to submit the Expert Report within the time period specified in Clause 4.5(b) (*Expert Report*), after any Party having issued a Notice of Objection under Clause 4.5(e) (*Expert Report*);
 - (iii) the release of the Expert from his or her duties in accordance with Clause 4.3(b) (*Expert Report*), provided that no replacement can be found;
 - (iv) the resignation of the Expert and acceptance thereof by the Secretariat in accordance with Clause 4.3(c) (*Expert Report*), provided that no replacement can be found; or
 - (i) the termination of the proceedings under Clause 5.7 (*Fees and Costs*),whichever occurs first.

4.5 **Expert Report**

- (a) The Expert shall record his or her findings in a written opinion in respect of all issues of the Dispute referred to the Expert in the Mandate Agreement (the "**Expert Report**"). The Expert Report shall state the reasons for the findings unless the Parties waive this requirement in writing.
- (b) The Expert Report shall be submitted in draft form to the Secretariat before it is signed by the Expert. The Secretariat may submit to the Expert comments to the draft Expert Report. The Expert shall take into account the comments and revise the draft Expert Report to the extent he or she considers appropriate. The Expert Report including its revisions (if any) shall then be signed by the Expert. At the latest four (4) months after the notification of confirmation of the Expert by the Secretariat under Clause 3.9 (*Selection Procedure*), and unless the Parties agree otherwise, the final Expert Report shall be submitted to the Secretariat.
- (c) The Secretariat shall send the final and signed Expert Report to the Parties and declare the Administered Proceedings closed. The Expert Report shall not be communicated to the Parties by the Expert directly.
- (d) If the Expert fails to submit the Expert Report within the time period specified in Clause 4.5(b) (*Expert Report*) above, the Secretariat shall allow for an additional period of three (3) weeks for submission. If the final date for submission is not observed for reasons which are attributable to the Expert:
 - (i) upon request of either Party, the Secretariat may at its discretion terminate the proceedings;

- (ii) upon a joint request of both Parties, the Secretariat may replace the Expert in accordance with Clause 4.3(b) (*Challenges and Resignation*); and
 - (iii) if the Parties have agreed in writing that the findings of the Expert shall become binding, either Party may issue a Notice of Objection and Clause 4.5(e) (*Expert Report*) shall apply accordingly.
- (e) The findings of the Expert shall not be binding on the Parties, unless otherwise agreed by the Parties. If the Parties have agreed in writing that the findings of the Expert shall become binding, either Party shall have the right to give notice that it objects to the Expert Report (setting out the matter in dispute and the reasons for objection) to the other Party and to the Secretariat within three (3) weeks after receiving the Expert Report from the Secretariat ("**Notice of Objection**"). If no such Notice of Objection is given within such period, the relevant findings shall become final and binding on both Parties. If, however, a Notice of Objection is given within such period, the relevant findings shall not become final and binding.
- (f) Unless otherwise agreed by the Parties in writing, the Expert Report shall be admissible as evidence in any other dispute resolution proceedings if the Parties to the Expert Proceedings are also parties to the other dispute resolution proceedings, subject to the rules governing such proceedings.

5. FEES AND COSTS

- 5.1 The Request shall be accompanied by the non-refundable filing fee as set out in Annex 2 (the "**Filing Fee**").
- 5.2 Upon receipt of a Request, the Secretariat shall require the Parties to pay one or more deposits in an amount sufficient to cover the WFO's costs for any administrative tasks under these Rules, including, to the extent applicable, the fee for the Selection Procedure (the "**Selection Fee**") and the fee for the administration of the Administered Proceedings (the "**Administration Fee**") as set out in Annex 2. If a deposit under this Clause 5.2 (*Fees and Costs*) has not been received within (2) weeks after receipt of the Secretariat's payment request by the Party, the Secretariat may consider the Request as withdrawn or decide to hold the matter and the Request in abeyance under Clause 2.5 (*Request*).
- 5.3 Upon entering into the Mandate Agreement, the Parties are required to agree on the Expert's fees in accordance with Annex 2 (the "**Expert Fee**"). The Parties and the Expert shall agree on a reasonable advance payment.
- 5.4 After an objection or challenge or any request for replacement of the Expert pursuant to any clause of these Rules has been assessed by the Secretariat, an additional fee may be charged by the Secretariat in accordance with Annex 2 (the "**Objection Fee**"). The Objection Fee also covers the costs of a subsequent additional Expert proposal or appointment.
- 5.5 The advance payment under Clause 5.3 (*Fees and Costs*) and all Expert Fees shall be paid directly by the Parties to the Expert. All other payments shall be paid directly to the WFO.
- 5.6 The Filing Fee shall be borne by the Party filing the Request. The Objection Fee shall be borne by the Party objecting, challenging or requesting replacement of the Expert, if such a request was unsuccessful. In all other cases, it shall be borne equally by both Parties. All

other deposits, fees and costs referred to in the Rules shall be borne equally by both Parties unless agreed otherwise. Each Party shall be responsible for its own expenditures incurred, unless agreed otherwise. Each Party shall be entitled to make payments in lieu of the other Party if the other Party fails to meet its payment obligations. The paying Party shall be entitled to reimbursement of these costs.

- 5.7 The Secretariat may suspend the proceedings at any stage if the Parties fail to comply with their payment obligations and a payment has not been received within two (2) weeks of its due date. If the suspension has continued for more than two (2) months, the Secretariat may terminate the proceedings or decide to hold the matter and the Request in abeyance under Clause 2.5 (*Request*), in each case without prejudice to and without waiver of any of the WFO's rights and remedies available under any applicable laws to recover any outstanding fees and expenses.
- 5.8 The Secretariat may replace the Expert in accordance with Clause 4.3(b) (*Challenges and Resignation*) if no agreement can be found on the Expert Fee in accordance with Annex 2.
- 5.9 In particular costly or high-value proceedings, the Secretariat may at its sole discretion, adjust all fees as well as the deposits, taking into account the principles set out in Annex 2.
- 5.10 Upon the conclusion of Administered Proceedings, the Secretariat shall determine the total costs of the proceedings on the basis of this Clause 5 (*Costs and Fees*) and Annex 2. If any payment is outstanding or any refund of the Filing Fee, Selection Fee, or Administration Fee is required, the Secretariat shall claim such additional payment from the Parties, or shall initiate the refund of overpaid amounts (as the case may be). Such payments shall be due after ten (10) banking days after notification of the conclusion of the Expert Proceedings. The Secretariat shall issue a proper invoice for all fees levied by the WFO after conclusion of the Expert Proceedings, taking into account any specific requirements of the Parties.
- 5.11 If the Secretariat discontinues the Selection Procedure in accordance with Clause 3.11 (*Selection Procedure*) for reasons beyond the control of any of the Parties, no costs pursuant to Clause 5.2 (*Fees and Costs*) shall be incurred and the Filing Fee pursuant to Clause 5.1 (*Fees and Costs*) shall be reimbursed.

6. EXPEDITED PROCEEDINGS

- 6.1 Proposal Proceedings and Appointment Proceedings may be conducted as expedited proceedings if:
 - (a) the value of the Dispute is below one million five hundred thousand Euros, and either Party files a Request for expedited proceedings; if there is disagreement between the Parties on the value of the Dispute, the Secretariat shall determine the value at its sole discretion; or
 - (b) both Parties jointly file a Request for expedited proceedings.

If a Request is filed for expedited proceedings, but such Request is inadmissible, it shall be considered as a Request for regular proceedings.

- 6.2 In case of expedited proceedings, the time limits in Clauses 3.2 and 3.7 (*Selection Procedure*) shall be reduced to five (5) business days. The time limit for submission of the final Expert Report in accordance with Clause 4.5(b) (*Expert Report*) shall be reduced to two (2) months, and the additional time period under Clause 4.5(d) (*Expert Report*) shall be

reduced to one (1) week. No extension to any time limits under these Rules shall be granted by the Secretariat.

6.3 Any procedural principles, whether arising from these Rules, in particular Clause 4 (*Administered Proceedings*), or from any other set of rules, remain applicable. However, the Expert shall at all times endeavor to place particular emphasis on procedural efficiency.

6.4 As set out further in Annex 2, a fifteen percent (15 %) surcharge on the Selection Fee, Administration Fee, Objection Fee and Expert Fee shall apply in case of expedited proceedings under this clause 6 (*Expedited Proceedings*).

7. MISCELLANEOUS

7.1 General provisions

- (a) An Expert proposed under the Rules may be a natural person or a legal entity, such as a company or a partnership. In the latter case, the legal entity shall appoint a natural person representing it and give notice to the Secretariat and to the Parties.
- (b) The Secretariat, the Expert and the Parties shall act cooperatively and in the spirit of these Rules.
- (c) To the extent that these Rules provide that the WFO or the ODCR shall have responsibility for a decision, administrative function or any other action, any of the Secretariat's members shall have the authority to represent the WFO and the ODCR.

7.2 Confidentiality

Any information or documents exchanged during the Expert Proceedings are confidential. They may only be used for the purposes of the Expert Proceedings or the Selection Procedure unless agreed otherwise by the Parties or stipulated otherwise in the Rules.

7.3 Written communications

- (a) All written communications submitted under the Rules shall be supplied electronically by email or, if impracticable, by mail or courier, unless stipulated otherwise in the Rules or agreed otherwise by the Parties.
- (b) All communications from the WFO, ODCR, or Secretariat to a Party shall be sent to the address of the Party provided in the Request, unless notified otherwise by the Party for this purpose.
- (c) All communication from the Parties or the Expert to the WFO, ODCR, or Secretariat shall be made to the following address:

World Forum Offshore Wind e.V.
Gunnar Herzig
Überseering 4
22297 Hamburg
Germany

- (d) A communication shall be deemed to have been received:
 - (i) in case of an electronic communication on the day it was sent, provided that no non-delivery notification was received by the sender;

- (ii) in any other case on the day it was delivered at the recipient's address.

7.4 **List of Approved Experts**

- (a) The WFO shall maintain an up-to-date list of experts which are approved to take over the role of an Expert qualified in the sense of Clause 3.4 (*Selection Procedure*) to serve as an Expert in proceedings under these Rules (the "**List of Approved Experts**"). The List of Approved Experts shall be published on the website of the WFO and shall be updated on a regular basis.
- (b) However, the Parties may jointly submit their own proposals for Experts in accordance with Clause 3.4 (*Selection Procedure*).

7.5 **Waiver**

A Party who proceeds with the Expert Proceedings without raising any objection provided for in the Rules or any other objection to the proceedings that could reasonably have been raised shall be deemed to have waived the right to object.

7.6 **Evaluation**

After the Expert Proceedings have been concluded, the Parties are asked to complete an evaluation form provided by the Secretariat, which will be used to assess the administration by the Secretariat and the performance of the Expert. The completed evaluation form shall be sent by the Parties to the Secretariat who may communicate the assessment of the Expert to the Expert.

7.7 **Liability**

The WFO, ODRC or Secretariat or any of its employees, groups or committees shall not be liable to any of the Parties or the Expert for any costs, losses, liabilities or expenses arising directly or indirectly from any acts or omissions of the WFO, ODRC, or Secretariat or any of its employees, groups or committees, the Parties or the Expert in connection with these Rules or any proceedings hereunder except to the extent otherwise required by the applicable law.

ANNEX 1 – REQUEST

The Request shall at least include:

1. CONTACT DETAILS:

- 1.1 the name, address, telephone number and email address of the Party filing the Request;
- 1.2 to the extent known, the name, address, telephone number and email address of any other person involved in the relevant Contract or potential proceedings, including of the non-requesting parties; and
- 1.3 to the extent known, the name, address, telephone number and email address of any representatives.

2. DISPUTE:

- 2.1 a description of the Dispute, including a preliminary estimate of its value, as well as a copy of the agreement or clause upon which the Request is based;
- 2.2 a description of the Dispute resolution or other procedure for which assistance is sought, including the relief sought; and
- 2.3 a description of the services sought from the WFO and its Secretariat, that is in particular whether proposal, appointment or confirmation of an Expert is requested, whether administration of the Expert Proceedings by the WFO and its Secretariat is sought, and whether expedited proceedings are requested.

3. EXPERT:

- 3.1 the desired field of activity of the prospective Expert;
- 3.2 the desired attributes of the prospective Expert, including but not limited to nationality, education, qualifications, language skills and professional experience;
- 3.3 any undesired or disqualifying attributes of the prospective Expert;
- 3.4 if the Parties have already been able to agree upon a prospective Expert which they intend to suggest, the name, address, telephone number, email address of the prospective Expert then to be confirmed by the Secretariat in accordance with the Rules.

4. THE EXPERT'S MANDATE:

- 4.1 a detailed description of the work to be carried out by the Expert, including whether a written report including a detailed reasoning is desired;
- 4.2 whether site visits will be required or whether a "desktop exercise" is preferred;
- 4.3 the expected time frame;
- 4.4 in what language the Expert Report shall be issued.

ANNEX 2 - COSTS

1. FILING FEE

Each Request pursuant to the Rules must be accompanied by a non-refundable filing fee of 3.500 EUR per Expert to be proposed (the "**Filing Fee**"). No Request shall be processed unless accompanied by the Filing Fee.

2. SELECTION FEE

2.1 Upon receipt of the Request and the Filing Fee, the Secretariat shall request a deposit in an amount sufficient to cover the WFO's costs for any administrative tasks regarding the Selection Proceedings (the "**Selection Fee**").

2.2 The Selection Fee shall be fixed at the Secretariat's discretion depending on the tasks carried out by the WFO and its Secretariat. The Selection Fee shall range between 2.000 EUR and 5.000 EUR.

2.3 When fixing the Selection Fee, the Secretariat shall take into account all circumstances of the case, including the specifics of the Dispute, the Request, and the time frame in which the Request shall be processed.

2.4 The Secretariat may fix and require a deposit on the Selection Fee at any time.

3. ADMINISTRATION FEE

3.1 Upon receipt of the Request and the Filing Fee, and if the Parties request conduct of Administered Proceedings, the Secretariat shall request a deposit in an amount sufficient to cover the WFO's costs for any administrative tasks regarding the Administered Proceedings and for any other administrative tasks expected to be required from the Secretariat under the Rules (the "**Administration Fee**").

3.2 The Administration Fee shall be a lump sum and shall be fixed at the Secretariat's discretion depending on the circumstances of the Dispute and the tasks which are expected to be carried out by the Secretariat. The Administration Fee shall range between the minimum fee and maximum fee indicated below:

Amount in dispute (up to and including):	Minimum fee	Maximum fee
500.000 EUR	2.000 EUR	8.000 EUR
1.000.000 EUR	2.000 EUR	10.000 EUR
5.000.000 EUR	2.000 EUR	12.000 EUR
10.000.000 EUR	2.000 EUR	14.000 EUR
50.000.000 EUR	2.000 EUR	21.000 EUR
100.000.000 EUR	2.000 EUR	28.000 EUR
Above 100.000.000 EUR	2.000 EUR	35.000 EUR

3.3 Where the amount in dispute is not stated, the Administration Fee may be fixed by the Secretariat at its sole discretion, taking into account all the circumstances of the Dispute.

3.4 The Secretariat may fix and require a deposit on the Administration Fee at any time.

4. **EXPERT FEE**

4.1 The Parties and the Expert shall mutually agree on the applicable hourly rate for the Expert's fees, including a fee for the potential early termination of the Expert's mandate (the "**Expert Fee**"). The Expert Fee shall be recorded in the Mandate Agreement.

4.2 To the extent that the Parties and the Expert cannot agree on the Expert Fee, the Secretariat shall suggest a reasonable hourly rate for the Expert, taking into account the Expert's specific qualification, including training and experience. If both Parties as well as the Expert agree to the suggested hourly rate, this hourly rate shall be fixed and recorded as the Expert Fee in the Mandate Agreement.

4.3 The Expert shall be entitled to charge a surcharge of ten percent (10%) on the Expert Fee for expenses and overhead.

4.4 If not agreed otherwise by the Parties and the Expert, the Secretariat may fix and require an advance payment on the Expert Fee at any time.

5. **ADDITIONAL COSTS FOR OBJECTION AND CHALLENGE**

If an objection, challenge or request for replacement of an Expert pursuant to any clause of the Rules leads to significant additional administrative effort for the WFO, an additional fee of 3.500 EUR (the "**Objection Fee**") may be charged to the Parties, if and to the extent it appears appropriate to impose such fee on the Parties.

6. **ADMINISTRATIVE EXPENSES**

For additional services not foreseen by the Rules, the Secretariat may charge additional fees.

7. **DISCRETIONARY ADJUSTMENTS**

7.1 In particular high-value cases, or if particularly extensive or particularly minor administrative tasks are expected to be performed or have been performed by the Secretariat, the Secretariat may, at its sole discretion, determine a surcharge or discount of +/- 10 % on any of the fees or expenses mentioned in this Annex 2.

7.2 If Administered Proceedings are concluded at any time prior to the submission of the Expert Report to the Parties, the Secretariat shall fix all fees at its discretion, taking into account the progress of the proceedings and all other relevant circumstances.

8. **EXPEDITED PROCEEDINGS**

A fifteen percent (15%) surcharge on the Selection Fee, Administration Fee, Objection Fee and Expert Fee shall apply in case of expedited proceedings under clause 5 of the Rules.

9. **CURRENCY, VAT AND SCOPE**

9.1 All amounts fixed by the Secretariat or pursuant to the Rules and this Annex 3 are payable in EURO except where prohibited by law, in which case the Secretariat may charge in another currency of its choosing, based on an appropriate reference exchange rate.

9.2 Any fees fixed under the Rules or this Annex 3 exclude and may be subject to value added tax (VAT) or charges of a similar nature at the prevailing rate.

9.3 The above rates may be adjusted by the WFO on 1 January of each year.

ANNEX 3 - MODEL EXPERT AGREEMENT

An agreement substantially in the form as detailed below shall be signed by every Expert with all parties before any proceedings under the Rules may begin. This agreement does not replace the Mandate Agreement pursuant to Clause 4.2 (Expert Fee) of the Rules.

This Agreement is dated [***] and is entered into between:

[Expert: full name, title and address] hereinafter the "Expert"

and

[Party 1: full name and address, email address, phone number, organisation's address]

[Party 2: full name and address, email address, phone number, organisation's address],

hereinafter collectively referred to as the "Parties".

Whereas:

The Parties have entered into a contract dated [***] for [scope of work and/or name of project, short description] (the "Contract"). The Contract provides in clause [***] that the Parties may or must refer their Disputes (as defined in the WFO Expert Rules) to Expert Proceedings under the WFO Expert Rules. The undersigned individual has been appointed to serve as an Expert.

The Expert and the Parties therefore agree as follows:

1. EXPERT'S MANDATE

The Expert shall act as an Expert in the course of Expert Proceedings [administered by the Secretariat]/[as defined in clause [***] of the Contract] and hereby accepts to perform these duties in accordance with the terms of the Contract, the Rules, the Mandate Agreement and the terms of this Agreement.

2. NEUTRALITY, IMPARTIALITY, INDEPENDENCY

- 2.1 The Expert confirms to have disclosed any circumstances that may call into question or raise reasonable doubts as to his or her qualification, availability, neutrality, impartiality and independence.
- 2.2 The Expert confirms to be neutral, impartial and independent of the Parties. The Expert shall remain so during the entire duration of the Expert Proceedings. If any cause for concern for the loss of neutrality, impartiality and independency arises during the Expert Proceedings, the Expert undertakes to disclose immediately all relevant circumstances to the Parties and to the Secretariat.
- 2.3 The Expert shall conduct the proceedings in an efficient manner. He or she shall be entitled to issue instructions to the Parties which the Expert deems necessary for performing his or her mandate. The Expert shall in particular procure and enable each Party to submit all facts and statements such Party wishes to submit in the context of the Dispute. The Expert shall seek to avoid that his or her opinion contains surprises and seek to discuss relevant aspects of his or her opinion with the Parties prior to the issuance of the final opinion.

3. **SOLE EXPERT**

The Expert shall act as sole Expert unless more than one Expert has been appointed. If more than one Expert has been appointed, all appointed Experts shall work cooperatively with each other, but shall exercise their own discretion and conscience to make their findings independently of each other, unless otherwise agreed by the Parties.

4. **FEES AND EXPENSES**

The Parties and the Expert, in line with the cost scheme set forth in Annex 2 of the [WFO Expert Rules], agree on the following hourly rate: [***], excluding VAT.

The Parties and the Expert, in line with the cost scheme set forth in Annex 2 of the [WFO Expert Rules], agree on the following principles for payment of reasonable expenses: [***], excluding VAT.

All payments to the Expert shall be made without deductions or restrictions to the following bank account: [name of bank, account number, SWIFT code, etc.]. The transfer charges shall be borne by the Party making the transfer.

All payments shall be made within thirty (30) days of receipt by a Party of the invoice from the Expert.

The Expert shall issue a proper invoice after conclusion of the Expert Proceedings, taking account of any specific requirements of the Parties.

5. **DURATION**

The Expert agrees to act for the duration of the Expert Proceedings if the proceedings are not concluded prematurely and as long as the Expert is not removed from his or her position.

6. **TERMINATION OF THE AGREEMENT**

The Parties may jointly terminate this Agreement at any time with immediate effect subject to a termination fee for the benefit of the Expert. This fee shall be waived by the Expert if the reason for the termination is attributable to the Expert.

7. **INDEMNITY**

The Parties shall jointly and severally indemnify and hold harmless the Expert from any claims of third parties for anything done or omitted in the discharge or purported discharge of the Expert's activities unless the act or omission is shown to have been in bad faith.

8. **DISPUTES AND APPLICABLE LAW**

All Disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with the said rules of arbitration. This Agreement shall be governed by [specify applicable law]. The seat of arbitration shall be [name of city/country]. The language of the arbitration shall be [specify language].

This Agreement is entered into on [***].

Expert

[signature]

Party 1

[signature]

Party 2

[signature]

ANNEX 4 - MODEL CLAUSE

Note: The following model clause may be used by the Parties in their general conditions of contract to supplement the respective dispute resolution clause if they wish to provide for the WFO either as appointing authority for ad hoc Expert Proceedings or as administering authority for administered proceedings:

"If the parties so agree or if any dispute arises out of or in connection [reference to clause / issue] of this contract, the parties may, at any time, start [option: Proposal / Administered] Proceedings in accordance with the [WFO Expert Rules]. The expert shall be proposed, appointed or confirmed in accordance with the [WFO Expert Rules].

[The expert's findings shall not be binding] [Option: The expert's findings shall become binding if neither party gives a notice of objection in accordance with clause 4.5(d) or 4.5(e) (Expert Report) of the WFO Expert Rules to the other party within three (3) weeks of receipt of the expert's report including a declaration not to accept the expert's findings as binding.]

*Regarding the subject matter of the respective dispute and the underlying factual circumstances, as soon as a request for expert proceedings pursuant to the WFO Expert Rules has been notified to the non-requesting party, the parties shall not have the right to make an application for any dispute resolution or adjudication proceedings under clause [***] of this contract or for any kind of preliminary, interim, emergency or expedited legal proceedings under the applicable arbitration or procedural rules at any time prior to expiry of the contractually agreed time limits for the rendering of the expert report or prior to conclusion of the Expert Proceedings, whichever is earlier, but in any case for a maximum of one hundred (100) days.*

*The language of the Expert Proceedings shall be [***]. The seat shall be [***]."*