



**Documentation and Studies Centre for ADR
Chamber of National and International Arbitration of Milan**

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ITALIAN CODE OF CIVIL PROCEDURE

BOOK IV – TITLE VIII

ARBITRATION

SYNOPTIC CHART

**OF THE MODIFICATIONS OF THE CODE OF CIVIL PROCEDURE ON ARBITRATION
AS AMENDED BY LEGISLATIVE DECREE OF 2 FEBRUARY 2006, NO. 40***

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**English version by Professor Piero Bernardini
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PREVIOUS PROVISIONS	NEW PROVISIONS
<p style="text-align: center;">Chapter I. Submission to Arbitration and Arbitration Clause</p> <p style="text-align: center;"><i>Article 806</i> SUBMISSION TO ARBITRATION</p> <p>The parties may have disputes which have arisen between them decided by arbitrators, with the exception of the disputes provided for in Articles 409 and 442, those concerning issues of personal status and marital separation and those other disputes which may not be the subject of a settlement.</p>	<p style="text-align: center;">Chapter I. The Arbitration Agreement</p> <p style="text-align: center;"><i>Article 806</i> ARBITRABLE DISPUTES</p> <p>The parties may have disputes which have arisen between them decided by arbitrators provided the subject matter does not concern rights which may not be disposed of, except in case of express prohibition by law.</p> <p>Disputes provided for in Article 409 may be decided by arbitrators only if so provided by law or by collective labour contracts or agreements.</p>
<p style="text-align: center;"><i>Article 807</i> FORM OF THE SUBMISSION TO ARBITRATION</p> <p>The submission to arbitration shall, under penalty of nullity, be made in writing and shall indicate the subject matter of the dispute.</p> <p>The written form requirement is considered complied with when the intention of the parties is expressed by telegram or telex.</p> <p>The submission to arbitration is subject to the provisions governing the validity of contracts which go beyond administration in the ordinary course of business.</p>	<p style="text-align: center;"><i>Article 807</i> SUBMISSION TO ARBITRATION</p> <p>The submission to arbitration must, under sanction of nullity, be made in writing and must indicate the subject matter of the dispute.</p> <p>The written form requirement is considered complied with also when the will of the parties is expressed by telegram, telex, telecopier or telematic message in accordance with the legal rules, which may also be issued by regulation, regarding the transmission and receipt of documents which are teletransmitted.</p>
<p style="text-align: center;"><i>Article 808</i> ARBITRATION CLAUSE</p> <p>The parties may establish, in their contract or in a separate document, that the disputes arising out of the contract be decided by arbitration, provided such disputes may be the subject of a submission to arbitration. The arbitration clause shall be contained in a document meeting the formal requirements for a submission to arbitration according to Article 807, paragraphs 1 and 2.</p> <p>The disputes indicated in Article 409 may be decided by arbitrators only if this is provided for in the collective labour contracts and agreements, on the condition, under penalty of nullity, that this occurs without prejudice to the parties' right of recourse to the judicial authority. The arbitration clause contained in collective labour contracts or agreements or in individual labour contracts is null and void when it authorizes the arbitrators to decide <i>ex aequo et bono</i> or when it declares the award not subject to recourse.</p> <p>The validity of the arbitration clause shall be evaluated independently from the underlying contract; nevertheless, the capacity to enter into the contract includes the capacity to agree to the arbitration clause.</p>	<p style="text-align: center;"><i>Article 808</i> ARBITRATION CLAUSE</p> <p>The parties may establish, in their contract or in a separate document, that disputes arising out of the contract be decided by arbitrators, provided such disputes may be made subject to an arbitration agreement. The arbitration clause must be contained in a document meeting the form required for a submission agreement by Article 807.</p> <p>The validity of the arbitration clause must be evaluated independently of the underlying contract: nevertheless, the authority to enter into the contract includes the authority to agree to the arbitration clause.</p>

	<p style="text-align: center;"><i>Article 808 bis</i> ARBITRATION AGREEMENT IN NON-CONTRACTUAL MATTERS</p> <p>The parties may establish, in a specific agreement, that future disputes relating to one or more specific non-contractual relations be decided by arbitrators. The agreement must be contained in a document meeting the form required for the submission agreement by Article 807.</p>
	<p style="text-align: center;"><i>Article 808 ter</i> 'ARBITRATO IRRITUALE'</p> <p>The parties may establish in writing—that the dispute be settled by the arbitrators through a contractual determination as an exception to the provision of Article 824-<i>bis</i>. Failing this, the provisions of this Title shall apply.</p> <p>The contractual award may be set aside by the competent court according to the provisions of Book I:</p> <ol style="list-style-type: none"> 1) if the arbitration agreement is invalid or the arbitrators have decided questions exceeding its limits and the relevant objection has been raised during the arbitral proceedings; 2) if the arbitrators have not been appointed in the form and manner contemplated by the arbitration agreement; 3) if the award has been rendered by a person which could not be appointed as arbitrator according to Article 812; 4) if the arbitrators have not applied the rules prescribed by the parties as a condition for the validity of the award; 5) if the principle of contradictory proceedings ('<i>principio del contraddittorio</i>') has not been respected in the arbitral proceedings. <p>Article 825 is not applicable to the contractual award.</p>
	<p style="text-align: center;"><i>Article 808 quater</i> INTERPRETATION OF THE ARBITRATION AGREEMENT</p> <p>In case of doubt, the arbitration agreement shall be in the sense that the arbitral jurisdiction extends to all disputes arising from the contract or from the relationship to which the agreement refers.</p>
	<p style="text-align: center;"><i>Article 808 quinquies</i> EFFICACY OF THE ARBITRATION AGREEMENT</p> <p>The conclusion of the arbitral proceedings without a decision on the merits shall not deprive the arbitration agreement of its efficacy.”</p>

<p style="text-align: center;"><i>Article 809</i> NUMBER AND MANNER OF APPOINTMENT OF ARBITRATORS</p> <p>There may be one or more arbitrators, provided that their number is uneven.</p> <p>The submission to arbitration or the arbitration clause shall contain the appointment of the arbitrators or establish their number and the manner in which they are to be appointed.</p> <p>Where an even number of arbitrators is indicated, the additional arbitrator shall be appointed by the president of the tribunal in the manner specified in Article 810, unless the parties have agreed otherwise. Where the number of arbitrators is not indicated and where the parties do not agree thereon, there shall be three arbitrators and, failing their appointment, the president of the tribunal shall proceed therewith in the manner specified in Article 810, unless the parties have provided otherwise.</p>	<p style="text-align: center;">Chapter II. The Arbitrators</p> <p style="text-align: center;"><i>Article 809</i> NUMBER OF ARBITRATORS</p> <p>There may be one or more arbitrators, provided their number is uneven.</p> <p>The arbitration agreement must contain the appointment of the arbitrators or establish their number and the manner by which they are to be appointed.</p> <p>Where an even number of arbitrators is indicated, an additional arbitrator shall be appointed by the president of the tribunal in the manner specified by Article 810, unless the parties have agreed otherwise. Where the number of arbitrators is not indicated and the parties do not agree in that regard, there shall be three arbitrators; failing their appointment, the president of the tribunal shall proceed to such appointment in the manner specified in Article 810, unless the parties have agreed otherwise.</p>
<p style="text-align: center;">Chapter II. The Arbitrators</p> <p style="text-align: center;"><i>Article 810</i> APPOINTMENT OF THE ARBITRATORS</p> <p>Where, in accordance with the provisions of the submission to arbitration or of the arbitration clause, the arbitrators are to be appointed by the parties, each party, by means of a bailiff's notification, may inform the other party of its appointment of an arbitrator or arbitrators and request said other party to name its own arbitrators. The party so requested shall, within twenty days, serve notice of the personal data regarding the arbitrator or arbitrators appointed by it.</p> <p>Failing this, the party which has made the request may petition the president of the tribunal in whose district the arbitration has its seat, to make the appointment. If the parties have not yet determined the seat of arbitration, the petition is presented to the president of the tribunal of the place where the submission to arbitration or the contract to which the arbitration clause refers has been concluded or, if such place is abroad, to the president of the tribunal of Rome. The president, having heard the other party where necessary, shall issue an order against which there shall be no recourse.</p> <p>The same provision is applied where the submission to arbitration or the arbitration clause has entrusted the appointment of one or more arbitrators to the judicial authority or where, if entrusted to a third person, that third person has failed to act.</p>	<p style="text-align: center;"><i>Article 810</i> APPOINTMENT OF ARBITRATORS</p> <p>Where in accordance with the arbitration agreement the arbitrators are to be appointed by the parties, each party, by written notice, shall inform the other party of its appointment of an arbitrator or arbitrators and request said other party to name its own arbitrators. The party so requested shall, within the following twenty days, serve written notice of the personal data of the arbitrator or arbitrators appointed by it.</p> <p>Failing this, the party which has made the request may, through a recourse, petition the president of the tribunal in whose district the arbitration has its seat to make the appointment. If the parties have not yet determined the seat of the arbitration, the petition shall be to the president of the tribunal of the place where the arbitration agreement has been concluded or, if such place is abroad, to the president of the tribunal of Rome.</p> <p>The president of the competent tribunal shall make the requested appointment unless the arbitration agreement is manifestly non-existent or provides manifestly for a foreign arbitration.</p> <p>The same provisions shall apply in case the arbitration agreement has entrusted the appointment of one or more arbitrators to the judicial authority or where, if entrusted to a third person, that third person has failed to act.</p>

<p style="text-align: center;"><i>Article 811</i> REPLACEMENT OF ARBITRATORS</p> <p>Where, for whatever reason, all or some of the arbitrators appointed are unable to act, they shall be replaced in accordance with the procedures established for their appointment in the submission to arbitration or in the arbitration clause. If the party responsible for the appointment, or the third party, fails to act or if the submission to arbitration or the arbitration clause is silent on the question, the provisions of the preceding Article shall apply.</p>	<p style="text-align: center;"><i>Article 811</i> REPLACEMENT OF ARBITRATORS</p> <p>Where, for whatever reason, all or some of the appointed arbitrators are unable to act, they shall be replaced in accordance with the procedures established for their appointment in the arbitration agreement. If the party, or the third party, responsible for the appointment fails to act or if the arbitration agreement does not provide in that regard, the provisions of the preceding Article shall apply.</p>
<p style="text-align: center;"><i>Article 812</i> CAPACITY TO ACT AS ARBITRATOR</p> <p>The arbitrators may be Italian or foreign nationals.</p> <p>Minors, incapacitated and mentally disabled persons, bankrupts and persons barred from public offices cannot be arbitrators.</p>	<p style="text-align: center;"><i>Article 812</i> INCAPACITY TO ACT AS ARBITRATOR</p> <p>A person who, in whole or in part, has no legal capacity to act cannot be arbitrator.</p>
<p style="text-align: center;"><i>Article 813</i> ACCEPTANCE AND DUTIES OF THE ARBITRATORS</p> <p>The acceptance of the arbitrators shall be in writing and may result from their signatures on the submission to arbitration.</p> <p>The arbitrators shall render their award within the time-limit set by the parties or by law; if they fail to do so and the award is set aside on this ground, the arbitrators shall be held liable for damages. They shall likewise be liable for damages if, after accepting their appointment, they relinquish the office without just cause.</p> <p>Unless the parties have agreed otherwise, the arbitrator who omits or delays to carry out an act related to his office may be replaced by agreement between the parties or by the third party so empowered in the submission to arbitration or in the arbitration clause. Failing this, after a period of fifteen days from notice sent by registered mail to the arbitrator demanding that he take action, each of the parties shall have the right to petition the president of the tribunal in whose district the arbitration has its seat. The president, having heard the parties, shall issue an order against which there shall be no recourse and, where he ascertains the omission or the delay, shall declare the arbitrator discharged and replace him.</p>	<p style="text-align: center;"><i>Article 813</i> ACCEPTANCE OF THE ARBITRATORS</p> <p>The acceptance of the arbitrators must be in writing and may be evidenced by their signature of the submission to arbitration or of the minutes of the first session</p> <p>The arbitrators are not public officials or persons entrusted with a public service.</p>

	<p style="text-align: center;"><i>Article 813 bis</i> REMOVAL OF THE ARBITRATORS</p> <p>Unless the parties have agreed otherwise, the arbitrator who omits or delays to carry out an act related to his or her office may be replaced by agreement between the parties or by the third party so empowered in the arbitration agreement. Failing this, after a period of fifteen days from a notice requiring action, sent by registered mail to the arbitrator, each of the parties may petition the president of the tribunal according to Article 810, paragraph 2. The president, having heard the arbitrators and the parties, shall issue an order against which there shall be no recourse and, if he or she finds that there has been such omission or delay, shall declare the arbitrator removed and shall replace him or her.</p>
	<p style="text-align: center;"><i>Article 813 ter</i> LIABILITY OF ARBITRATORS</p> <p>The arbitrator shall be liable for damages caused to the parties if he or she:</p> <ol style="list-style-type: none"> 1) has fraudulently (<i>'dolo'</i>) or with gross negligence (<i>'colpa grave'</i>) omitted or delayed acts that he or she was bound to carry out and has been removed for this reason, or has renounced the office without a justified reason; 2) has fraudulently or with gross negligence omitted or prevented the rendering of the award within the time limit fixed according to Articles 820 and 826. <p>Outside these cases, the arbitrators shall be liable only for fraud or gross negligence within the limits foreseen by Article 2, paragraphs 2 and 3, of Law no. 117 of 13 April 1988.</p> <p>An action for liability may be filed during the arbitral proceedings only in the case foreseen by the first paragraph, n. 1).</p> <p>In case the award has been rendered, the action for liability may be filed only after the recourse against the award has been upheld by a final judgment and for the reasons for which the recourse was upheld.</p> <p>If the liability is not due to the arbitrator's fraud, the amount of damages may not exceed a sum equal to three times the agreed fee or, failing an agreed determination, three times the fee established by the applicable tariff.</p> <p>In cases of liability of the arbitrator, neither the fee nor the reimbursement of expenses shall be due to the arbitrator; in case of partial nullity of the award, they shall be subject to reduction.</p> <p>Each arbitrator shall be liable only for his or her own actions.</p>

Article 814
RIGHTS OF THE ARBITRATORS

The arbitrators shall be entitled to the reimbursement of their expenses and to a fee for services rendered, except where they have waived their right to same at the time of their acceptance or in a subsequent written statement. The parties shall be jointly and severally liable for payment, subject to the right of mutual recovery.

Where the arbitrators themselves fix the amount of the expenses and of the fee, their decision shall not be binding upon the parties if they do not accept it. In this case, the amount of the expenses and of the fee shall be determined, upon the arbitrators' petition and after hearing the parties, by an order of the president of the tribunal specified in Article 810, paragraph 2, against which there shall be no recourse.

The order shall be enforceable against the parties.

Article 814
RIGHTS OF THE ARBITRATORS

The arbitrators shall be entitled to the reimbursement of their expenses and to a fee for the services rendered, except where they have waived their right thereto at the time of their acceptance or in a subsequent written document. The parties shall be jointly and severally liable for payment, subject to the right of mutual recovery.

Where the arbitrators themselves fix the amount of the expenses and of the fee, their decision shall not be binding upon the parties if the latter do not accept it. In this case, the amount of the expenses and of the fee shall be determined, upon the arbitrators' petition and after hearing the parties, by an order of the president of the tribunal indicated in Article 810, paragraph 2.

The order shall be enforceable against the parties and is subject to recourse according to Article 825, paragraph 4 [to be read: 3]. Article 830, paragraph 4, is applicable.

Article 815
CHALLENGE OF THE ARBITRATORS

The party can challenge the arbitrator not appointed by it for the reasons indicated in Article 51.

This challenge shall be made by petition to the president of the tribunal indicated in Article 810, paragraph 2, within the peremptory time-limit of ten days after the appointment has been notified or from the time the ground for the challenge came to the party's knowledge, if later. The president, having heard the challenged arbitrator and, where necessary, having made summary enquiries, shall issue an order against which there shall be no recourse.

Article 815
CHALLENGE OF THE ARBITRATORS

An arbitrator may be challenged:

- 1) if he or she does not have the qualifications expressly agreed by the parties;
- 2) if he or she or an entity, association or company of which he or she is a director, has an interest in the case;
- 3) if he or she or his or her spouse is a relative up to the fourth degree or a cohabitant or a habitual table-companion of a party, one of its legal representatives or counsel;
- 4) if he or she or his or her spouse has a pending suit against or a serious enmity to one of the parties, one of its legal representatives or counsel;
- 5) if he or she is linked to one of the parties, to a company controlled by that party, to its controlling entity or to a company subject to common control by a subordinate labour relationship or by a continuous consulting relationship or by a relationship for the performance of remunerated activity or by other relationships of a patrimonial or associative nature which might affect his or her independence; furthermore, if he or she is a guardian or a curator of one of the parties;
- 6) if he or she has given advice, assistance or acted as legal counsel to one of the parties in a prior phase of the same case or has testified as a witness.

A party may not challenge the arbitrator appointed by it or that it has contributed to appoint unless for reasons which become known after the appointment.

The challenge shall be made by recourse to the president of the tribunal indicated in Article 810, paragraph 2, within the peremptory time limit of ten days after the notification of the appointment or the supervening knowledge of the ground for the challenge. The president shall decide by an order which is not subject to recourse, after having heard the challenged arbitrator and the parties and, where necessary, after having acquired summary information.

The president shall decide on costs by an order. In case of manifest inadmissibility or groundlessness of the application for challenge, the president shall condemn the party having made the application to the payment, in favour of the other party, of a sum to be equitably determined but not higher than three times the compensation to which a single arbitrator is entitled based on the lawyers' tariff.

The application for a challenge does not suspend the arbitral proceedings, except in case the arbitrators decide otherwise. However, if the application is granted, the activity performed by the challenged arbitrator or with his or her cooperation is without effects."

**Chapter III.
The Proceedings**

Article 816
COURSE OF THE PROCEEDINGS

The parties shall determine the seat of the arbitration within the territory of the Republic; failing this, the arbitrators shall decide thereon at their first meeting.

The parties may establish the rules of procedure to be observed by the arbitrators in the submission to arbitration or in the arbitration clause or in a separate writing, provided that same precedes the commencement of the arbitration proceedings.

Failing such regulation, the arbitrators may regulate the proceedings as they best see fit.

In any case, they shall set time-limits for the parties to produce documents and briefs and to present their replies.

The taking of evidence may be delegated by the arbitrators to one member of the panel.

All issues arising in the course of the proceedings shall be decided by the arbitrators by an order which is not subject to deposit and may be revoked, with the exception of the case specified in Article 819.

**Chapter III.
The Proceedings**

Article 816
SEAT OF THE ARBITRATION

The parties shall determine the seat of the arbitration in the territory of the Republic; failing this, the arbitrators shall decide. If neither the parties nor the arbitrators have determined the seat of the arbitration, the seat shall be in the place where the arbitration agreement was concluded. If such a place is not in the national territory, the seat shall be in Rome.

Unless the arbitration agreement provides otherwise, the arbitrators may hold hearings, perform procedural activities, deliberate and affix their signatures on the award also in places other than the seat of the arbitration and also abroad.

Article 816 bis
COURSE OF THE PROCEEDINGS

The parties may establish in the arbitration agreement or in a separate document, prior in any case to the commencement of the arbitral proceedings, the rules that the arbitrators must apply in the proceedings and the language of the arbitration. In the absence of such rules, the arbitrators are free to regulate the course of the proceedings and to determine the language of the arbitration in the manner they deem most convenient. They must respect in any case the principle of contradictory proceedings (*'principio del contraddittorio'*) by granting both parties reasonable and equivalent opportunities to present their case. The parties may take part in the proceedings through counsel. Failing an express limitation, the power of attorney granted to counsel shall extend to any procedural activities, including the waiver of the proceedings and the determination and extension of the time limit for rendering the award. In any case, counsel may receive communication of the notification of the award and of the notification of the recourse against it.

The parties or the other arbitrators may authorize the president of the arbitral tribunal to issue the orders relating to the course of the proceedings.

All issues arising in the course of the proceedings shall be decided by the arbitrators with an order which is not subject to deposit and may be revoked, unless they elect to decide by an interim award.

Article 816 ter
TAKING OF EVIDENCE

The taking of evidence or individual activities to that purpose may be delegated by the arbitrators to one of them.

The arbitrators may hear the witness directly before them or may decide to hear his or her deposition at his or her home or office, if he or she agrees. They may also decide to hear the witness by requesting him or her to give written answers to questions within the time-limit they establish.

Should a witness refuse to appear before the arbitrators the latter, if they deem it convenient in the light of the circumstances, may petition the president of the tribunal of the seat of the arbitration to order his or her appearance before them.

In the case foreseen by the previous paragraph the time limit for the rendering of the award is suspended from the date of the order until the date of the hearing fixed for the taking of the testimonial evidence.

The arbitrators may provide for their assistance by one or more expert witnesses. Both physical persons and entities may be appointed expert witnesses.

The arbitrators may request the public administration ("*pubblica amministrazione*") to provide written information related to activities and documents of the administration in question that they deem necessary to acquire to the proceedings.

Article 816 quater
MULTIPLE PARTIES

Should more than two parties be bound by the same arbitration agreement, each party may request that all or some of them be summoned in the same arbitral proceedings, if the arbitration agreement defers to a third party for the appointment of the arbitrators, if the arbitrators are appointed by agreement of all parties or if the other parties, following the appointment by the first party of an arbitrator or the arbitrators, appoint by common agreement an equal number of arbitrators or entrust to a third party their appointment.

Except in the cases foreseen in the previous paragraph, the proceedings initiated by a party against other parties shall be divided into as many proceedings as there are the latter parties.

If the situation contemplated by the first paragraph does not occur and if the joining of parties to the proceedings be necessary by law ("*litisconsorzio necessario*"), the arbitration cannot proceed.

	<p style="text-align: center;"><i>Article 816 quinquies</i> THIRD PARTY INTERVENTION AND SUCCESSION IN THE DISPUTED RIGHT</p> <p>The voluntary intervention or the joining of a third party in the arbitration is admissible only with the agreement of the third party and the parties and with the arbitrators' consent.</p> <p>The intervention foreseen by Article 105, paragraph 2, and the intervention of the party whose joinder is necessary by law (<i>'litisconsorte necessario'</i>) are always admissible.</p> <p>Article 111 shall be applicable.</p>
	<p style="text-align: center;"><i>Article 816 sexies</i> DEATH, EXTINCTION OR LOSS OF CAPACITY OF THE PARTY</p> <p>Should a party cease to exist because of death or other reasons or should it lose its legal capacity, the arbitrators shall adopt the appropriate measures to guarantee the respect of contradictory proceedings (<i>'contraddittorio'</i>) for the continuation of the proceedings. They may suspend the proceedings.</p> <p>Should none of the parties abide by the arbitrators' orders for the continuation of proceedings, the arbitrators may renounce their office.</p>
	<p style="text-align: center;"><i>Article 816 septies</i> ADVANCE ON EXPENSES</p> <p>The arbitrators may make the continuation of the proceedings subject to the advance payment of the foreseeable expenses. Except if the parties have agreed otherwise, the arbitrators shall fix the amount of the advance to be charged to each party.</p> <p>Should one party fail to pay the requested advance, the other may advance the totality of the expenses. Should the parties fail to provide for the advance within the time limit established by the arbitrators, they are no longer bound by the arbitration agreement with regard to the dispute out of which the arbitral proceedings originated.</p>

<p style="text-align: center;"><i>Article 817</i> OBJECTION OF LACK OF JURISDICTION</p> <p>The party which, during the arbitration proceedings, fails to raise the objection that the other party's pleadings exceed the limits of the submission to arbitration or of the arbitration clause, may not, on this ground, challenge the award for nullity.</p>	<p style="text-align: center;"><i>Article 817</i> OBJECTION TO JURISDICTION</p> <p>Should the validity, content or scope of the arbitration agreement or the regularity of the arbitrators' appointment be challenged in the course of the arbitration, the arbitrators shall decide on their own jurisdiction.</p> <p>This provision shall apply also in case the arbitrators' powers are challenged in any venue for whatever reason which has supervened in the course of the proceedings.</p> <p>The party that does not object in the first statement of defense subsequent to the arbitrators' acceptance that they lack jurisdiction by reason of the non-existence, invalidity or ineffectiveness of the arbitration agreement, may not challenge the award on this ground, except in case of a non-arbitrable dispute.</p> <p>The party which, during the arbitration proceedings, fails to raise the objection that the other parties' pleadings exceed the limits of the arbitration agreement may not, on this ground, challenge the award.</p>
	<p style="text-align: center;"><i>Article 817 bis</i> SET-OFF</p> <p>The arbitrators shall be competent to decide on the objection of set-off, within the limits of the value of the main claim, also if the counterclaimed amount does not fall within the scope of the arbitration agreement.</p>
<p style="text-align: center;"><i>Article 818</i> INTERIM MEASURES OF PROTECTION</p> <p>The arbitrators may not grant attachment or other interim measures of protection.</p>	<p style="text-align: center;"><i>Article 818</i> INTERIM MEASURES OF PROTECTION</p> <p>The arbitrators may not grant attachments or other interim measures of protection, except if otherwise provided by the law.</p>
<p style="text-align: center;"><i>Article 819</i> INCIDENTAL ISSUES</p> <p>If during the course of the proceedings a question arises which according to law is not arbitrable, the arbitrators, if they deem that the decision submitted to them depends upon the resolution of said question, shall stay the proceedings.</p> <p>In all other cases, the arbitrators shall decide all questions arising in the course of the arbitration proceedings.</p> <p>In the case specified in the first paragraph, the time-limit set in Article 820 shall be suspended until the day on which one of the parties shall serve notice upon the arbitrators of the judgment in the incidental issue once it has become <i>res judicata</i>; if less than sixty days remain before the expiry of the time-limit, then said time-limit shall automatically be extended to sixty days.</p>	<p style="text-align: center;"><i>Article 819</i> PRELIMINARY ISSUES ON THE MERITS</p> <p>The arbitrators shall decide without force of <i>res judicata</i> all issues which are relevant for the decision of the dispute, even if they relate to matters that may not be the subject of an arbitration agreement, unless such issues have by law to be decided with force of <i>res judicata</i>.</p> <p>Upon a party's request, preliminary issues shall be decided with force of <i>res judicata</i> if they relate to matters that may be the subject of an arbitration agreement. Should such issues not be covered by the arbitration agreement, the decision with force of <i>res judicata</i> is conditioned upon a request by all parties.</p>

Article 819 bis
CONNECTED CASES (*connessione*)

The jurisdiction of the arbitrators is not excluded by the fact that the dispute referred to them is connected with an action pending before the court.

Article 819 bis
SUSPENSION OF THE ARBITRAL PROCEEDINGS

Article 816 *sexies* remaining applicable, the arbitrators shall suspend the arbitral proceedings with a reasoned order in the following cases:

- 1) when the proceedings should be suspended pursuant to Article 75, paragraph 3, of the Code of Criminal Procedure, were the dispute pending before the judicial authority;
- 2) if a preliminary issue arises regarding a matter which may not be the subject of an arbitration agreement and which by law must be decided with force of *res judicata*;
- 3) when they submit to the Constitutional Court an issue of constitutional legitimacy according to Article 23 of Law n. 87 of 11 March 1953.

Should the authority of a judgment be relied upon in the arbitral proceedings and such judgment be challenged, Article 337, paragraph 2, shall be applicable.

Once the suspension of the proceedings has been ordered, the same shall be extinguished if none of the parties files with the arbitrators a request for ~~the~~ continuation within the time limit fixed by the arbitrators or, failing this, within one year from the end of the ground for the suspension. In the case contemplated by the first paragraph, number 2), the proceedings shall also be extinguished if within ninety days from the suspension order none of the parties files with the arbitrators an authentic copy of the act by which the dispute over the preliminary issue is filed with the judicial authority.

Article 819 ter
HEARING OF WITNESSES

The arbitrators may hear the witness directly by requesting him to appear before them or decide to hear his statement at his home or office, if he agrees.

They may also decide to hear the witness by requesting him to give written answers to questions within the time-limit established by them.

Article 819 ter
RELATIONS BETWEEN ARBITRATORS AND
JUDICIAL AUTHORITY

The arbitrators' jurisdiction shall not be excluded by the pendency of the same dispute before the judge or by the connection between the dispute referred to them and a dispute pending before the judge. The judgment by which the judge upholds or denies his or her own jurisdiction with regard to an arbitration agreement may be challenged according to Articles 42 and 43. The objection to the judge's jurisdiction by reason of the arbitration agreement must be raised, under sanction of lapse, in the statement in reply. If such objection is not raised, arbitral jurisdiction shall be excluded in respect of the dispute decided in that proceedings.

The provisions corresponding to Articles 44, 45, 48, 50 and 295 shall not be applicable to the relations between arbitration and judicial proceedings.

Pending the arbitral proceedings, no requests may be submitted to the judicial authorities regarding the invalidity or lack of efficacy of the arbitration agreement.

<p style="text-align: center;">Chapter IV. The Award</p> <p style="text-align: center;"><i>Article 820</i> TIME-LIMIT FOR DECISION</p> <p>Unless the parties have agreed otherwise, the arbitrators shall render their award within one hundred and eighty days after acceptance of their appointment. If there are several arbitrators and they did not all accept at the same time, the time-limit begins to run from the last acceptance. Where a challenge against an arbitrator is filed, the time-limit shall be suspended until a decision is made on the challenge and it shall be interrupted where it is necessary to replace an arbitrator.</p> <p>Where evidence must be taken or a non-final award has been rendered, the arbitrators may extend the time-limit once only and for not more than one hundred and eighty days.</p> <p>In case of death of one the parties, the time-limit is extended by thirty days.</p> <p>The parties may agree in writing to an extension of the time-limit.</p>	<p style="text-align: center;">Chapter IV. The Award</p> <p style="text-align: center;"><i>Article 820</i> TIME-LIMIT FOR DECISION</p> <p>The parties may, in the arbitration agreement or by agreement preceding the acceptance of the arbitrators, establish a time-limit for the rendering of the award.</p> <p>Unless a time-limit has been established for the rendering of the award, the arbitrators must render the award within two hundred and forty (240) days from the acceptance of the appointment.</p> <p>In any case the time-limit may be extended:</p> <ul style="list-style-type: none"> a) by means of written declarations by all parties addressed to the arbitrators; b) by the president of the tribunal indicated in Article 810, paragraph 2, upon reasoned request by one of the parties or the arbitrators, after having heard the other parties; the time-limit may be extended only prior to its expiry. <p>Unless the parties have provided otherwise, the time-limit shall be extended by one hundred and eighty days in the following cases and for not more than once in each such case:</p> <ul style="list-style-type: none"> a) if evidence must be taken; b) if expert advice is required <i>ex officio</i>; c) if an interim award or a partial award is rendered; d) if the composition of the arbitral panel is changed or the sole arbitrator is replaced. <p>The time-limit for the rendering of the award shall be suspended during the suspension of the proceedings. In any case, after the resumption of the proceedings the residual time-limit, if shorter, shall be extended to ninety days.</p>
<p style="text-align: center;"><i>Article 821</i> RELEVANCE OF THE EXPIRY OF THE TIME-LIMIT</p> <p>The expiry of the time-limit indicated in the preceding article may not be raised as a ground for setting aside the award if the party, before the deliberation of the award resulting in the decision (<i>dispositivo</i>) signed by the majority of the arbitrators, has failed to notify the other parties and the arbitrators of its intention to raise the objection of the termination of the arbitrators' authority.</p>	<p style="text-align: center;"><i>Article 821</i> RELEVANCE OF THE EXPIRY OF THE TIME-LIMIT</p> <p>The expiry of the time-limit indicated in the preceding article may not be relied on as a ground for the nullity of the award if the party, before the deliberation of the award as evidenced by the decision (<i>dispositivo</i>) signed by the majority of the arbitrators, has failed to notify the other parties and the arbitrators of its intention to rely on the termination of the arbitrators' authority.</p> <p>If the party relies on the termination of the arbitrators' authority, the arbitrators, having verified the expiry of the time-limit, shall declare the proceedings extinguished.</p>
<p style="text-align: center;"><i>Article 822</i> RULES FOR THE DELIBERATION</p> <p>The arbitrators shall decide their award according to the rules of law, unless the parties have, through any expression whatsoever, authorized them to settle the dispute <i>ex æquo et bono</i>.</p>	<p style="text-align: center;"><i>Article 822</i> RULES FOR THE DELIBERATION</p> <p>The arbitrators shall decide according to the rules of law, unless the parties have provided, by any expression, that the arbitrators render the award <i>ex æquo et bono</i>.</p>

<p style="text-align: center;"><i>Article 823</i> DELIBERATION OF AND REQUIREMENTS FOR THE AWARD</p> <p>The award shall be deliberated by the majority vote of the arbitrators personally meeting together. It shall then be set down in writing.</p> <p>It shall contain:</p> <ol style="list-style-type: none"> 1) the names of the parties; 2) the indication of the submission to arbitration or of the arbitration clause and of the issues submitted for decision; 3) a brief statement of the reasons; 4) the decision of the issues (<i>dispositivo</i>); 5) the indication of the seat of the arbitration and of the place or the manner in which it was deliberated; 6) the signature of all the arbitrators, with the indication of the day, month and year of their signature; the arbitrators may sign in a place other than the place of deliberation, as well as abroad. If there is more than one arbitrator, they may sign in different places without having to meet personally again. <p>However, an award signed only by the majority of the arbitrators shall be valid provided that mention is made that it was deliberated in the presence of all the arbitrators and that it states expressly that the other arbitrators were either unwilling or unable to sign.</p> <p>The award shall be binding on the parties from the date of the last signature.</p>	<p style="text-align: center;"><i>Article 823</i> DELIBERATION OF AND REQUIREMENTS FOR THE AWARD</p> <p>The award shall be made by majority vote with the participation of all the arbitrators. It shall then be set down in writing. Any arbitrator may request that the award, or a part thereof, be deliberated by the arbitrators meeting in person (<i>'conferenza personale'</i>).</p> <p>The award must contain:</p> <ol style="list-style-type: none"> 1) the name of the arbitrators; 2) the indication of the seat of the arbitration; 3) the indication of the parties; 4) the indication of the arbitration agreement and of the claims of the parties as set out in the final pleadings; 5) a brief statement of the reasons; 6) the decision of the issues (<i>dispositivo</i>); 7) the signature of the arbitrators. The signature of a majority of the arbitrators shall suffice, provided that mention is made that it was deliberated with the participation of all the arbitrators and that the other arbitrators were either unwilling or unable to sign. 8) the date of the signatures.
<p style="text-align: center;"><i>Article 824</i> PLACE OF DECISION</p> <p style="text-align: center;">(abrogated by Article 16, Law 25/1994)</p>	<p style="text-align: center;"><i>Article 824</i> ORIGINALS AND COPIES OF THE AWARD</p> <p>The arbitrators shall draw up one or more originals of the award. The arbitrators shall serve notice of the award to each party by delivering, or sending by registered mail, an original or a copy certified as conforming to the original by the arbitrators, within ten days from the date of the signature of the award.</p>
	<p style="text-align: center;"><i>Article 824 bis</i> EFFICACY OF THE AWARD</p> <p>Except as provided by Article 825, as from the date of its last signature the award shall have the same effects as a judgment rendered by the judicial authority.</p>

Article 825
FILING OF THE AWARD

The arbitrators shall prepare the award in as many original copies as there are parties and shall serve notice thereof upon each party by delivery of an original copy, also by sending it by registered mail, within ten days from the date of the last signature.

The party intending to have the award enforced in the territory of the Republic shall file an original copy of the award or a certified copy thereof, together with the submission to arbitration or the document containing the arbitration clause or an equivalent document, in original or in certified copy, with the registry of the court (*tribunale*) of the district in which the arbitration has its seat.

The court, after ascertaining that the award meets all formal requirements, declares the same enforceable by decree. The award which has been declared enforceable may be registered (*trascritto*) in all cases where a judgment of the same content would be subject to registration.

The registry shall notify the parties of the filing and of the court's decree in the manner provided for in Article 133, paragraph 2.

A recourse against the decree denying the enforcement of the award may be filed by petition with the court within thirty days of notification; the court, meeting in chambers and after having heard the parties, shall issue an order against which there shall be no recourse.

Article 825
DEPOSIT OF THE AWARD

The party wishing to have the award enforced in the territory of the Republic shall file a request to that effect by depositing an original or a certified copy of the award, together with the original or a certified copy of the arbitration agreement, with the registry of the tribunal of the district in which the arbitration has its seat. The tribunal, after ascertaining that the award meets all formal requirements, shall declare the same enforceable by decree. The award which has been declared enforceable may be registered (*trascritto*) or annotated in all cases where a judgment of the same content would be subject to registration or annotation.

The clerk shall give notice to the parties of the deposit and of the tribunal's decree in the manner provided for in Article 133, paragraph 2.

A recourse against the decree denying or granting the enforcement of the award may be filed by petition to the court of appeal within thirty days of said notice; the court of appeal, having heard the parties, shall decide in chambers by an order.

Article 826
CORRECTION OF THE AWARD

On the request of a party, the award may be corrected by the same arbitrators who have rendered it, where there have been omissions, errors or miscalculations.

The arbitrators, having heard the parties, shall take action within twenty days. The decision shall be communicated to the parties, also by registered mail, within ten days from the date of the last signature.

If the award has already been filed, the petition for correction is presented to the court (*tribunale*) of the place where the award has been filed. The provisions of Article 288 are applicable in so far as they are compatible.

Article 826
CORRECTION OF THE AWARD

Each party may request the arbitrators, within one year from the communication of the award:

- a) to correct any omissions, material errors or miscalculations in the text of the award, also in case they have caused a divergence among the various originals of the award even if relating to the signature of the arbitrators;
- b) to complete the award with one of the elements indicated in Article 823, numbers 1), 2), 3), 4).

The arbitrators, having heard the parties, shall take action within sixty days. The correction shall be communicated to the parties according to Article 824.

Should the arbitrators fail to act, the request for correction shall be filed with the tribunal in whose district the arbitration has its seat.

If the award has already been filed, the request for correction shall be filed with the tribunal of the place where the award has been filed. The provisions of Article 288 shall be applicable in so far as they are compatible. The correction may be made also by the judge before whom the award has been challenged or invoked.

<p style="text-align: center;">Chapter V. Means of Recourse</p> <p style="text-align: center;"><i>Article 827</i> MEANS OF RECOURSE</p> <p>The award may only be subject to recourse for nullity, for revocation or third party opposition.</p> <p>The recourse may be filed irrespective of the filing of the award.</p> <p>The award partially deciding on the merits of the dispute may be challenged immediately, whereas the award which decides some of the issues without resolving the dispute may be challenged only together with the final award.</p>	<p style="text-align: center;">Chapter V. Recourses against the award</p> <p style="text-align: center;"><i>Article 827</i> MEANS OF RECOURSE</p> <p>The award may be subject to recourse for nullity, for revocation or third party opposition.</p> <p>The recourse may be filed irrespective of the deposit of the award.</p> <p>The award which decides partially the merits of the dispute may be challenged immediately, whereas the award which decides some of the issues without resolving the dispute submitted to arbitration may be challenged only together with the final award.</p>
<p style="text-align: center;"><i>Article 828</i> RECOURSE FOR NULLITY</p> <p>A recourse for nullity may be filed with the court of appeal of the district in which the arbitration has its seat, within ninety days of notification of the award.</p> <p>No recourse may be filed after one year from the date of the last signature.</p> <p>The request to correct the award does not suspend the time-limit for filing a recourse; however, the parts of the award which have been corrected may be challenged within the ordinary time-limit, which begins to run after notification of the decision on the correction.</p>	<p style="text-align: center;"><i>Article 828</i> RECOURSE FOR NULLITY</p> <p>A recourse for nullity may be filed with the court of appeal of the district in which the arbitration has its seat, within ninety days after the notification of the award.</p> <p>No recourse may be filed after one year from the date of the last signature.</p> <p>The request to correct the award shall not suspend the time-limit for filing a recourse; however, the parts of the award which have been corrected may be challenged within the ordinary time-limit, which begins to run after notification of the decision on the correction.</p>
<p style="text-align: center;"><i>Article 829</i> GROUNDS FOR NULLITY</p> <p>Notwithstanding any waiver, a recourse for nullity may be filed in the following cases:</p> <ol style="list-style-type: none"> 1) if the arbitration agreement is null and void; 2) if the arbitrators have not been appointed according to the provisions laid down in Chapters I and II of this Title, provided that this ground for setting aside has been raised in the arbitration proceedings; 3) if the award has been rendered by a person who could not be appointed as arbitrator according to Article 812; 4) if the award exceeds the limits of the submission to arbitration or fails to decide one or more items in the submission to arbitration or contains contradictory provisions, subject to the provisions of Article 817; 5) if the award does not comply with the requirements of Article 823, paragraph 2, numbers (3), (4), (5) and (6), subject to the provisions in the third paragraph of said article; 6) if the award has been rendered after the expiry of the time-limit indicated in Article 820, subject to the provisions of Article 821; 7) if during the proceedings those formalities laid down under penalty of nullity for the proceedings before the ordinary courts have not been observed, provided the parties had requested their observance according to Article 816 and if the nullity has not been cured; 8) if the award is contrary to a previous award which is 	<p style="text-align: center;"><i>Article 829</i> GROUNDS FOR NULLITY</p> <p>Notwithstanding any prior waiver, a recourse for nullity may be filed in the following cases:</p> <ol style="list-style-type: none"> 1) if the arbitration agreement is invalid, without prejudice to the provision of Article 817, paragraph 3 [to be read: paragraph 2]; 2) if the arbitrators have not been appointed in the form and manner laid down in Chapters II and VI of this Title, provided that this ground for nullity has been raised in the arbitral proceedings; 3) if the award has been rendered by a person who could not be appointed as arbitrator according to Article 812; 4) if the award exceeds the limits of the arbitration agreement, without prejudice to the provision of Article 817, paragraph 4 [to be read: paragraph 3], or has decided the merits of the dispute in all other cases in which the merits could not be decided; 5) if the award does not comply with the requirements of Article 823, numbers (5), (6) and (7); 6) if the award has been rendered after the expiry of the prescribed time-limit, subject to the provisions of Article 821; 7) if during the proceedings the formalities prescribed by the parties under express sanction of nullity have not been observed and the nullity has not been cured;

<p>no longer subject to recourse or to a previous judgment having the force of <i>res judicata</i> between the parties, provided that this objection has been raised in the arbitration proceedings;</p> <p>9) if the due process principle (<i>principio del contraddittorio</i>) has not been respected in the arbitration proceedings.</p> <p>A recourse for nullity may also be filed where the arbitrators did not decide according to rules of law, unless the parties have authorized them to decide <i>ex æquo et bono</i> or have declared that there may be no recourse against the award.</p> <p>In the case provided for in Article 808, paragraph 2, the award is subject to recourse also for violation and misapplication of collective labour contracts and agreements.</p>	<p>8) if the award is contrary to a previous award which is no longer subject to recourse or to a previous judgment having the force of <i>res judicata</i> between the parties, provided such award or such judgment has been submitted in the proceedings;</p> <p>9) if the principle of contradictory proceedings (<i>principio del contraddittorio</i>) has not been respected in the arbitration proceedings;</p> <p>10) if the award terminates the proceedings without deciding the merits of the dispute and the merits of the dispute had to be decided by the arbitrators;</p> <p>11) if the award contains contradictory provisions;</p> <p>12) if the award has not decided some of the issues and objections raised by the parties in conformity with the arbitration agreement.</p> <p>The party having caused a ground for nullity or which has waived such a ground or has not objected to the violation of a rule regulating the course of the arbitral proceedings in the first statement or statement in reply subsequent to the violation, cannot challenge the award on this ground.</p> <p>The recourse for violation of the rules of law relating to the merits of the dispute shall be admitted if so expressly provided by the parties or by the law. The recourse against decisions which are contrary to public policy shall be admitted in any case.</p> <p>The recourse for violation of the rules of law relating to the merits of the dispute shall always be admitted:</p> <ol style="list-style-type: none"> 1) with regard to the disputes contemplated by Article 409; 2) if the violation of the rules of law concerns the solution of a preliminary issue over a matter which may not be made subject to an arbitration agreement. <p>As regards the disputes contemplated by Article 409, the award may be subject to recourse also for violation of the collective contracts and agreements.</p>
<p style="text-align: center;"><i>Article 830</i> DECISION ON THE RECOURSE FOR NULLITY</p> <p>The court of appeal, when granting the recourse, issues a judgment declaring the award null and void; when the defect affects only a part of the award which is separable from the others, it shall declare the partial nullity of the award.</p> <p>Unless all of the parties have declared a contrary intention, the court of appeal shall decide also on the merits, if the case is ready for decision, or it shall remand the case with an order to the instructing judge (<i>istruttore</i>), if the decision on the merits requires the taking of further evidence.</p> <p>While the case is pending, the court of appeal may, on request of a party, make an order staying enforcement of the award.</p>	<p style="text-align: center;"><i>Article 830</i> DECISION ON THE RECOURSE FOR NULLITY</p> <p>The court of appeal shall decide on the recourse for nullity and, when granting the recourse, shall issue a judgment declaring the award null and void. When the defect affects only a part of the award which is separable from the others, it shall declare the partial nullity of the award.</p> <p>If the award is annulled on the grounds indicated in Article 829, paragraphs 1, numbers 5), 6), 7) 8), 9), 11) or 12), 3, 4 or 5, the court of appeal shall decide the merits of the dispute, unless the parties have otherwise provided in the arbitration agreement or in a subsequent agreement. However, if one of the parties has its residence or its actual seat abroad on the date of the signature of the arbitration agreement, the court of appeal shall decide the merits of the dispute only if the parties have so provided in the arbitration agreement or if they make a joint request to that effect.</p> <p>When the court of appeal does not decide on the merits, the arbitration agreement shall apply to the dispute, except if the nullity depends on its invalidity or inefficacy.</p> <p>Upon a party's request, also subsequent to the filing of the</p>

	<p>recourse, the court of appeal may suspend with an order the efficacy of the award, in case of serious reasons.</p>
<p style="text-align: center;"><i>Article 831</i> REVOCATION AND THIRD PARTY OPPOSITION</p> <p>Notwithstanding any waiver, the award may be revoked in the cases indicated in Article 395, numbers (1), (2), (3) and (6), within the time-limit and according to the formalities provided for in Book II.</p> <p>If the cases mentioned in the first paragraph arise during the nullity proceedings, the time-limit for filing a request for revocation shall be suspended until notification of the judgment on the nullity.</p> <p>The award is subject to third party opposition in the cases indicated in Article 404.</p> <p>The request for revocation and third party opposition shall be filed with the court of appeal of the district in which the arbitration has its seat.</p> <p>The court of appeal may consolidate setting aside, revocation and third party opposition proceedings, unless the stage reached by the proceedings filed first does not allow an exhaustive discussion of and decision on the other recourses.</p>	<p style="text-align: center;"><i>Article 831</i> REVOCATION AND THIRD PARTY OPPOSITION</p> <p>Notwithstanding any waiver, the award may be revoked in the cases indicated in Article 395, numbers 1), 2), 3) and 6), within the time-limits and according to the formalities provided for in Book II.</p> <p>If the cases mentioned in the first paragraph arise during the nullity proceedings, the time-limit for filing a request for revocation shall be suspended until notification of the judgment deciding on the nullity.</p> <p>The award shall be subject to third party opposition in the cases indicated in Article 404. The recourses for revocation and third party opposition shall be filed with the court of appeal of the district in which the arbitration has its seat, within the time-limits and according to the formalities provided for in Book II.</p> <p>The court of appeal may consolidate the recourses for nullity, revocation and third party opposition in the same proceedings, if the stage reached by the proceedings filed first allows an exhaustive discussion and decision of the other recourses.”</p>

<p style="text-align: center;">Chapter VI. International Arbitration</p> <p style="text-align: center;"><i>Article 832</i> INTERNATIONAL ARBITRATION</p> <p>If on the date of signing the arbitration clause or submission to arbitration at least one of the parties has its domicile or actual place of business abroad, or if a substantial part of the obligations arising out of the relationship to which the dispute refers must be performed abroad, the provisions of Chapters I to V of this Title shall apply to arbitration in so far as they are not derogated from by this Chapter.</p> <p>The provisions of international treaties shall in any case be applicable.</p>	<p style="text-align: center;">Chapter VI. Arbitration according to pre-established rules</p> <p style="text-align: center;"><i>Article 832</i> REFERENCE TO ARBITRATION RULES</p> <p>The arbitration agreement may refer to a pre-established arbitration rules.</p> <p>In case of conflict between the provisions of the arbitration agreement and the arbitration rules, the arbitration agreement shall prevail.</p> <p>Unless the parties have agreed otherwise, the rules in force on the date on which the arbitral proceedings begins shall apply.</p> <p>Institutions in the nature of associations and those set up for the representation of the interests of professional categories may not appoint arbitrators in disputes where their own associates or members of the professional category are opposed to third parties.</p> <p>The rules may provide for further cases of replacement or challenge of the arbitrators in addition to those provided by the law.</p> <p>Should the arbitral institution decline to administer the arbitration, the arbitration agreement shall remain effective and the preceding Chapters of this Title shall be applicable.”</p>
<p style="text-align: center;"><i>Article 833</i> FORM OF THE ARBITRATION CLAUSE</p> <p>The arbitration clause contained in general conditions of contract or in standard forms is not subject to the specific approval provided for in Articles 1341 and 1342 of the Civil Code.</p> <p>The arbitration clause contained in general conditions incorporated into a written agreement between the parties is valid, provided that the parties had knowledge of the clause or should have had such knowledge by using ordinary diligence.</p>	<p style="text-align: center;">d.lgs. 40/2006</p> <p style="text-align: center;">[...]</p> <p style="text-align: center;"><i>Article 28</i> REPEALS</p> <p>On the date of the coming into force of this decree Articles 833, 834, 835, 836, 837, 838 of the Code of Civil Procedure shall be repealed.</p> <p style="text-align: center;">[...]</p>
<p style="text-align: center;"><i>Article 834</i> RULES APPLICABLE TO THE MERITS</p> <p>The parties may agree among themselves upon the rules which the arbitrators shall apply to the merits of the dispute or provide that the arbitrators shall decide <i>ex æquo et bono</i>. If the parties are silent, the law with which the relationship has its closest connection shall apply.</p> <p>In both cases the arbitrators shall take into account the provisions of the contract and trade usages.</p>	

Article 835
LANGUAGE OF ARBITRATION

Unless the parties have provided otherwise, the language of the arbitration is determined by the arbitrators, taking into account the circumstances.

Article 836
CHALLENGE OF THE ARBITRATORS

The challenge of the arbitrators is governed by Article 815, unless the parties have provided otherwise.

Article 837
DELIBERATION OF THE AWARD

The award shall be deliberated by a majority of the votes of the arbitrators meeting in personal conference or in video conference, unless the parties have provided otherwise, and shall be subsequently set down in writing.

Article 838
RECOURSE

Unless the parties have agreed otherwise, the provisions of Article 829, paragraph 2, Article 830, paragraph 2 and Article 831 shall not apply to international arbitration.

Chapter VII.
Foreign Awards

Article 839
RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

The party wishing to enforce a foreign award in the Republic shall file a petition with the president of the court of appeal of the district in which the other party has its domicile; if that party has no domicile in Italy, the court of appeal of Rome shall have jurisdiction.

The petitioner shall supply the original award or a certified copy thereof, together with the original arbitration agreement or an equivalent document, or a certified copy thereof.

If the documents specified in the second paragraph are not written in Italian, the petitioner shall in addition produce a certified translation thereof.

The president of the court of appeal, after having ascertained the formal regularity of the award, shall declare by decree the efficacy of the foreign award in the Republic unless:

- 1) the subject matter is not capable of settlement by arbitration under Italian law;
- 2) the award contains provisions contrary to public policy.

Article 840
OPPOSITION

An opposition may be filed against the decree granting or denying enforcement of the foreign award by filing a writ of summons with the court of appeal within thirty days of communication of the decree denying enforcement or notification of the decree granting enforcement.

After the filing of the opposition, the proceedings shall be held in accordance with Article 645 and following in so far as they are applicable. The court of appeal decides with a judgment subject to recourse before the supreme court.

The court of appeal shall refuse the recognition or the enforcement of the foreign award if in the opposition proceedings the party against which the award is invoked proves the existence of one of the following circumstances:

- 1) the parties to the arbitration agreement were, under the law applicable to them, under some incapacity, or the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the State where the award was made;
- 2) the party against which the award is invoked was not informed of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present its case in the proceedings;
- 3) the award decided upon a dispute not contemplated in the submission to arbitration or in the arbitration clause, or exceeded the limits of the submission to arbitration or of the arbitration clause; nevertheless, if the decisions in the award which concern questions submitted to arbitration can be separated from those concerning questions not so submitted, the former can be recognized and enforced;
- 4) the composition of the arbitration tribunal or the arbitration proceedings was not in accordance with the agreement of the parties or, failing such an agreement, with the law of the place where the arbitration took place;
- 5) the award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the State in which, or under the law of which, it was made.

If an application for the setting aside or suspension of the effects of the award has been made to the competent authority indicated at number 5) of the third paragraph, the court of appeal may adjourn the decision on the recognition or enforcement of the award; on the request of the party seeking enforcement it may, in the case of suspension, order the other party to give suitable security.

Recognition or enforcement of a foreign award shall be refused also where the court of appeal shall ascertain that:

- 1) the subject matter is not capable of settlement by arbitration under Italian law;
- 2) the award contains provisions contrary to public policy.

In all cases, the provisions of international treaties shall be applicable.