

Labor Arbitration Rules - 2019
Effective December 19, 2019

I – INTRODUCTION

1.1 Through this regulation, CAMARB – BUSINESS MEDIATION AND ARBITRATION CHAMBER – BRAZIL establishes the rules that will be applicable to the labor arbitration procedure.

1.2 The CAMARB Labor Arbitration Rules, abbreviated as “Rules”, shall apply whenever:

1. The arbitration clause has been agreed between the parties in an employment contract;
2. The request for arbitration contains an express request for recognition of an employment relationship;
3. The parties have agreed to apply the CAMARB Labor Arbitration Rules.

1.3 Unless otherwise provided, the Rules in force on the date of your request will apply to the arbitration.

1.4 For the purposes of these Rules:

1. the term arbitrator shall be used to designate either a sole arbitrator or an arbitral tribunal;
2. the terms claimant and respondent apply indifferently to one or more claimants or respondents.

1.5 The request for labor arbitration and any counterclaim must follow the form prescribed in Section III of the CAMARB General Arbitration Rules.

II – OF SUMMONS, STATEMENTS AND DEADLINES

2.1 Unless the parties agree or the arbitrator determines otherwise, all procedural documents and other documents submitted by either party must be (i) delivered to the CAMARB Secretariat, at any of its offices, in a physical copy, so that they may be filed in the arbitration proceedings, and (ii) in an electronic copy to be sent to the arbitrator, if they have already been appointed, with a copy to the other parties and the CAMARB Secretariat. If the procedural document or another document is submitted due to a deadline common to all parties, the electronic copy must be sent only to the CAMARB Secretariat, which will be responsible for transmitting it to the other party and to the arbitrator after the deadline has expired.

2.2 All correspondence sent by the CAMARB Secretariat, including summons, communications, notifications, copies of the parties’ statements and arbitrator’s decisions, shall be sent only by electronic means, unless otherwise agreed. The parties must expressly inform the electronic address to be used for the purposes of this item in the first statement submitted to the CAMARB Secretariat.

2.3 Correspondence sent by the CAMARB Secretariat, procedural documents and other documents sent under item 2.2. will be considered delivered on the date of confirmation of receipt by the recipient or on the business day following sending, if there is no confirmation.

2.4 The deadlines set out in the Rules and those set by the arbitrator shall begin on the business day following the date of delivery of the correspondence sent by the CAMARB Secretariat or the procedural document and other documents submitted by the party. The deadlines are continuous and shall not be suspended on days when CAMARB is not in session. If the deadline expires on a holiday at the place of arbitration or on a day when CAMARB is not in session, the deadline shall be extended to the first business day thereafter.

2.5 Prior to signing the Arbitration Agreement, the parties will be subject to the deadlines set forth in these Rules. In the event that there is no provision in the Rules, the deadline will be 5 (five) days.

2.6 After the Arbitration Agreement has been signed, the deadlines will be those stipulated therein or, in the absence thereof, those set by the arbitrator. If no deadline has been set by the arbitrator, the provisions of the Rules will apply or, in the event of no provision being made, the deadline of 5 (five) days. The arbitrator may extend or modify previously set deadlines.

2.7 The parties, with the consent of the arbitrator, may modify the terms provided for in these Rules, provided that the total term of the procedure, between the signing of the Arbitration Agreement and the issuing of the award, does not exceed 12 (twelve) months. If the change in terms requested by the parties causes the total term to exceed 12 (twelve) months, the Schedule of Costs provided for in the CAMARB Ordinary Arbitration Rules shall apply. The difference in costs and fees shall be paid immediately after the modification requested by the parties is granted, in compliance with the provisions of section XI of the CAMARB General Arbitration Rules.

III – OF THE ARBITRATOR

3.1 The arbitration shall be judged by a single arbitrator, unless the parties have provided otherwise. The parties and the CAMARB Board of Directors, in the cases provided for in these Rules, may appoint arbitrators (i) members of the Labor Reference List, (ii) members of the CAMARB List of Arbitrators and (iii) other professionals who are not part of the lists, in compliance, where applicable, with Law No. 9.307 of September 23, 1996, amended by Law No. 13.129 of May 26, 2015.

3.2 The CAMARB Secretariat will request the parties to appoint, within 5 (five) days, arbitrator(s) to act in the arbitration proceedings.

3.3 The sole arbitrator must be appointed by consensus. If there is no consensus, the CAMARB Board of Directors will forward a list of 5 (five) names so that the parties may proceed in accordance with item 3.8.

3.4 Unless otherwise agreed, if the parties opt to form an arbitral tribunal with 3 (three) members, each party shall be responsible for appointing an arbitrator within the period set forth in item 3.2. After the referred arbitrators have demonstrated their availability, non-impediment, independence and impartiality, and if there is no objection, they shall be notified to jointly appoint the third arbitrator within 5 (five) days, who shall act as president of the arbitral tribunal. If no consensus is

reached among the arbitrators appointed by the parties, the appointment of the president arbitrator shall follow the provisions of item 3.8.

3.5 If either party fails to appoint an arbitrator within the time limits set forth in these Rules, the CAMARB Board of Directors will appoint the arbitrator not appointed by one of the parties or the sole arbitrator, as the case may be.

3.6 Unless otherwise agreed, when more than one party is a claimant or respondent and the dispute is submitted to three arbitrators, the claimant or multiple claimants shall appoint one arbitrator, while the respondent or multiple respondents shall appoint another arbitrator.

3.7 If none of the multiple claimants or any of the multiple respondents expresses their opinion, the appointment will be made by the CAMARB Board of Directors, from among the members of its list of arbitrators. If only one of the multiple claimants or one of the multiple respondents expresses their opinion, the appointment of an arbitrator made by that person shall prevail. If there is disagreement among the multiple claimants or among the multiple respondents, the CAMARB Board of Directors shall appoint the three members of the Arbitral tribunal, as per item 3.8, indicating who shall exercise the presidency.

3.8 In the cases mentioned above in which the CAMARB Board of Directors has to appoint the sole arbitrator, the president of the Arbitral Tribunal or the three members of the Arbitral Tribunal, the following procedure will be observed:

3. The CAMARB Board of Directors, considering the subject matter of the arbitration and the provisions of item 3.1, will forward a list with the names of 5 (five) professionals, if it concerns the appointment of a sole arbitrator or presiding arbitrator, or 10 (ten) professionals, if it concerns the appointment of three members of the Arbitral Tribunal;
4. Each Party must, separately, within a common period of 5 (five) days, present a statement observing the following: (i) each Party may remove from the list up to 2 (two) professionals in relation to which it has any objection, without the need for justification; (ii) the names of the remaining professionals must be presented in order of preference for the appointment of a Sole Arbitrator (e.g.: 1 for the first preferred name, 2 for the second preferred name and so on);
5. Once the lists with the parties' orders of preference have been received, each professional will have their score added up, and in the event of there being multiple applicants or multiple respondents, the average obtained between the multiple applicants or multiple respondents, as the case may be, will be calculated prior to the addition;
6. In the case of the appointment of a sole arbitrator or president of the Arbitral Tribunal, the nominated professional who obtains the lowest score among the sum of the orders of preference will be appointed;
7. In the event of the appointment of three members of the Arbitral Tribunal, the three professionals appointed who obtain the lowest scores among the sum of the orders of preference will be appointed, and the one with the lowest score will be the president of the Arbitral Tribunal;

8. The CAMARB Secretariat will notify the indicated professional(s) under item 3.9;
9. If any professional is unable to attend, the Secretariat must notify the professional with the lowest score among those remaining on the list.

3.9 Once the arbitrator has been appointed, the General Secretariat of CAMARB will request that they, within 5 (five) days, express their availability, non-impediment, independence and impartiality.

3.10 The person appointed to act as arbitrator shall sign a document declaring, under penalty of law, that they are not subject to any impediment or suspicion, and shall inform any circumstance that may give rise to justifiable doubts as to his/her impartiality or independence, in relation to the parties or the controversy submitted for their consideration, as well as declare in writing that they have the necessary availability to conduct the arbitration efficiently.

3.11 The arbitrator must immediately report any supervening fact that, during the course of the procedure, may give rise to justifiable doubts as to their impartiality, independence, technical competence or availability or that may, in any way, cause an impediment or suspicion to the judgment of the controversy.

3.12 If any appointed arbitrator dies, is declared disqualified or suspect or becomes unable to perform their duties, the replacement shall be appointed in the manner and within the timeframe applicable to the appointment of the arbitrator to be replaced.

3.13 Within 5 (five) days of receipt of the declaration of availability, independence and impartiality or the information referred to in item 3.10, either party may challenge the arbitrator who does not meet the requirements of the arbitration agreement or applicable legislation, incurs in any of the hypotheses of impediment or suspicion provided for in the arbitration law, or does not have the availability to act in the arbitration proceedings.

3.14 In the event of an objection, the arbitrator will be notified by the CAMARB Secretariat to respond within 5 (five) days, after which the parties will be granted access to the case for the same period.

3.15 The challenge will be decided by the CAMARB Board of Directors.

IV – ARBITRATION AGREEMENT

4.1 After the appointment of the arbitrator(s), the CAMARB Secretariat and the arbitrator will prepare, within 5 (five) days, the draft of the Arbitration Agreement, which must contain:

1. Personal and express agreement with the adoption of arbitration by the employee or the party claiming an employment relationship, expressed through signature in a highlighted item in the Arbitration Agreement;
2. name, profession, marital status, physical and electronic address of the parties and their lawyers, if any;
3. name, profession and physical and electronic address of the arbitrator(s);

4. the matter that will be the subject of arbitration and a summary of the claims;
5. express declaration of consent to the arbitration by the party, an individual, in the position of employee or whose intention is to have an employment relationship recognized;
6. place where the arbitral award will be issued;
7. authorization for the arbitrator(s) to rule on equity, if so agreed by the parties;
8. deadline for submission of the arbitral award;
9. language in which the arbitration proceedings will be conducted;
10. timeline of the procedure, including evidentiary hearing and deadline for issuing the judgment, with the goal of concluding the procedure within six months, counting from the signing of the Arbitration Agreement, observing the limit established in item 2.5;
11. the determination of the form of payment of the fees of the arbitrator(s) and the administrative fee, as well as the declaration of responsibility for the respective payment and for the expenses of the arbitration.

4.2 The draft of the Arbitration Agreement will be forwarded to the parties for comments within a common period of 5 (five) days. The comments sent by the parties will be assessed by the arbitrator, who may accept them or not, and the arbitrator must prepare the final version of the Arbitration Agreement within a period of 5 (five) days.

4.3 The Arbitration Agreement shall be signed by the CAMARB Secretariat and the arbitrator and forwarded to the parties. The arbitration shall be considered instituted and the arbitral jurisdiction shall begin when the appointment is accepted by the arbitrator, if there is only one, or by the last of the three, in the case of an arbitral tribunal as per item 3.4. The arbitrator's acceptance shall be made exclusively through their signature on the Arbitration Agreement.

4.4 The effects of the institution of arbitration will be retroactive to the date of the filing of the Arbitration Request with CAMARB, for the purposes of the provisions of § 2 of art. 19 of Law No. 9.307 of September 23, 1996, amended by Law No. 13.129 of May 26, 2015.

V – OF ATTORNEYS

5.1 The parties may be represented by lawyers with the necessary powers to act on behalf of the represented party in all acts relating to the arbitration proceedings, with CAMARB recommending representation by a lawyer.

5.2 All correspondence, including summons, communications, notifications, copies of statements by the parties and decisions of the arbitrator, shall be sent only to the attorney of each of the parties. If no attorney has been appointed, communications shall be sent directly to the party. In any event, communications shall be made in the manner set out in items 2.1 to 2.3.

VI – OF THE PROCEDURE

6.1 Once the Arbitration Agreement has been signed, the arbitrator will attempt, in the manner established, a settlement between the parties.

6.2 For the presentation of opening statements, objections to the opening statements, and other statements by the parties, the deadlines set out in the Arbitration Agreement shall be observed and, in the absence thereof, those set by the arbitrator. Unless otherwise provided by the arbitrator, the following shall apply:

(a) the claimant and the respondent, if they have expressed an interest in filing a counterclaim, will have a common period of 10 (ten) days, counting from the date of receipt of the Arbitration Agreement, to present their opening statements, and indicate the evidence they intend to produce;

(b) the respondent and, if there is a counterclaim, the claimant shall have a common period of 10 (ten) days to file an answer to the other party's opening statements,;

(c) the claimant and the respondent, if there is a counterclaim, will have a common period of 5 (five) days to file a reply to the other party's objection;

(d) the respondent and the claimant, if there is a counterclaim, will have a common period of 5 (five) days to present a reply in rebuttal to the other party's answer, and must, within that same period, present a specification of evidence;

(e) the evidentiary hearing, if any, must be held within a maximum period of 30 (thirty) days after the submission of the reply in rebuttal.

6.3 The opening statements shall contain the claims and their specifications. After the presentation of the opening statements, neither party may formulate new claims, amend or modify existing claims or withdraw any of the claims without the consent of the other party(ies) and the arbitrator.

6.4 Once the time limit for the reply in rebuttal has expired, the arbitrator will decide on the production of evidence. If the arbitrator deems it necessary to produce expert evidence, the proceedings will be governed by the CAMARB Arbitration Rules, and all procedural acts performed up to that point will remain valid. In this case, the parties will be notified to supplement the amount initially deposited as an administrative fee and arbitrator fees, in accordance with items 11.10 and 11.11 of the CAMARB Arbitration Rules.

6.5 If the arbitrator deems an evidentiary hearing necessary, they will regulate the way in which the work is organized and conducted.

6.6 If any witness refuses to appear at the hearing or refuses to testify without legal reason, the arbitrator may, at the request of either party or ex officio, request the judicial authority to take appropriate measures to take the testimony of the absent witness. The absence of a duly summoned party shall not prevent the hearing from taking place.

6.7 The CAMARB Secretariat will provide transcription of the hearing, as well as interpreter or translator services, with the respective costs being paid in advance by the parties.

6.8 Once the arbitrator has declared the proceedings closed, the parties will have a common period of 7 (seven) days to present their final arguments, which may not be accompanied by documents.

6.9 Any nullity of an act carried out in the arbitration procedure must be alleged at the first opportunity in which the party has the right to speak out.

6.10 In the event of non-compliance with any order of the arbitrator and there being a need for coercive measures, the interested party or the arbitrator shall request its execution from the competent body of the Judiciary, and may suspend the arbitration proceedings if deemed necessary.

VII – ON EVIDENTIARY AND URGENT RELIEF

7.1 The arbitrator, upon request from either party or when he deems it appropriate, may, by means of a duly reasoned decision, grant evidentiary or urgent, injunctive or provisional relief.

7.2 Until the arbitrator's acceptance is formalized, in accordance with item 4.3, the parties may request urgent, injunctive or provisional relief from the competent judicial authority. The arbitrator, as soon as his acceptance is formalized, may reassess the party's request, maintaining, modifying or revoking, in whole or in part, the decision rendered by the judicial authority.

7.3 The request made by one of the parties to a judicial authority to obtain urgent, injunctive or provisional relief, before the arbitrator's acceptance is formalized, will not be considered a waiver of the arbitration agreement, nor will it exclude the arbitrator's competence to reassess it, suspend its institution or its progress.

VII – OF THE ARBITRAL AWARD

8.1 The arbitrator shall issue a ruling within 30 (thirty) days from the end of the period for the parties' final arguments, and such period may be extended by up to 15 (fifteen) days by the arbitrator.

8.2 The arbitrator may deliberate in any place he deems appropriate, and the award shall be rendered at the place of arbitration, unless the parties have agreed otherwise.

8.3 The arbitral award shall contain:

- (a) the report, with the names of the parties and a summary of the dispute;
- (b) the grounds for the decision, in which the questions of fact and law will be analyzed, with express mention, where applicable, of having been given in equity;
- (c) the device, in which the arbitrator will resolve all the issues submitted and will set a deadline for compliance, if applicable;
- (d) the date and place where it was given.

8.4 The award will also contain the determination of the costs and expenses of the arbitration, in accordance with the rules of section XI of the CAMARB Arbitration Rules, as well as the responsibility of each party in paying these installments, considering, among other criteria that it deems relevant, the behavior of the parties in favor of the effective conduct of the procedure, respecting the limits established in the arbitration agreement.

8.5 Once the award has been rendered by the arbitrator and forwarded to the CAMARB Secretariat within the period provided for in item 8.1, the Secretariat shall forward an original copy to each of the parties, with proof of receipt. The Secretariat shall keep a copy of the full content of the award in its files, together with the case file.

8.6 The arbitrator may issue partial awards prior to the final arbitration decision.

8.7 In the event of a partial arbitral award being issued, the filing of an action to nullify the arbitral award does not prevent the arbitration from continuing or the arbitrator from issuing a final award.

8.8 In the event of a material error, omission, obscurity, doubt or contradiction in the arbitral award, the parties shall have a common period of 7 (seven) days, counted from the date of receipt of the award, to make a request for clarification.

8.9 The arbitrator will decide on the request for clarification within 7 (seven) days of receipt, and such period may be extended by a further 7 (seven) days by the arbitrator.

IX – FINAL PROVISIONS

9.1 Issues relating to the administrative fee, arbitrator's fees and other expenses of the procedure are governed by section XI of the CAMARB Arbitration Rules.

9.2 The arbitration proceedings shall be strictly confidential, and CAMARB, the arbitrators, other professionals involved in the case and the parties themselves shall be prohibited from disclosing any information to which they have access as a result of their duties or participation in the proceedings, without the consent of all parties, except in cases where there is a legal obligation to disclose and as provided in these Rules. In the event of item 3.8, the CAMARB Secretariat is authorized to inform the names of the parties, the subject matter of the dispute and its value to the professionals it intends to include in the list to be presented to the parties, for the purposes of prior verification of interest, availability, independence and impartiality.

9.3 CAMARB is authorized, by the parties and arbitrators, to disclose excerpts of the arbitral awards for academic and informative purposes, suppressing the names of the parties, arbitrators and other information that allows the identification of the case.

9.4 In the absence of a determination by the parties of the place of arbitration, this shall be determined by the arbitrator.

9.5 It shall be the responsibility of the arbitrator to interpret and apply these Rules, including with regard to their competence, duties and prerogatives.

9.6 After 5 (five) years from the issuing of the final arbitral award, CAMARB is authorized to discard the case files, with only the arbitral awards remaining archived.

9.7 The parties are entitled to request the withdrawal of any documents they have submitted before the end of the period provided for in item 11.6.

9.8 The CAMARB Arbitration Rules shall apply, supplementarily and to the extent applicable, to these Rules. Any omissions shall be governed by Law No. 9.307 of September 23, 1996, as amended by Law No. 13.129 of May 26, 2015, and by the treaties and conventions on arbitration that are applicable in Brazilian territory. In the absence of a stipulation in such instruments, any omissions shall be resolved by deliberation of the arbitrator or by the CAMARB Board of Directors, if the Arbitration Agreement has not been signed, and in the latter case, the decision may be reviewed by the arbitrator after its formation.

9.9 These Rules shall come into force on December 19, 2019 and may only be changed by resolution of the CAMARB Board of Directors.

Labor Arbitration Rules of CAMARB – Business Arbitration Chamber – BRAZIL, an integral and inseparable part of the Board Minutes of December 02, 2019.