

PCA Case No. 2024-23

**IN THE MATTER OF AN ARBITRATION UNDER THE AGREEMENT ESTABLISHING
THE ASEAN-AUSTRALIA-NEW ZEALAND FREE TRADE AREA,
SIGNED ON 27 FEBRUARY 2009**

- and -

**THE ARBITRATION RULES OF THE UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW, AS REVISED IN 2021**

- between -

ZEPH INVESTMENTS PTE. LTD. (Singapore)

(the “Claimant”)

- and -

THE COMMONWEALTH OF AUSTRALIA

(the “Respondent”, and together with the Claimant, the “Parties”)

TERMS OF APPOINTMENT

Arbitral Tribunal

Dr. Veijo Heiskanen (Presiding Arbitrator)

Dr. Charles Poncet

Ms. Jean Kalicki

Secretariat

Permanent Court of Arbitration

6 December 2024

1. Parties to the Arbitration and their Representatives

The Claimant	Parties Assisting the Claimant's Representative
<p>Zeph Investments Pte. Ltd. (a company registered under the laws of Singapore)</p> <p>Address: [REDACTED]</p> <p><i>Party Representative</i> Mr. Clive Frederick Palmer</p> <p>Address: [REDACTED]</p> <p>Email: [REDACTED]</p> <p>Telephone: [REDACTED]</p>	<p>Mr. George Spalton KC Dr. Anna Kirk Mr. Kris Byrne Mr. Sam Iskander Mr. Michael Sophocles Ms. Baljeet Singh Ms. Anna Palmer Mr. Shane Bosma Mr. Thomas Browning Mr. Daniel Jacobson Mr. George Sokolov</p> <p>Email: [REDACTED]</p>
The Respondent	Counsel for the Respondent
<p>The Commonwealth of Australia</p> <p><i>Party Representatives</i> Mr. Jesse Clarke Mr. James Mason</p> <p>Address: Office of International Law Attorney-General's Department Robert Garran Offices 3-5 National Circuit Barton ACT 2600 Australia</p> <p>Email: jesse.clarke@ag.gov.au james.mason@ag.gov.au isds@ag.gov.au</p> <p>Telephone: + 61 2 6141 6666</p>	<p>Dr. Stephen Donaghue KC <i>Solicitor-General of Australia</i></p> <p>Address: Attorney-General's Department Robert Garran Offices 3-5 National Circuit Barton ACT 2600 Australia</p> <p>Email: christine.moy@ag.gov.au [REDACTED]</p> <p>Telephone: [REDACTED]</p> <p style="text-align: center;">* * *</p> <p>Mr. Sam Wordsworth KC Dr. Naomi Hart <i>Essex Court Chambers</i></p> <p>Address: 24-28 Lincoln's Inn Fields London WC2A 3EG United Kingdom</p> <p>Email: swordsworth@essexcourt.net naomihart@essexcourt.net</p> <p>Telephone: + 44 20 7813 8000</p>

* * *

Prof. Chester Brown SC
7 Wentworth Selborne Chambers
Essex Court Chambers

Address: Level 7, 180 Phillip Street
Sydney NSW 2000
Australia

Email: cbrown@essexcourt.net
cwb@7thfloor.com.au

Telephone: + 61 2 9101 1014

* * *

Ms. Anna Garsia
12 Wentworth Selborne Chambers

Address: Level 12, 180 Phillip Street
Sydney NSW 2000
Australia

Email: agarsia@12thfloor.com.au

Telephone: +61 2 8029 6224

* * *

Dr. Esmé Shirlow
Shirlow International Law Office

Address: PO Box 123, Jamison Centre
Macquarie ACT 2614
Australia

Email: esme.shirlow@gmail.com

Telephone: + 61 4 3289 4354

* * *

Ms. Emma Hoiberg
Level 17 Chambers

Address: Level 17, 239 George Street
Brisbane QLD 4000
Australia

Email: ehoiberg@qldbar.asn.au

Telephone: +61 7 3052 0006

2. Representation

- 2.1 The Parties have designated their respective representatives listed above as being authorised to act on their behalf in these arbitral proceedings.
- 2.2 To the extent they have not already done so, the Parties shall confirm these designations by providing to each other copies of the powers of attorney or letter of representation granted to their representative(s).
- 2.3 In the event of any change by a Party of its representatives or of the contact details of any of its representatives, that change shall be notified promptly in writing to opposing counsel, to each member of the Tribunal, and to the Permanent Court of Arbitration (“PCA”); and shall only take effect if the Tribunal does not object for reasons of conflict of interest. The Tribunal reserves the right to exclude the participation of any representatives from any hearing or other meeting where their participation has not been duly notified sufficiently in advance of that hearing or meeting.

3. The Dispute and Commencement of Arbitration

- 3.1 According to the Claimant, a dispute has arisen between the Parties under Chapter 11 of the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (the “AANZFTA”). The Claimant contends that the Respondent has breached its obligations under Articles 6 and 9 of Chapter 11 of the AANZFTA, and that the Claimant and/or its investment has incurred loss or damage by reason of, or arising out of, that breach.
- 3.2 The Respondent contends that the Claimant’s claims are outside the jurisdiction conferred by Chapter 11 of the AANZFTA and/or are inadmissible, and denies the claims on the merits.
- 3.3 Articles 20, 21, and 22 of Chapter 11 of the AANZFTA relevantly provide as follows:

Article 20 Claim by an Investor of a Party

If an investment dispute has not been resolved within 180 days of the receipt by a disputing Party of a request for consultations, the disputing investor may, subject to this Article, submit to conciliation or arbitration a claim:

- (a) that the disputing Party has breached an obligation arising under Article 4 (National Treatment), Article 6 (Treatment of Investment), Article 7 (Compensation for Losses), Article 8 (Transfers), and Article 9 (Expropriation and Compensation) relating to the management, conduct, operation or sale or other disposition of a covered investment; and
- (b) that the disputing investor or the covered investment has incurred loss or damage by reason of, or arising out of, that breach.

Article 21 Submission of a Claim

1. A disputing investor may submit a claim referred to in Article 20 (Claim by an Investor of a Party) at the choice of the disputing investor:
[...]
(d) under the UNCITRAL Arbitration Rules; or
[...]
provided that resort to one of the fora under Subparagraphs (a) to (e) shall exclude resort to any other.

2. A claim shall be deemed submitted to arbitration under this Article when the disputing investor's notice of or request for arbitration made in accordance with this Section (notice of arbitration) is received under the applicable arbitration rules.
3. The arbitration rules applicable under Paragraph 1(b) to (e) as in effect on the date the claim or claims were submitted to arbitration under this Article, shall govern the arbitration except to the extent modified by this Section.
4. In relation to a specific investment dispute or class of disputes, the applicable arbitration rules may be waived, varied or modified by written agreement between the disputing parties. Such rules shall be binding on the relevant tribunal or tribunals established pursuant to this Section, and on individual arbitrators serving on such tribunals.
5. The disputing investor shall provide with the notice of arbitration:
 - (a) the name of the arbitrator that the disputing investor appoints; or
 - (b) the disputing investor's written consent for the Appointing Authority to appoint that arbitrator.

Article 22
Conditions and Limitations on Submission of a Claim

1. The submission of a dispute as provided for in Article 20 (of Chapter 11 of the AANZFTA i.e. Claim by an Investor of a Party) to conciliation or arbitration under Article 21.1(b) to (e) (Submission of a Claim) in accordance with this Section [i.e., Section B of Chapter 11 of the AANZFTA], shall be conditional upon:
 - (a) the submission of the investment dispute to such conciliation or arbitration taking place within three years of the time at which the disputing investor became aware, or should reasonably have become aware, of a breach of an obligation referred to in Article 20(a) (Claim by an Investor of a Party) causing loss or damage to the disputing investor or a covered investment;
 - (b) the disputing investor providing written notice, which shall be submitted at least 90 days before the claim is submitted, to the disputing Party of its intent to submit the investment dispute to such conciliation or arbitration and which briefly summarises the alleged breach of the disputing Party (including the articles or provisions alleged to have been breached) and the loss or damage allegedly caused to the disputing investor or a covered investment; and
 - (c) the notice of arbitration being accompanied by the disputing investor's written waiver of its right to initiate or continue any proceedings before the courts or administrative tribunals of either Party, or other dispute settlement procedures, of any proceeding with respect to any measure alleged to constitute a breach referred to in Article 20 (Claim by an Investor of a Party).
2. Notwithstanding Paragraph 1(c), no Party shall prevent the disputing investor from initiating or continuing an action that seeks interim measures of protection for the sole purpose of preserving its rights and interests and does not involve the payment of damages or resolution of the substance of the matter in dispute, before the courts or administrative tribunals of the disputing Party.
3. No Party shall give diplomatic protection, or bring an international claim, in respect of a dispute which has been submitted to conciliation or arbitration under this Article, unless such other Party has failed to abide by and comply with the award rendered in such dispute. Diplomatic protection, for the purposes of this Paragraph, shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.
4. A disputing Party shall not assert, as a defence, counter-claim, right of set-off or otherwise, that the disputing investor or the covered investment has received or will

receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of any alleged loss.

- 3.4 By Notice of Arbitration dated 20 March 2024, the Claimant commenced arbitral proceedings against the Respondent pursuant to Articles 20 and 21.1(d) of Chapter 11 of the AANZFTA and Article 3 of the 2021 Arbitration Rules of the United Nations Commission on International Trade Law (the “**UNCITRAL Rules**”).
- 3.5 On 19 April 2024, the Respondent communicated its Response to the Notice of Arbitration to the Claimant pursuant to Article 4 of the UNCITRAL Rules.

4. Constitution of the Tribunal

- 4.1 On 20 March 2024, the Claimant appointed Dr. Charles Poncet, a national of Switzerland, as arbitrator. Dr. Poncet’s contact details are:

Dr. Charles Poncet

Address: Poncet SARL

[REDACTED]

Email:

[REDACTED]

Telephone:

[REDACTED]

- 4.2 On 19 April 2024, the Respondent appointed Ms. Jean Kalicki, a national of the United States of America, as arbitrator. Ms. Kalicki’s contact details are:

Ms. Jean Kalicki

Address: Arbitration Chambers

[REDACTED]

Email:

[REDACTED]

Telephone:

[REDACTED]

- 4.3 On 7 August 2024, the acting Secretary-General of the Permanent Court of Arbitration, in his capacity as appointing authority, appointed Dr. Veijo Heiskanen, a national of Finland, as the presiding arbitrator. Dr. Heiskanen’s contact details are:

Dr. Veijo Heiskanen

Address: Heiskanen Legal Sàrl

[REDACTED]

Email:

[REDACTED]

Telephone:

[REDACTED]

- 4.4 The Parties confirm that the members of the Tribunal have been validly appointed in accordance with the AANZFTA and the UNCITRAL Rules.
- 4.5 The members of the Tribunal confirm that they are and shall remain impartial and independent of the Parties. Each member of the Tribunal confirms that they have disclosed, to the best of their knowledge, all circumstances likely to give rise to justifiable doubts as to their impartiality or independence and that they will without delay disclose any such circumstances that may arise in the future.
- 4.6 The Parties confirm that they have no objection to the appointment of any member of the Tribunal on the grounds of conflict of interest or lack of independence or impartiality in respect of matters known to them as at the date of these Terms of Appointment.

5. The Tribunal's Fees and Expenses

- 5.1 Article 23(5) of Chapter 11 of the AANZFTA provides that “[t]he disputing parties may establish rules relating to expenses incurred by the tribunal, including arbitrators’ remuneration”.
- 5.2 Pursuant to Article 41(1) of the UNCITRAL Rules, the fees and expenses of the Tribunal shall be reasonable in amount, taking into account the amount in dispute, the complexity of the subject matter, the time spent by the arbitrators and any other relevant circumstances of the case.
- 5.3 Each member of the Tribunal shall be remunerated at the rate of CHF 600 per hour (plus VAT, if applicable) for all time spent in connection with these arbitral proceedings. Time spent on travel will be charged at 50 percent of the full rate.
- 5.4 The members of the Tribunal may impose a cancellation fee, in the amount of 50 percent of their fees for each day reserved for a hearing or meeting, based on an eight hour day, in respect of any hearing or other meeting for which they are asked to reserve more than one day and that is cancelled, or postponed by more than one week, at the request of one or both of the Parties within four weeks from the first day of such hearing or meeting.
- 5.5 The members of the Tribunal shall be reimbursed for all disbursements and charges reasonably incurred in connection with these arbitral proceedings, including but not limited to travel expenses, hotel accommodation and meals, communication expenses, and office expenses. Air travel will be business class. Train travel will be first class.
- 5.6 The members of the Tribunal may apply for reimbursement of charges and expenses as and when these are incurred, and may submit periodic bills in respect of fees to the PCA. In principle, the members of the Tribunal shall submit such bills at least on a quarterly basis.
- 5.7 All payments to the Tribunal shall be made from the deposit administered by the PCA. Payments made from the deposit shall be without prejudice to a final allocation of costs by the Tribunal in an award, in accordance with Article 42 of the UNCITRAL Rules.

6. Secretary to the Tribunal

- 6.1 In consultation with the Tribunal, the Secretary-General of the PCA shall designate a legal officer of the PCA to act as Secretary to the Tribunal.
- 6.2 The Secretary shall provide a CV and a declaration of independence and impartiality to the Parties.

- 6.3 The Secretary shall undertake only such specific tasks as are assigned to the Secretary by the Tribunal or the presiding arbitrator, including:
- i. assisting the Tribunal or the presiding arbitrator in the review of the evidence and of the issues in dispute, including through the review of submissions and evidence, preparation of summaries and/or memoranda, and research on specific factual or legal issues;
 - ii. assisting the Tribunal or the presiding arbitrator in the preparation and communication of the Tribunal's decisions to the Parties on issues of procedure and substance, including by preparing initial drafts of procedural orders and awards, under the direction and supervision of the presiding arbitrator; and
 - iii. providing administrative support to the Tribunal and the presiding arbitrator, at any time, especially during hearings and deliberations, which the Secretary may attend.
- 6.4 Under no circumstances shall the Tribunal or the presiding arbitrator delegate any decision-making functions to the Secretary, and the presiding arbitrator shall ensure that the Secretary does not influence the Tribunal's decision-making in any manner. The Secretary will work at all times under the specific instructions and continuous control and supervision of the presiding arbitrator.
- 6.5 The Secretary will not duplicate the work performed by the administering authority, set out below at section 14.
- 6.6 The Secretary's work shall be billed in accordance with the PCA's Schedule of Fees.¹

7. Place of the Arbitration

- 7.1 Article 25(5) of Chapter 11 of the AANZFTA provides that "[u]nless the disputing parties otherwise agree, the tribunal shall determine the place of arbitration in accordance with the applicable arbitration rules, provided that the place shall be in the territory of a State that is a party to the New York Convention".
- 7.2 The Parties have agreed upon Geneva, Switzerland as the legal place (or seat) of the arbitration.
- 7.3 Pursuant to Article 18(2) of the UNCITRAL Rules, the Tribunal may hold meetings and hearings with the Parties at any location it considers appropriate, as decided by the Tribunal after consultation with the Parties. Hearings may be held in person or by videoconference. For the avoidance of doubt, if the Tribunal determines, after consultation with the Parties, that a hearing must be convened by videoconference, the Parties agree that such a hearing qualifies as a hearing for the purposes of the UNCITRAL Rules.
- 7.4 The Tribunal may meet at any location it considers appropriate for deliberations.
- 7.5 Irrespective of the place where an award is signed, it shall be deemed to have been made at the place of the arbitration.

8. Language of the Arbitration

- 8.1 The language of the arbitration shall be English, in accordance with the agreement of the Parties.

¹ The PCA Schedule of Fees and Costs is available at: <https://pca-cpa.org/en/fees-and-costs/>.

9. Applicable Procedural Rules

- 9.1 Pursuant to Articles 21(3) and 21(4) of Chapter 11 of the AANZFTA, the rules applicable to these arbitral proceedings are the UNCITRAL Rules (as adopted in 2021), except to the extent modified by the AANZFTA and/or the written agreement of the Parties, and subject to mandatory rules of the law on international arbitration applicable at the place of the arbitration.
- 9.2 For procedural matters not addressed by the UNCITRAL Rules, the AANZFTA, or by an agreement of the Parties, the Tribunal shall apply the rules it considers appropriate in the circumstances, provided that the Parties are treated equally and that at an appropriate stage of the proceedings each Party is given a reasonable opportunity of presenting its case, in accordance with Article 17(1) of the UNCITRAL Rules.

10. Governing Law

- 10.1 Article 27(1) of Chapter 11 of the AANZFTA provides as follows:

Article 27 Governing Law

1. Subject to Paragraphs 2 and 3, when a claim is submitted under Article 20 (Claim by an Investor of a Party), the tribunal shall decide the issues in dispute in accordance with this Agreement, any other applicable agreements between the Parties, any relevant rules of international law applicable in the relations between the Parties, and, where applicable, any relevant domestic law of the disputing Party.
 2. The tribunal shall, on its own account or at the request of a disputing party, request a joint interpretation of any provision of this Agreement that is in issue in a dispute. The Parties shall submit in writing any joint decision declaring that their interpretation to the tribunal within 60 days of the delivery of the request. Without prejudice to Paragraph 3, if the Parties fail to issue such a decision within 60 days, any interpretation submitted by a Party shall be forwarded to the disputing parties and the tribunal, which shall decide the issue on its own account.
 3. A joint decision of the Parties, declaring their interpretation of a provision of this Agreement shall be binding on a tribunal, and any decision or award issued by a tribunal must be consistent with that joint decision.
- 10.2 The Tribunal will determine any outstanding issues as to the applicable substantive rules in further procedural order(s) and/or awards.

11. Rulings

- 11.1 Procedural Orders shall be signed and issued by the presiding arbitrator alone, after consultation with the co-arbitrators. In cases of urgency or if a co-arbitrator cannot be reached in a timely manner, the presiding arbitrator may take procedural decisions on his own, subject to reconsideration, if any, by the full Tribunal.

12. Awards

- 12.1 Subject to Article 28 of Chapter 11 of the AANZFTA, the Tribunal shall be free to make determinations on the Parties' requests by way of one or more partial or interim awards, or by way of a final award, as it may deem appropriate. All awards, whether final, interim or partial, shall be in writing and shall state the reasons upon which the award is based.

13. Communications

- 13.1 Subject to any modification arising from future procedural orders, the following provisions shall apply to communications.
- 13.2 The Parties, their representatives, or anyone acting on their behalf, shall not engage, directly or indirectly, in any oral or written *ex parte* communications with any member of the Tribunal in connection with the subject matter of the arbitration or any procedural issues relating to the proceedings.
- 13.3 The Parties shall send all communications for the attention of the Tribunal by e-mail simultaneously to the opposing Party, to each member of the Tribunal and to the PCA.
- 13.4 The Parties shall send copies of correspondence between them to the Tribunal and to the PCA only if such correspondence relates to a matter where the Tribunal is required to take action or not to take action, or if it gives notice of a relevant event of which the Tribunal and/or the PCA should be apprised.
- 13.5 Communications are timely if they are sent by midnight, time of the legal place (or seat) of arbitration, on the day when the deadline expires.

14. Case Administration

- 14.1 By agreement of the Parties, the PCA shall be the administering authority. In that capacity, the PCA will act as registry and administer these arbitral proceedings on the terms set forth in this section.
- 14.2 The PCA shall maintain an archive of correspondence and submissions.
- 14.3 The PCA shall manage Party deposits to cover the costs of the arbitration, subject to the Tribunal's supervision.
- 14.4 If agreed by the Parties or requested by the Tribunal, the PCA shall make its hearing and meeting rooms at the Peace Palace in The Hague or elsewhere available to the Parties and the Tribunal free of charge.² Costs of catering, court reporting, or other technical support associated with hearings or meetings shall be borne by the Parties.
- 14.5 Upon request, the PCA shall carry out administrative tasks on behalf of the Tribunal, the primary purpose of which is to reduce the costs that would otherwise be incurred by the Tribunal carrying out administrative tasks. Work carried out by the PCA shall be billed in accordance with the PCA's Schedule of Fees.³
- 14.6 The PCA's fees and expenses shall be paid in the same manner as the Tribunal's fees and expenses.
- 14.7 The contact details of the PCA are as follows:

Permanent Court of Arbitration

Attn: Bryce Williams (Legal Counsel)
Benjamin Craddock (Case Manager)

² More information on PCA hearing facilities is available at: <https://pca-cpa.org/en/hearing-facilities/>.

³ The PCA Schedule of Fees and Costs is available at: <https://pca-cpa.org/en/fees-and-costs/>.

Address: Peace Palace
Carnegieplein 2
2517 KJ The Hague
The Netherlands

Email: [REDACTED]

Telephone: [REDACTED]

Fax: [REDACTED]

14.8 The appointment of the PCA as registry shall not affect the legal place of the arbitration, the geographical location of meetings and hearings, the applicable procedural rules, or other aspects of the arbitral proceedings, which shall remain subject to any agreement between the Parties and any decisions made by the Tribunal in accordance with the applicable procedural rules.

15. Advances on Arbitration Costs

15.1 Advances towards the costs of arbitration shall be made to a deposit held by the PCA pursuant to Article 43 of the UNCITRAL Rules.

15.2 On 2 October 2024, the Tribunal requested that the Parties establish an initial deposit of CHF 300,000 (that is, CHF 150,000 from each side) as an advance for the costs of the arbitration, in accordance with Article 43(1) of the UNCITRAL Rules. The PCA acknowledged receipt of the Parties' deposits on 22 October 2024.

15.3 The PCA will review the adequacy of the deposit from time to time and, at the request of the Tribunal, may invite the Parties to make supplementary deposits pursuant to Article 43(2) of the UNCITRAL Rules.

15.4 Deposits shall be made by wire transfer to the following account:

Bank: [REDACTED]

Account number: [REDACTED]

IBAN: [REDACTED]

BIC/SWIFT: [REDACTED]

Name of beneficiary: Permanent Court of Arbitration

Reference: PCA Case No. 2024-23 / [Claimant / Respondent, as applicable]

15.5 Any transfer fees or other bank charges associated with the management of the deposit will be charged by the PCA to the deposit. No interest will be paid on the deposit.

15.6 The unused balance held on deposit at the end of the arbitration shall be returned to the Parties as directed by the Tribunal.

16. Disability Inclusion

16.1 The Parties have advised that they are not aware of any disability considerations as at the date of these Terms of Appointment.

16.2 Should any disability considerations among the Parties, witnesses, or other participants arise that need to be taken into account in the conduct of these arbitral proceedings, the Parties shall bring these matters to the attention of the Tribunal.

17. Data Protection & Security

17.1 The Parties and their representatives acknowledge that the processing of their personal data is necessary for the purposes of these arbitral proceedings.

17.2 The Parties agree to comply with all applicable data protection and privacy regulations, including providing appropriate notice to data subjects whose personal data will be processed in these arbitral proceedings, where necessary.

17.3 Should compliance with applicable law require action from another participant in the arbitration, the Parties shall bring that to the attention of the other participants as necessary and/or apply to the Tribunal for data protection measures to be put in place.

17.4 The Parties and their representatives shall indemnify and hold harmless the members of the Tribunal, the PCA and its officials, with respect to any breach of applicable data protection and privacy regulations by the Parties or their representatives in relation to these arbitral proceedings.

17.5 The Parties and their representatives will apply appropriate time limits to the destruction of all personal data processed and controlled in connection with these arbitral proceedings.

17.6 The Parties and their representatives shall ensure that the storage and exchange of the data processed in these arbitral proceedings is protected by way of appropriate technical and organisational safeguards, including through the use of secure servers and password-protected access, and taking into account the scope and risk of the processing, including the impact on data subjects, the capabilities and regulatory requirements of all those involved in these proceedings, the costs of implementation, and the nature of the information being processed or transferred, including the extent to which it includes personal data or sensitive commercial, proprietary or confidential information.

18. Disposal of Documents

18.1 Subject to legal or regulatory requirements, six months after the Tribunal has notified the final award, the Tribunal shall be at liberty to destroy documents submitted in the arbitration, unless one Party or both Parties have expressly requested that any hard copies of the case file be returned, in which case the requesting Party/Parties shall bear the accrued expenses.

19. Immunity from Suit

19.1 The Parties shall not require any member of the Tribunal to be a party or witness in any judicial or other proceedings arising out of or in connection with these arbitral proceedings.

19.2 Save for cases of gross negligence or intentional wrongdoing:

- i. the members of the Tribunal shall not be liable to any Party in respect of any act or omission arising out of or in connection with these arbitral proceedings, and the Parties waive, to the fullest extent permitted under the applicable law, any claim against any member of the Tribunal based on any such act or omission. No Party shall seek to make any member of the Tribunal liable in respect of any such act or omission; and

- ii. the Parties agree to jointly and severally indemnify the members of the Tribunal in respect of any liability, cost, or claim arising out of or in connection with these arbitral proceedings.

20. Acknowledgment of the Parties

- 20.1 Pursuant to Article 32 of the UNCITRAL Rules, a Party who knows that any provision of, or requirement under, the UNCITRAL Rules, the AANZFTA, or other applicable procedural rules has not been complied with and yet proceeds with these arbitral proceedings without promptly stating its objection to such noncompliance shall be deemed to have waived its right to object.

21. Counterparts

- 21.1 These Terms of Appointment and other documents (including the awards) may be signed in counterparts that would collectively constitute a single signed agreement.

22. Signature of the Terms of Appointment

- 22.1 These Terms of Appointment may be signed electronically.
- 22.2 For the avoidance of doubt, by signing these Terms of Appointment, the Parties do not waive any jurisdictional or admissibility objections.

Signed:



For the Claimant

Name: Clive Frederick Palmer

Dated: 2 December 2024

For the Respondent

Name: _____

Dated: _____

Dr. Charles Poncet
Arbitrator

Dated: _____

Ms. Jean Kalicki
Arbitrator

Dated: _____

Dr. Veijo Heiskanen
Presiding Arbitrator

Dated: _____

Signed:



For the Claimant

For the Respondent

Name: _____

Name: Nathan Kensay

Dated: _____

Dated: 2 December 2024

Dr. Charles Poncet
Arbitrator

Ms. Jean Kalicki
Arbitrator

Dated: _____

Dated: _____

Dr. Veijo Heiskanen
Presiding Arbitrator

Dated: _____

Signed:

_____ For the Claimant

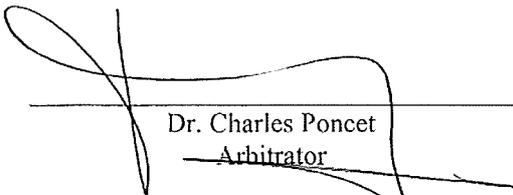
_____ For the Respondent

Name: _____

Name: _____

Dated: _____

Dated: _____



Dr. Charles Poncet
Arbitrator
Dated: 6 DECEMBER 2024

Ms. Jean Kalicki
Arbitrator
Dated: _____

Dr. Veijo Heiskanen
Presiding Arbitrator
Dated: _____

Signed:

For the Claimant

For the Respondent

Name: _____

Name: _____

Dated: _____

Dated: _____

Dr. Charles Poncet
Arbitrator

Jean E. Kalicki

Ms. Jean Kalicki
Arbitrator

Dated: _____

Dated: 2 DECEMBER 2024

Dr. Veijo Heiskanen
Presiding Arbitrator

Dated: _____

Signed:

For the Claimant
Name: _____
Dated: _____

For the Respondent
Name: _____
Dated: _____

Dr. Charles Poncet
Arbitrator
Dated: _____

Ms. Jean Kalicki
Arbitrator
Dated: _____



Dr. Veijo Heiskanen
Presiding Arbitrator

Dated: 4 DECEMBER 2024