

Stichting Geschillen in de landbouw c.a. ARBITRATION RULES 2017

For disputes in relation to agricultural matters in the broadest sense of the word, including, inter alia, the purchase and sale of (whether or not processed or treated) agricultural products, agricultural machinery, earthmoving, company and partnership contracts, agricultural care, etc.

General provisions

Article 1 - Definitions

In these Rules the following terms have the following meaning:

Arbitration Board: Arbitration Board of het Instituut voor Agrarisch Recht

Arbitration committee: a committee comprising one or three arbitrators, formed in accordance with these Rules.

Arbitration agreement: an agreement in which the parties agree to make disputes that have arisen from a legal relationship between the parties (compromis), whether or not such legal relationship is based on a contract, or which could arise between them (arbitration clause), subject to arbitration.

Claimant: one or more claimants.

Rules: the arbitration rules of Stichting Geschillen in de landbouw c.a.

Foundation: Stichting Geschillen in de landbouw c.a.

Secretary: the secretary appointed by the Foundation. The secretary shall be legally qualified (LL.M).

Respondent: one or more respondents.

Chairperson: the chairperson of the arbitration committee appointed in accordance with these Rules and in case of a binding advice procedure, the binding advisor appointed in accordance with these Rules.

Removal committee: A committee established by the Foundation, comprising at least the chairperson, which committee shall decide on requests for removal as referred to in article 11.

Article 2 - Scope (arbitration)

1. These Rules apply if the parties have agreed to arbitration by the Foundation or arbitration in accordance with the Rules. This agreement shall be recorded in writing. A document that provides for arbitration or that refers to general terms and conditions which provide for arbitration and that has been explicitly or tacitly accepted by or on behalf of the parties shall suffice.
2. These Rules replace the arbitration rules of Stichting Instituut voor Agrarisch Recht of 2001.

Article 3 - Scope (binding advice)

These Rules apply mutatis mutandis to the extent possible if the parties have agreed in writing to follow the binding advice procedure of the Foundation or a binding advice procedure in accordance with the Rules.

In case of binding advice, where the Rules refer to arbitration committee, this shall be read as binding advisor(s).

Article 4 - Notices and communications

1. Requests and notices shall be effected or confirmed in the manner provided for in this article.

2. After the arbitration board has received the request for arbitration, the parties shall submit their requests, notices and other documents directly to the arbitration board, while at the same time sending copies thereof to all parties. The same applies to requests, notices or documents that the arbitration board sends to the parties.
3. If the parties have stated they can be contacted by e-mail by having provided their e-mail address, all requests, notices and other documents between the parties and the arbitration board shall be sent electronically by e-mail.
4. A request, notice or action that is effected electronically or a document of the proceedings that is submitted electronically, shall be deemed to have been sent at the time when the message has reached a data processing system for which the sender has no responsibility.

Article 5 - Time limits

1. For the purpose of these Rules, a time limit commences on the day of receipt of a notice to this effect, and if the notice is sent electronically, on the day of sending, unless these Rules or the arbitration committee explicitly stipulate otherwise.
2. In exceptional cases the chairperson is entitled, on the request of one of the parties or at his own discretion, to extend or shorten time limits. Insofar as an arbitration committee has not yet been appointed in accordance with article 14, the secretary holds this power.

Commencement of the arbitration

Article 6 - Request for arbitration

1. Arbitration shall be commenced in writing by submitting a request for arbitration to the arbitration board within a reasonable period of time after the dispute has arisen, to be determined by the arbitration committee. The dispute can be commenced by written notice or electronically as referred to in Art. 1072B of the Dutch Code of Civil Procedure.
2. The arbitration shall be deemed to have commenced on the day of receipt of the request for arbitration.
3. The request for arbitration shall provide the following information:
 - (a) The name, legal form, address, place of residence or business, telephone number and e-mail address of each of the parties;
 - (b) The name, address, place of residence or business, telephone number and e-mail address of the person or persons representing the petitioner in arbitration;
 - (c) A full and clear description of the dispute, stating all relevant facts;
 - (d) A clear description of and the grounds of the claim;
 - (e) The respondent's position and the petitioner's response to this position;
 - (f) A reference to this arbitration agreement;
 - (g) The name, address and place of residence of the arbitrator or arbitrators and their telephone numbers and e-mail addresses, insofar as the parties themselves have appointed the arbitrator or arbitrators;
 - (h) If the parties have not appointed an arbitrator or arbitrators themselves: the manner of appointing the arbitrator or arbitrators if the parties have agreed a manner of appointment that deviates from the manner of appointment provided for in article 14;
 - (i) The number of arbitrators, if the parties have agreed such;
 - (j) Any preference on the part of the petitioner for the number of arbitrators if the parties have not reached agreement in this respect;
4. The secretary shall confirm the receipt of the request for arbitration to the petitioner, stating the day of receipt.

Article 7 – Answer to Request for Arbitration

1. The secretary shall send a copy of the request for arbitration with annexes to the respondent after the petitioner has paid the requested deposit referred to in article 50.
2. When sending the copy of the request for arbitration, the secretary shall also give the respondent

the opportunity to submit an answer within 4 weeks. The secretary is authorised to extend that time period, if there is reason for such, by a maximum term of 4 more weeks, unless the parties agree to a longer extension.

3. The answer to the request shall provide the following information:

- (a) The name, legal form, address, place of residence or business, telephone number and e-mail address of the respondent;
 - (b) The name, address, place of residence or business, telephone number and e-mail address of the person or persons representing the respondent in arbitration;
 - (c) A clear description of the defence and the grounds of the defence;
 - (e) If necessary, a statement regarding the preference referred to in article 6.3 under i.
4. The respondent can present a counterclaim against the claimant in the answer, subject to the provisions in article 22.

Claim of lack of jurisdiction

Article 8 - Lack of jurisdiction

1. A respondent who wishes to claim that the arbitration committee lacks jurisdiction, on the basis of the lack of a valid arbitration agreement, is bound to make such claim before any defences are considered. He shall make such claim in a separate statement, prior to his statement of defence, or at latest in his statement of defence. If the respondent fails to do so, his right to subsequently claim lack of jurisdiction of the arbitrators shall lapse, except in the event the respondent were to claim that the dispute is not eligible for arbitration.
2. The arbitration committee shall decide on a claim regarding its lack of jurisdiction. If the arbitration committee declares itself as lacking jurisdiction, the declaration of lack of jurisdiction shall be deemed an arbitral award which is subject to the relevant articles of these Rules.

Appointment of arbitrators

Article 9 - Impartiality and independence of arbitrators

1. An arbitrator must be independent and impartial and may not in any way be involved in the dispute or be able to benefit from the dispute.
2. Nor may he have close ties with the person or the business of one of the parties.
3. He may not have advised the parties on the dispute beforehand nor informed them of his opinion in this respect.
4. Outside of the arbitration he may not discuss the dispute with any of the parties.
5. The person who is requested to act as arbitrator and who believes that he does not meet the aforementioned requirements, is bound to inform the secretary of this fact and not to accept the instruction.

Article 10 - Impartiality and independence of arbitrators appointed by the party or parties

If in the secretary's opinion one or more of the arbitrators appointed by the parties themselves offer insufficient guarantees for a proper arbitration, the secretary can refuse to take on the arbitration, unless the parties agree that the arbitrator in question shall be replaced in accordance with the manner of appointment provided for in article 14.

Article 11 - Removal

1. A party can request the removal of an arbitrator in accordance with the provisions of this article if there is legitimate doubt regarding his impartiality or independence.
2. The party who wishes the removal of an arbitrator shall give the secretary written notice thereof within one week after said party has been informed of the appointment or within one week after said party has become aware of a ground for removal that has arisen subsequently. Failure to act in accordance with this provision is subject to loss of rights. The written notice shall set out the grounds for the removal. Failure to act in accordance with this provision is subject to loss of rights.
3. If the request for removal is not effected in accordance with the provisions of the preceding paragraph, the right to claim removal subsequently in the arbitral proceedings or before a court shall be lost.

4. Immediately after receipt of the written notice requesting removal of an arbitrator, the secretary shall inform the arbitrator for whom removal is requested and the other party of this request. Within one week after receipt of the request for removal, the arbitrator for whom removal has been requested shall then inform the secretary in writing as to whether he will acquiesce in the request or reject it, stating the reasons for rejection; in the event of failure to do so, the arbitrator shall be deemed to have acquiesced in the request for removal.
5. The arbitration committee shall suspend the arbitral proceedings as of the day of receipt of the notice referred to in paragraph 2 until a decision has been made on the request for removal.
6. If a challenged arbitrator withdraws, this shall not constitute acceptance of the validity of the reasons for removal.
7. If a challenged arbitrator does not withdraw within two weeks after the day of receipt of the notice of the party requesting removal, the removal committee shall make a decision in writing on the removal as soon as possible. The removal committee can give the arbitrator whose removal has been requested and the parties the opportunity to be heard on the matter. The secretary shall send the decision to the parties and the arbitrator or arbitrators.

Article 12 - Number of arbitrators

1. If the parties have not agreed the number of arbitrators, the secretary shall determine the number after the answer to the request for arbitration has been submitted or, if no answer is submitted, after the expiry of the time limit for submitting the answer.
2. The secretary shall fix the number at one or three, taking account of the preference of the parties, the value of the claim and any counterclaim and the complexity of the case.
3. If the parties have agreed an even number of arbitrators, the secretary shall add a chairperson. The chairperson shall be appointed in the manner provided for in article 14.

Article 13 - Manner of appointment as provided for by the parties

1. If the parties have agreed a manner of appointment of the arbitrator or arbitrators that deviates from the manner of appointment provided for in article 14, the appointment shall take place in the manner agreed by the parties, subject to the provisions in the following paragraph.
2. If this appointment arrangement has not been implemented in whole or in part within the time period agreed by the parties or, if there is no such time limit, within four weeks after the arbitration has commenced, the appointment of the arbitrator or arbitrators shall take place in accordance with the manner of appointment provided for in article 14.

Article 14 – Appointment

1. As soon as possible after receipt of the answer to the request for arbitration or, in the event no answer is received, after the expiry of the time period for submitting the answer, the secretary shall send each of the parties the composition of the arbitration committee to be appointed, with the names of the intended arbitrator(s).
2. If a party objects to the appointment of one or more proposed arbitrators, it shall consult with the secretary. The secretary shall then again send each of the parties a composition of the arbitration committee to be appointed, with the names of the intended arbitrator(s). If a party objects to this as well, it has the option of requesting removal in accordance with article 11.
3. The appointment of the arbitrator or arbitrators shall be confirmed by the secretary in a notice addressed to the arbitrator or arbitrators.
4. An arbitrator shall accept his instruction by informing the secretary of his acceptance.
5. The secretary shall inform the parties hereof simultaneously with the sending of the notice to the arbitrator or arbitrators.

Article 15 - Relief from duty of an arbitrator

1. An arbitrator who has accepted his instruction, can be relieved from duty on his own request, either with the consent of the parties, or the consent of the secretary.
2. An arbitrator who has accepted his instruction, can be relieved of his duty by the parties jointly without the arbitrator himself having requested such. The parties shall immediately inform the secretary that the arbitrator has been relieved of his duty.

3. An arbitrator who has accepted his instruction, can be relieved of his duty by the secretary of the secretary's own volition if the arbitrator is legally or de facto no longer able to fulfil his instruction, or does not fulfil his instruction in accordance with these Rules.

Article 16 - Replacement of an arbitrator

1. An arbitrator, or an arbitration committee, who for whatever reason has been relieved of his duty, shall be replaced by another arbitrator or arbitration committee. This arbitrator or arbitration committee shall be appointed in accordance with the manner of appointment provided for in article 14, unless the parties have agreed another manner of replacement. The same applies in the event of death of an arbitrator.
2. Until provision has been made for the replacement, the arbitration shall be automatically suspended. After the replacement, the arbitration that has already been commenced shall be continued, unless the arbitration committee deems there are grounds for considering the matter again in whole or in part.

Procedure

Article 17 - Representation and assistance

Every party can appear before the arbitration committee in person or may be represented by an attorney or by an individual who has a written power of attorney.

Article 18 - Place of arbitration

1. The place of arbitration shall be Wageningen.
2. The arbitration committee can hold hearings, deliberate, hear witnesses and experts in any other place, inside or outside of the Netherlands, that it deems suitable for such.

Article 19 - Procedure in general

1. The arbitration committee shall see to it that the parties are treated equally. It shall give each party the opportunity to stand up for its rights and present its assertions.
2. The arbitration committee shall determine the manner in which and the time limits within which the proceedings shall be conducted in accordance with the provisions of these Rules, any agreements in this respect between the parties and the circumstances of the arbitration.
3. The arbitration committee shall see to an expeditious progress of the arbitral proceedings. The arbitration committee is authorised, on the request of one of the parties or of its own volition in special cases, to extend a time limit established by the arbitration committee or agreed by the parties.
4. The arbitration committee can hold a meeting with the parties in order to consult on the progress of the proceedings and/or determine the factual and legal points of dispute.
5. If an arbitration committee consists of more than one arbitrator, procedural matters of subordinate importance shall be decided by the chairperson.

Article 20 - Exchange of documents

1. Except in case of an agreement of the parties to the contrary, in principle no further statements shall be presented after the answer to the request for arbitration has been submitted.
2. The provisions of this article apply mutatis mutandis to the counterclaim.

Article 21 - Counterclaim

1. A counterclaim that is not submitted at latest with the answer to the request for arbitration, cannot be filed subsequently in the same arbitration.
2. A counterclaim is permissible if it is subject to the same arbitration agreement as that on which the request for arbitration is based.

Article 22 - Hearing

1. The arbitration committee shall give the parties the opportunity to verbally explain their case at a hearing.
2. The arbitration committee shall determine the time and place of the hearing.

3. The arbitration committee can attempt to persuade the parties to agree a settlement at the hearing.

Article 23 - Evidence in general

1. The admissibility of the evidence, the burden of proof and the assessment of the evidence is at the free discretion of the arbitration committee, unless the parties have agreed otherwise.
2. Having heard the parties, the arbitration committee can instruct the chairperson to hear witnesses or experts or to inspect or view a location or carry out other tasks of the arbitration committee, unless the parties have agreed otherwise.

Article 24 - Submission of documents

1. Subject to an agreement of the parties to the contrary, the statements shall be accompanied as much as possible by the written evidence which the parties are relying upon.
2. The arbitration committee is authorised to order the submission of certain documents that the arbitration committee deems relevant for the dispute.

Article 25 - Witnesses

1. The arbitration committee can determine when calling upon parties to attend the hearing, that the parties have the right to present witnesses and/or experts at the hearing. If the parties wish to make use of this right, they shall inform the secretary and the other party of the names and addresses of the witnesses at least 8 days before the hearing, along with the topics of the hearing.
2. If a witness hearing ordered by the arbitration committee is held, the arbitration committee shall determine the day, the time and the place of the hearing of witnesses, as well as the way in which the hearing shall occur, unless the parties have provided for the manner of hearing in an agreement. The parties shall be notified in writing of the day, the time and the place in a timely manner.
3. If the arbitration committee deems it necessary, it shall hear the witnesses after they have taken the oath or made the affirmation.
4. The arbitration committee shall decide whether, and in what form, a report shall be made of the witness testimony.

Article 26 - Experts (party)

A party is free to present an opinion it has obtained from an expert. If the party that has submitted the opinion or the other party has requested such, or the arbitration committee has stipulated such, the expert shall be called upon by the party that submitted the opinion to provide further explanation at the hearing.

Article 27 - Experts (arbitration committee)

1. The arbitration committee can appoint one or more experts to give an opinion, within a time period stipulated by the arbitration committee. The arbitration committee can consult the parties regarding the person and expertise of the expert to be appointed and regarding the instruction to be given to the expert.
2. The arbitration committee shall immediately send the parties a copy of the appointment of the expert and of the instruction given to the expert.
3. If a party does not provide the expert with the information or cooperation required by the expert, the expert can request the arbitration committee to instruct the party in question to do so.
4. The expert shall send a draft of the opinion to the parties.
5. The parties shall inform the expert of their comments within 4 weeks after receipt of the draft opinion.
6. The expert shall draw up the definite opinion in which reference shall be made to the parties' comments.
7. Each of the parties can request the arbitration committee in writing to have the expert appear in a hearing. If a party wishes to make such a request, it shall do so immediately after receipt of the expert's report to the arbitration committee and the other party. At the hearing the arbitration committee shall give each of the parties the opportunity to ask the expert questions.

8. The arbitration committee is not obliged to follow the opinion given by the expert if this conflicts with the arbitration committee's opinion.

Article 28 - Inspection on site

On the request of one of the parties or of its own volition, the arbitration committee can inspect the situation on site or view goods on site. The parties shall be given the opportunity to attend the site inspection or viewing.

Article 29 - Personal appearance of the parties

At every stage of the proceedings the arbitration committee can order that the parties appear in person or that a representative familiar with the matter and who is authorised to make decisions on behalf of the parties appear before the arbitration committee to provide information or discuss a settlement.

Article 30 - Amendment of the claim

1. A party can amend or increase its claim or counterclaim or the grounds thereof during the arbitral proceedings, on condition that the other party's defence is not made unreasonably complicated as a result or the proceedings are not unreasonably delayed.
2. In case a party fails to appear, such party shall be given the opportunity by the arbitration committee to present a written communication regarding an amendment or increase of the claim.

Article 31 - Withdrawal of the request for arbitration

1. The petitioner can withdraw his request for arbitration as long as the respondent has not submitted an answer.
2. Withdrawal of a request for arbitration after an answer has been submitted is only possible with the respondent's explicit consent.
3. The secretary shall send written confirmation to the parties of the withdrawal and, after appointment, the arbitration committee shall confirm the withdrawal to the parties through the secretary.

Article 32 - Default award

1. If the respondent fails to submit an answer or a statement of defence within the time period stipulated by the arbitration committee, without valid reason, the arbitration committee may immediately make a default award.
2. In this award the claim shall be awarded in whole or in part unless the arbitration committee deems such unlawful or unfounded. Before making the award, the arbitration committee can require the petitioner to provide proof for one or more of his assertions.
3. The provisions of this article apply mutatis mutandis to a counterclaim.

Award

Article 33 - Time period for making award

1. The arbitration committee shall inform the parties at the end of the hearing within what time period the arbitration committee shall make the award. If the parties have waived a hearing, the notice shall be given after submission of the last statement. The arbitration committee is authorised to extend the time period one or more times if necessary. In all cases the arbitration committee shall decide with due speed.
2. The instruction of the arbitration committee shall continue until the final award has been sent to the parties.

Article 34 - Type of award

The arbitration committee can make a whole or partial final award or an interim award.

Article 35 - Criteria for decision making

1. The arbitration committee shall make its decision based on what is fair and reasonable, unless the parties have stipulated in an agreement that the arbitration committee shall decide in accordance with the rules of the law.
2. In the event the parties have made a choice of law, the arbitration committee shall make its decision in accordance with the rules of the law designated by the parties. If no such choice of law has been made, the arbitration committee shall decide in accordance with the rules of the law that it deems appropriate.
3. In all cases the arbitration committee shall take account of the applicable commercial practices when making its decision.

Article 36 - Decision and signing

1. If the arbitration committee consists of more than one arbitrator, the committee shall decide by a majority of votes.
2. The award that contains the decision shall be recorded in writing in quadruplicate and signed by the arbitrator or arbitrators.
3. If a minority of the arbitrators refuses to sign, the other arbitrators shall note this fact at the bottom of the award that they have signed. They shall also sign this notice.
4. If a minority of the arbitrators is not able to sign and it cannot be expected that the impediment to signing will be resolved within a short period of time, the provisions of the preceding paragraph apply mutatis mutandis.

Article 37 - Form and content of the award

1. The award shall in any event contain:
 - (a) The names and place of residence of the arbitrator or arbitrators;
 - (b) The names, legal form, addresses and place of residence or business of the parties;
 - (c) A brief overview of the proceedings;
 - (d) A representation of the claim and, if filed, the counterclaim;
 - (e) The grounds for the decision made in the award;
 - (f) A statement as to whether the arbitration committee made its decision based on the rules of the law or on the basis of what is fair and reasonable;
 - (g) The decision;
 - (h) The determination of the costs and a costs order regarding payment of the arbitration costs;
 - (i) The place where the award was made, which is also the place of arbitration;
 - (j) The date the award was made.
2. If the award concerns a decision in arbitral summary proceedings, a partial final award or an interim award, the determining of the costs and the order to pay the costs of arbitration referred to in the preceding paragraph under (h) shall be stayed until a later time in the proceedings.

Article 38 - Sending of award and deposit with the court

1. After receipt of the award, the secretary shall see to it that, on behalf of the arbitration committee:
 - (a) an original copy of the award is immediately sent to each party;
 - (b) if prior to making the award the secretary receives a request for such from the parties, an original of a whole or partial final award shall be deposited with the registry of the district court in the district where the place of arbitration is situated, after which the secretary shall inform the parties and the arbitration committee of the date of deposit as soon as possible.
2. A copy of the award shall be kept in the Foundation's archives for a period of ten years. During that period any party may request the secretary to provide him with a certified copy of the award in return for reimbursement of the costs.

Article 39 - Binding force of the award

An arbitral award is binding for the parties as of the day when it has been made. By agreeing arbitration by the Foundation or in accordance with the Rules, the parties are deemed to have taken on the obligation to immediately comply with the award.

Article 40 - Rectification of the award

1. A party can request the arbitration committee within 30 days after the day the award has been sent, to rectify an obvious calculation error or typing/grammatical error in the award.
2. If information as referred to in article 37.1 under a, b, i and j, is incorrect or lacking in whole or in part in the award, a party can request the arbitration committee to correct such information within 30 days after the day the award was sent.
3. The request shall be submitted to the secretary. The secretary shall send a copy of the request to the other party and the arbitration committee as soon as possible.
4. The arbitration committee can, within 30 days after the day the award is sent, also effect the rectification referred to in the first paragraph or the correction referred to in the second paragraph of its own volition.
5. Before the arbitration committee makes a decision on the request referred to in paragraph 1 or paragraph 2, or intends of its own volition to effect the correction referred to in paragraph 4, it shall give the parties the opportunity to present their opinion on the matter.
6. If the arbitration committee proceeds to effect the rectification or correction, the arbitration committee shall record such rectification or correction in a separate document, which document shall be deemed to form part of the award. The document shall be drawn up in quadruplicate and contain:
 - (a) The information stated in article 37.1 under a and b;
 - (b) A reference to the award to which the rectification pertains;
 - (c) The correction;
 - (d) The date of the correction, on the understanding that the date of the award to which the correction relates remains decisive; and
 - (e) A signature to which the provisions of article 36 apply.
7. The secretary shall see to it that the document referred to in paragraph 6 is sent to the parties as soon as possible; the provisions of article 38 apply to said document *mutatis mutandis*.
8. If the arbitration committee rejects the request for correction, the arbitration committee shall inform the parties thereof through the secretary.

Article 41 - Additional award

1. If the arbitration committee has failed to decide on one or more matters which are subject to its decision, a party can request that the arbitration committee make an additional award within 30 days after the day the award is sent.
2. The request shall be submitted to the secretary. The secretary shall send a copy of the request to the other party and the arbitration committee.
3. Before the arbitration committee makes a decision on the request, it shall give the parties the opportunity to be heard.
4. An additional award shall be deemed an arbitral award; the provisions of these Rules shall apply to such additional award.
5. If the arbitration committee rejects the request for an additional award, the arbitration committee shall inform the parties thereof in writing through the secretary.

Article 42 - Arbitral settlement award

1. If the parties agree a settlement during the proceedings, the content thereof can be recorded in an arbitral award on their joint request.
2. An arbitral award that records a settlement between the parties shall be deemed an arbitral award; the provisions of these Rules shall apply to such arbitral settlement award.

Article 43 - Publication of the award

The Foundation is authorised to publish the award without reference to the names of the parties and leaving out any other information which could disclose the identity of the parties, unless a party has lodged a written objection to publication with the secretary within one month after receipt of the award.

Summary proceedings

Article 44 – Expedited relief

1. In all cases in which immediate provisional relief can be requested on urgent grounds, the party requesting such can contact the secretary, with the request that a chairperson be appointed immediately to deal with the claim in summary proceedings. The party making the request must also submit dates when the party making the request, the other party and their representatives will not be available in the 6 weeks following the day the request is sent.
2. The party making the request must submit to the secretary in duplicate an overview of what he is claiming, and the grounds on which he is claiming such. He must submit the documents which show that these Rules apply, with the additional documentary evidence for the claim he has submitted.
3. If the chairperson is of the opinion that the case is not sufficiently urgent or is too complex to be decided in arbitral summary proceedings, he can dismiss the claim in whole or in part on that basis and refer the parties to the arbitration on the merits. If arbitral proceedings on the merits have not yet commenced, such proceedings must be commenced on the basis of article 6.
4. The chairperson shall then order the secretary to give the parties notice to appear at a time stipulated by the chairperson, taking account of the dates of unavailability communicated by the party making the request, and at a place to be determined by the chairperson. The time determined by the chairperson must be such, that the other party is given reasonably sufficient opportunity to present his defence.
5. The secretary shall add a copy of the request to his notice to the respondent, along with all related documents.
6. The chairperson can demand that each party give adequate security in connection with the summary proceedings.
7. Unless the chairperson determines otherwise, a decision of the chairperson in summary proceedings shall be deemed an arbitral award; the provisions of these Rules apply mutatis mutandis in such case.
8. The chairperson can, on the unanimous request of the parties, immediately decide on the merits of the case rather than make a decision in summary proceedings. Such a decision on the merits shall be deemed an arbitral award; the provisions of these Rules shall apply to such arbitral award.
9. On the unanimous request of the parties, the chairperson can, with reference to the request, convert an arbitral award as referred to in the seventh paragraph into an arbitral award as referred to in the eighth paragraph.
10. The other provisions of these Rules apply to such summary proceedings, by analogy if applicable.

Appeal

Article 45

1. In principle, each of the parties has the right to appeal an award made at first instance.
2. Appeal against an arbitral award is excluded if no appeal would have been available against the award, had it been made by the ordinary court.
3. An appeal against an arbitral award must be filed within three months after the day the award is sent, by means of filing a statement of appeal with the arbitration board.
4. An appeal against an interim award and/or a partial final award can only be filed together with an appeal against the final award; an exception applies, however, if the arbitration committee has explicitly stipulated otherwise in the interim award in question or if the parties have explicitly agreed otherwise.
5. An appeal against an arbitral award in summary proceedings as referred to in article 44 must be filed within four weeks after the day the award is sent, by means of filing a statement of appeal with the arbitration board.
6. There is no appeal against binding advice.

Article 46

1. The appeal shall be handled by an appellate arbitration committee, formed by one or three appeal arbitrators.
2. The arbitrators who decided on the dispute at first instance cannot be appointed as appeal arbitrator.
3. The secretary who was involved in dealing with the dispute at first instance is excluded from dealing with the appeal.
4. Insofar as the contrary does not follow from articles 44 and 45 of these Rules, these Rules apply to the appeal, on the understanding that the filing of a counterclaim as referred to in article 21 of these Rules is not permitted.
5. The respondent in appeal may file a cross-appeal, even after the time limit referred to in article 45.3 or 45.5, but at latest at the same time as the statement of defence that the respondent submits in the principal appeal. An opportunity shall be given to submit a statement of defence to the cross-appeal.
6. The appellate arbitration committee can allow an amendment or increase of a claim that was presented at first instance if the respondent had the opportunity to state his position on the matter in writing or verbally and if the appellate arbitration committee does not deem such to be unreasonable.

Referral back to arbitration during proceedings to overturn the award

Article 47

1. If during proceedings to overturn the arbitral award made in accordance with these Rules, the competent court gives the arbitration committee the opportunity by referring the matter back to the arbitration committee to remove the ground for overturning the award, the instruction of the arbitration committee shall be revived at the time referred to in paragraph 2 in such sense that it shall be expected, by reopening the arbitral proceedings or taking another measure that the arbitration committee deems appropriate, to, if possible, remove the ground that the competent court has stated as the reason for overturning the award.
2. The party that has requested that the award be overturned, shall inform the secretary as soon as possible of the decision of the competent court, and shall submit a copy of the decision and at the same time send a copy thereof to the other party. The additional instruction of the arbitration committee referred to in paragraph 1 shall commence on the day of receipt of the notice by the arbitration committee.
3. In the event the matter is referred back, the arbitration committee shall determine the further order of the proceedings, after having heard the parties. The secretary is authorised to require that the party that has requested that the award be overturned, pay a deposit for the costs of the arbitration.
4. Before the arbitration committee makes a decision, it shall give the parties the opportunity to be heard.
5. If the arbitration committee is of the opinion that the ground for overturning the award can be removed, it shall make an arbitral award that shall take the place of the award which was requested to be overturned.

Costs

Article 48 - Costs in general

The costs of the arbitration include the costs of arbitrators, the secretary and the experts appointed by the arbitration committee, as well as the other costs that the arbitration, in the opinion of the arbitration committee, necessarily involves.

Article 49 - Fee and disbursements of arbitrators

1. The fee of the arbitrator or arbitrators shall be determined by the secretary after consultation with the arbitrator or arbitrators. When determining the fee, account shall be taken of the time that the arbitrator or arbitrators have spent on the case, the monetary value of the case and the complexity of the case.

2. Disbursements include, inter alia, reasonable travel and lodging costs, costs of secretarial assistance, costs of conference rooms for the hearing and/or deliberation, postal costs and telephone costs.

Article 50 - Deposit

1. The secretary has the right to require that the petitioner pay a deposit from which, insofar as possible, the fee and the disbursements of the arbitrator or arbitrators shall be paid. If the respondent has filed a counterclaim, the secretary can demand that the respondent also pay a deposit.
2. The deposit shall also be used to pay the costs of the secretary, the expert appointed by the arbitration committee, technical assistance and interpreting, if and insofar as the arbitration committee has made such costs.
3. The secretary can demand that the petitioner and/or respondent supplement the deposit at any time.
4. The arbitration committee has the right to suspend the arbitration with regard to the claim or the counterclaim, including a claim or counterclaim in arbitral summary proceedings as referred to in article 44 and the appeal and cross-appeal as referred to in articles 45 and 46 respectively as long as the party in question has not paid the required deposit. If after a second written reminder by the secretary a party has not paid the required deposit within 14 days, it shall be deemed to have withdrawn its claim or counterclaim, without prejudice to that party's obligation to reimburse the costs of arbitration made up to that time.
5. The Foundation is not bound to pay any costs that are not covered by a deposit. No interest shall be paid over the deposit.

Article 51 - Legal expenses

The arbitration committee can order the party held to be in the wrong to pay reasonable compensation for the legal expenses of the party held to be in the right, if and insofar as these costs were reasonable in the opinion of the arbitration committee.

Article 52 - Determination and award

1. The arbitration committee shall determine the costs of the arbitration.
2. The party held to be primarily in the wrong, shall be ordered to pay the costs, except in exceptional cases, at the discretion of the arbitration committee. If the parties are each held to be in the wrong in part, the arbitration committee can divide the costs in whole or in part.
3. Insofar as the deposit paid by a party is used to pay costs that the other party has been ordered to pay in accordance with the preceding paragraph, the latter party shall be ordered to reimburse this amount to the first-mentioned party.
4. A costs order can also be made without a party having explicitly claimed such.

Article 53 - Costs of early termination

1. If an arbitrator is relieved of his duty before the final award, the arbitrator may claim reasonable compensation for the work he has performed, except in case of special circumstances, at the secretary's discretion. This compensation shall be determined by the secretary and falls under the costs of the arbitration. The arbitration committee shall take account of the compensation when determining the costs and the award.
2. If the arbitration committee's instruction has ended before the final award, the arbitrator or arbitrators may also claim reasonable compensation, to be determined by the secretary, for work they have carried out, unless the instruction was terminated due to the unacceptably slow manner of carrying out the instruction.
3. In the event the arbitration committee lacks jurisdiction, the provisions of this section apply mutatis mutandis, on the understanding that the costs that are determined shall be charged to the petitioner.

Final Provisions

Article 54 - Breach of the Rules

If action has been taken that is contrary to these Rules or there has been failure to act in accordance with a provision of these Rules, a party must lodge a written objection in this respect as soon as possible after the party has become aware of the breach. Failure to lodge such objection is subject to loss of the right to claim breach of the Rules in the arbitration proceedings or before a court.

Article 55 - Unforeseen cases

In all cases for which no provision is made in these Rules, the matter shall be dealt with in accordance with the spirit of these Rules.

Article 56 - Limitation of liability

The Foundation, its board members and personnel, the arbitrator or arbitrators and the secretary, and any other persons involved by (one of) them in the matter are neither contractually nor extra-contractually liable for any damage due to the actions or omissions of themselves or another person or by the use of materials in or around an arbitration, unless and insofar as mandatory Dutch law precludes such exclusion of liability. The Foundation, its board members and personnel are not liable for the payment of any amount that is not covered by the deposit.

Article 57 - Amendment of the Rules

1. The board of the Foundation can amend these Rules at any time. Amendments shall not apply to arbitrations that have already commenced.
2. The Rules apply in the form existing at the time when the arbitration is commenced.

Article 58 – Short title

These Rules can be cited as the Arbitration Rules of Stichting Geschillen in de Landbouw c.a.

Article 59 – Adopting and effective date

These Rules were adopted by the board of the Foundation on 3 October 2017 and are effective as of that date.

In case of differences in interpretation between the English and Dutch versions of the above text, the original Dutch version shall prevail.