

Schweizerischer Verband der Immobilienwirtschaft SVIT („SVIT Schweiz“)

Association Suisse de l'économie immobilière SVIT („SVIT Suisse“)

Associazione Svizzera dell' economia immobiliare SVIT („SVIT Svizzera“)

Swiss Real Estate Association SVIT (SVIT Switzerland)



# **Rules of Arbitration for the Swiss Real Estate Industry**

## **Schedule of Costs**

**In force since January 1, 2005**

## **Appendix 1 to the SVIT-Arbitral Tribunal**

### **Schedule of Costs**

Supplementary to Article 49 of the Rules of Arbitration the following provisions apply:

#### **A. Registration Fee**

<sup>1</sup>When the dispute is pending the claimant shall pay a lump-sum registration fee according to the applicable Schedule of Costs of these Rules of Arbitration.

<sup>2</sup>The registration fee covers as a lump-sum the administrative costs of the management of SVIT Switzerland until the constitution of the arbitral tribunal. As a matter of principle, the amount is CHF 3,000. If the amount exceeds CHF 2 Million the registration fee is CHF 5,000.

<sup>3</sup>The registration fee accrues in addition to the fees of the arbitral tribunal and is not refundable.

<sup>4</sup>The payment shall be made to an account of SVIT Switzerland. The claimant's failure to pay the registration fee shall result in the discontinuation of the arbitral proceedings by the arbitral tribunal.

#### **B. Fees of the Arbitral Tribunal**

##### **1. Introductory Rules on Arbitrators' Fee**

<sup>1</sup>The fee for the members of the arbitral tribunal ("arbitrators' fee") shall be computed in accordance with the applicable scale of the arbitrators' fee in appendix 2 to the SVIT Arbitral Tribunal.

<sup>2</sup>The arbitral tribunal shall determine the arbitrators' fee in its decision.

<sup>3</sup>The arbitral tribunal shall determine the allocation of the arbitrators' fee among its members. For a three-member arbitral tribunal, the presiding arbitrator shall receive between 40% and 50%, and the remaining two co-arbitrators shall receive between 25% and 30% of the total arbitral tribunal's fee.

<sup>4</sup>An appointed secretary shall be compensated, as a rule, by half of the fee for a one-member arbitral tribunal respectively the fee allocated to a co-arbitrator in a three-member arbitral tribunal. In this case, the fees for the arbitrators shall be reduced on a pro rata basis.

<sup>5</sup>Out-of-pocket expenses of the members of the arbitral tribunal and all disbursements for the arbitral tribunal's necessary and expedient prosecution of an action shall be additionally compensated unless the parties bear them directly.

## **2. Particulars on Arbitrators' Fee**

<sup>1</sup>The arbitrators' fee compensates the arbitral tribunal's activity from the transfer of the file until the final award or the order to terminate the arbitral proceedings.

<sup>2</sup>The evaluation of the arbitrators' fee shall take into account the amount in dispute, the responsibility, the complexity of the case and the time spent by the arbitrators. As a rule, the scale set forth in appendix 2 to the SVIT-Arbitral Tribunal shall be applied.

<sup>3</sup>If the amount in dispute is under CHF 300,000, it shall be in the arbitral tribunal's discretion to diverge from that computed fee in the range of approximately one-third. If the amount in dispute is over CHF 300,000 the arbitral tribunal shall calculate the arbitrators' fee within the range of the scale listed in appendix 2c).

<sup>4</sup>If the arbitral tribunal orders the discontinuation of the arbitral proceedings, it shall render an award due to a settlement of the dispute. The compensation may be less than the minimum amount resulting from the scale of arbitrators' fees in appendix 2 to the SVIT-Arbitral Tribunal. If the amount in dispute is not quantified, the arbitrators' fee shall be determined by taking into account all relevant circumstances.

<sup>5</sup>At any rate, the arbitrators' fee shall be determined in a manner that results in an arbitrator's hourly rate of not less than CHF 300. The same rule shall apply if the arbitral proceedings end in a settlement of the dispute or the arbitral tribunal terminates the proceedings for other reasons. The arbitral tribunal may not claim an additional compensation for the award's correction, explanation or supplementary.

<sup>6</sup>For the determination of the amount in the dispute, claims and counterclaims are added. The same rule applies to offset defenses which can be adjudicated by the arbitral tribunal unless the arbitral tribunal concludes that such offset claims do not require significant additional work. Interest claims shall not be considered in the calculation of the amount in dispute. In case they exceed the principal amount, the interest claims shall replace it for the calculation of the amount in dispute.

<sup>7</sup>Other currencies than the Swiss Franc are converted into Swiss Francs at the average rate of exchange between the date of litispence and the date when the final award is made.

## **C. Apportionment of and Liability for Costs**

<sup>1</sup>The term “costs” includes the arbitrators’ fee, the necessary and expedient disbursements of the arbitrators or the arbitral tribunal in connection with the arbitral proceedings and further necessary expenditures that accrue in the course of the arbitral proceedings which the arbitral tribunal considers as reasonable, in particular for expert witnesses or witnesses.

<sup>2</sup>As a matter of principle, the unsuccessful party must bear the costs of the arbitral proceedings. The arbitral tribunal may, however, apportion each sort of such costs between the parties if it considers, taking into account the circumstances of the case, such an apportionment is reasonable; particularly, if neither of the parties fully prevails or the successful party frivolously instigated the proceedings or rendered them more difficult. The same rule applies to a settlement unless otherwise agreed by the parties.

<sup>3</sup>The parties are jointly and severally liable for costs they caused including the fee for the members of the arbitral tribunal.

## **D. Party Compensation**

<sup>1</sup>Each party must compensate the opposing party for expenses for legal representation and assistance in the same proportion as it has been imposed the costs. The arbitral tribunal may, however, apportion these expenditures in another proportion it considers reasonable. The same rule applies to a settlement unless the parties agree otherwise.

<sup>2</sup>The arbitral tribunal may consider bills of services submitted by the parties. Lawyers’ fees shall be only be accepted to the amount resulting from calculation in conformity with the official regulation for fees applicable to this particular lawyer. Expenses, e.g. for traveling, must be proven.