



The XII

# NLSTIAM

National Law School Trilegal **International Arbitration Moot**

CASE STUDY

17<sup>th</sup> - 19<sup>th</sup> May, 2019

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Kunal Jay

*Advocate*

1, CP, New Pehli, Pindia

Tel: 033-24353456

jaykunal@kunal&co.se

By email and courier

Aliababwa Electronics

Prop. Mr. Ali Ababwa

19, MK Street, Dhina

October 10, 2018

Notice of Arbitration

*Wash-o-matics Pvt. Ltd. v. Aliababwa Electronics*

Dear Mr. Ababwa,

On behalf of my client, *Wash-o-matics Pvt. Ltd.*, I hereby submit the enclosed Notice of Arbitration pursuant to Article 3 of the UNCITRAL Arbitration Rules. It is clear we cannot reach a settlement for the payment of the price for the calibrated displays supplied to you. Despite our good business relationship and repeated requests, we have not heard from you.

In pursuance of the dispute resolution clause, we hereby nominate Mr. Kartaj King as our arbitrator.

We can always avoid this unnecessary litigation should you agree to pay the price which is legally due to us.

The required documents are attached.

Regards,  
Kunal Jay

Attachments:

Notice of Arbitration with Exhibits

CV of Mr. Kartaj King (not reproduced)

Declaration of Impartiality & Independence of Mr. Kartaj King (not reproduced)



Notice of Arbitration  
(pursuant to Article 3 of the UNCITRAL Arbitration Rules)

in the Arbitral Proceedings

*Wash-o-matics Pvt. Ltd. v. Aliababwa Electronics*

Wash-o-matics Pvt. Ltd.

666, Kirti Nagar, New Pehli,

Pindia

Claimant

Aliababwa Electronics

Prop. Mr. Ali Ababwa

19, MK Street, Dhina

Respondent

Statement of Facts

1. The Claimant, Wash-o-matics Pvt. Ltd ("Wash-o-matics"), is a private limited company, having its registered office located at New Pehli, represented through its Director, Mr. Ramesh Gaitonde.
2. In January 2018, Wash-o-matics launched *Instawash*, a new brand of internet-enabled washing machines. The people of Pindia loved the new machine as it was part of the new 'Internet of Things'. The unique selling point ("USP") of the machine was that it had the ability to automatically communicate with the servers of Wash-o-matics' service department and initiate a 'service request' on behalf of the consumer whenever service was due, a part needed replacement, or the warranty was about to expire. However, the most important distinguishing characteristic of Wash-o-matics, as a company, was its capability to provide genuine and authentic spare parts using blockchain technology and smart contracts. The machine would not accept spare parts which could not be verified as authentic and genuine.



3. Aliababwa Electronics ("Aliababwa"), the Respondent, is a sole proprietorship business owned by Mr. Ali Ababwa.
4. *Instawash* received a lot of press coverage and very good user reviews within one month of its launch. Based on the advice of a school friend who was a lawyer of Mr. Gaitonde, the Claimant applied to patent *Instawash* and a patent was granted in March 2018.
5. On 1 April 2018, Mr. Gaitonde, the CEO of the Claimant, went to Dhina to promote *Instawash* at the Dhina Expo of Innovative Technologies 2018. There he met the Respondent, who showed a keen interest in *Instawash*. Mr. Gaitonde did not believe in wasting time in legalities and wanted to get straight to business. He used to tell everyone that technology is the new law. He was often heard saying "*My smart contracts don't need any lawyers and I certainly don't intend to pay for their flashy suits!*". Mr. Gaitonde told the Respondent that, based on the new technology, there would no longer be any need to order spare parts. The machines would do everything. They exchanged visiting cards and discussed the possibility of Wash-o-matics exporting *Instawash* for sale in Dhina.
6. A week later, the Respondent wrote an email to Mr. Gaitonde (Exhibit C1) for importing 1000 machines after going through the website of the Claimant (Exhibit C2). The uniqueness of the website was that it used a "Ricardian Contract"—one had to simply enter the details of price, quantity, delivery date, and a contract would be generated and executed automatically by a software.
7. The email sent by the Respondent was marked as a "Business Query" by the mailbox filter of the Claimant and an automated response (Exhibit C3) was sent to the Respondent. Subsequently, the Respondent completed and submitted the business enquiry form.
8. On 15 April 2018, the Claimant sent an email to the Respondent (Exhibit C4) accepting the business proposal of the Respondent and giving instructions for the completion of the contract. Subsequently, the Respondent complied with all the requirements and a shipment of 1000 machines was delivered to the Respondent on 30 May 2018.
9. All machines were sold out within two weeks of being put on display, even without any marketing. The Respondent was ecstatic. He sent an email to the Claimant dated 16 June 2018 (Exhibit C5) praising the company and the use of technology.



10. Subsequently, in the last week of June, the servers of the Claimant received responses from the machines that the display of the machines was showing an error. On remotely accessing the machines, the Claimant came to know that the displays had not been calibrated to the voltage requirements of Dhina, which led to short circuits. Voltage fluctuations and short circuits were not covered within the warranty provided by the Claimant. Therefore, on 2 July 2018 the Claimant shipped the calibrated displays to the Respondent and the account of the Respondent was automatically debited by USD 420,000.
11. Unfortunately, the shipment of spare parts got held up at customs in Dhina for 16 hours because a bug in the software failed to verify the calibrated displays as genuine and instead flagged them as counterfeits. It was only after Kulian Basange, the Head of IT of the Claimant, traced the entire blockchain and sent it to Dhina customs that the goods were released. However, the Claimant is still investigating whether the problem was actually in the software, as claimed by the Dhina customs, or in the technology used by Dhina customs.
12. The calibrated displays were supposed to reach the Respondent within 15 days of shipment. This clause was contained in a "smart contract" within the parent contract (Exhibit C6). The contract was programmed to automatically debit money from the Respondent's bank account on the date of sending the shipment of spare parts. However, there was a refund provision if the goods were not delivered within 15 days. Therefore, at 12:01 a.m. on 18 July 2018, an amount of USD 420,000 was refunded to the account of the Respondent.
13. At about 4 p.m. that evening, the Respondent received the shipment of the calibrated displays. The Claimant's servers received confirmation that the goods had reached the Respondent and, accordingly, the Claimant sent an email the very same day (Exhibit C7) requesting the Respondent to use his "Signature Keys" to authorize a debit of USD 420,000.
14. The Respondent neither replied to this email nor authorized the payment. Mr. Gaitonde tried calling the Respondent as well, but he could not be reached. Wasting little time, on 22 July 2018, the Claimant filed an application under Section 9 of the Arbitration Act of Pindia before the Courts in Pindia praying that the Respondent be restrained from using the calibrated displays.
15. The Court ultimately decided the application in favour of the Claimant on 12 September 2018. The operative portion of the order is reproduced below:



*"Since the dispute relates to verification of the authenticity and genuineness of the calibrated displays and a problem with the code relating to the blockchain verification, the same are the cause of the dispute leading to arbitration and need to be preserved for investigation. The petitioner wants to investigate whether there was problem with the displays or a problem at Dhina customs. Furthermore, the petitioner has demonstrated that the respondent has received the calibrated displays but is not willing to pay for them. It will be against fairness to permit the respondent to profit from the sale of the calibrated displays without paying for them.*

*The petition is allowed. The Respondent is restrained from selling, using or, in any manner whatsoever, creating a third-party interest in the calibrated displays supplied by the petitioner till the completion of the arbitration proceedings."*

## Legal Evaluation

### Jurisdiction and Nomination of Arbitrator

16. The dispute has to be decided in accordance with the UNCITRAL Arbitration Rules by three arbitrators. The Parties have included in their contract the following arbitration clause:

#### Clause 45:

*"Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules. The number of arbitrators shall be 3, one to be appointed by each party and the presiding arbitrator to be appointed by the party-appointed arbitrators or by agreement of the Parties.*

*The seat of arbitration shall be Pindia and the language to be used in the arbitral proceedings shall be English."*

17. In line with the arbitration agreement, we appoint Mr. Kartaj King as our arbitrator. His declaration of impartiality and independence and availability is enclosed to this notice (not reproduced).



## Merits

18. The Claimant had entered into a Ricardian Contract which contains the smartcontracts for service, spare parts and warranty. Once the Respondent had entered into the contract with the use of "Signature Keys", the Claimant had consented to the smart contracts as well. Moreover, the Respondent had visited the website of the Claimant and could have easily accessed all relevant documents, FAQs and explanations relating to smart contracts under the tab marked "Legal". Hence, the Respondent is liable to pay for the calibrated displays.
19. Clause No. 46 of the parent contract specifies thatthe contract is governed by the UNIDROIT Principles of International Commercial Contracts (2016). For issues not covered by these principles and the UNCITRAL Model Law, generally accepted principles of international commercial law shall apply, including the UNCITRAL Model Law on Electronic Commerce.
20. The Claimant has delivered the calibrated displays on 18 July 2018, but the Respondent has not paid for the same. Therefore, the Claimant is entitled to the payment of USD 420,000 in accordance with the UNIDROIT Principles and the generally accepted principles of international commercial law. Furthermore, the Claimant is entitled to damages for non-performance and delay in payment.

## Statement of Relief Sought

On the basis of the above, the Claimant requests the Arbitral Tribunal:

1. to order the Respondent to pay for the spare parts amounting to USD 420,000;
2. to order the Respondent to pay damages amounting to at least USD 100,000;
3. to order the Respondent to bear costs of the arbitration.

Kunal Jay

Enclosures: Claimant's Exhibits C1 – C7





Exhibit C1

From: Ali Ababwa <Al@aliababwa.net>  
Sent: 07 April 2018, 10:04 a.m.  
To: Ramesh Gaitonde <CEO@wash-o-matics.se>  
Sub: Bulk Order of Instawash

Dear Mr. Gaitonde,

Thank you for your valuable time at the trade fair last week. It was indeed a pleasure to have met you. I have been thinking about our conversation and have made up my mind about venturing into the business of selling *Instawash* in Dhina.

I took the liberty of going through your LinkedIn profile, which led me to your webpage [www.wash-o-matics.com](http://www.wash-o-matics.com). I must admit that I was impressed with your foresight and use of smart contracts. It is certainly the future of consumer products. Especially worthy of note is your clever use of blockchain record to verify the genuineness of products and spare parts. In a place like Dhina where duplicates and fakes are commonplace, it will go a long way in changing the market and the players in it.

Even though I do not understand most of this technology, my friends tell me it is incorruptible and error-free. I have been in the business of selling electronics in Dhina for almost 20 years and with the launch of every new product, I have miserably failed at preventing counterfeits, of both the products and the spare parts. Therefore, your product brings a new ray of hope for the electronics industry here.

Your webpage had a form for business queries, but given my personal interactions with you, I thought it would be better to write a personal email, also because I am not very tech-savvy. Please let me know what is the best price you can offer for the delivery of 1000 machines.

Yours sincerely,

Al







Exhibit C3

From: Ramesh Gaitonde <[CEO@wash-o-matics.se](mailto:CEO@wash-o-matics.se)>  
Sent: 07 April 2018, 10:05 a.m.  
To: Ali Ababwa <[AI@aliababwa.net](mailto:AI@aliababwa.net)>  
Re: Automatic reply: Bulk Order of Instawash

Thank you for your interest in our business. All queries/proposals should kindly be directed to [www.wash-o-matics.com](http://www.wash-o-matics.com). All necessary information and documentation are available on the website. If you have any queries, please add the same to the comment box of the form on the website and my team will get in touch with you.

Best,

RG



Exhibit C4

From: Account Login <[IT@wash-o-matics.se](mailto:IT@wash-o-matics.se)>  
Sent: 15 April 2018, 2:00p.m.  
To: Ali Ababwa <[Al@aliababwa.net](mailto:Al@aliababwa.net)>  
Sub: Business Proposal

Dear Mr. Ali Ababwa,

This is further to your business proposal submitted through our website. As mentioned on the website, our company works on the philosophy of technology being the new law. However, given that not everybody is on-board with our technology, we send this introductory email.

My sales team has informed me to communicate to you that your terms are agreeable to us. We accept your price of USD 1500 per machine for 1000 machines and will deliver the machines by 02 June 2018, as required by you.

We have created your account on our website. Below are the login details. You will be asked to change your password once you login. All further correspondence can be done through the account by raising a ticket. Kindly visit the tab which says "Contracts" in your account, and you will find the contract based on your inputs (automatically signed by us through the "Signature Keys").

You must download the app from our website, enter your passport number, upload a copy of the passport, and create your "Signature Keys" i.e. a 6-digit signature code. You can then sign the contract through your "Signature Keys".

Username: [Al@aliababwa.net](mailto:Al@aliababwa.net)

Password: Welcometothefuture!

The contract can be accepted within 7 days from the first login after which it will automatically expire. Once the contract is signed, we will ship the machines. Please note that the app will also require you to link your bank account for automatic debit of payments.

If you have any queries, please feel free to reply to this mail and we will assist you.

Yours sincerely,  
Kulian Basange  
Head IT



Exhibit C5

From: Ali Ababwa <Al@aliababwa.net>  
Sent: 16 June 2018, 11:00 a.m.  
To: Account Login <IT@wash-o-matics.se>  
Re: Business Proposal

Dear Kulian,

I wanted to share some great news. All machines have been sold out within 2 weeks! That is when I did not even market the machines. I merely put them on display. When I told people that the machine works on blockchain and smart contracts, they looked baffled, yet amazed. One customer asked me about the service and spare parts availability and with pride I told them that the machine automatically logs the service request in the server of the company. A representative will visit the site. It automatically detects and orders the spare part required and the representative simply carries it along, knowing in advance, the problem with the machine.

In a place like Dhina where fake spare parts are a problem, the recent adoption of blockchain by custom authorities to detect counterfeits is very futuristic, just like the vision of your company, and the authenticity of your spare parts, as shown on the website. I hope all the spare parts required will also be delivered in-time, just like the machines.

I have already received the notification on the app to renew the contract for more machines, I will certainly be renewing it! This was only to test the market. I will now place a much larger order.

Yours sincerely,

Al



Exhibit C6

## CONTRACT

(.....)

### Clause No. 27: Other Agreements

27. The Parties hereby consent to entering into the following 'smart contracts':

27.1 Service Agreement;

27.2 Agreement for Spare Parts;

27.3 Renewal of Warranty Agreement.

(.....)

### Clause No. 46: Governing Law

*"This contract shall be governed by the UNIDROIT Principles of International Commercial Contracts (2016) and, with respect to issues not covered by such Principles, by generally accepted principles of international commercial law, including the UNCITRAL Model Law on Electronic Commerce."*



Exhibit C7

From: Account Login <[IT@wash-o-matics.se](mailto:IT@wash-o-matics.se)>  
Sent: 18 July 2018, 6:00 p.m.  
To: Ali Ababwa <[AI@aliababwa.net](mailto:AI@aliababwa.net)>  
Re: Business Proposal

Dear Mr. Ali Ababwa,

Our servers indicate that shipment containing the calibrated displays has been delivered to you on 18 July 2018 at 4 p.m. Unfortunately, the Dhina customs informed us that our code required for verification of the genuineness and authenticity of the spare parts developed a bug which resulted in the delay of the shipment by a few hours. We apologize for the same. Our team is looking into the problem and we will have it fixed ASAP.

As a result of the delay, one of the smart contract's conditions got triggered and the USD 420,000 debited from your account was refunded to you as the contract did not account for delay by customs. We have generated a link in the app requesting you to authorize the debit of USD 420,000. Kindly enter your Signature Key and authorize the same.

We look forward to your business!

Yours sincerely,

Kulian Basange

Head IT



Madame Bussad

*Counsel*

72, Pentos Mall,

Mainland, Dhina

Tel: 076-24353456

bussad@arbcounsel.net

*Wash-o-matics Pvt. Ltd. v. Aliababwa Electronics*

Wash-o-matics Pvt. Ltd.  
666, Kirti Nagar, New Pehli,  
Pindia

Claimant

Represented by Kunal Jay

Aliababwa Electronics  
Prop. Mr. Ali Ababwa  
19, MK Street, Dhina

Respondent

October 20, 2018

Represented by Madam Bussad

RESPONSE TO THE NOTICE OF ARBITRATION

Introduction

1. In its Notice of Arbitration, the Claimant has presented an entirely one-sided version of the facts. The Claimant wants the Respondent to authorize a payment of USD 420,000 for a non-binding contract. The Respondent was not even aware of any such contract and never agreed to an automatic debit of payment for any





spare parts. The automatic debit was only for the purchase of the machines. The Respondent has never read, signed or agreed to any contract for spare parts. The Respondent always thought that the spare parts will be shipped after a request by the Respondent. Furthermore, the price for spare parts was never discussed.

2. Since the Respondent never entered into any agreement with respect to the spare parts, the Respondent is not liable to pay for anything.

#### Statement of Facts

3. Aliababwa Electronics, the Respondent, has been in business for more than 20 years and enjoys a strong reputation in mainland Dhina for having the latest products from around the world. It aims to be the largest electronic seller in Dhina. The Respondent regularly attends the Dhina Expo of Innovative Technologies. The Respondent met Mr. Gaitonde at one of the stalls at the Expo. He pitched the product *Instawash* to the Respondent and tried to explain blockchain and smart contracts to the Respondent. The Respondent categorically told the Claimant that he did not understand anything about blockchain and smart contracts and would ask his friends before he commits to any order.
4. The Respondent is not a technology savvy person (Exhibit R1). In fact, the Respondent is about 70 years old and does not understand much of the technology, except what he is told by his friends and employees. The Respondent had suffered a cardiac arrest and was hospitalized. As a result, the Respondent had his phone switched off most of the time and did not even see the automatic debit of USD 420,000. The Respondent was in and out of hospitals till the end of September on account of related medical complications.
5. The Claimant obtained the restraining order before the Respondent could reply to the email of the Claimant dated June 28, 2018 (Exhibit C6).

#### Nomination of Arbitrator and Jurisdiction of Arbitral Tribunal

6. The Respondent disputes the jurisdiction of the Tribunal. The dispute cannot be adjudicated by an Arbitral Tribunal, *inter-alia*, as the matter relates to authenticity of the calibrated displays which are part of a patented product and within the domain of Intellectual Property Rights. Hence, the dispute is non-arbitrable.



7. The Tribunal does not have the power to adjudicate the present dispute as the Respondent is unaware of any clause in the 'smart contract' mandating parties to resolve disputes arising out of such a contract through arbitration. Since the Respondent contests the validity of the 'smart contracts' itself, even if an arbitration clause is mentioned in the 'smart contract' the same cannot bind the Respondent. Hence, the Tribunal has no jurisdiction to adjudicate the present dispute.
8. The Respondent nominates Mr. Nastik Trivedi as its arbitrator. His CV and declaration of impartiality and independence is attached (not reproduced).

#### Legal Evaluation

9. The Respondent is not liable to pay the amount of USD 420,000 to the Claimant as the alleged smart contract is not binding on the Respondent. There is no question of damages to be paid to the Claimant as the Respondent has not breached the contract in anyway.
10. The contract entered by the Respondent through the app was not negotiated and the Respondent accepted the standard terms "as is". Since the smart contracts are codes, the Respondent had no opportunity to read the contract or understand its terms and hence, the Respondent could not have consented to the contract.
11. The Respondent never agreed to any contract for spare parts, service or renewal of warranty. The Respondent only agreed to the purchase of the machines and nothing else. The Respondent was going to discuss the same with the Claimant as the Respondent intended to profit from the sale of the spare parts. The fact that there was no agreement with respect to the servicing of the machines is also clear from the fact that the installation of the machines was done by the employees of the Respondent, since nothing contrary was agreed with the Claimant.
12. The Claimant has unilaterally shipped the spare parts without any demand from the Respondent and the Respondent cannot be expected to pay for something it never asked for. Furthermore, due to the restraining order, the Respondent has not been able to supply spare parts to its customers who are bringing consumer cases against the Respondent and causing grave damage to the reputation and goodwill of the Respondent and his business in Dhina. Therefore,



the Respondent declares its intention and reserves the right to raise the remainder of its damage claims as a counterclaim in arbitration.

13. In the absence of any contract, much less its breach by the Respondent, the claims raised by the Claimant do not exist and is liable to be dismissed with costs in favour of the Respondent.

Madame Bussad

Enclosures:

Exhibits

CV of Mr. Nastik Trivedi (not reproduced)

Declaration of Impartiality & Independence of Mr. Nastik Trivedi (not reproduced)



Respondent's Exhibit R1

Witness Statement by  
Mr. Ali Ababwa

My name is Ali Ababwa and I am 70 years old. I have a bachelor's degree in arts and have been in business for over 20 years. I started Aliababwa Electronics after early retirement from government service as a Tax Inspector. I met Mr. Gaitonde at the Dhina Expo of Innovative Technologies 2018. The Claimant pitched its product *Instawash* to me and I categorically told him that I do not understand what blockchain and smart contracts are. In fact, when the Claimant tried to explain to me what it is, I told him to just tell me how it will benefit my business. I had told Mr. Gaitonde that I have suffered losses in the past because people would not buy spare parts from me but instead use cheaper alternatives such as fakes and counterfeits.

I saw a viable business model in the Claimant's machine because it will save all the headache of managing after sales services and spare parts. I would simply have to assign a technician and the machine will tell him the part required. Also, since the machine would not accept parts which cannot be verified as authentic, I intended to make good profit on the spare parts.

To my utter surprise, all machines were sold out within two weeks. I did not even get time to discuss or ask the Claimant about spare parts and service. For the time being, the installation was handled by my employees. After my email to Mr. Kulian Basange, I suffered a cardiac arrest and was hospitalized. Thereafter, on account of some medical complications I was in and out of hospitals till the end of September. All my work was handled by my staff. I am very grateful to them for it. Since, the app was on my phone, no one else knew anything about the spare parts or the payments. In fact, I did not even see the auto-debit of the USD 420,000. My phone was switched off most of the time.

Before I could get out of the hospital and speak to the Claimant about anything, my manager called me to tell me that they have received a court order not to use the calibrated displays. Now I have customers demanding spare parts, but because of the Court order my goodwill and reputation in Dhina is being ruined.

Ali Ababwa



Prof. Kuku Parulkar  
2, Langford Road,  
Mandon

By courier & email

1. Kunal Jay  
Advocate  
1, CP, New Pehli,  
Pindia
2. Madame Bussad,  
Counsel,  
72, Pentos Mall,  
Mainland, Dhina

October 27, 2018

*Wash-o-matics Pvt. Ltd. v. Aliababwa Electronics*

Dear Mr. Jay  
Dear Ms. Bussad

My sincere thanks to you, and your clients, for the consent to my appointment as the Presiding Arbitrator. I look forward to working with you in solving the dispute between the Parties.

The Arbitral Tribunal invites the Parties to a Case Management Conference via telephone on November 2, 2018 to discuss the further conduct of the arbitral proceedings. At the Case Management Conference, we want to discuss with you, in particular, the timetable for submissions/hearings and possible other issues, which you may consider relevant.

The dial-in details for the telephone conference and a detailed agenda will be provided in due course.

Regards,  
Prof. Kuku Parulkar  
(Presiding Arbitrator)



Madame Bussad,  
Counsel,  
72, Pentos Mall,  
Mainland, Dhina

November 1, 2018

To,

The Members of the Arbitral Tribunal

*Wash-o-matics Pvt. Ltd. v. Aliababwa Electronics*  
(pursuant to Article 26 of the UNCITRAL Arbitration Rules)

Dear Members of the Tribunal,

Please find attached our request for interim measures pursuant to Article 26 of the UNCITRAL Arbitration Rules. The Respondent reserves the objection to jurisdiction of the Arbitral Tribunal. However, because recourse to the courts for interim relief is not possible under Pindian law once the Arbitral Tribunal has been constituted, the Respondent has no choice but to seek interim relief from the Arbitral Tribunal.

The Respondent never agreed to any 'smart contracts', auto-debit of payments and shipment of spare parts. Since the non-binding smart contract for spare parts is self-executing, the machines will continue to place orders for spare parts and the Respondents accounts will be debited leading to multiplicity of disputes and damage to the goodwill of the Respondent. The Respondent has already sent an email to the Claimant in this respect but has received no response. Therefore, it is requested that the smart contracts be suspended during the pendency of this arbitration.

Yours sincerely,

Madame Bussad

Enclosure:

Application for Interim Measure (not reproduced)



Procedural Order No 1

of November 2, 2018

in the Arbitral Proceedings

*Wash-o-matics Pvt. Ltd. v. Aliababwa Electronics*

1. Following the discussions and the agreements reached in the telephone conference of November 2, 2018 the Arbitral Tribunal takes note of the following facts:
  - 1.1. The Respondent challenges the jurisdiction of this Arbitral Tribunal with respect to the arbitrability of the subject matter of the dispute as well as the power of the tribunal to adjudicate the present dispute.
  - 1.2. Both Parties agree that the arbitration agreement is subject to the UNIDROIT Principles (2016) and neither Pindia nor Dhina have any direct jurisprudence or law regulating blockchain and smart contracts.
  - 1.3. The Parties agree that in light of that arrangement and the issues in dispute, the Parties will bifurcate the proceedings. The first part of the proceedings, i.e. the next round of submissions as well as the first oral hearing, will be devoted to the challenge of the jurisdiction of the Arbitral Tribunal, the request for interim measure by the Respondent and the question of whether the Claimant is entitled to the payment of USD 420,000.
  - 1.4. All issues will be presented jointly at the oral hearing.
2. Both Parties have agreed in the telephone conference of November 2, 2018 that irrespective of the outcome of the first part of the proceedings a final decision on costs and damages should be reserved for a separate award. The rationale for such agreement is to allow both Parties to make their submissions on costs and damages in light of the outcome of the merits.
3. In light of these agreements and considerations, the Arbitral Tribunal hereby makes the following orders:
  - 3.1. In their next submissions and at the Oral Hearing in Bengaluru, the Parties are required to address the following issues:





- 3.1.1. Does the Tribunal have jurisdiction to decide the present dispute or is the present dispute non-arbitrable?
- 3.1.2. Should the Tribunal grant the interim measure requested by the Respondent?
- 3.1.3. Are the smart contracts binding on the Parties?
- 3.1.4. Is the Claimant entitled to the payment of USD 420,000?
- 3.2. For the Parties' submissions the following Procedural Timetable applies:
  - 3.2.1. CLAIMANT's submission: March 17, 2019.
  - 3.2.2. RESPONDENT's submission: March 17, 2019.
- 3.3. The submissions are to be made in accordance with the Rules of the Moot agreed upon at the telephone conference.
- 3.4. The general contract law of both the states is a verbatim adoption of the UNIDROIT Principles on International Commercial Contracts. Both states have adopted the UNCITRAL Model Law on International Commercial Arbitration with the 2006 amendments.
- 3.5. Section 17 of the Arbitration Act of Pindia is *pari materia* to Section 17 of the (Indian) Arbitration and Conciliation Act, 1996.
- 3.6. In the event Parties need further information, Requests for Clarification must be made as per the XII NLSTIAM Rules 2019. No Party is allowed to submit more than ten questions.
  - 3.6.1. Both Parties are invited to attend the Oral Hearing scheduled for 17-19 May 2019 in Bengaluru, India. The details concerning the timing and the venue will be provided in due course