



# Russian Arbitration Center

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Arbitration

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## ARBITRAL AWARD

(Final)

Case No. [PI5251-23]

20 October 2023

Claimant: [Claimant]

Respondent: [Respondent]

Arbitral Tribunal: Zhibek Karamanova as Sole Arbitrator

Seat of arbitration – Moscow, Russian Federation

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## I. CASE SUMMARY

Moscow, the Russian Federation

Case No. [PI5251-23]

20 October 2023

1. The Arbitral Tribunal, comprised of sole arbitrator Zhibek Karamanova (hereinafter the “**Arbitral Tribunal**”) considered the case initiated under the claim of  
**[Claimant]**<sup>1</sup>, OGRN<sup>2</sup> [No], INN<sup>3</sup> [No], registered office: [address] Russian Federation (the “**Claimant**”, the “**Forwarder**”) against  
**[Respondent]**<sup>4</sup>, registration number: [No], registered office: [address] Georgia (the “**Respondent**”, the “**Client**”) seeking the payment due under Forwarding Contract [No] for Freight Transportation Organization dated 30 June 2022 (the “**Contract**”) for a total amount of 17 976.69 US Dollars.
2. According to Clause 9.3 of the Contract the case shall be settled by arbitration at the Russian Arbitration Center at the Russian Institute of Modern Arbitration (the “**RAC**”) in accordance with the Arbitration Rules of the RAC (as amended 01 November 2021, the “**Arbitration Rules**”) within the expedited procedure.
3. According to Clause 9.3 of the Contract and as confirmed in Procedural Order No. 1 dated 02 August 2023, the seat of arbitration is Moscow, Russian Federation, the language of arbitration is English and no oral hearings were held under the expedited procedure.
4. Pursuant to Article 5(4) of the Arbitration Rules, all documents within the arbitration are subject to uploading into the Online Arbitration System of the RAC (the “**OAS**”).
  - 4.1. As of the date of the Award, the following representative confirmed her authority and joined the OAS: representative of the Claimant [Name] (03 July 2023 using email [e-mail] when submitting the Claim and 05 July 2023 using email [e-mail]).
  - 4.2. The invitations to join the OAS were also sent to the Respondent on 05 July 2023 to the email addresses [e-mail], [e-mail], but at the time of the Award, the representatives of the Respondent did not join.

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<sup>1</sup> Corporate name in original language: [confidential]

<sup>2</sup> Primary State Registration Number

<sup>3</sup> Taxpayer Identification Number

<sup>4</sup> Corporate name in original language: [confidential]

## II. COMMENCEMENT OF ARBITRATION, CONSTITUTION OF THE ARBITRAL TRIBUNAL

5. On 03 July 2023, by uploading to the OAS the Claimant submitted Claim [No] dated 24 May 2023 (the “Claim”) for the payment due under the Contract for a total amount of 17 976.69 US Dollars and arbitration fee of 2 538.42 US Dollars.
6. On 05 July 2023, the RAC notified<sup>5</sup> the Parties about the suspension of the Claim in accordance with Article 9(1)(4,6) of the Arbitration Rules due to the Claimant’s non-provision of confirmation of the dispatch of the Claim to the Respondent and lack of duly confirmed powers of the signatory of the Claim. The RAC requested the Claimant to rectify the deficiencies no later than 12 July 2023.
7. On 11 July 2023, the Claimant rectified the aforementioned defects by providing the RAC with documents confirming the dispatch of the Claim and its exhibits to Respondent via Russian Post (tracking numbers [No], [No]) and DHL Express (tracking number [No]). Moreover, the Claimant provided the RAC with the Power of Attorney dated 08.02.2023 [No] in Russian signed by the president of the [Claimant’s management company] with its translation into English.
8. On 12 July 2023, the RAC issued a Notice on Commencement of Arbitration No. 282/23<sup>6</sup> and informed the Parties about the commencement of arbitration under the Claim. The Notice on Commencement determined the date of commencement of arbitration as 03 July 2023.
  - 8.1. According to the Notice on Commencement of Arbitration, the arbitration was to be administered under the RAC Rules on International Commercial Arbitration; as agreed by the Parties the seat of arbitration is Moscow, Russian Federation; language – English; procedure – expedited (Chapter 7 of the Arbitration Rules), as agreed by the Parties in the arbitration clause for disputes with the value of claim under 34,000 US Dollars.
  - 8.2. The Notice on Commencement of Arbitration also indicated instructions for joining the OAS, where all case materials are to be uploaded, and stated the following e-mail addresses to be used for electronic copies of documents:

<b>Administrative Office</b>	<u><a href="mailto:admin@centerarbitr.ru">admin@centerarbitr.ru</a></u>
<b>Claimant</b>	[e-mail] [e-mail] (e-mail addresses indicated in the Claim)
<b>Respondent</b>	[e-mail], [e-mail] (e-mail addresses indicated in the Contract)

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<sup>5</sup> The Notice on Suspension of Claim (No. 267/23 dated 05 July 2023) was sent to the Parties on 05 July 2023 via email ([e-mail], [e-mail], [e-mail], [e-mail], [e-mail]), by uploading to the OAS and by post to Claimant’s registered address and Respondent’s registered and Contract address (Russian Post Tracking Nos. [No], [No]).

<sup>6</sup> The Notice on Commencement of Arbitration (No. 282/23 dated 12 July 2023) was sent to the Parties on 12 July 2023 via email ([e-mail], [e-mail], [e-mail], [e-mail], [e-mail]), by uploading to the OAS and by post to Claimant’s registered address and Respondent’s registered and Contract address (Russian Post Tracking Nos. [No], [No], Major Express courier service Tracking [No]).

- 8.3. The Respondent was invited to comment on the use of the given e-mail addresses and/or provide other addresses for the purpose of documents exchange in the present arbitration; as well as to notify the Claimant and the Administrative Office of the RAC within 10 days from the date of the Notice on Commencement of Arbitration if not all attachments specified in the Claim were sent to the Respondent.
9. On 19 July 2023, the RAC sent an email to the Parties informing them that the RAC's Board preliminarily chose Zhibek Karamanova to act as a sole arbitrator together with the provision of her job position and statement confirming the absence of conflicts of interest. The Parties were invited to send objections (if any) to the appointment of Ms Karamanova as an arbitrator before 3 PM Moscow time on 20 July 2023. No objections were received.
10. On 21 July 2023, pursuant to Article 14(3) and Article 60(1) of the Arbitration Rules and since the arbitration agreement did not provide for other procedure, in accordance with the Resolution of the RAC's Board dated 19 July 2023, the RAC issued Notice on Constitution of the Arbitral Tribunal No. 301/23<sup>7</sup> informing the Parties of the constitution of the Arbitral Tribunal and the appointment of Zhibek Karamanova<sup>8</sup> as a sole arbitrator.
11. On 21 July 2023, Zhibek Karamanova accepted the appointment as the Sole Arbitrator, confirmed her independence and impartiality, as well as the absence of conflicts of interest in relation to the Parties by signing the Declaration of the Arbitrator<sup>9</sup>.
12. On 24 July 2023, in accordance with Article 38(1) of the Arbitration Rules and upon request of the Arbitral Tribunal, the RAC notified the Parties of the appointment of an Arbitral Tribunal's assistant<sup>10</sup> – Katarina Piskunovich, Legal Counsel of the RAC. Katarina Piskunovich accepted the appointment as the Assistant to the Arbitral Tribunal, confirmed her independence and impartiality, as well as the absence of conflicts of interest in relation to the Parties by signing the Declaration of the Assistant to the Arbitral Tribunal.
13. In the course of the arbitration, neither Party raised any challenge to the Arbitral Tribunal or the Assistant to the Arbitral Tribunal.

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<sup>7</sup> The Notice on Constitution of the Arbitral Tribunal (No. 301/23 dated 21 July 2023) was sent to the Parties on 21 July 2023 via email ([e-mail], [e-mail], [e-mail], [e-mail], [e-mail]), by uploading to the OAS and by post to Claimant's registered address and Respondent's registered and Contract address (Russian Post Tracking Nos. [No], [No]).

<sup>8</sup> Founding partner of KEREMET Holding law firm; Member of KazBar, chamber of legal consultants of the Republic of Kazakhstan.

<sup>9</sup> The Declaration of the Sole Arbitrator with attachments was sent to the Parties on 24 July 2023 via email ([e-mail], [e-mail], [e-mail], [e-mail], [e-mail]) and by uploading to the OAS.

<sup>10</sup> The Notice on Appointment of Assistant to the Arbitral Tribunal (No. 310/23 dated 24 July 2023) with attachments was sent to the Parties on 24 July 2023 together with the Declaration of the Sole Arbitrator (see footnote No. 9).

### III. PROCEDURAL HISTORY AND POSITIONS OF THE PARTIES

#### 1. The Claim

14. On 03 July 2023, the Claimant submitted the Claim seeking the payment due under the Contract for a total amount of 17 976.69 US Dollars based on the following arguments.
  - 14.1. The Claimant and the Respondent concluded the Contract, the terms and conditions of which provide that [Claimant], as the freight Forwarder, shall render freight forwarding services related to the international or domestic transportation of goods (the “**Cargo**”, “**Goods**”) of the Client by rail, road, sea and other modes of transport, and the Client shall pay for the freight Forwarder's services (Clause 1.1 of the Contract).
  - 14.2. Pursuant to the Contract, on 08 July 2022, the Claimant received order [No] for the transportation of high-capacity containers [No], [No], [No] from [A] Station to [B] Station (by rail), from port of [B] to port of [C] (by sea).
  - 14.3. The fact of the provision of services by the Forwarder to the Client is certified with: Consignment Notes for containers [No], [No], [No] (transportation of the containers on 12 July 2022 by road from the warehouse to the Railway Station of [A]), Statements of Delivery and Acceptance for containers (acceptance of containers on 12 July 2022 by [A] Terminal for transportation), Rail Waybills (transportation of containers by rail from [A] Station to [B] Station from 13 July to 30 July 2022), Loading Order [No] dated 28 August 2022, Bill of Lading [No] (dispatching containers by sea from [B] to [C]).
  - 14.4. The Claimant issued an invoice for the arrangement of transportation but as of the date of the Claim, it was not paid:  
  
Invoice Number: [No];  
  
Issue Date: 29 August 2022;  
  
Amount (USD): 18 104.13.
  - 14.5. According to Clause 5.2 of the Contract, the Client shall pay 100% in advance to the freight Forwarder for operations and services, unless otherwise agreed by the Parties. The Client shall pay for the freight Forwarder's services based on the Forwarder's invoices.
  - 14.6. Clause 5.4 of the Contract provides that the Client shall pay all invoices of the freight Forwarder within 5 banking days from the date of receiving an invoice by e-mail unless otherwise stipulated in Annexes to the Contract.
  - 14.7. In order to settle the dispute amicably, on 03 April 2023, the Forwarder sent a claim to the debtor (mail [No]) but the requirements had not been fulfilled by the Respondent.
  - 14.8. Subsequently, the Claimant excluded the costs of weighing containers amounted to 127.44 US Dollars from its invoice [No] dated 29 August 2022. Therefore, the amount of the debt is 17,976.69 US Dollars.
  - 14.9. The Respondent is [Respondent], an entity incorporated in Georgia. In the Contract, the Parties agreed on a method for resolving disputes: in the Arbitration Center at the Autonomous Non-Profit Organization "Institute of Modern Arbitration" in Moscow, legal proceedings shall be in English.
  - 14.10. According to Article 309 of the Civil Code of the Russian Federation (the “**RF Civil Code**”), any obligations shall be performed properly in accordance with the terms of such obligation and the requirements of the laws. In accordance with Article 310 of the RF Civil Code, a unilateral refusal to execute an obligation or a unilateral change in its terms shall not be acceptable.
  - 14.11. Clause 1 of Article 801 of the RF Civil Code provides that under a freight forwarding agreement, one party (a freight forwarder) shall, for consideration and at the expense of another party (a client being a consignor or a consignee), perform or arrange the performance of the services as specified in such freight forwarding agreement in relation to the transportation of cargo.

14.12. In view of the foregoing, under Articles 309, 310, 801 of the RF Civil Code, Article 10 of the Arbitration Rules, the Claimant sought to recover from the Respondent amount of 17,976.69 US Dollars, as well as the arbitration fee paid (2 538.42 US Dollars).

## 2. Procedural Schedule

15. On 02 August 2023, the Arbitral Tribunal issued the Procedural Order No. 1<sup>11</sup> by which invited the Parties to discuss the possibility of an amicable settlement of the dispute, determined the Procedural Schedule and ordered the following:

15.1. If any of the Parties have reasoned objections to the Procedural Schedule, it must have informed of such no later than 16 August 2023.

15.2. The Parties shall note that in the course of the present arbitration oral hearings were not to be conducted in accordance with the arbitration clause set forth in Clause 9.3 of the Contract.

15.3. Both Parties shall comply with the procedure set out in Article 5 of the Arbitration Rules for submitting documents, as well as joining the OAS.

15.4. Both Parties shall note that correspondence in Case No. [PI5251-23] is to be sent to the addresses of the Parties specified in paras. 1.3 – 1.4 of the Procedural Schedule.<sup>12</sup> If a Party considered these addresses to be outdated but failed to submit its objections or amendments regarding their use no later than 18 August 2023, it was considered to bear any negative impact, including the risk of not receiving correspondence sent to the wrong addresses.

15.5. The Procedural Schedule was determined as follows:

Seat of Arbitration	Moscow, the Russian Federation (Clause 9.3 of the Contract)	
Language of Arbitration	English (Claus 9.3 of the Contract)	
Law Applicable to the Merits of Dispute	Russian Federation, taking into account provisions of: - international legislation regulating transportation of goods for each specific type of transport (AIGT, MTT, CIS Tariff Policy, GBRT, CIM-COTIF, Incoterms and other international norms), and also - provisions of national transport law and regulations of those states, through the territory of which the itinerary runs (Clause 9.1 of the Contract).	
<b>Arbitration Proceedings</b>		
1.	Date of submission of the Claim	03 July 2023
2.	Time limit for submission of a Response	no later than 18 August 2023
	Time limit for submission of a Counterclaim	no later than 30 August 2023

<sup>11</sup> The Procedural Order No. 1 dated 02 August 2023) with attachments was sent to the Parties on 02 August 2023 via email ([e-mail], [e-mail], [e-mail], [e-mail], [e-mail]), by uploading to the OAS and by post to Claimant’s registered address and Respondent’s registered and Contract address (Russian Post Tracking Nos. [No], [No], Major Express courier service Tracking No. [No]).

<sup>12</sup> Claimant: OGRN [No], INN [No]; [address] Russia; [e-mail], Claimant’s Representative: [Name] ([e-mail]).

Respondent: Registration Number: [No]; [address] Georgia; [e-mail], [e-mail], [e-mail].

* <i>Should there be a Counterclaim</i>	Time limit for submission of a Response to the Counterclaim	no later than 8 September 2023
3.	Time limit for submission of additional written statements and evidence	For the Claimant – no later than 15 September 2023
		For the Respondent – no later than 15 September 2023
4.	Date of the Arbitral Award	No later than 23 October 2023

### 3. The Respondent's Position

16. In the course of the proceedings, the Respondent failed to submit any objection to the Claimant's position or arbitration procedure and did not participate in the arbitration.
17. The Respondent has been duly notified of the course of the proceeding as follows:
  - 17.1. All documents were uploaded to the OAS pursuant to Article 5(4) of the Arbitration Rules and invitation links sent for joining the OAS to the email addresses of the Respondent agreed upon in the Arbitration Clause.<sup>13</sup>
  - 17.2. All documents were sent to the email addresses of the Respondent agreed upon in the Arbitration Clause ([e-mail], [e-mail]) and e-mail address [e-mail] as follows from the Clause 15 of the Contract ("*any e-mail addresses from [domain] domain*") and the website of the Respondent<sup>14</sup>.
  - 17.3. The Claim, Notice on Suspension of Claim, Notice on Commencement of Arbitration, Notice on Constitution of the Arbitral Tribunal, Procedural Order No. 1 were sent to the address of the Respondent indicated in the Contract (Clause 15) and the website of the Respondent.
  - 17.4. By the Assistant of the Arbitral Tribunal calling on the phone numbers of the Respondent indicated in Clause 15 of the Contract ([phone number] – unavailable, [phone number] – unavailable) as well as phone number indicated both in the Contract and on the website with the information on the arbitration proceedings and ways to contact RAC for more details and participate in the arbitration ([phone number] – the call was taken by the secretaries, confirming the email address [e-mail] as actual).
18. According to Articles 28(6) and 35(4) of the Arbitration Rules, if a party fails to exercise the right to file any document as prescribed by the Procedural Schedule, the Arbitral Tribunal may continue considering the dispute and render an arbitral award based on the available documents and evidence.

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<sup>13</sup> See, para. 4 of the Award.

<sup>14</sup> Allegedly associated with the Respondent based on the name and information provided on the website: [website]



#### IV. REASONING FOR THE AWARD

##### 1. Jurisdiction of the Arbitral Tribunal

19. According to Article 23(6) of Arbitration Rules the law applicable to the arbitral procedure shall be the law of the seat of arbitration. According to Clause 9.3 of the Contract the seat of arbitration is Moscow, Russian Federation.
20. According to clause 3 Article 1 of the Law of the Russian Federation dated 07.07.1993 “On International Commercial Arbitration” (the “**Law on ICA**”) the disputes between the parties arising from civil legal relations, when carrying out foreign trade and other types of international economic relations, may be referred to international commercial arbitration if the commercial entity of at least one party is located abroad or if any place where the execution must be performed, a significant part of the obligations arising from the relations of the parties, or the place with which the subject of the dispute is most closely connected, is located abroad, as well as disputes arising in connection with the implementation of foreign investments on the territory of the Russian Federation or Russian investments abroad – if there is an agreement between the Parties.
21. In accordance with clauses 1, 2 Article 7 of the Law on ICA, the arbitration agreement is the agreement of the parties in writing to submit to arbitration all or certain disputes that have arisen or may arise between them in connection with any specific legal relationship or part of it, regardless of whether it was contractual in nature or not. The arbitration agreement may be concluded in the form of an arbitration clause in the agreement or in the form of a separate agreement.
22. This dispute is related to civil legal relations when carrying out international economic relations and arises out of the Contract.
23. Clause 9.2 of the Contract provides the following:

*“The Parties shall resolve all disputes arising in the process of the execution hereof through negotiations. The Party, which received a claim, shall review it and reply in written form on the merits of the claim (either confirm its consent for full or partial satisfaction of the claim, or inform on full refusal to satisfy) not later than one month after the date of receipt of the claim.”*
24. Claimant presented the attempt to resolve the issue through negotiations: he provided to the Arbitral Tribunal the pretrial claim letter, which was sent by the Claimant to the Respondent on 03 April 2023, (mail [No]), however, the issue was not resolved and there was no amicable agreement reached.
24. Clause 9.3 of the Contract contains the following arbitration clause:

*“If the Parties fail to achieve mutual agreement through negotiations, all disputes, differences or claims, arising herefrom or in relation herewith, including those regarding its execution, violation, termination or ineffectiveness, shall be settled by arbitration at the Russian Arbitration Center at the Autonomous Non-Profit Organization “Russian Institute of Modern Arbitration” in accordance with the Arbitration Rules.*

*The seat of arbitration shall be Moscow, the Russian Federation. English language shall be used in the arbitration.*

*The Parties agree that disputes for claims under thirty four thousands (34,000) US dollars shall be resolved in accordance with the expedited arbitration procedure under Chapter 7 of the Arbitration Rules, in which case no oral hearings shall be held under the expedited arbitration procedure.” (the “**Arbitration Clause**”).*
25. According to Article 24(2) of the Arbitration Rules for arbitration of international commercial disputes, the Arbitral Tribunal shall decide the dispute in accordance with the law chosen by the Parties as applicable to the merits of the dispute. According to Clause 9.1 of the Contract «*When fulfilling their obligations hereunder, the Parties shall take into account provisions of international legislation regulating transportation of goods for each specific type of transport (AIGT, MTT, CIS Tariff Policy, GBRT, CIM-*

*COTIF, Incoterms and other international norms), and also provisions of national transport law and regulations of those states through the territory of which the itinerary runs. In all other matters not covered herein, the Parties shall be guided by the legislation of the Russian Federation.»*

26. According to Article 26(1) of the Arbitration Rules, the Parties may agree upon any language to be used in arbitration. According to Clause 9.3 of the Contract English language shall be used in the arbitration.
27. In the course of the arbitration, neither Party raised any challenge to the Arbitral Tribunal.
28. Taking into consideration the above the Arbitral Tribunal determined that it has the full jurisdiction to review the dispute.

## **2. Conclusions of the Arbitral Tribunal on Merits**

29. In resolving the dispute on the merits, the Arbitral Tribunal was guided by Article 35(1) of the Arbitration Rules, according to which the Party to the arbitration must prove the circumstances to which it refers as the basis for its claims and objections. According to clause 4 of the same article, a failure of a Party to submit appropriate evidence, in particular, failure to submit it within the time limits prescribed by the Arbitral Tribunal, shall not prevent the Arbitral Tribunal from conducting the arbitration and rendering an arbitral award based on the presented evidence. The Respondent was duly notified on arbitration proceedings, however, it did not make any objection, presented no evidence or materials to the case, made no other statements, applications, or explanations. Thus, the Arbitral Tribunal reviews the case based on the evidence presented by the Claimant.
30. The Claimant brought the following claims:
  - 1) to recover from the Respondent the amount of USD17,976.69 (seventeen thousand nine hundred seventy-six US Dollars and 69 cents);
  - 2) to recover from the Respondent the arbitration fee paid in the amount of USD2,538.42 (two thousand five hundred and thirty-eight US Dollars and 42 cents).
31. Having reviewed the documents provided in relation to the case, the Arbitration Tribunal determined the following:
32. The Claimant and Respondent executed the Contract for freight transportation organization.
33. In accordance with clause 1.3 of the Contract, the provision of transport and forwarding services by the Claimant is carried out on the basis of requests from the Respondent, which are an integral part of the Contract. The Claimant received the order request [No] for the transportation of three 40' high cube containers filled with electroacoustic equipment from [A] station to [B] station (by rail), from the port of [B] to the port of [C] (by sea), with delivery term Fot-Fo [D]. The shipper shall be [Company], [Company], and the consignee shall be [Company].
34. According to Incoterms rules 2020 FOT (Free on Truck) means that the seller is responsible for putting the goods on the truck at a specified loading port or point, which is [D] in our case, and the liability for the goods shall be transferred from the seller to the buyer at the moment of its putting to the truck.
35. According to Clause 2.1 of the Contract the Claimant shall confirm the request by email or via client's personal account. On 8<sup>th</sup> of July, 2023 the Claimant confirmed the request and sent the confirmation that the booking had been received. The relevant confirmation email sent to [e-mail] was attached to the arbitration materials. According to Clause 15 of the Contract this email belongs to [Name], the authorised representative of the Respondent.
36. The Claimant presented the following documents confirming the shipment of goods from Moscow to [C] through [B], the dual rendering of the services under the Contract and Respondent's request:
  - Transportation waybill forms (consignment notes) dated 11.07.2022 in relation to the containers from [D] to [A] station, where in 8<sup>th</sup> line it is indicated that cargo shall be accepted by [Name] and his phone number: [phone number];

- Container delivery and acceptance certificate dated July 12, 2022;
  - Stamped Original rail waybills for carriage of cargo by container shipment in relation to route [A] station-[B], dated 30-31.07 for containers – [No], [No], [No].
  - Goods declaration [No] in relation to goods contained in three containers – [No], [No], [No], describing the shipment on the term FCA [D] indicated that the consignee is [Company], and country of destination – [country].
  - Loading order № [No] dated August 28, 2022 with delivery term CY for the route of [B]-[C], which proves the fact that goods indicated in the above mentioned goods declaration came to [C] port to [Company] as it was necessary under the Respondent's request.
  - Bill of Lading № [No] dated September 4, 2022 which proves that the goods were delivered to [C] (place of delivery) and they were prepaid by the Claimant.
37. Both [countries] are members of the Agreement on International Railway Freight Communications dated 01.11.1951 (the "SMGS").
38. According to Article 26.1 of SMGS on arrival of the goods at the destination station, the carrier shall deliver the consignment note and the goods to the consignee and the consignee shall accept the goods and the consignment note. According to clause 3 of same article the consignment note and the goods shall be delivered after the consignee has paid all carriage charges payable to the carrier, save where otherwise stipulated in the agreement between them. The consignee shall be obliged to pay the carriage charges for all of the goods specified in the consignment note even if part of the goods specified in the consignment note is missing.
39. According to Article 50 of SMGS the consignment note confirms the conclusion of a contract of carriage of a wagon.
40. According to Article 1.7 of the UN Convention on the carriage of goods by the sea dated 31.03.1978 (Hamburg Rules) "Bill of lading" means a document which evidences a contract of carriage by sea and the taking over or loading of the goods by the carrier, and by which the carrier undertakes to deliver the goods against surrender of the document. A provision in the document that the goods are to be delivered to the order of a named person, or to order, or to bearer, constitutes such an undertaking.
41. Therefore, the Claimant presented all required transportation documents, i.e. consignment notes and bill of lading confirming the safe delivery of wagons and goods.
42. As a result of rendering the services under the Contract the Claimant sent to the Respondent:
- the Shipping notification [No] dated August 29, 2022 with the breakdown of costs on each route;
  - the Invoice for the amount of USD18,104.13 dated August 29, 2022;
  - Invoice correction which excluded the costs of weighing containers amounted to 127.44 US Dollars dated May 16, 2023.
43. Additionally the Claimant presented the Arbitral Tribunal the Act (report) of rendered services dated May 16, 2023 in relation to the Contract, which shall provide that the services were rendered in full, and the parties do not have any complaints to each other. The Act was not signed by the Respondent.
44. According to Clause 5.8 of the Contract upon completion of transportation the Claimant shall provide the Respondent with acceptance act. The Respondent shall sign it and return within 5 days from the date of receipt, or give the Claimant the reasons for refusal. If there is no motivated refusal and no signed Act, the Act is deemed to be accepted by the Respondent, and services – be performed timely and well, and are subject to full payment. Respondent did not provide the Arbitral Tribunal any grounds for refusal to sign the Act.

45. Taking into consideration the above, the Arbitral Tribunal considers that the Claimant fulfilled its obligations to supply cargo in three containers in the agreed quantity, quality and assortment to the Respondent, in full.
46. According to Clause 3.9 of the Contract, the Respondent shall pay the invoices issued by the Claimant on the basis of the client's requests, as well as additional invoices issued under the Contract. According to Clause 3.11 of the Contract, the Respondent is obliged to fully reimburse the Claimant for its actually incurred and documented additional costs.
47. According to Clause 5.4 of the Contract the Respondent is obliged to pay all invoices issued by the Claimant within 5 (Five) banking days from the receipt of the invoice by email, however, the Respondent did not pay it.
48. In addition, pursuant to the Article 309 of the Civil Code of the Russian Federation obligations must be fulfilled properly in accordance with the terms of the obligation and the requirements of the law, other legal acts, and in the absence of such conditions and requirements – in accordance with customs or other customary requirements. Unilateral refusal to perform obligations and unilateral changes in its terms are not allowed, with the exception of cases provided for by the Civil Code of the Russian Federation, other laws or other legal acts (Clause 1 of Article 310 of the RF Civil Code).
49. Taking into the consideration the above, the Arbitration Tribunal considers that the Claimant's claim is justified and shall be satisfied in full.

## V. ALLOCATION OF THE ARBITRATION COSTS AND FEES

50. In accordance with Article 4, Article 8.5 and 12 of the Rules on Arbitration Fees and Arbitration Costs (Appendix No. 1 to the Arbitration Rules, the “**Rules on Costs and Fees**”), while filing the claim the Claimant paid the arbitration fee in the amount of RUB205,597.30 (payment order [No] dated 01 June 2023), which is equivalent to USD2,538.42 at the official exchange rate of the Central Bank of the Russian Federation determined on the day of transferring a payment to the current account Russian Institute of Modern Arbitration.
51. Under Article 15(1, 2) of the Rules on Costs and Fees, the arbitration fee and arbitration costs shall be paid by the party against which the arbitral award is rendered. If the claims subject to monetary evaluation are partially satisfied, the respondent shall pay the arbitration fee and the arbitration costs calculated proportionately to the satisfied claims or the value of the awarded property, while the remaining costs shall be borne by the claimant.
52. The claims of the Claimant were satisfied in full, therefore, the arbitration fee shall be borne by the Respondent.
53. Neither Party has requested that the costs of the current arbitration incurred by them (Article 16 of the Rules on Costs and Fees) be borne by the other Party; therefore, each Party shall bear the costs it has incurred.

## VI. RESOLUTIONS

For the foregoing reasons and based on Articles 50-52 of the Arbitration Rules, the Arbitral Tribunal

### AWARDS:

1. **To satisfy the claims of the Claimant – [Claimant]**, the company registered under the legislation of the Russian Federation, OGRN [No], INN [No], registered office: [address] Russian Federation – **in full.**
2. **The Respondent – [Respondent]** the company registered under the legislation of Georgia, registration number: [No], registered office: [address] Georgia – **shall pay the following amounts in favor of Claimant:**
  - a. **The debt before the Claimant in the amount of USD 17,976.69;**
  - b. **The arbitration fee in the amount of USD 2,538.42.**

The arbitral award shall be binding on the Parties from the date of its issuance.

This Arbitral Award is made in three copies, one of which is intended for the Claimant, one for the Respondent, and one for keeping in the files of the RAC.

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**The Arbitral Tribunal  
Sole Arbitrator  
Zhibek Karamanova**