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Case No. [PI8252-22]

ARBITRAL AWARD

21 July 2023

Claimant: [Claimant]

Respondent: [Respondent], represented by [branch]

Arbitral Tribunal: Levashova Yulia Igorevna as a sole arbitrator

Assistant to the Arbitral Tribunal: Akulina Arina Alekseevna

Seat of arbitration - Moscow, Russian Federation

Language of Arbitration: Russian

English Text: RAC – Ekaterina Petrenko

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I. CASE SUMMARY

Moscow, the Russian Federation

Case No. [PI8252-22]

21 July 2023

1. The Arbitral Tribunal comprising of a sole arbitrator Levashova Yulia Igorevna heard the case initiated under the claim of:

[Claimant], [Russia], [OGRN], [INN], [address], postal address (indicated by the Claimant's representative during the hearing): [address] (hereinafter – Claimant, Supplier) to

[Respondent], [Italy], registration number (Italy): [No], fiscal number (Italy): [No], [address], represented by its branch in [Russia], NZA [No], [INN], branch address: [address] (hereinafter – Respondent, Buyer, jointly with the Claimant – Parties)

under the supply contract [No] of 15 December 2021 (hereinafter – Contract) as amended by Additional Agreements Nos. 1 and 2 of 10 March 2022 (hereinafter – Additional Agreements) for recovery of:

(1) Debt for delivered products of RUB 4 078 214,73, where:

- a. RUB 755,414.73 – debt under Specification No. 1;
- b. RUB 3,322,800.00 – debt under Additional Agreement No. 2;

(2) Debt for delivered products under Additional Agreement No. 1 of EUR 312,616.86;

(3) Forfeit for delivered products of RUB 813,692.68, where:

- a. RUB 161,907.73 – forfeit under Specification No. 1;
- b. RUB 483,116.75 – forfeit under Additional Agreement No. 1;
- c. RUB 168,668.20 – forfeit under Additional Agreement No. 2;

(4) Losses for lost exchange profit of RUB 1,891,231.20.

2. The dispute was heard in arbitration administered by the Russian Arbitration Center at the Autonomous Non-profit Organization “Russian Institute of Modern Arbitration” (hereinafter – RAC) according to the RAC Arbitration Rules amended on 1 November 2021 (hereinafter – Arbitration Rules) and the Law of the Russian Federation No. 5338-1 of 7 July 1993 “On International Commercial Arbitration” (hereinafter – Law on ICA).

3. The dispute was heard in the standard procedure according to the rules of international commercial arbitration of the Arbitration Rules.

4. The first hearing took place on 16 February 2023, at 13:00 Moscow time, with all participants via videoconferencing (hereinafter – VC). The hearing was attended by:

4.1. The Arbitral Tribunal comprising the sole arbitrator Levashova Yulia Igorevna;

4.2. [Name], Claimant’s representative under a power of attorney [No] of 2 September 2022 valid for 2 years, identified by a passport of the Russian Federation;

4.3. Assistant to the Arbitral Tribunal Akulina Arina Alekseevna, RAC Case Counsel;

4.4. The Respondent’s representative, duly notified of the place and time of the hearing, was absent.

5. The second hearing took place on 4 April 2023, at 11:00 Moscow time, with all participants via videoconferencing (hereinafter – VC). The hearing was attended by:

5.1. The Arbitral Tribunal comprising the sole arbitrator Levashova Yulia Igorevna;

5.2. [Name], Claimant’s representative under a power of attorney [No] of 2 September 2022 valid for 2 years, identified by a passport of the Russian Federation;

5.3. Assistant to the Arbitral Tribunal Akulina Arina Alekseevna, RAC Case Counsel;

5.4. The Respondent’s representative, duly notified of the place and time of the hearing, was absent.

II. COMMENCEMENT OF ARBITRATION, CONSTITUTION OF THE ARBITRAL TRIBUNAL

6. On 7 October 2022, a Request for Arbitration [No] of 3 October 2022 (hereinafter – Request) was e-mailed to the RAC with the following claims in the statement of relief:
 - 6.1. Accept this Request for Arbitration;
 - 6.2. Accept the payment order for the arbitration fee as a registration fee.

II.A. Suspension

7. On 17 October 2022, the Executive Administrator informed¹ the Parties that the Request was suspended, and its defects needed to be rectified since the Request did not comply with Subparagraphs 2, 3, and 6 of Paragraph 1 of Article 9 of the Arbitration Rules:
 - 7.1. There were no grounds for the jurisdiction of the RAC. The documents submitted by the Claimant could not establish the jurisdiction of the RAC to administer the present dispute since the Additional Agreements attached by the Claimant did not contain an arbitration agreement;
 - 7.2. There was no indication of the total value of the claims subject to monetary evaluation or that the Claimant requested the RAC to determine the value of the claims;
 - 7.3. All exhibits to the Request were not sent to the proper address of the Respondent. As evidence of the dispatch of the Request and all its exhibits to the Respondent, the Claimant submitted a postal receipt with a list of attachments (Tracking [No], postal weight 0.043 kg), according to which only the Request for Arbitration, exhibits Nos. 1-3 regarding forfeit's calculation and two powers of attorney were sent to the Respondent. This postal receipt also indicated that the Request and its exhibits were sent to the following address of the Respondent: [address]. At the same time, the public record showed² that as of the date of Notice of Suspension Respondent's branch address was different: [address].
8. The Executive Administrator invited the Claimant to rectify the defects within 7 days, i.e., to submit to the RAC no later than 24 October 2022:
 - 8.1. A document confirming the jurisdiction of the RAC;
 - 8.2. Indication of the total value of the claims or need for its determination by the RAC;
 - 8.3. A postal receipt and a list of attachments confirming that the Request and all its exhibits were dispatched to the Respondent's current address.
9. The Parties were notified that if the Claimant fails to rectify the defects within the specified time limit, the Request with all exhibits will be returned to the Claimant under Paragraph 6 of Article 9 of the Arbitration Rules.
10. By an e-mail of 21 October 2022, the Claimant notified the RAC that the defects were rectified. In particular, the Claimant submitted to the RAC the Request for Arbitration indicating the value of the claims, the Contract containing the arbitration agreement, as well as a postal receipt with a list of attachments confirming the proper notification of the Respondent (Tracking [No] of 20 October 2022).

II.B. Commencement of arbitration

11. On 25 October 2022, under Paragraph 5 of Article 9 of the Arbitration Rules, the Executive Administrator notified the Parties of the commencement of the arbitration³, stated the date of commencement of the

¹ The Notice of Suspension (Ref. No. 329/22 of 17 October 2022), on 17 October 2022, was uploaded into the Online Arbitration System of the RAC (OAS), sent to the Claimant by e-mail to the address of the Claimant's representative ([e-mail]), and the postal addresses of the Parties outlined in the Uniform State Register of Legal Entities (EGRUL) and State Register of Accredited Branches and Representative Offices of Foreign Legal Entities (RAFP) (Tracking Nos. [No], [No]).

² State Register of Accredited Branches and Representative Offices of Foreign Legal Entities (URL: <https://service.nalog.ru/rafp/#result>).

³ The Notice of Commencement (Ref. No. 344/22 of 25 October 2022), on 25 October 2022, was uploaded into the OAS, sent to the Claimant by e-mail to the address of the Claimant's representative ([e-mail]), and the postal addresses of the Parties outlined in the EGRUL and RAFP (Tracking Nos. [No], [No]).

arbitration – 7 October 2022⁴ and the number assigned to the arbitration – [PI8252-22]. The Russian Federation was preliminarily determined as the place of arbitration.

12. The Executive Administrator explained to the Parties that the rules of international commercial arbitration of the Arbitration Rules apply to this dispute that is heard in Russian in the standard procedure. According to Paragraph 3 of Article 1 of the Law on ICA, the parties may agree to refer to international commercial arbitration the disputes arising out of civil law relationships in the course of carrying out foreign trade and other types of international economic relations if the place of business of at least one party is abroad. The Contract is concluded between [Respondent], a company incorporated under the laws of Italy, having its representative office and branch at [address], Russian Federation, [address], and Claimant, registered at [address], Russian Federation. Under Article 55 of the Civil Code of the Russian Federation (hereinafter – the Civil Code), branches and representative offices do not possess legal personality, it is [Respondent] that is a party to the present arbitration. According to the settled practice, the term “place of business” is interpreted as the place of registration of an organization (legal entity). Therefore, the Respondent’s place of business is located outside the Russian Federation, namely in the Republic of Italy.
13. Moreover, the Executive Administrator explained that a Party that fails to object to the arbitration rules determined by the Executive Administrator within 10 days from the date of receipt of the notice of commencement of arbitration shall be deemed to have waived its right to object thereafter.⁵ The arbitral tribunal may, at the request of a Party or on its own initiative, determine that arbitration rules other than those determined by the Executive Administrator shall apply to the dispute.
14. The Executive Administrator also informed the Claimant that he needs to pay the arbitration fee additionally:
 - 14.1. As follows from the preamble of the Request for Arbitration, the Claimant requested RUB 2,122,080 to be recovered from the Respondent. Since the statement of relief of the Request for Arbitration did not specify the content of the claims, to commence arbitration and calculate the arbitration fee, the RAC determined⁶ the following as the Claimant’s claims:
 - 14.1.1. RUB 1,962,265.82 losses for lost exchange profit;
 - 14.1.2. RUB 95,815.08 forfeit for violation of payment terms for advance and shipped goods;
 - 14.1.3. RUB 64,000.00 forfeit for violation of payment terms for prepayment.
 - 14.2. Since in international commercial arbitration value of claims is set in USD,⁷ the Executive Administrator determined based on the available case file that the value of the Request amounted to USD 35,219.26 as of the date of filing the Request at the official exchange rate of the Bank of Russia.⁸
 - 14.3. With the dispute heard by a sole arbitrator in a standard procedure with a value of claims of USD 35,219.26,⁹ the arbitration fee amounted to USD 5,443.63.
 - 14.4. The Claimant paid¹⁰ the registration fee, which is a monetary sum payable by a Party when submitting the Request to the RAC to cover the costs associated with the commencement of the arbitration.¹¹ Therefore, the outstanding amount of the arbitration fee of USD 4,943.63 was to be

⁴ Under Paragraph 5 of Article 9 of the Arbitration Rules, all subsequent time limits set for the Respondent, the RAC, and the Arbitral Tribunal shall be calculated from the date of rectification of the defects, i.e., from 21 October 2022.

⁵ Arbitration Rules, Article 9, Paragraph 3.

⁶ Following the issuance of the Notice of Commencement of Arbitration and during the arbitration, the Claimant did not object to the RAC’s assessment of the claims.

⁷ Arbitration Rules, Article 8, Paragraph 5; Article 17, Paragraph 1, Subparagraph 2.

⁸ As of 7 October 2022, the official exchange rate was USD 1 = RUB 60.2534.

⁹ Agreed by the Parties in the arbitration agreement.

¹⁰ According to payment order [No] of 6 October 2022, the Claimant paid RUB 29,702.15 equivalent to USD 500.00 as of the date of the payment order (at the official exchange rate of USD 1 = RUB 59.4043).

¹¹ Arbitration Rules, Article 9, Paragraph 1, Subparagraph 5; Rules on Arbitration Fees and Arbitration Costs, Article 2, Paragraph 1, Subparagraph 2.

paid within 10 days from the date of the notice of commencement of arbitration,¹² i.e., by 7 November 2022.

14.5. The Claimant was cautioned that in case of non-payment of the arbitration fee, the administration of the arbitration, including the constitution of the Arbitral Tribunal, would be suspended for 20 days; in case of non-payment of the arbitration fee within that period, the arbitration would be terminated (Paragraph 2 of Article 7 of the Rules on Arbitration Fees and Arbitration Costs (hereinafter – Rules)), while the registration fee would in any case be non-refundable (Paragraph 3 of Article 2 of the Rules).

14.6. The notice of commencement of arbitration outlined bank account details for payment of an outstanding amount of the arbitration fee.

15. On 8 November 2022, the Claimant submitted payment order [No] of 26 October 2022 confirming payment of the outstanding amount of the arbitration fee.

II.B. Access to the Online Arbitration System of the RAC

16. All documents of the present arbitration shall be uploaded to the Online Arbitration System of the RAC¹³ (hereinafter – OAS) according to Paragraph 4 of Article 5 of the Arbitration Rules:

16.1. On 17 October 2022, the Claimant's representative [Name] was invited to join the case file in OAS at the e-mail address [e-mail]. On 25 October 2022, the Claimant's representative sent a document confirming his powers and gained access to the case file in OAS;

16.2. On 2 November 2022, the Respondent's representative [Name] was invited to join the case file in the OAS e-mail address [e-mail]. On 8 November 2022, the Respondent's representative sent a document confirming his powers and gained access to the case file in OAS.

17. Therefore, the Parties were allowed to familiarize themselves with the case file and use the OAS to promptly send procedural documents under Article 5 of the Arbitration Rules.

II.G. Constitution of the Arbitral Tribunal

18. In the arbitration agreement (Clause 16.4 of the Contract), the Parties agreed that the dispute shall be heard by the arbitral tribunal comprising of the sole arbitrator:

“The arbitration shall be handled by one arbitrator appointed in accordance with the Arbitration Rules.”

19. During the constitution of the arbitral tribunal by voting on 11–17 November 2022, the RAC Board appointed Yulia Igorevna Levashova as the sole arbitrator. The arbitral tribunal was constituted based on the Order of the RAC Board of 17 November 2022.

20. 21 November 2022, the Executive Administrator notified¹⁴ the Parties of the constitution of the Arbitral Tribunal comprising the sole arbitrator Levashova Yulia Igorevna.

21. On 22 November 2022, Levashova Yulia Igorevna signed the declaration¹⁵ and submitted it together with the up-to-date CV. In the declaration, she requested the Executive Administrator to appoint an assistant to the Arbitral Tribunal under Article 38 of the Arbitration Rules.

¹² Rules on Arbitration Fees and Arbitration Costs, Article 7, Paragraph 1, Subparagraph 1.

¹³ Online Arbitration System of RAC (OAS) provides an opportunity to promptly follow the course of the arbitration, upload and download case materials at any time, including from mobile devices, add new representatives and participants to the arbitration with compliance with the principle of confidentiality of the arbitration.

¹⁴ The Notice of Constitution of the Arbitral Tribunal (Ref. No. 370/22 of 21 November 2022), on 21 November 2022, was uploaded into OAS, sent to the Parties by e-mail ([e-mail]; [e-mail]), and, on 16 December 2022, on paper by the Russian post (Tracking Nos. [No], [No]).

¹⁵ The declaration of a sole arbitrator Y. I. Levashova and her CV were, on 23 November 2022, uploaded into OAS, sent to the Parties by e-mail ([e-mail]; [e-mail]), and, on 29 November 2022, on paper by the Russian post (Tracking Nos. [No], [No]).

22. On 23 November 2022, the Executive Administrator notified¹⁶ the Parties of the appointment of the assistant to the Arbitral Tribunal – Arina Alekseevna Akulina, RAC Case Counsel. The notice was accompanied by the assistant’s declaration of 23 November 2022 and her up-to-date CV.
23. During the arbitration, no challenges to the Arbitral Tribunal or the assistant to the Arbitral Tribunal were raised.

¹⁶ The Notice of Appointment of Assistant to the Arbitral Tribunal (Ref. No. 374/22 of 23 November 2022) together with the CV and assistant’s declaration were, on 23 November 2022, uploaded into OAS, sent to the Parties by e-mail ([e-mail]; [e-mail]), and, on 29 November 2022, on paper by the Russian post (Tracking Nos. [No], [No]).

III. COURSE OF ARBITRATION AND POSITIONS OF THE PARTIES

III.A. Request for Arbitration of 3 October 2022

24. On 7 October 2022 and 21 October 2022, the Claimant filed Requests for Arbitration of 3 October 2022 seeking to:
 - 24.1. Accept this Request for Arbitration;
 - 24.2. Accept the payment order for the arbitration fee as a registration fee.
25. The only difference between these Requests was that the Request filed on 21 November 2022 indicated RUB 2,122,080 as the claim value being a remedy for the defects under the Notice of Suspension. The Claimant stated the following in the descriptive part of the Request.
26. The Parties concluded the Contract. Under the Contract, the Parties shall stipulate the delivery and payment schedules in the specification or the additional agreement to the Contract. Thus, the Parties have concluded Additional Agreements and Specification No. 1.
27. As of 3 October 2022, the Respondent's debt for the delivered products amounted to RUB 755,414,73.
28. Under Additional Agreement No. 1 of 10 March 2022, the Respondent shall pay for the products in the following order: prepayment of EUR 72,000 shall be paid within 5 working days from the date of conclusion of the additional agreement. The outstanding amount shall be paid within 20 working days from the date of performance of the Supplier's obligations to deliver the products in full.
29. The Supplier delivered the products according to Additional Agreement No. 1, which were accepted by the Buyer (according to the consignment notes), who did not raise any claims with respect to the delivered products, but at the same time violated the prepayment schedule.
30. In Additional Agreement No. 1 the Parties agreed on the price of the delivered products in euros. Under this agreement, the advance shall be paid within 5 working days from the date of signing of Additional Agreement No. 1, i.e., 17 March 2022, but the Buyer violated this schedule.
31. Since the payment was made on 1 April 2022, the Supplier incurred exchange losses of RUB 1,962,265.82, because at the time of payment the euro/ruble exchange rate, according to the Claimant, amounted to RUB 92.493, and if the payment had been made according to the Contract, this exchange rate would have amounted to RUB 118.7601 (Annex No. 2).
32. Under Specification No. 1 of 15 December 2021, the Respondent shall pay for the products in the following order: prepayment of RUB 3,000,000 shall be paid within 3 working days from the date of signing of the specification by the Parties. Final payment shall be made within 20 calendar days from the date of shipment of the products to the Buyer's warehouse.
33. The Supplier delivered the products in line with Specification No. 1, which were accepted by the Buyer (according to the consignment notes), who did not raise any claims with respect to the delivered products, but at the same time violated the payment schedule for the delivered products (Annex No. 1).
34. The Buyer violated the schedules for the advance payment and payment for the shipped products, thereby incurring a forfeit of RUB 95,815.08 (Annex No. 1).
35. Under Additional Agreement No. 2 of 10 March 2022, the Respondent shall pay for the products in the following order: prepayment of RUB 6,000,000 shall be paid within 5 working days from the date of conclusion of the additional agreement. The outstanding amount shall be paid within 20 working days from the date of performance of the Supplier's obligations to deliver the products in full.
36. The Supplier delivered the products according to Additional Agreement No. 2, which were accepted by the Buyer (according to the consignment notes), who did not raise any claims with respect to the delivered products, but at the same time violated the prepayment schedule, which resulted in a forfeit of RUB 64,000 (Annex No. 3).
37. On 10 August 2022, a claim letter for payment of debt and forfeit was sent to the Respondent, but the claims were not satisfied.
38. Therefore, the Claimant resorted to arbitration.

III.5. Procedural Schedule

39. On 29 November 2022, by Procedural Order No. 1 (PO No. 1),¹⁷ the Arbitral Tribunal invited the Parties to:
- 39.1. Elaborate no later than 12 December 2022 on compliance or non-compliance with the dispute resolution under Clause 16.3 of the Contract, according to which:
 - 39.1.1. “First, the PARTIES shall attempt to settle the dispute amicably;
 - 39.1.2. if the dispute cannot be resolved according to the above provisions within thirty (30) calendar days after it has arisen, Clause 16.4 shall apply.”
 - 39.2. Discuss whether an amicable settlement of the dispute is possible and inform the Arbitral Tribunal about the results of the discussion.
 - 39.3. Look at the draft Procedural Schedule and no later than 12 December 2021 submit proposals and comments to it or inform about its approval.
 - 39.4. Inform about participation in the hearing by VC.
 - 39.5. Draw attention to the fact that the addresses of the Parties specified in Clauses 3–4 of the draft Procedural Schedule are used in exchange of documents. If the Party considers these addresses to be not up-to-date but fails to submit its objections or additions regarding their use not later than 12 December 2022, it shall bear all negative consequences, including the risks that documents will be not received at the not up-to-date addresses.
40. Under the draft Procedural Schedule, the Arbitral Tribunal proposed to submit: the Claim – not later than 28 December 2022, the Response – not later than 20 January 2023, the Counterclaim – not later than 20 January 2023, the Response to the Counterclaim – not later than 7 February 2023, additional written submissions and evidence if there is no counterclaim – not later than 31 January 2023, if there is counterclaim - not later than 16 February 2023. The hearing was proposed to be held: if there is no counterclaim – on 16 February 2023, at 13:00 Moscow time, or if there is a counterclaim – on 9 March 2023, at 13:00 Moscow time, in the RAC premises and/or by VC, or if the Parties have explicitly agreed not to hold the hearing, to make an award based on the available documents and evidence.
41. The Claimant on 29 November 2022 by email and on 30 November 2022 by uploading to OAS submitted an application for accelerated consideration of the case [No] of 29 November 2022 in which it stated the following:
- 41.1. The Respondent has a debt to the Claimant, because of which the Claimant has large liabilities to suppliers and obligations to make mandatory payments to the Federal Tax Service, the Pension Fund of the Russian Federation, and employees, the Claimant is unable to conduct regular financial and economic activity;
 - 41.2. The Claimant continues to fulfill its obligations under the Contract and ships the products, which increases the Respondent’s debt;
 - 41.3. To rectify this situation, it is necessary to recover monies from the Respondent;
 - 41.4. The Claimant requested to schedule an earlier date for consideration of the dispute in 2022.
42. Nevertheless, aside from a copy of the delivery note [No] of 29 August 2022, the Claimant’s application did not demonstrate compliance with the dispute resolution procedure under Clause 16.3 of the Contract and did not articulate the Claimant’s position regarding the procedural time limits proposed by the Arbitral Tribunal, the necessity of a hearing and the form of participation, other than the request for consideration of the case within 2022.
43. The Respondent did not elaborate on the issues stated in PO No. 1 and on the suggested Procedural Schedule within the specified time limit.

¹⁷ PO No. 1 was, on 29 November 2022, uploaded into OAS, sent to the Parties by e-mail ([e-mail]; [e-mail]), and on paper by the Russian post (Tracking Nos. [No], [No]).

44. On 13 December 2022, by Procedural Order No. 2,¹⁸ the Arbitral Tribunal confirmed the Procedural Schedule, the time limits for submission of documents and evidence, and the hearing date at the RAC premises with an option to join via VC, according to the time limits set forth PO No. 1 (Paragraph 40 of this Award).
45. Moreover, when PO No. 2 was e-mailed to the Parties, it was explained to the Parties on behalf of the Arbitral Tribunal regarding the Claimant's application for accelerated consideration of the case that it was impossible for the Tribunal to hear the present case within a shorter timeframe than suggested in PO No. 1 since principles of independence and impartiality of the arbitrators, disposition, adversarial and equal treatment of the Parties in the arbitration had to be upheld.

III.B. Claim

46. On 27 December 2022, the Claimant by uploading in OAS submitted a claim [No] of 27 December 2022 for recovery of debt under the supply contract (hereinafter – Claim):
 - 46.1. monies of RUB 755,414.73;
 - 46.2. monies for late payment of RUB 64,000;
 - 46.3. monies for late payment of RUB 95,815.08;
 - 46.4. exchange losses of RUB 1,962,265.82.

In the Claim, the Claimant stated the following.

47. Under Specification No. 1 of 15 December 2021, the Respondent shall pay for the products in the following order: prepayment of RUB 3,000,000 shall be paid within 3 working days from the date of signing of the specification by the Parties. Final payment shall be made within 20 calendar days from the date of shipment of the products to the Buyer's warehouse. The Supplier delivered the products in line with Specification No. 1, which were accepted by the Buyer (according to the consignment notes), who did not raise any claims with respect to the delivered products, but at the same time violated the payment schedule for the delivered products (Annex No. 1).
48. The Buyer violated the schedules for the advance payment and payment for the shipped products, thereby incurring a forfeit of RUB 95,815.08 (Annex No. 1).
49. Under Additional Agreement No. 2, the Respondent shall pay for the products in the following order: prepayment of RUB 6,000,000 shall be paid within 5 working days from the date of conclusion of the additional agreement. The outstanding amount shall be paid within 20 working days from the date of performance of the Supplier's obligations to deliver the products in full. The Supplier delivered the products according to Additional Agreement No. 2, which were accepted by the Buyer (according to the consignment notes), who did not raise any claims with respect to the delivered products, but at the same time violated the prepayment schedule, which resulted in a forfeit of RUB 64,000 (Annex No. 3).
50. Under Additional Agreement No. 1, the Respondent shall pay for the products in the following order: prepayment of EUR 72,000 shall be paid within 5 working days from the date of conclusion of the additional agreement. The outstanding amount shall be paid within 20 working days from the date of performance of the Supplier's obligations to deliver the products in full. The Supplier delivered the products according to Additional Agreement No. 1, which were accepted by the Buyer (according to the consignment notes), who did not raise any claims with respect to the delivered products, but at the same time violated the prepayment schedule.
51. In Additional Agreement No. 1 the Parties agreed on the price of the delivered products in euros. Under this agreement, the advance shall be paid within 5 working days from the date of signing of Additional Agreement No. 1, i.e., 17 March 2022, but the Buyer violated this schedule.
52. Since the payment was made on 1 April 2022, the Supplier incurred exchange losses of RUB 1,962,265.82, because at the time of payment the euro/ruble exchange rate, according to the Claimant,

¹⁸ PO No. 2 was, on 13 December 2022, uploaded into OAS, sent to the Parties by e-mail ([e-mail]; [e-mail]), and, on 14 December 2022, on paper by the Russian post (Tracking Nos. [No], [No]).

amounted to RUB 92.493, and if the payment had been made according to the Contract, this exchange rate would have amounted to RUB 118.7601 (Annex No. 2).

53. Under Clause 1.1 of the Contract, the Supplier shall deliver the products in line with the specification, and the Buyer shall accept the products and pay for them per the Contract and/or its annexes. The Supplier delivered part of the products in the volume and quantity stated in the specification and the additional agreement to the Contract, having duly fulfilled its obligations under the Contract.
54. Since the conclusion of the Contract, the Buyer has repeatedly delayed payment for the delivered products, the Claimant provided a calculation in the schedule of forfeit calculation (Annexes Nos. 1, 2, 3).
55. On 10 August 2022, a claim letter for payment of debt and forfeit was sent to the Respondent, but the claims were not satisfied.
56. As of 3 October 2022, the Respondent's debt for the delivered products has amounted to RUB 755,414.73. If the Buyer violates the payment terms, the Buyer shall pay to the Supplier at its request an interest for the use of the other person's means of 1/300 of the discount rate, refinancing rate of the Central Bank of the Russian Federation in force at the time of payment of the debt for each day of delay from the debt amount.
57. Based on the above and under Articles 1, 15, 309, 310, 330, 393, 405, 506, 516 of the Civil Code, Article 125 of the Commercial Procedure Code of the Russian Federation, Paragraph 2 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 7 of 24.03.2016 "On Court Application of Certain Provisions of the Civil Code of the Russian Federation regarding Liability for Breach of Obligations", the Claimant requested to grant the claims.

III.Г. Response

58. On 17 January 2023, the Respondent sent by e-mail a response to the Claim (hereinafter – Response). The Respondent strongly disagreed with the claim for recovery of exchange losses of RUB 1,962,265.82 RUB and requested to reject it due to the following.
59. Respondent argued that the amount of losses substantially (almost threefold) exceeded the amount of the Contract debt sought by the Claimant. Had the Claimant sought a forfeit for the delay in such an amount, the Respondent would have argued for its reduction under Article 333 of the Civil Code, but with respect to the losses, it is impossible under the Civil Code. The Respondent saw in the claim for losses an attempt by the Claimant to "secure itself" against the Respondent's claim for reduction of liability for late payment of the debt (as the Respondent believed would be the case with the forfeit) since the satisfaction of monetary claims in the requested amount could result in the creditor obtaining an unjustified benefit.
60. Moreover, the Respondent stated that exchange losses are not compensatory damage caused to the Claimant by the breach of obligation, but lost earnings that the Claimant could have received in the regular course of civil turnover if its right had not been violated (i.e., lost profit). The Claimant, according to the Respondent, does not conceal its own qualification of the monetary claims asserted as "losses" neither as lost profit nor as a kind of forfeit for delay (Exhibit No. 2 to the Claim). The Claimant does not provide any evidence of losses other than its calculation.
61. Meanwhile, recovery of lost profit is expressly prohibited for the Supplier according to Clause 12.6 of the Contract, under which the Supplier is not entitled to demand payment of lost profit, indirect costs, or indirect losses related to the Contract performance.
62. Therefore, the Respondent requested the Arbitral Tribunal to reject the Claimant's claim for exchange losses of RUB 1,962,265.82.

III.Д. The first hearing of 16 February 2023

63. The first hearing was held on 16 February 2023, at 13:00 Moscow time, with all participants via VC.
64. During the hearing, the Arbitral Tribunal ascertained that the Tribunal and the RAC Administrative Office had taken all possible measures to notify the Respondent of the forthcoming hearing and that the Respondent, who had informed the RAC by e-mail that it would not participate in the hearing, did not submit justified reasons for its absence. The Claimant's representative did not object to hearing the dispute in the absence of the Respondent.

65. The Claimant notified the Arbitral Tribunal that the Claimant, the Respondent, and the Respondent's client have currently been engaged in negotiations on the amicable settlement of the dispute. The Claimant stated that this could be confirmed by e-mail correspondence between the negotiating parties, which was not available in the case file at the time of the hearing. Therefore, the Claimant asked to postpone the hearing for 2 weeks and stated that it is ready to submit screenshots of the e-mail correspondence of the Parties.
66. The Arbitral Tribunal, taking into account the circumstances of the case, granted the Claimant's request for postponement of the oral hearing.
67. The Claimant and the Arbitral Tribunal agreed on the date and time of the hearing after the exchange of positions on the potential amicable settlement of the dispute and evidence on this issue: exchange of positions on the amicable settlement of the dispute – until 23 February 2023; the new hearing date – 3 March 2023, at 13:00 Moscow time, with VC.

III.E. Revision of the Procedural Schedule

68. On 17 February 2023, following the hearing, the Arbitral Tribunal revised the Procedural Schedule by Procedural Order No. 3 (PO No. 3)¹⁹ and decided to:
- 68.1. Postpone the hearing scheduled for 16 February 2023, at 13:00 Moscow time, for submission of additional evidence and taking procedural actions for amicable settlement of the dispute by the Parties.
- 68.2. Schedule a new hearing date on 3 March 2023, at 13:00 Moscow time, with VC.
- 68.3. Invite the Parties to elaborate, including by providing the necessary evidence, on the amicable settlement of the dispute by 22 February 2023, 23:59:59 Moscow time.
- 68.4. Invite the Respondent to state its objections (if any) to the new hearing date by 22 February 2023, 23:59:59 Moscow time.
69. On 1 March 2023, the Claimant e-mailed correspondence with representatives of the Respondent's client regarding the amicable settlement of the dispute. Despite the delay in submitting this correspondence by the Claimant, the Arbitral Tribunal, admitted it to the case file. The Respondent did not address the issues outlined in PO No. 3, either within the deadline specified in PO No. 3 or after the deadline had passed.
70. On 1 March 2023, in preparation for the hearing, the Arbitral Tribunal did not find any payment orders confirming payment of an outstanding amount of the arbitration fee for the claim for recovery of RUB 755,414.73.
71. Moreover, the Parties' correspondence submitted by Claimant on 24 January 2023 listed, among other things, the following "*debts owed by [Respondent] to [Claimant]*":

Debt for the shipments

Additional Agreement No. 1 – EUR 312,616.

Additional Agreement No. 2 – RUB 3,322,600.

Specification No. 1 – RUB 755,414.

[Claimant's] costs:

Forfeit – RUB 159,815 (excluding delays under Additional Agreement No. 1 and Additional Agreement No. 2).

Exchange – RUB 1,961,265.

Court fee – RUB 332,907.

Legal costs – RUB 250,000."

¹⁹ PO No. 3 was on 17 February 2023, uploaded into OAS, sent to the Parties by e-mail ([e-mail]; [e-mail]), and on paper by the Russian post (Tracking Nos. [No], [No]).

72. In this regard, the Arbitral Tribunal invited the Claimant to indicate its claims in the present dispute. Based on the Claimant's response, the Arbitral Tribunal saw the following possible situations:
- 72.1. If the Claimant's claims are limited to RUB 2,122,080 as stated in the Request for Arbitration and determined in the Notice of Commencement of Arbitration, a hearing will be held on 3 March 2023 to consider the claims of:
- 72.1.1. RUB 1,962,265.82 losses for lost exchange profit;
- 72.1.2. RUB 95,815.08 forfeit for violation of payment terms for advance and shipped goods;
- 72.1.3. RUB 64,000.00 forfeit for violation of payment terms for prepayment.
- 72.2. If the Claimant's claims in addition to those outlined in Paragraph 1 include a claim for recovery of RUB 755,414.73 of debt for the delivered products, the value of the asserted claims was to be increased by USD 11,036.22 according to the following calculation: RUB 755,414.73 / RUB 68.4487 (per USD 1 at the exchange rate of the Bank of Russia as of the date of the assertion of this claim in the Claim) = USD 11,036.22.
- 72.2.1. Thus, the value of the claim in this instance would be 35,219.26 (value of the original claim) + 11,036.22 (value of the new claim) = 46,255.48 (USD). Accordingly, the arbitration fee for this claim would be USD 6,381.70.
- 72.2.2. Since the Claimant paid a fee of USD 5,443.63 for the claims asserted in the Request, to the Arbitral Tribunal to consider all the claims in the Claim at the hearing on 3 March 2023, the Claimant shall additionally pay USD 938.07 at the exchange rate of the Bank of Russia as of the date of the payment order no later than the hearing date according to the following calculation: 6,381.70 – 5,443.63 = 938.07 (USD).
- 72.2.3. If the Claimant was unable to make this additional payment before the hearing, but still considered it necessary for the Arbitral Tribunal to consider this claim, the Tribunal invited the Claimant to pay the outstanding amount of the fee within 10 days, i.e., up to and including 13 March 2023, and to postpone the hearing scheduled for 3 March 2023.
- 72.3. If the Claimant's claims included any additional claims listed in the correspondence submitted on 1 March 2023, but not yet advanced, the Claimant was invited to indicate them. In this event, the hearing scheduled for 3 March 2023 was proposed to be postponed.
73. The Arbitral Tribunal noted that, depending on the Claimant's position, it would decide later on how the proceedings were to be conducted. For this purpose, the Claimant was invited to submit its position until 15:00 Moscow time, 2 March 2023. Should the Claimant fail to elaborate within the specified time limit, the Tribunal would proceed based on the claims raised in the Claim, and the hearing scheduled for 3 March 2023 would be postponed until the Claimant paid the arbitration fee in full within 10 days or expressly waived this claim.
74. In response to the request of the Arbitral Tribunal, on 2 March 2023, at 16:18 Moscow time, the Claimant replied by e-mail, informing that the Parties did not reach an agreement following the negotiations and that the Claimant needed to revise its claims and to include there the debt indicated in its attached claim letter [No] of 1 March 2023, but since the pre-trial settlement period in the claim letter was 30 days, the Claimant was not able to revise the claims as of 3 March 2023.
75. The Arbitral Tribunal accepted these explanations of the Claimant despite the delay of 1 hour 18 minutes, and on the same day, in view of this information, the Parties were informed on behalf of the Arbitral Tribunal that the hearing scheduled for 3 March 2023, at 13:00 Moscow time, had been postponed and the Tribunal would later notify the Parties about the further course of the arbitration.
76. On 6 March 2023, by e-mail, the Parties were invited on behalf of the Arbitral Tribunal to do the following by 13 March 2023:
- 76.1. the Claimant – to clearly elaborate on the claim for recovery of RUB 755,414.73 debt for the delivered products, and if this claim remains among the claims – to pay the arbitration fee by 13 March 2023;

- 76.2. the Respondent – to elaborate on the possibility of the Claimant revising the claims. Failure of the Respondent to submit its position within the specified time limit shall be considered by the Tribunal as a lack of objection to the Claimant’s revision of its claims.
77. On 7 March 2023, in response to the request of the Arbitral Tribunal, the Respondent informed by e-mail that *“the Respondent objects to the Claimant’s revision of claims in this case.”*
78. On 9 March 2023, the Claimant submitted by e-mail that:
- 78.1. An amicable settlement of this dispute was negotiated, pursuant to which a plan for the Client [Company] to purchase the Claimant’s materials from the Respondent was provided.
- 78.2. The debt, according to the Claimant, was to be paid at the end of February, and the transfer of the materials was scheduled for 10 February 2023.
- 78.3. The Claimant did not revise its claims, as it expected to settle the dispute amicably, but the Respondent, in its view, misled the Claimant and thereby stalled.
- 78.4. However, as the Respondent did not meet these conditions, the Claimant reiterated its intention to revise its claim and to submit a revised Claim based on the full shipment of the materials.
- 78.5. The Claimant also sent a claim letter to the Respondent on 3 March 2023, for which the Claimant awaited the Respondent’s decision.
- 78.6. Finally, the Claimant informed that it would pay the arbitration fee of USD 938.07 on the same day. The Claimant later submitted the respective payment order confirming that it had made the additional payment in that amount.
79. In response to the Claimant’s communication, the Respondent e-mailed the following on the same day:
- 79.1. *“The Respondent “did not mislead the Claimant and thereby stall” because the planning timeframe and source data on which the decisions are based are the same as those that the Claimant had and has.”* The Respondent did not have any other information at the time it communicated certain data to the Claimant in February 2023, so only what the Respondent was aware of was offered.
- 79.2. The documents attached by the Claimant were not signed, to the knowledge of the Respondent, and the Respondent was not aware of the date on which they were drawn up.
80. On 14 March 2023, by Procedural Order No. 4 (PO No. 4),²⁰ the Arbitral Tribunal decided to:
- 80.1. Grant the Claimant’s motion to revise the claims.
- 80.1.1. The Claimant explained that the additional claims were not filed within the confirmed Procedural Schedule due to negotiations with the Respondent’s representative. To confirm this, on 1 March 2023, the Claimant provided the Parties’ correspondence that indeed showed that the Parties had attempted to resolve the dispute amicably.
- 80.1.2. The Arbitral Tribunal took into account that the Respondent had objected to the revision of the claims but noted that the Respondent had not provided any explanations or arguments as to why the additional claims could not be pursued.
- 80.2. Revise the Procedural Schedule – to postpone the hearing to 10 April 2023, at 13:00 Moscow time, via VC and to set the following time limits for the Parties to revise the claims and submit additional evidence:
- 80.2.1. The Claimant – to revise the additional claims by submitting the relevant evidence and pay the arbitration fee in full with respect to the asserted claims by 22 March 2023.

Among other things, the Arbitral Tribunal invited the Claimant to submit delivery notes for the delivered products and evidence confirming the absence of receipt of monies from the

²⁰ PO No. 4 was, on 14 March 2023, uploaded into OAS, sent to the Parties by e-mail ([e-mail]; [e-mail]), and, on 15 March 2023, on paper by the Russian post (Tracking Nos. [No], [No]).

Respondent to the Claimant's account from the date of the Respondent's obligation to pay under the Contract and Additional Agreements No. 1 and No. 2.

80.2.2. The Respondent – to object to the additional claims and evidence asserted and submitted by the Claimant by 3 April 2023.

80.3. If the payment of the arbitration fee in full, including with respect to the revised claims, would not be made by 22 March 2023, the Arbitral Tribunal reserved the right to postpone the hearing to an earlier date and to refuse to consider the Claimant's revised additional claims.

III.Ж. Revision of Claim of 22 March 2023

81. On 22 March 2023, the Claimant sent by e-mail a revised Claim (per Article 49 of the Commercial Procedure Code of the Russian Federation) [No] of 22 March 2023 (hereinafter – Revision of Claim No. 1, Revision of Claim of 22 March 2023), in which the Claimant sought to recover:

81.1. monies of RUB 4,078,214.73;

81.2. monies of EUR 312,616.86;

81.3. monies for late payment of RUB 825,692.68;

81.4. exchange losses of RUB 1,891,231.20.

In Revision of Claim No. 1, the Claimant stated the following.

82. The claims were revised because of the change in circumstances and the full shipment of products according to the Contract. Under the Contract, the delivery and payment schedules shall be stipulated by the Parties in the specification or the additional agreement to the Contract.

83. Under the Specification No. 1 of 15 December 2021, the Respondent shall pay for the products in the following order: prepayment of RUB 3,000,000 shall be paid within 3 working days from the date of signing of the specification by the Parties (20 December 2021). Final payment shall be made within 20 calendar days from the date of shipment of the products to the Buyer's warehouse. The Supplier delivered the products in line with Specification No. 1, which were accepted by the Buyer (according to the consignment notes), who did not raise any claims with respect to the delivered products, but at the same time violated the payment schedule for the delivered products (Annex No. 1). As of 22 March 2023, the Respondent's debt for the delivered products under the Specification No. 1 amounts to RUB 755,414.73.

84. If the Buyer violates the payment terms, the Buyer shall pay to the Supplier at its request an interest for the use of the other person's means of 1/300 of the discount rate, refinancing rate of the Central Bank of the Russian Federation in force at the time of payment of the debt for each day of delay from the debt amount. The Buyer violated the payment schedule for the products, thereby incurring a forfeit of RUB 161,907.73 (Annex No. 1).

85. Under Additional Agreement No. 2, the Respondent shall pay for the products in the following order: prepayment of RUB 6,000,000 shall be paid within 5 working days from the date of conclusion of the additional agreement (17 March 2022). The outstanding amount shall be paid within 20 working days from the date of performance of the Supplier's obligations to deliver the products in full. According to Additional Agreement No. 2, the last shipment was on 19 October 2022 (universal transfer document [No]), therefore, as of 17 November 2022, the Respondent's debt for the products supplied under Additional Agreement No. 2 amounts to RUB 3,322,800.

86. The Supplier delivered the products according to Additional Agreement No. 2, which were accepted by the Buyer (according to the consignment notes), who did not raise any claims with respect to the delivered products, but at the same time violated the payment schedule, which resulted in a forfeit of RUB 180,668.20 (Annex No. 3).

87. Under Additional Agreement No. 1, the Respondent shall pay for the products in the following order: prepayment of EUR 72,000 shall be paid within 5 working days from the date of conclusion of the additional agreement (17 March 2022). The outstanding amount shall be paid within 20 working days from the date of performance of the Supplier's obligations to deliver the products in full. According to Additional Agreement No. 1, the last shipment was on 16 December 2022 (universal transfer document

[No]), therefore, as of the payment date (20 January 2023), the Respondent's debt for the products supplied has amounted to EUR 312,616.86.

88. The Supplier delivered the products according to Additional Agreement No. 1, which were accepted by the Buyer (according to the consignment notes), who did not raise any claims with respect to the delivered products, but at the same time violated the payment schedule, which resulted in a forfeit of RUB 483,116.75 (Annex No. 2).
89. In Additional Agreement No. 1 the Parties agreed on the price of the delivered products in euros. Under this Agreement, the advance shall be paid within 5 working days from the date of signing of the Additional Agreement No. 1, i.e., 17 March 2022, but the Buyer violated this schedule. Since the payment was made on 1 April 2022, the Supplier incurred exchange losses of RUB 1,891,231.20, because at the time of payment, the euro-ruble exchange rate amounted to RUB 92.493, and if the payment had been made according to the Contract, this exchange rate would have amounted to RUB 118.7601 (Annex No. 2).
90. Under Clause 1.1 of the Contract, the Supplier shall deliver the products in line with the specification, and the Buyer shall accept the products and pay for them per the Contract and/or its annexes. The Supplier delivered part of the products in the volume and quantity stated in the Specification and the Additional Agreement to the Contract, having duly fulfilled its obligations under the Contract. Since the conclusion of the Contract, the Buyer has repeatedly delayed payment for the delivered products, the Claimant provided a calculation in the schedule of forfeit calculation (Annexes Nos. 1, 2, 3).
91. On 10 August 2022 and 1 March 2023, a claim letter for payment of debt and forfeit was sent to the Respondent, but the claims were not satisfied.
92. As of 22 March 2023, the Respondent's debt for the delivered products has amounted to RUB 4,078,214.73 and EUR 312 616,86.
93. Based on the above and under Articles 1, 6, 15, 309, 310, 330, 393, 405, 506, 516 of the Civil Code of the Russian Federation, Article 125 of the Commercial Procedure Code of the Russian Federation, Paragraph 2 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 7 of 24.03.2016 "On Court Application of Certain Provisions of the Civil Code of the Russian Federation regarding Liability for Breach of Obligations", the Claimant requested to grant the claims.
94. Since the Claimant submitted additional evidence and an order confirming payment of an outstanding amount of the arbitration fee together with its Revision of Claim No. 1, the Arbitral Tribunal, by Procedural Order No. 5 (PO No. 5),²¹ revised the Procedural Schedule and ordered:
 - 94.1. The Claimant, by the end of 30 March 2023, to:
 - 94.1.1. Explain each claim stated after the word "request" in the Revision of Claim No. 1, including clearly explaining which claims arise from the Specification, Additional Agreement No. 1, and Additional Agreement No. 2 to the Contract, and, in particular, how they were calculated.
 - 94.1.2. Explain and describe all claims for late payment from the date of filing the Claim on 27 December 2022 and the process of their aggregation at the time of revision of the Claim – separately for Specification No. 1, Additional Agreement No. 1, and Additional Agreement No. 2. Revision of Claim No. 1 reflected a variety of amounts drastically different from the claims included in the Claim of 27 December 2022 without clear explanations and calculations.
 - 94.1.3. Explain in the table form how all claims in the Claim of 27 December 2022 relate to the claims in the Revision of Claim No. 1 (identical to each other; correspond to each other but differ in the value of the claims; new claim, etc.) for the Arbitral Tribunal to assess the extent to which the Claimant has revised its claims and which claims have remained unchanged or have been changed only in terms of their amount.
 - 94.1.4. Explain all calculations related to the requested forfeits, namely by indicating the periods of delay, specifying the start date and end date of the period of delay, since the submitted calculations of forfeits did not always include all the necessary data to verify the calculations.

²¹ PO No. 5 was, on 28 March 2023, uploaded into OAS, sent to the Parties by e-mail ([e-mail]; [e-mail]), and on paper by the Russian post (Tracking Nos. [No], [No]).

94.1.5. Explain the amount of exchange losses, as the amount has decreased compared to the previously claimed amount in the Claim of 27 December 2022.

94.2. To ensure the equality of the Parties, grant the Respondent three additional days to the time limit set by the Arbitral Tribunal's Procedural Order No. 4 (i.e., until 6 April 2023) to object to the additional claims and evidence raised and submitted by the Claimant.

95. On 28 March 2023, in response to PO No. 5, the Respondent e-mailed "*categorical disagreement with respect to the claims for lost profit (exchange difference) raised by the Claimant, irrespective of their amount stated by the Claimant.*"

III.3. Revision of the Claim of 29 March 2023

96. On 29 March 2023, the Claimant sent by e-mail the revised Claim 2 of 29 March 2023 (under Article 49 of the Commercial Procedure Code of the Russian Federation) (hereinafter – Revision of Claim No. 2), explanations in response to PO No. 5 and the table of claims.

97. Revision No. 1 and Revision No. 2 differed in that the paragraph where the Supplier delivered the products according to the Additional Agreement No. 2, which were accepted by the Buyer (according to the consignment notes), who did not raise any claims with respect to delivered products, but at the same time violated the payment terms, which resulted in a forfeit of RUB 180,668.20 (Annex No. 3), the Claimant changed the amount to RUB 168,668.20 (Annex No. 3). Therefore, the statement of relief was also changed, where the Claimant requested to recover:

97.1. monies of RUB 4,078,214.73;

97.2. monies of EUR 312,616.86;

97.3. monies for late payment of RUB 813,692.68;

98. Exchange losses of RUB 1,891,231.20.

99. In the explanations accompanying the Revision of Claim No. 2, the Claimant stated the following.

100. Under Annex No. 1, the forfeit was calculated according to the shipment under Specification No. 1. Previously, there was a forfeit of RUB 95,815.08 calculated according to the formula: (debt * a number of days of delay * 1/300 * refinancing rate). Under this Specification, there were several shipments, and payment was made two times. The debt increased at each shipment and the forfeit was calculated by adding 20 days from the date of shipment. Therefore, the number of days of delay was calculated from the "Contract payment date". Therefore, the last shipment was on 25 April 2022, and the due date for payment was 15 May 2022, the debt amounted to RUB 755,414.73. In the Claim, the forfeit amounted to RUB 95,815.08, and RUB 65,242.65 was added to this amount on 22 March 2023. The total amount of the forfeit is RUB 161,907.73.

101. Under Annex No. 2, the forfeit was calculated according to the shipment under Additional Agreement No. 1. Additional Agreement No. 1 provides for an advance payment, and the Claim provides for a claim for late payment of the advance and a forfeit of RUB 70,768.74. This amount was calculated according to the formula: (EUR 72,000 * number of days of delay (16 days) * 1/300 * refinancing rate (20%)). The Claimant considered this calculation erroneous and corrected the error in Revision of Claim No. 1.

102. Calculation formula in Revision of Claim No. 1: EUR 72,000 * RUB 118.76 (Euro exchange rate as of the Contract payment date on 17 March 2022) = 8,550,727.20 * number of days of delay (16 days) * 1/300 * refinancing rate (20%) = RUB 91,207.76.

103. On 16 December 2022, the last shipment of products was made under Additional Agreement No. 1, thus, as of 20 January 2023, the Respondent was obliged to pay EUR 312,616.86. As of 16 March 2023, the forfeit for payment for the shipped products amounted to RUB 391,908.99.

104. Calculation formula of forfeit for the shipped products – EUR 312,616.86 * RUB 80.88 (Euro exchange rate as of the date of forfeit calculation on 16 March 2023) = 25,284,451.00 * number of days of delay (62 days) * 1/300 * refinancing rate (7,5%) = RUB 391,908.99.

105. Under Annex No. 3, the forfeit was calculated according to the shipment under Additional Agreement No. 2.

106. Additional Agreement No. 2 provides for an advance. Based on the statement of the current account, the advance was paid on 1 April 2022, which corresponds to the initial calculation. In Revision of Claim No. 1, the calculation was made as of 4 April 2022 (the date of receipt of monies).

107. Moreover, in Revision of Claim No. 1, the forfeit for fully shipped products was calculated for which the debt of RUB 3,322,800 arose. The payment was due on 17 November 2022. As of the date of calculation of the forfeit (22 March 2023), the amount of the forfeit was:

Calculation formula in the revised claim – the debt amount (RUB 3,322,800 * number of days of delay (126 days) * 1/300 * refinancing rate (7,5%) = RUB 104,668.20.

108. The Claimant intended to revise the claim with respect to the calculation according to Annex No. 3 because of calculation errors.

109. In response to the Claimant's revision, on 29 March 2023, the Respondent confirmed its strong disagreement with the Claimant's claims for lost profit (exchange difference), regardless of their amount raised by the Claimant.

110. On 7 April 2023, on behalf of the Arbitral Tribunal, the Parties were invited by e-mail to comment on the following and to prepare in advance positions and objections to be raised at the hearing:

110.1. Under Article 6 of the Contract, payment for delivery shall be made by the Buyer if both Parties sign the consignment note (TORG-12) and the Supplier submits the invoice and VAT invoice. The Claimant did not submit all consignment notes for the delivered products.

110.2. Under the Specification No. 1, the Claimant's representative submitted 7 delivery notes (which confirm delivery between 26 January 2022 to 18 February 2022) for a total of RUB 5,484,613.13. It follows from the calculation of the forfeit under Specification No. 1 (as of 22 March 2023) that on 8 April 2022 and 25 April 2022, there were 2 shipments of products for a total of RUB 525,009.06. The Claimant did not submit signed delivery notes for these 2 shipments.

110.3. Under Additional Agreement No. 2, the Claimant's representative submitted 6 delivery notes (which confirm delivery between 7 April 2022 to 19 October 2022 for a total of RUB 8,497,450). It follows from the calculation of the forfeit under Additional Agreement No. 2 (as of 22 March 2023) that on 27 April 2022 and 24 June 2022, there were 2 shipments of products for a total of RUB 824,940.00. The Claimant did not submit signed delivery notes for these 2 shipments.

110.4. Under Additional Agreement No. 1, the Claimant's representative submitted 5 delivery notes (which confirm delivery between 8 April 2022 to 16 December 2022). It follows from the calculation of forfeit under Additional Agreement No. 1 (as of 16 March 2023) there were 2 shipments of products on 6 May 2022 and 4 July 2022. The Claimant did not submit the signed delivery notes for these 2 shipments. Also, the Claimant provided a delivery note (No. 19 of 8 April 2022) with respect to the Additional Agreement No. 1, although this document was not included in the calculation of the forfeit.

110.5. The Claimant's calculations for each of the issues, including those from the table of claims submitted on 29 March 2023:

110.5.1. Amount of debt for the delivered products: RUB 1,755,414.73 (Specification No. 1) + 3,322,800 (Additional Agreement No. 2) = RUB 4,078,214.73.

110.5.2. The time limits of forfeit accrual in calendar periods (specify a precise start and end dates of the time limit (in the format from 00.00.0000 to 00.00.0000), the number of days of delay in the period, the rate in effect during the relevant period, since as of now only the number of days was given without any explanation) for all claims.

110.5.3. The amount of the debt of EUR 312,616 under Additional Agreement No. 1 and the official exchange rate of the Bank of Russia used to recalculate the claim to rubles.

110.5.4. The amount of the exchange difference (RUB 1,891,231.20 or "Additional Agreement No. 1 = RUB 1,916,926 (forfeit of RUB 70,768.74 added)", i.e., RUB 1,916,926 – 70,768.74 = RUB 1,846,157.26).

- 110.5.5. Effect of Resolution of the Government of the Russian Federation No. 497 of 28 March 2022 “On Imposition of Moratorium on Initiating Bankruptcy Proceedings Based on Applications Filed by Creditors” in force from 1 April 2022 to 1 October 2022 on the legal relations of the Parties.
- 110.5.6. Legal basis for the formula of forfeit calculation.
- 110.5.7. Explanations for all deliveries paid by the Respondent.
111. On 7 April 2023, the Claimant indicated that it is willing to provide explanations at the hearing and also requested the Arbitral Tribunal to acknowledge receipt of the following documents:
- 111.1. Specification No. 1 – universal transfer documents Nos. [No], [No], [No], [No], [No], [No], [No], [No], [No], [No]. Regarding the shipment of 8 April, the Claimant drew attention to the file of universal transfer document [No], the shipment of 25 April – to the file of universal transfer document [No];
- 111.2. Additional Agreement No. 2 – universal transfer documents Nos. [No], [No], [No], [No], [No], [No], [No], [No]. The shipments of products on 27 April and 24 June were contained in the file of universal transfer document [No];
- 111.3. Additional Agreement No. 1 (Euro) – universal transfer documents Nos. [No], [No], [No], [No], [No], [No], [No]. Shipments of products of 6 May and 4 July were contained in the file of universal transfer document [No].
112. On 8 April 2023, the Arbitral Tribunal informed the Claimant that the file of universal transfer document [No] was not received.
113. On 9 April 2023, the Claimant informed that the file exceeded 10 MB and was not put through [by mail server], thus, the Claimant attached a screenshot of this message and the universal transfer document [No].

III.H. The second hearing of 10 April 2023

114. The second hearing was held on 10 April 2023, at 13:00 Moscow time, with all participants via VC. The duly notified representative of the Respondent was not absent from the hearing.
115. During the hearing, the Claimant and the Arbitral Tribunal visually examined and compared the arithmetic and calendar calculations submitted by the Claimant in the case file. The Claimant supported the claims, acknowledged the arithmetical and technical errors in its calculations, and stated the following:
- 115.1. The Claimant made all deliveries under the Contract, Specification No. 1, and the Additional Agreements Nos. 1 and 2;
- 115.2. The products under Additional Agreement No. 2 were imported from the [EU], thus, the euro was used in the calculations and Additional Agreement itself. The remaining products were either from [CIS] or [CIS], where the Claimant had established supply chains;
- 115.3. The Claimant issued invoices according to the Contract but not VAT-invoices, however, no such evidence, including the invoices themselves, was submitted in the case file;
- 115.4. According to the Claimant, under Specification No. 1, payment shall be made within 20 days of each shipment and signing of shipping documents. Neither Specification No. 1 nor the subsequent Additional Agreements have wording as “full shipment of products”, “the entire volume of products”. The prepayment per Specification shall be paid on 20 December 2021 and was paid by the Respondent on 11 January 2022;
- 115.5. The Claimant issued an invoice [No] of 2 December 2021 that implied that all products intended for supply by the Claimant are to be paid. And under the Specification, advance shall be paid;
- 115.6. Under Specification No. 1, item [No] [materials] 3 pieces, was excluded from delivery, but the Claimant could not provide respective evidence;

- 115.7. There was an error in the basis of the universal transfer documents Nos. [No] and [No]: it provided for Additional Agreement No. 1, rather than for Specification No. 1. The Respondent, who had signed these documents, neither addressed this error nor did the Claimant contact him;
- 115.8. On 4 April 2022, the Respondent paid by two transfers: the first in the amount of RUB 2,254,208 under Specification No. 1 and the second in the amount of RUB 12,659,496, consisting of two parts – RUB 6,000,000 advance payment under Additional Agreement No. 2 and the remainder for Additional Agreement No. 1 when the amount of EUR 72,000 was converted into the ruble equivalent as of the payment date. The conversion was based on the exchange rate of the Central Bank of the Russian Federation. Also, under Specification No. 1, the Respondent made a prepayment of RUB 3,000,000 on 11 January 2022;
- 115.9. The Claimant took into calculation a forfeit, but not interest for the use of the other person's means. The Claimant relied on Article 395 of the Civil Code as the formula for the forfeit, but in the calculation formula, it erroneously used 1/300 of the refinancing rate. Due to these errors, the Claimant abandoned its formula for the forfeit calculation;
- 115.10. The Claimant explained the mechanism of the accrual of debt: an advance was made and, after the first shipment, the Claimant deducted the value of the shipment from this advance without claiming any debt. After the second shipment, a difference above the amount of the advance was already formed;
- 115.11. The Claimant made a technical error in the column for 7 February 2022, indicating for the same day two different discount rates of the Central Bank of the Russian Federation;
- 115.12. In calculating the exchange losses, which the Claimant classified as lost profit, the Claimant erroneously took 4 April 2022 (when the Claimant discovered the monies in the account) as the date of the rate fixing, whereas it was correct to take 1 April 2022, when the Respondent made the payment, as the reference date;
- 115.13. The Claimant interpreted Clause 12.6 of the Contract as referring only to the termination of the Contract;
- 115.14. The Claimant verbally confirmed its claims and their amount:
- 115.14.1. RUB 4,078,214 – this amount is made up from the calculation of the products delivered by the Claimant, comprising of debts under Specification and Additional Agreement No. 2 in the amounts of RUB 3,322,800 and RUB 755,414.73;
- 115.14.2. EUR 312,616.86;
- 115.14.3. The forfeit claim amounts to RUB 813,692.68, comprised of RUB 161,907.83 under Additional Agreement No. 2. RUB 483,116.75 under Additional Agreement No. 1 should be added to this amount.
- 115.15. In the context of the Resolution of the Government of the Russian Federation No. 497 “On Imposition of Moratorium on Initiating Bankruptcy Proceedings Based on Applications Filed by Creditors” in force between 1 April 2022 and 1 October 2022, the Claimant stated that neither Party has been currently planning to go bankrupt, and the Respondent, according to the Claimant, could pay its debts.

III.K. Request for further clarification and evidence

116. On 19 April 2023, following the hearing, the Arbitral Tribunal considered it impossible to make an award based on the existing case materials and deemed it necessary for the Parties to submit additional written explanations and evidence, therefore, by Procedural Order No. 5 (PO No. 5),²² the Tribunal revised the Procedural Schedule and ordered that:

116.1. The Parties be invited to submit evidence regarding the following:

²² PO No. 6 was, on 19 April 2023, uploaded into OAS, sent to the Parties by e-mail ([e-mail]; [e-mail]), and on paper by the Russian post (Tracking Nos. [No], [No]).

- 116.1.1. Shipment – explanations of the Parties regarding the order of payment for the products under Specification No. 1. In Specification No. 1, the column on payment reads as follows: “prepayment of RUB 3,000,000.00 within 3 working days”, “final payment within 20 calendar days from the date of shipment of products to the Buyer’s warehouse.” The Claimant’s representative explained that the order of payment indicates that the Respondent should pay for the products after each shipment, and not after the full shipment of the products, as is stated in Additional Agreements Nos. 1 and 2. The Claimant’s representative indicated that he could provide correspondence between the Parties indicating that both Parties, by concluding Specification No. 1, had implied that payment would be made after “each shipment.”
- 116.1.2. The Arbitral Tribunal recommends the Parties to comment on the following:
- 116.1.2.1. The Claimant – to provide by 2 May 2023 the Parties’ correspondence supporting the above-stated interpretation of the order of payment for the products.
- 116.1.2.2. The Respondent may raise by 2 May 2023 a reasoned objection to the Claimant’s submission of the respective additional evidence.
- 116.2. The batch of products [No] under Specification No. 1 of RUB 163,200.00 was not shipped to the Buyer. Thus, according to the Claimant’s representative, this batch was excluded by the Parties’ mutual agreement. Both Parties were requested to explain this matter by 2 May 2023.
- 116.3. On 9 April 2023, the Claimant’s representative submitted the file “universal transfer document [No]” with additional delivery notes under Specification No. 1, Additional Agreements Nos. 1 and 2.
- 116.3.1. The Respondent shall object (if any) by 2 May 2023 to the admission of this evidence that was submitted outside the Procedural Schedule.
- 116.3.2. The Respondent shall comment on the payment of RUB 12,659,496 that was sent to the Claimant on 4 April 2022, including explaining by 2 May 2023 under which agreements and for which shipments this payment was made.
- 116.4. The Claimant shall, within 10 days, i.e., by 2 May 2023, pay an outstanding amount of arbitration fee of USD 446,19 at the exchange rate of the Bank of Russia as of the date of this additional payment due to the addition of its claims in Revision of Claim No. 1.
117. On 24 April 2023, the Claimant submitted by e-mail and OAS an order for additional payment of the arbitration fee, additional evidence, and explanations [No] of 24 April 2023, which the Claimant asked to admit to the case file and where it stated the following.
118. According to the business practices, the Parties understood the clause “final payment within 20 calendar days from the date of shipment of the products to the warehouse” as payment for the delivered products after each shipment. This is also confirmed, in the Claimant’s view, by the fact that the Respondent paid for the delivered products according to payment order [No] of 1 April 2022, where the purpose of payment indicated that payment was made for the products under invoice [No] of 2 December 2022. According to the Claimant, the Parties have mutually understood this clause as stipulating payment within 20 calendar days after “each shipment.”
119. The Claimant also noted that the Respondent on 10 August 2022 in its reply to the claim letter acknowledged the existing debt to the Claimant and undertook to pay it in full within 30 calendar days.
120. A letter (information letter) was sent to the Claimant according to which the products in the form of a batch of goods [No] of RUB 163,200 could not be delivered because of the geopolitical situation. The Claimant sent this letter to the Respondent. The Respondent did not object and as of now, the Parties have not reached a written agreement on this matter.
121. The Claimant noted that it had sent all the files in the revised Claim, including the universal transfer document [No], but because of the excessive size of the file, it was not received by the Parties. Earlier information about this technical failure was communicated to the Parties.
122. On 26 April 2023, the Respondent e-mailed additional evidence and explanations, where it stated that two advance invoices of RUB 12,659,496 were paid – [No] of 1 March 2022 for RUB 6,000,000 under Additional Agreement No. 2 and [No] of 1 March 2022 for EUR 72,000 under Additional Agreement No.

1, which at the exchange rate as of the date of payment on 1 April 2022 (EUR 1 = RUB 92.4930) equals RUB 6,659,496.

III.Л. Positions of the Parties on arbitration costs

III.Л.1. Claimant's position

123. On 17 April 2023, the Claimant submitted via e-mail and through OAS an application for recovery of costs [No] of 17 April 2023 (hereinafter – Application). In the Application, the Claimant requested to recover from the Respondent arbitration costs of RUB 3,684,611.28, supporting it by the following.

124. The Claimant incurred costs, namely:

124.1. Costs for payment of the arbitration fee of RUB 2,034,611.28, as confirmed by the payment orders Nos. [No], [No], [No], [No], [No].

124.2. Costs for representation services of RUB 1,650,000.

125. The Claimant (hereinafter also referred to as – Principal) and [Name] (hereinafter – Contractor) entered into Legal Services Agreement [No] of 2 September 2022 with respect to the arbitration. Under the Legal Services Agreement [No] of 2 September 2022, [Name] shall provide the Claimant with legal services to represent the rights and legitimate interests of the Claimant in the RAC case concerning the recovery of debt from the Respondent, including:

125.1. legal advice;

125.2. legal review of documents;

125.3. receiving correspondence addressed to the Principal from the Arbitral Tribunal, informing the Principal about all legal matters related to the subject matter of this Agreement;

125.4. drafting and sending a claim letter to the Respondent under the Contract;

125.5. drafting and sending a claim to the RAC under the Contract;

125.6. meeting with the Respondent for pre-trial dispute settlement;

125.7. representation of the Claimant's interests in the RAC.

126. Under Clause 4.1 of this Agreement, the Principal paid the Contractor RUB 1,650,000 for the work, which is confirmed by the payment order [No] of 16 September 2022 and [No] of 17 April 2023.

127. According to the acceptance and delivery certificate of 11 April 2023, the Claimant received legal services for the representation in the RAC case concerning the debt recovery, including:

127.1. verbal consultation by a lawyer at a personal meeting in the Principal's office (analysis of documents and circumstances of the case, preliminary development of a legal position, correction of documents, recommendations on the strategy of further actions);

127.2. receiving correspondence addressed to the Principal from the Arbitral Tribunal, informing the Principal about all legal matters related to the subject matter of this Agreement;

127.3. drafting and sending a claim letter to the Respondent under the Contract;

127.4. drafting and sending a claim to the RAC;

127.5. meeting with the Respondent for pre-trial dispute settlement;

127.6. drafting and sending the Revision of Claim;

127.7. participation in hearings at the RAC.

128. In total, under Agreement [No] of 2 September 2022, the services of RUB 1,650,000 were rendered to the Claimant.

III.Л.2. Respondent's position

129. On 26 April 2023, the Respondent objected by e-mail to a possible award on recovery of additional costs in favor of the Claimant of RUB 1,5 million under Clause 4.3.2 of the Legal Services Agreement [No] of 2 September 2022 submitted by the Claimant.

130. The total value of the Claimant's legal costs, in the Respondent's view, was clearly non-marketable. In the Award, the Respondent asked for their substantial reduction.
131. In support, the Respondent attached a similar request in another case involving the Respondent, which was pending before the RAC concurrently with the present case and was, in the Respondent's view, of a similar nature. In that case, all legal costs amounted to RUB 300,000, which the Respondent believed was reasonable and justified. The Respondent assumed that the Claimant in the present case and the claimant in the other case had coordinated their actions:
- 131.1. Despite the formal absence of affiliation, the claimants had an address in the same building on the same floor;
- 131.2. They pursued the same procedural strategy (including filing claims with the RAC under the contract for exchange difference as lost profit, submitting claims to the RAC / applications for recovery of arbitration costs several days apart, etc.);
- 131.3. The numbers of the supply contracts of Respondent with the Claimant ([No]) and the claimant in another case ([No]) followed one after the other and were entered into on the same date.
132. Meanwhile, the cost structure differed significantly between these parties, while the cases were similar.

III.M. Extension of arbitration

133. On 28 April 2023, the Arbitral Tribunal applied for an extension of the arbitration because of the attempts to settle the dispute amicably, numerous calculation errors and revisions made by the Claimant to its claims, and new arguments and evidence not previously submitted in the case file, including those beyond the arbitration's time limit.
134. On 12 May 2023, based on the application of the Arbitral Tribunal of 28 April 2023, by the Order of the RAC Board²³ the time limit of the present arbitration was extended by 30 days up to and including 21 June 2023 due to the need for additional time to make an award taking into account the new evidence received.
135. 20 June 2023 The Arbitral Tribunal applied for an extension of the arbitration to ensure the correctness of the calculations and the fairness of the award due to arithmetical errors and deficiencies in the determination of calendar dates, which made it difficult to resolve the issues related to the allocation of the arbitration fee in this case.
136. On 21 June 2023, based on the application of the Arbitral Tribunal of 20 June 2023,²⁴ by the Order of the RAC Board the time limit of the present arbitration was extended by 30 days up to and including 21 July 2023, to resolve the issues related to the allocation of the arbitration fee.

²³ The Order of the RAC Board of 12 May 2023 together with Application of the Arbitral Tribunal of 28 April 2023 was, on 22 May 2023, uploaded into OAS and sent to the Parties by e-mail ([e-mail]; [e-mail]).

²⁴ The Application of the Arbitral Tribunal of 20 June 2023 was, on 21 June 2023, uploaded into OAS and sent to the Parties by e-mail ([e-mail]; [e-mail]).

IV. REASONING OF THE AWARD

IV.A. Jurisdiction of the Arbitral Tribunal

137. The parties to the arbitration are a legal entity established under Russian law and located in the territory of the Russian Federation (Claimant) and a legal entity established in a foreign country (Italian Republic), represented by a branch registered and located in the territory of the Russian Federation (Respondent).

138. Under Paragraph 1 of Article 23 of the Arbitration Rules, the parties to the arbitration may, at their discretion, agree on the place of arbitration or the procedure for its determination. The Parties agreed in Clause 16.4 of the Supply Contract that the place of arbitration shall be Moscow. The Arbitral Tribunal determined that the law applicable to the procedure of arbitration shall be the law of the place of arbitration, i.e., the law of the Russian Federation, namely the Law of the Russian Federation No. 5338-I of 7 July 1993 “On International Commercial Arbitration” (hereinafter – the Law on ICA).

139. According to Paragraph 3 of Article 1 of the Law on ICA, disputes arising out of civil law relationships in the course of carrying out foreign trade and other types of international economic relations may be referred to international commercial arbitration if the place of business of at least one party is abroad or if any place where a substantial part of the obligations out of the relationship of the parties is to be performed or the place with which the subject matter of the dispute is most closely connected are located abroad, subject to the existence of a concluded arbitration agreement.

140. According to Paragraphs 1 and 2 of Article 7 of the Law on ICA, an arbitration agreement is an agreement of the parties in writing to submit to arbitration all or certain disputes that have arisen or may arise between them in respect of a defined legal relationship or a part thereof, regardless of whether or not the legal relationship is of a contractual nature. An arbitration agreement may be concluded as an arbitration clause in a contract or as a separate agreement. The arbitration agreement shall be concluded in writing.

141. The Contract in Clause 16.4 contains an arbitration agreement in which the Parties agreed as follows:

“...any dispute, controversy or claim arising out of and in connection with this Contract (including this arbitration clause), including those relating to its breach, conclusion, amendment, interpretation, termination or invalidity, shall be referred to and resolved by resorting to arbitration at the Russian Arbitration Center at the autonomous non-profit organization “Russian Institute of Modern Arbitration” (119017, Russia, Moscow, Kadashevskaya Naberezhnaya, d. 14, k. 3, E-mail: info@centerarbitr.ru, tel. +7 (495) 797-9477) in accordance with the provisions of its Arbitration Rules.

The arbitration, including the adoption of the award or order, shall take place in Moscow. Russian Federation, the seat of the proceedings.

The arbitration shall be conducted in accordance with the laws of the Russian Federation, except for any provisions or principles relating to jurisdictions other than the jurisdiction of the Russian Federation (...).

All decisions of the arbitrator shall be made in accordance with the Arbitration Rules, in writing, and shall be final and binding on the Parties, which expressly exclude any rights of appeal against any decision to the extent that such exclusion may validly be made.”

142. The claim procedure agreed by the Parties in Clause 16.3. of the Contract was complied with by sending a claim letter of 10 August 2022. The Respondent did not reply to the claim letter within the contractual time limit.

143. During the arbitration, the Parties did not raise challenges to the Arbitral Tribunal or object to the jurisdiction of the Tribunal. Based on the arbitration agreement and the applicable laws of the Russian Federation, the Arbitral Tribunal finds jurisdiction to hear the dispute.

IV.B. Conclusions of the Arbitral Tribunal on the merits

144. The Arbitral Tribunal reached the following conclusions based on the analysis of the written claims and defenses, examination of the evidence, and taking into account the results of the hearing.

145. The Parties concluded the Supply Contract [of Products] on 15 December 2021. In addition, on 15 December 2021, the Parties entered into Specification No. 1, and on 10 March 2022, the Parties concluded Additional Agreement No. 1 and Additional Agreement No. 2. In Specification, Additional Agreement No. 1 and Additional Agreement No. 2 the Parties stipulated name of the delivered products and payment terms. Under Specification No. 1 and Additional Agreement No. 2 payment is made in rubles, and payment under Additional Agreement No.1 is made in euros.
146. The Claimant's claims come down to recovery from the Respondent in favor of the Claimant of the debt for the products delivered under Specification No. 1, Additional Agreement No. 1, and Additional Agreement No. 2. The Claimant also requests to recover the forfeit for late payments under Specification No. 1, Additional Agreement No. 1 and Additional Agreement No. 2 and interest for wrongful retention of funds charged on the amount of debt. Moreover, the Claimant seeks recovery of exchange losses.
147. The Claimant made deliveries of products under Specification No. 1, Additional Agreement No. 1, and Additional Agreement No. 2 in full as follows from the case file. The Respondent accepted the products without objections and signed the delivery notes (TORG-12). The Respondent does not dispute the fact that the Claimant fulfilled its obligations to supply the products. The Respondent also does not challenge its debts for the delivered products and late payment for them. As evidenced by the case file, the Respondent did not contest the Claimant's calculations of the debt and forfeit. Nevertheless, the Respondent contests reimbursement of exchange losses asserted by the Claimant in the Reply to the Claim and subsequent correspondence.

IV.B.1. Debt for delivered products

148. Under Articles 309, 310 of the Civil Code, obligations must be duly fulfilled according to the terms of the obligation and the requirements of the law, and other legal acts, and in the absence of such terms and requirements, according to the business usages or other customary requirements. Under Article 310 of the Civil Code, unilateral refusal to fulfill obligations is not allowed.
149. According to the revised Claim (of 29 March 2023), the Claimant requests to recover the debt for the delivered products under Specification No. 1 and Additional Agreement No. 2 of RUB 4,078,214.73 and under Additional Agreement No. 1 of EUR 312,616.86. The Claimant submitted delivery notes confirming delivery of all batches of products per terms stipulated by the Parties. As of now, the Respondent has paid the debt under Additional Agreement No. 1 and Additional Agreement No. 2 of RUB 12,659,496. The Respondent has also made two payments under Specification No. 1 for RUB 6,205,462.73.

IV.B.1.i. Specification No. 1

150. Under the delivery terms in Specification No. 1 of 15 December 2021 on delivery of products for a total of RUB 6,205,462.73 (including VAT), the Supplier shall pay for the products in the following order: prepayment of RUB 3,000,000 (excluding VAT) within 3 working days from the date of signing of the specification by the Parties. Final payment shall be made within 20 calendar days from the date of shipment of the products to the Buyer's warehouse.
151. It follows from the case file that the Supplier made 7 shipments of the goods during 26 January 2022–25 April 2022, which is confirmed by delivery notes signed by the Respondent and the Claimant (see Table No. 1). The Claimant made two shipments of products on 28 January 2022. The Claimant also made two shipments of products on 2 February 2022. The Arbitral Tribunal established that the dates of the respective shipments are 28 January 2022 and 2 February 2022 for calculation in the present case.
152. The Claimant explained at the hearing that delivery notes [No] of 8 April 2022, [No] of 25 April 2022, which the documents refer to Additional Agreement No. 1, were, in fact, carried out under Specification No. 1. The Claimant explained that the paperwork of the Claimant's accounting department contained a technical error. The Arbitral Tribunal accepted the Claimant's arguments by admitting delivery notes Nos. [No], [No] to the evidence of delivery of products under Specification No. 1. The Arbitral Tribunal concluded that the name of the products delivered under delivery notes Nos. [No], [No] aligned with the list of names of the products in the Specification. Both notes were signed by representatives of the Claimant and the Respondent. During the proceedings, the Respondent did not object to the timing and authenticity of the evidence, even though the Respondent was able to challenge the Claimant's calculations, which were made with reference to the delivery notes confirming the delivery of the products. Moreover, the Arbitral Tribunal, in PO No. 6, invited the Respondent to object to the submission

of additional evidence, including with respect to one of the aforementioned delivery notes. The Respondent did not use this opportunity.

153. It follows from the case file that the Respondent paid the advance of RUB 3,000,000 that was credited to the Claimant's account on 11 January 2022. The Respondent also partially paid a debt for the delivered products of RUB 2,254,208 on 1 April 2022. Payment of the remaining amount under Specification No. 1 was not made.

154. The transfer of RUB 2,254,208 by the Respondent is confirmed by a statement from the Claimant's personal account. The Claimant in its calculations indicated 4 April 2022 as the date of partial payment of the debt of RUB 2,254,208. This date, in the Arbitral Tribunal's view, is erroneous. The monies were debited from the Respondent's account on 1 April 2022 but were credited to the Claimant's account on 4 April 2022. Pursuant to Clause 6.3 of the Contract, the Buyer's obligations shall be deemed to have been fulfilled from the moment the monies are debited from the correspondent account of the Buyer's bank, i.e., on 1 April 2022.

155. During the hearing, the Claimant stated that under Specification No. 1 the products under [No] [materials] of RUB 163,200 (excluding VAT) had not been delivered to the Buyer. The Claimant stated that the batch of products [No] was not shipped by mutual agreement of the Parties. As the Respondent was not present at the hearing, the Arbitral Tribunal requested its position on the matter. The Respondent did not object or explain the exclusion of batch [No] from the deliveries under Specification No. 1. Notably, the Respondent furnished evidence and explanations on the other issues requested by the Arbitral Tribunal in PO No. 6 of 19 April 2023. From this, it can be concluded that the Respondent did not object to the exclusion of batch [No] from the deliveries under Specification No. 1. Consequently, the debt amount was reduced by RUB 163,200 excluding VAT or by RUB 195,840 including VAT.

156. Thus, the Respondent's debt with respect to the products, whose deliveries are confirmed by the respective universal transfer documents, under Specification No. 1 amounts to RUB 755,414.73.

Specification No. 1					
Date of shipment	Delivery note	Consignment note	Amount (including VAT)	Invoice	Claimant's Exhibit
26 January 2022	[No] of 26 January 2022	[No] of 2 December 2021	RUB 84,000.00	[No] of 2 December 2021	universal transfer document [No]
28 January 2022	[No] of 28 January 2022	[No] of 15 December 2021	RUB 3,510,510.00		
28 January 2022	[No] of 28 January 2022		RUB 13,680.00		
2 February 2022	[No] of 2 February 2022		RUB 19,980.00		
2 February 2022	[No] of 2 February 2022		RUB 580,404.00		
7 February 2022	[No] of 7 February 2022		RUB 306,499.13		
18 March 2022	[No] of 18 March 2022		RUB 969,540.00		
8 April 2022	[No] of 8 April 2022		RUB 250,929.60		
25 April 2022	[No] of 25 April 2022	RUB 274,080.00	universal transfer document [No]		

Total:	RUB 6,009,622.73
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Table No. 1

IV.B.1.ii. Additional Agreement No. 1

157. The Additional Agreement No. 1 of 10 March 2022 governs the delivery of products for a total of EUR 384,616,80 (including VAT). Notably, the Claimant made a mistake and indicated that the total amount of delivery under Additional Agreement No. 1 is EUR 384,616.86 (including VAT). In fact, under the Additional Agreement No. 1 of 10 March 2022 the total amount of delivery of products is EUR 384,616.80 (including VAT). Moreover, the Parties made rounding in calculations during conclusion of the Additional Agreement No. 1. For example:

157.1. the price per 1 piece of products under the name [materials] (item [No]) is EUR 1,013.11, but for products in the quantity of 55 pieces, the price as calculated by the Parties is EUR 55,721.00 instead of EUR 55,721.05;

157.2. the price per 1 piece of the products under the name [materials] (item [No]) is EUR 114.87, but for the products in the quantity of 6 pieces, the price as calculated by the Parties is EUR 688.00 instead of EUR 688.02;

157.3. the price per 1 piece of the products under the name [materials] (item [No]) is EUR 3,631.08, but for the products in the quantity of 48 pieces, the price as calculated by the Parties is EUR 174,292.00 instead of EUR 174,291.84;

157.4. the price per 1 piece of the products under the name [materials] (item [No]) is EUR 1,254.38, but for the products in the quantity of 55 pieces, the price as calculated by the Parties is EUR 68,991.00 instead of EUR 68,990.90.

158. Under Clause 2.1 of Additional Agreement No. 1, the Buyer shall pay for the products in the following order: prepayment of EUR 72,000 shall be paid within 5 working days from the date of conclusion of Additional Agreement No. 1. The outstanding amount shall be paid within 20 working days from the date of performance of the Supplier's obligations to deliver the products in full. Clause 2.1 of Additional Agreement No. 1 also states that the invoice for the products shall be issued in euros and the Buyer shall pay in rubles at the exchange rate as of the payment day set by the Seller's bank, i.e., [Bank]. The Parties did not provide evidence of a specific bank rate at which the calculation should be made. It follows from the evidence and the minutes of the hearing, that both Parties used the rates of the Bank of Russia, without ever mentioning the [Bank's] exchange rate. Thus, the Arbitral Tribunal considers it reasonable to apply the exchange rate of the Bank of Russia to calculate the Respondent's debt.

159. It follows from the case file that the Claimant made 6 shipments of products between 19 April 2022 and 16 December 2022, which are confirmed by the delivery notes signed by the Respondent and the Claimant (see Table No. 2). Nevertheless, while examining the deliveries made by the Claimant, the Arbitral Tribunal paid attention to the following circumstances. The products under the name [materials] indicated in the delivery note [No] of 12 July 2022 of RUB 5,592,431.96 were also shipped by the Claimant and delivered in the same quantity of 55 pieces under delivery note [No] of 29 August 2022. At the same time, Additional Agreement No. 1 does not provide for the re-delivery of these products, and during arbitration, the Parties did not inform about the existence of any other arrangements between them. Meanwhile, the Arbitral Tribunal cannot but note that the description of both deliveries refers to Additional Agreement No. 1 under invoice [No] of 1 March 2022, but the price for the same quantity of products varies from RUB 5,462,748.51 (delivery note [No] of 29 August 2022) to RUB 5,592,431.96 (delivery note [No] of 12 July 2022). On this basis, the Arbitral Tribunal decided to exclude the delivery under delivery note [No] of 12 July 2022 of RUB 5,592,431.96. This exclusion eliminates the claim beyond the Arbitral Tribunal's jurisdiction from the calculation under Additional Agreement No. 1.

160. The Respondent paid an advance of EUR 72,000, which amounted to RUB 6,659,496.00 at the exchange rate of the Bank of Russia as of the date of payment on 1 April 2022 (EUR 1 = RUB 92.4930). The payment is confirmed by a statement from the Claimant's personal account and a statement from the Respondent's bank. Payment of the outstanding amount under Additional Agreement No. 2 was not made.

161. The Claimant indicated an incorrect date in its calculations, i.e., 4 April 2022, for the payment of the advance of EUR 72,000. The monies were debited from the Respondent's account on 1 April 2022 but were credited to the Claimant's account on 4 April 2022. Pursuant to Clause 6.3 of the Contract, the Buyer's obligations shall be deemed to have been fulfilled from the moment the monies are debited from the correspondent account of the Buyer's bank, i.e., on 1 April 2022. The Claimant acknowledged its mistake, which is confirmed by the minutes of the hearing.

162. Thus, the Respondent's debt under Additional Agreement No. 1 amounts to EUR 312,616.80 (EUR 384,616.80 – EUR 72,000).

Additional Agreement No. 1						
Date of shipment	Delivery note	Consignment note	Amount (in euros according to the Additional Agreement No. 1, excluding VAT)	Actual amount (in rubles upon delivery, including VAT)	Invoice	Claimant's Exhibit
19 April 2022	[No] of 19 April 2022	[No] of 15 December 2021	* partial delivery of goods 16 pieces * EUR 1,013.11 = 16,209.76	1,703,271.37	[No] of 1 March 2022	universal transfer document [No]
			6,288.00	660,723.64		
			1,794.00	188,507.99		
254.00	25,907.08					
523.00	43,973.55					
688.00	57,846.65					
836.00	70,290.41					
1,224.00	102,913.23					
4 July 2022	[No] of 4 July 2022		9,903.00	750,125.71		
29 August 2022	[No] of 29 August 2022		68,991.00	5,462,748.51		

						November 2022
16 December 2022	[No] of 16 December 2022		174,292.00	18,715,928.17		– universal transfer document [No]
			* partial delivery of products 39 pieces * EUR 1,013.11 = 39,511.29	3,458,742.34		
Total in euros (excluding VAT):					EUR 320,514.00	
Total in euros (including VAT):					EUR 384,616.80	
Total in rubles (including VAT according to actual shipments):					RUB 31,240,978.65	

Table No. 2

* The delivery of the products [materials] (item [No]) was divided into 2 parts, whereby, as noted above, the Parties agreed on the price of 55 pieces of the products at EUR 55,721.00 instead of EUR 55,721.05, and it was the agreed price that was used in the final calculation.

IV.B.1.iii. Additional Agreement No. 2

163. Under Clause 2.1 of the Additional Agreement No. 2 of 10 March 2022 that governs the delivery of products for a total of RUB 9,322,800 (including VAT), the products shall be delivered through advance payment to the Supplier's current account of RUB 6,000,000 (including VAT) within 5 working days from the date of signing of Additional Agreement No. 2 by the Parties. Final payment of 3,322,800 (including VAT) shall be made within 20 working days from the date of full shipment of the products to the Buyer's warehouse.

164. It follows from the case file that the Claimant made 8 shipments of products between 7 April 2022 and 19 October 2022, which is confirmed by delivery notes signed by the Respondent and the Claimant (Table No. 3). On 1 April 2022, the Respondent paid an advance of RUB 6,000,000, which is confirmed by a statement from the Claimant's personal account and a statement from the Respondent's bank. Payment of the outstanding amount under Additional Agreement No. 2 was not made.

165. In its calculations, the Claimant indicated an incorrect date of payment of the advance of RUB 6,000,000. The monies were debited from the Respondent's account on 1 April 2022 but were credited to the Claimant's account on 4 April 2022. Pursuant to Clause 6.3 of the Contract, the Buyer's obligations shall be deemed to have been fulfilled from the moment the monies are debited from the correspondent account of the Buyer's bank, i.e., on 1 April 2022.

166. Thus, the Respondent's debt under Additional Agreement No. 2 amounts to RUB 3,322,800 (RUB 9,322,800 – RUB 6,000,000).

Additional Agreement No. 2					
Date of shipment	Delivery note	Consignment note	Amount (including VAT)	Invoice	Claimant's Exhibit
167.7 April 2022	168.[No] of 7 April 2022	169.[No] of 15 December 2021	170.RUB 1,080,000.00	171.[No] of 1 March 2022	172.universal transfer document [No]
173.12 April 2022	[No] of 12 April 2022		174.RUB 823,500.00		

175.15 April 2022	176.[No] of 15 April 2022		177.RUB 1,357,950.00		
179.15 April 2022	180.No. 23 of 15 April 2022		181.RUB 364,410.00	182.[No] of 15 April 2022	178.universal transfer document [No]
183.19 April 2022	184.[No] of 19 April 2022		185.RUB 2,187,000.00	186.[No] of 1 March 2022	190.universal transfer document [No]
187.27 April 2022 – Claimant // 31 April 2022 – Respondent	188.[No] of 27 April 2022		189.RUB 152,940.00		
191.24 June 2022	192.[No] of 24 June 2022		193.RUB 672,000.00		
194.19 October 2022	195.[No] of 19 October 2022		196.RUB 2,685,000.00		
In total:				198.RUB 9,322,800	

Table No. 3

IV.B.1.iv. Overall debt

200. The overall debt under Specification No. 1, Additional Agreement No. 2, and Additional Agreement No. 1 amounts to RUB 755,414.73, RUB 3,322,800, and EUR 312,616.80 respectively.

IV.B.2. Forfeit

201. According to Item 1 of Article 330 of the Civil Code, the forfeit (the fine, the penalty) shall be recognized as the monetary sum, defined by the law or agreement, which the debtor is obliged to pay to the creditor in case of his non-discharge, or an improper discharge, of the obligation, in particular, in the case of the delay of the discharge. By the claim for the payment of the forfeit, the creditor shall not be obliged to prove that the losses have actually been inflicted upon him.

202. The forfeit or other penalties regarding late payment by the Buyer to the Supplier are not specified in the Supply Contract, Specification No. 1, and Additional Agreements Nos. 1, 2. The Claimant submitted the calculation of the forfeit under Specification No. 1, Additional Agreements Nos. 1, 2, guided by the formula 1/300 for each day of delay at the discount rate of the Bank of Russia. Under Article 332 of the Civil Code, the creditor has the right to claim the payment of the forfeit defined by law (the legal forfeit), irrespective of whether the obligation for its payment has been stipulated by the agreement of the parties. In this case, the law does not provide for the accrual of a forfeit. In the Claim, the Claimant requests the accrual of a forfeit and interest for the use of the other person's means, referring to Articles 330 and 395 of the Civil Code. The Claimant made an incorrect calculation. The Claimant referred to the forfeit, but not the interest for the use of the other person's means. The Claimant relied on Article 395 of the Civil Code as a formula for the forfeit, but it mistakenly used a 1/300 refinancing rate.

203. At the hearing, the Claimant admitted that it had erroneously sought a forfeit not provided for in the Contract and that the Claimant had, in fact, made calculations (despite the arithmetical errors it had made) under Article 395 of the Civil Code. Moreover, the Claimant requested the Arbitral Tribunal to correct the errors it had made in its calculation (*"It is most likely that a mistake has been made, and you will correct me"*).

204. According to Item 4 of Article 395 of the Civil Code and Paragraph 42 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 7 of 24 March 2016 “On Court Application of Certain Provisions of the Civil Code of the Russian Federation regarding Liability for Breach of Obligations”, the recovery of interest for the use of the other person’s means, unless otherwise provided by contract or law, is unlawful if the creditor may recover contractual or legal forfeit. Such an opportunity is not available to the Claimant. Thus, the Claimant is entitled to demand payment of interest for the use of the other person’s means (Article 395 of the Civil Code). Under Item 1 of Article 395 of the Civil Code, in cases of illegal retention of monies, avoidance of its return, another kind of delay in payment, ungroundless receipt, or saving at the expense of the other person are considered as illegal retention of monies. The amount of interest is defined by the Bank of Russia discount rate in force during the relevant periods.

IV.5.3. Interest for the use of the other person’s means

205. Therefore, taking into account the Claimant’s position, the interest under Article 395 of the Civil Code shall be recovered according to the formula:

amount of debt x number of days of delay x rate of the Bank of Russia in force during the period of delay /
100 / 365

206. The Arbitral Tribunal calculated the amount of interest under Specification No. 1, Additional Agreements Nos. 1,2, and found the following.

207. According to Paragraph 39 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 7 of 24 March 2016 “On Court Application of Certain Provisions of the Civil Code of the Russian Federation regarding Liability for Breach of Obligations”, the amount of interest for the use of the other person’s means, accrued for periods of delay occurring after 31 July 2016, is determined based on the discount rate of the Bank of Russia in force during the relevant periods. Under Paragraph 54 of this Resolution, interest accrues from the day when the goods should have been paid under the contract. Per Item 3 of Article 395 of the Civil Code, interest is charged up to the day of payment of monies. According to Paragraph 67 of this Resolution, the period of calculation of interest also includes the day of actual performance of obligations. The Arbitral Tribunal found that 22 March 2023 is the end date for the calculation of interest (except for the advance) under Additional Agreements Nos. 1 and 2, which is the date when the Claimant revised its claim.

208. The Claimant submitted to the RAC a motion of 22 March 2023 on the increase of the claim, requesting the accrual of forfeit up to and including 22 March 2023. The Arbitral Tribunal granted the Claimant’s motion and invited the Claimant to, inter alia, explain all calculations related to the sought forfeits, namely, to indicate the periods of delay, specify the start and end dates of the period of delay. On 29 March 2023, the Claimant sent a Revised Claim (under Article 49 of the Commercial Procedure Code of the Russian Federation). Under Additional Agreement No. 2 and Specification, the forfeit was calculated as of 22 March 2023. According to Additional Agreement No. 1, the Claimant designated 16 December 2022 as the end date of the forfeit calculation. Although, per calculation for Additional Agreement No. 1, the Claimant calculated the number of days of delay on the basis that the end date is 22 March 2023, the Arbitral Tribunal considers that the single end date for calculation of interest (excluding advance) for Additional Agreements Nos. 1 and 2 is 22 March 2023.

209. The Arbitral Tribunal established two end dates for accrual of interest under the Specification. The first end date for accrual of interest for shipments (1–4) is 1 April 2022. The Respondent partially paid the debt on 1 April 2022 which covered the total debt for these shipments. Thus, 1 April 2022 is the moment when obligations were fulfilled, and interest accrues up to that date. Taking into account that debt for shipments (5–7) is not covered by the amount of partial payment of debt made by the Respondent, the second end date for the accrual of interest for shipments (5–7) is 22 March 2023, the moment of the revision of the claim asserted by the Claimant.

210. Under Specification, payment shall be made in the following order: prepayment of RUB 3,000,000 (excluding VAT) within 3 working days from the date of signing of the specification by the Parties. Final payment shall be made within 20 calendar days from the date of shipment of the products to the Buyer’s warehouse. The Arbitral Tribunal agreed with the Claimant’s arguments that payment under the Specification is made after each shipment of the products to the Buyer’s warehouse, and not after shipment of all batches of products “in full,” as in the case of Additional Agreements Nos. 1,2. The different wording of the payment terms in Additional Agreements Nos. 1,2 and Specification indicates

that the Parties provided for different payment terms under the Specification, as opposed to subsequent Additional Agreements. It also follows from the case file that the Respondent did not dispute this interpretation of the payment terms in the Specification. Moreover, the Respondent partially paid RUB 2,254,208 after four shipments of products under the Specification, indicating that the interpretation of the payment terms coincides with the Claimant’s position.

211. In calculating interest under Article 395 of the Civil Code, the Arbitral Tribunal took into account that from 1 April 2022 to 1 October 2022 there was a moratorium on the initiation of bankruptcy proceedings, introduced by Resolution of the Government of the Russian Federation No. 497 of 28 March 2022, which makes impossible accrual of interest for the use of the other person’s means, recovery of forfeit or improper performance of monetary obligations in respect of any debtors, including legal entities and persons. The basis for the moratorium is Article 9.1 of Federal Law No. 127-FZ of 26 October 2002 “On Insolvency (Bankruptcy)” (hereinafter – the Bankruptcy Law). Under Paragraph 2 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 44 of 24 December 2020 “On Certain Issues of Application of the Provisions of Article 9.1 of the Federal Law No. 127-FZ of 26 October 2002 “On Insolvency (Bankruptcy)”, according to Paragraph 1 of Article 9.1 of this Law, the moratorium rules are applied to the entity who meets the requirements of the act of the Government of the Russian Federation imposing the moratorium, regardless of whether signs of insolvency and/or insufficient property are present.

212. However, the moratorium imposed by Resolution of the Government of the Russian Federation No. 497 of 28 March 2022 “On Imposition of Moratorium on Initiating Bankruptcy Proceedings Based on Applications Filed by Creditors” does not extend to foreign legal entities, whose representative is the Respondent, a company established under the laws of Italy, having its registered office in Italy and a branch in Russia. However, branches and representative offices do not possess the legal personality under Article 55 of the Civil Code, and the foreign company [Respondent] is a party to this arbitration. Therefore, the order for accruing penalties subject to the moratorium does not apply to the Respondent, as it is a foreign legal entity that cannot be recognized as bankrupt under Russian law.²⁵

213. The Arbitral Tribunal found the following in calculating the interest under Specification No. 1 and Additional Agreements Nos. 1,2.

214. Under Specification No. 1 of 15 December 2021 that governs the delivery of products for a total of RUB 6,205,462.73 (including VAT), the Supplier shall make an advance payment of RUB 3,000,000 (excluding VAT under Specification No. 1) within 3 working days from the date of signing of the Specification by the Parties, i.e., the final day for payment of the advance by the Respondent was 20 December 2021, and the delay in performance of this obligation arose from 21 December 2021. It follows from the case file that the Respondent paid the advance of RUB 3,000,000 credited to the Claimant’s account on 11 January 2022. Although pursuant to Clause 6.3 of the Contract, the Buyer’s obligations shall be deemed to be duly performed from the date of debiting of the monies from the correspondent account of its bank, the Parties, including the Respondent, who was able to dispute the Claimant’s calculations and present its position on this matter, did not inform the Arbitral Tribunal of the date of debiting of RUB 3,000,000 from the correspondent account of the Respondent’s bank, and therefore the Arbitral Tribunal shall be guided by the date when this amount was credited to the Claimant’s account. Thus, the Respondent was in delay in fulfilling its obligation to make prepayment under Specification No. 1 for 22 days from 21 December 2021 to 11 January 2022.

215. Final payment for each individual shipment shall be made within 20 calendar days from the date of such shipment of the products to the Buyer’s warehouse. The Arbitral Tribunal notes that the Parties did not use the term “banking” or “working” day. Therefore, the payment terms for each of the shipments, subject to the Arbitral Tribunal's findings, are as follows:

Date of shipment	Deadline for payment
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²⁵ This conclusion is also confirmed by the Resolution of the Commercial Court of Moscow District No. Ф05-2093/2023 of 17 February 2023 in case No. A40-115662/2022.

26 January 2022	15 February 2022
28 January 2022	17 February 2022 ²⁶
28 January 2022	
2 February 2022	22 February 2022
2 February 2022	
7 February 2022	28 February 2022 (according to Article 193 of the Civil Code)
18 March 2022	7 April 2022
8 April 2022	28 April 2022
25 April 2022	16 May 2022 (according to Article 193 of the Civil Code)

216. Moreover, on 1 April 2022, the Respondent partially paid the debt for the delivered products of RUB 2,254,208. The outstanding amount under Specification No. 1 was not paid.

217. Under the Specification No. 1, the interest to be charged is RUB 103,838.02.

Payment / Shipment	Amount of debt, rubles	Period of delay	Number of days	Interest rate	Calculation of interest according to the formula of Article 395 of the Civil Code	Amount of interest in rubles
Advance	3,000,000 (excluding VAT)	21 December 2021–11 January 2022	22	8,5%	$3,000,000 \times 22 \times 8,5 / 365 / 100$	15,369.86 (excluding VAT under the Specification No. 1)
Shipment 1 of 26 January 2022 of RUB 84,000	RUB 0 Fully covered by the advance paid on 11 January 2022. The balance of the advance: $3,000,000 - 84,000 = \text{RUB } 2,916,000$	-	-	-	-	RUB 0
Shipment 2 of 28 January 2022 of RUB 3,510,510	The amount owed on the shipment: RUB 608,190	18 February 2022–1 April 2022	43	18 February 2022–27 February 2022 – 9,5%	$608,190 \times 10 \times 9,5 / 365 / 100$	1,582.96 + 10,997.41 = RUB 12,580.37

²⁶ The Article 193 of the Civil Code on the movement of the time limit falling on a non-working day to the nearest working day thereafter refers to the end of the period of performance of a legally significant action, and not to its beginning. This conclusion has been confirmed by the court practice (see, for example, the Resolution of the Commercial Court of the East Siberian District No. Ф02-2601/2023 of 8 June 2023 in case No. A10-4583/2022, the Resolution of the Commercial Court of the West Siberian District No. Ф04-6424/2022 of 8 December 2022 in case No. A70-2324/2022, the Resolution of the Commercial Court of the West Siberian District No. Ф04-5589/2021 of 8 November 2021 in case No. A75-18622/2019.

and RUB 13,680 (in total RUB 3,524,190)	Partially covered by the balance of the advance: 3,524,190 – 2,916,000 = RUB 608,190 The balance of the advance: RUB 0 Amount of debt (total under the Specification No. 1): RUB 608,190	(on 1 April 2022, the Respondent paid RUB 2,254,208)		28 February 2022–1 April 2022 – 20%	608,190 x 33 x 20 / 365 / 100	
Shipment 3 of 2 February 2022 of RUB 19,980 and RUB 580,404 (in total RUB 600,384)	The amount owed on the shipment: RUB 600,384 Amount of debt (total under the Specification No. 1): RUB 1,208,574	23 February 2022–1 April 2022 (on 1 April 2022, the Respondent paid RUB 2,254,208)	38	23 February 2022–27 February 2022 – 9,5% 28 February 2022–1 April 2022 – 20%	600,384 x 5 x 9,5 / 365 / 100 600,384 x 33 x 20 / 365 / 100	781.32 + 10,856.26 = RUB 11,637.58
Shipment 4 of 7 February 2022 of RUB 306,499.13	The amount owed on the shipment: RUB 306,499.13 Amount of debt (total under the Specification No. 1): RUB 1,515,073.13	1 March 2022–1 April 2022 (on 1 April 2022, the Respondent paid RUB 2,254,208)	32	1 March 2022–1 April 2022 – 20%	306,499.13 x 32 x 20 / 365 / 100	RUB 5,374.23
Shipment 5 of 18 March 2022 of RUB 969,540	The amount owed on the shipment: RUB 230,405.13 On 1 April 2022, payment of RUB 2,254,208 was made Amount of debt (total under the Specification No. 1): 1,515,073.13 + 969,540 – 2,254,208 = RUB 230,405.13	8 April 2022–22 March 2023	349	8 April 2022–10 April 2022 - 20% 11 April 2022–3 May 2022 – 17% 4 May 2022–26 May 2022 – 14% 27 May 2022–13 June 2022 - 11% 14 June 2022–24	230,405.13 x 3 x 20 / 365 / 100 = 378.75 (RUB) 230,405.13 x 23 x 17 / 365 / 100 = 2,468.18 (RUB) 230,405.13 x 23 x 14 / 365 / 100 = 2,032.62 (RUB) 230,405.13 x 18 x 11 / 365 / 100 = 1,249.87 (RUB) 230,405.13 x 41 x 9,5 / 365 / 100 = 2,458.71 (RUB) 230,405.13 x 56 x 8 / 365 / 100 = 2,827.99 (RUB)	378.75 + 2,468.18 + 2,032.62 + 1,249.87 + 2,458.71 + 2,827.99 + 8,758.55 = RUB 20,174.67

				July 2022 – 9,5%	$230,405.13 \times 185 \times 7,5 / 365 / 100 = 8,758.55$ (RUB)	
				25 July 2022–18 September 2022 – 8%		
				19 September 2022–22 March 2023 – 7,5%		
Shipment 6 of 8 April 2022 of RUB 250,929.60	The amount owed on the shipment: RUB 250,929.60 Amount of the debt (total under Specification No. 1): RUB 481,334.73	29 April 2022–22 March 2023	328	29 April 2022–3 May 2022 – 17%	$250,929.60 \times 5 \times 17 / 365 / 100$	584.36 + 2,213.68 + 1,361.21 + 2,677.73 + 3,079.90 + 9,538.76 = RUB 19,455.64
				4 May 2022–26 May 2022 – 14%	$250,929.60 \times 23 \times 14 / 365 / 100$	
				27 May 2022–13 June 2022 – 11%	$250,929.60 \times 18 \times 11 / 365 / 100$	
				14 June 2022–24 July 2022 – 9,5%	$250,929.60 \times 41 \times 9,5 / 365 / 100$	
				25 July 2022–18 September 2022 – 8%	$250,929.60 \times 56 \times 8 / 365 / 100$	
				19 September 2022–22 March 023 – 7,5%	$250,929.60 \times 185 \times 7,5 / 365 / 100$	
Shipment 7 of 25 April 2022 of RUB 274,080	The amount owed on the shipment: RUB 274,080 Amount of the debt (total under Specification No. 1): RUB 755,414.73	17 May 2022–22 March 2023	310	17 May 2022–26 May 2022 – 14%	$274,080 \times 10 \times 14 / 365 / 100$	1,051.27 + 1,486.79 + 2,924.77 + 3,364.05 + 10,418.79 = RUB 19,245.67
				27 May 2022–13 June 2022 – 11%	$274,080 \times 18 \times 11 / 365 / 100$	
					$274,080 \times 41 \times 9,5 / 365 / 100$	

				14 June 2022–24 July 2022 – 9,5%	274,080 x 56 x 8 / 365 / 100	
				25 July 2022–18 September 2022 – 8%	274,080 x 185 x 7,5 / 365 / 100	
				19 September 2022–22 March 023 – 7,5%		
Total interest in rubles:						103,838.02

218. As noted above, pursuant to Clause 2.1 of Additional Agreement No. 1, the Buyer shall pay for the products in the following order: prepayment of EUR 72,000 shall be paid within 5 working days from the date of conclusion of Additional Agreement No. 1. Additional Agreement No. 1 was concluded on 10 March 2022, therefore, the final date for the Respondent’s advance payment was 17 March 2022, and the start date of the delay in paying the advance was 18 March 2022. The monies were debited from the Respondent’s account on 1 April 2022 but were credited to the Claimant on 4 April 2022. Pursuant to Clause 6.3 of the Contract, the Buyer’s obligations shall be deemed to have been fulfilled from the moment the monies are debited from the correspondent account of the Buyer’s bank, i.e., on 1 April 2022. This was also admitted by the Claimant during the hearing. Thus, the period of delay in advance payment spans from 18 March 2022 to 1 April 2022.

219. The outstanding amount of EUR 312,616.80 was to be paid within 20 working days from the Supplier’s fulfillment of its obligation to deliver the products in full. The Claimant completed its delivery duty on 16 December 2022. Consequently, the final date for payment by the Respondent was 20 January 2023. Payment delay by the Respondent commenced on 21 January 2023. Therefore, the period of payment delay from 21 January 2023 to 22 March 2023 amounts to 61 days.

220. In the doctrine, A.G. Karapetov addressed the matter of calculating interest pursuant to Article 395 of the Civil Code with respect to obligations denominated in foreign currency,²⁷ who points out the following:

“Considering that from 1 June 2015 the average deposit interest rate was taken into account instead of the lending rate for interest calculation under Article 395 of the Civil Code of the Russian Federation, the approach to determining interest on foreign currency obligations was synchronously changed. From 1 June 2015 to 31 July 2016, interest on obligations denominated in foreign currency shall be calculated using the average interest rate applicable to deposits of individuals in the relevant foreign currency issued in the location of the creditor. Such statistics were published by the Central Bank of the Russian Federation regarding deposits in various foreign currencies (dollar, euro). If the debt was in another currency for which the Central Bank did not publish statistics on average deposit interest, this interest was to be determined based on the latest published rate for each of the delay periods. In the absence of such publications, the interest amount was determined based on a statement of one of the leading banks in the location of the creditor confirming the average rate for short-term deposits of

²⁷ “Substitution of Persons in the Obligation and Liability for Breach of Obligation: Commentary to Articles 330–333, 380–381, 382–406.1 of the Civil Code of the Russian Federation” (ed. A.G. Karapetov), M-Logos, 2022.

individuals it applied. These clarifications were codified in Paragraph 39 of the Resolution of the Plenum of the Supreme Court of the Russian Federation of 24 March 2016 No. 7.

Since from 1 August 2016, the interest rate on ruble-denominated liabilities has been linked to the discount rate of the Central Bank of the Russian Federation, it was logical to reinstate previous clarifications on this matter and tie the rate on liabilities denominated in foreign currency to the average deposit rates in the respective currency, or, in the absence of such statistics, to the deposit rate determined according to a statement of one of the leading banks in the location of the creditor. Eventually, the Supreme Court of the Russian Federation addressed this issue in the Summary of Judicial Practice of the Supreme Court of the Russian Federation No. 1 (2017) (approved by the Presidium of the Supreme Court of the Russian Federation on 16 February 2017). In particular, the court stated: “In case of delay in fulfilling a monetary obligation, the debt currency of which is foreign, interest for illegal retention of monies, evasion of their return, other delay in their payment shall be calculated in foreign currency.... Considering that the discount rate of the Bank of Russia represents the interest rate on short-term loans granted by the Bank of Russia to commercial banks... the amount of interest payable for the breach of a monetary obligation, the debt currency of which is foreign should be determined based on similar indicators and calculated using average interest deposit rates in the debt currency....

If the average rate in the respective foreign currency for a certain period is not published, the interest amount shall be determined based on the latest published rate for each of the delay periods.

In the absence of such publications, the interest shall be calculated based on a statement of one of the leading banks in the location of the creditor, confirming the average rate for short-term foreign currency loans it applies.”

The issue may arise when the parties choose payments in the exotic currency or designate this currency as the debt currency in a currency clause. If the location of the creditor (e.g. Russia, if the creditor is registered in our country) does not offer loans in that currency, the aforementioned explanations will not help to find the relevant interest rate. One may need to refer either to the rates accepted in the country where this currency is in circulation or determine the interest rate by reference to the standard lending interest rate in rubles in Russia or use some other way to fill the contractual gap in good faith. How to resolve this matter has yet to be clarified in court practice. To avoid such difficulties, it is important for the parties to specify the amount of penalties in such a contract.”

221. In the present case, as the Parties did not specify the penalties' amount and did not provide a statement from a leading bank in the location of the creditor confirming the average interest rate for short-term foreign currency loans it applies, the Arbitral Tribunal calculated that the interest amount to be charged under Additional Agreement No. 2 amounts to EUR 1,577 and used for this calculation the average interest rate for short-term loans in euros²⁸ published by the Bank of Russia for the respective

²⁸ According to the “Summary of Judicial Practice of the Supreme Court of the Russian Federation No. 1 (2017)” (approved by the Presidium of the Supreme Court of the Russian Federation on 16 February 2017) (amended on 26 April 2017), in case of delay in fulfilling a monetary obligation, the debt currency of which is foreign, interest for illegal retention of monies, evasion of their return, other delay in their payment shall be calculated in foreign currency, since payment of this interest aims to restore the property status of the creditor and compensation of unreceived income from the potential use of monies not returned in time by the debtor. Considering that the discount rate of the Bank of Russia represents the interest rate on short-term loans granted by the Bank of Russia to commercial banks on an auction basis, the amount of interest payable for the breach of a monetary obligation, the debt currency of which is foreign, should be determined based on similar indicators and calculated using average interest deposit rates in the debt currency.

If the average rate in the respective foreign currency for a certain period is not published, the interest amount to be charged shall be determined based on the latest published rate for each of the delay periods.

The latest published by the Bank of Russia bank interest rate on deposits of individuals in rubles, US dollars, and euros can be found at the following link: https://www.cbr.ru/vfs/statistics/pdiko/int_rat/loans_nonfin.xlsx.

This conclusion and the calculation procedure are confirmed by the court practice, including the Resolution of the Ninth Commercial Appeal Court No. 09АП-76035/2020 of 1 February 2021 in case No. A40-109060/2020, the Resolution of the Commercial Court of Moscow District No. Ф05-12878/2020 of 18 December 2020 in case No. A40-19438/2020, Resolution of the Commercial Court of

period. A 15-day delay in payment of the advance falls into the category of “up to 30 days, including ‘on demand’” and a 61-day delay in payment of the remainder falls into the category of “31 to 90 days”.

222. The calculation of the amount of interest to be charged under Additional Agreement No. 1 is as follows:

Amount of debt in euros (including VAT)	Period of delay	Number of days	Interest rate	Calculation of interest according to the formula of Article 395 of the Civil Code	Interest amount in euros
Advance 72,000	18 March 2022–1 April 2022	15	18 March 2022–31 March 2022 – 0,78% 1 April 2022 – 1,91%	$72,000 \times 14 \times 0.78 / 365 / 100 + 72,000 \times 1 \times 1.91 / 365 / 100$	21.54 + 3.77 = 25.31
Outstanding payment 312,616.80	21 January 2023–22 March 2023	61	21 January 2023–22 March 2023 – 2,97%	$312,616.80 \times 61 \times 2.97 / 365 / 100$	1,551.69
Total:					EUR 1,577

223. Pursuant to Clause 2.1 of Additional Agreement No. 2 of 10 March 2022 that governs the delivery of products for a total of RUB 9,322,800 (including VAT) the products shall be delivered through advance payment to the Supplier’s current account of RUB 6,000,000 (including VAT) within 5 working days from the date of signing of Additional Agreement No. 2 by the Parties. Therefore, the final date for the Respondent’s advance payment under Additional Agreement No. 2 was 17 March 2022, and the start date of delay in fulfillment of this obligation was 18 March 2022. The monies in the amount of advance payment were debited from the Respondent’s account on 1 April 2022 and credited to the Claimant’s account on 4 April 2022. Thus, the Respondent’s delay in fulfilling its obligation to pay the advance under Additional Agreement No. 2 spans from 18 March 2022 to 1 April 2022.

224. The final payment of 3,322,800 (including VAT) shall be made within 20 working days after the products are shipped to the Buyer’s warehouse in full. The last shipment under Additional Agreement No. 2 took place on 19 October 2022. Thus, the final date for payment for the products by the Respondent was 17 November 2022, and the delay in fulfillment of this obligation arose from 18 November 2022.

225. Under Additional Agreement No. 2, the amount of interest to be charged amounts to RUB 134,660.96:

Amount of debt in rubles (including VAT)	Period of delay	Number of days	Interest rate	Calculation of interest according to the formula of Article 395 of the Civil Code	Interest amount in rubles
Advance 6,000,000	18 March 2022–1 April 2022	15	20%	$6,000,000 \times 15 \times 20 / 365 / 100$	49,315.07
Outstanding payment 3,322,800	18 November 2022–22 March 2023	125	7,5%	$3,322,800 \times 125 \times 7.5 / 365 / 100$	85,345.89
Total:					RUB 134,660.96

Moscow District No. Ф05-9505/2019 of 31 July 2019 in case No. A41-51155/2018, Resolution of the Commercial Court of Moscow District No. Ф05-7659/2018 of 22 June 2018 in case No. A40-171422/2017.

226. Thus, the Arbitral Tribunal found that the interest for the use of the other person's means amounts to:
- 226.1. Under Specification No. 1 – RUB 103,838.02;
 - 226.2. Under Additional Agreement No. 1 – EUR 1,577;
 - 226.3. Under Additional Agreement No. 2 – RUB 134,660.96.

IV.B.4. Recovery of exchange losses

227. In the Revised Claim of 22 March 2023, the Claimant sought recovery of exchange losses of RUB 1,891,231.20.
228. The Respondent made a belated prepayment of RUB 6,659,496 (equivalent to EUR 72,000) under Additional Agreement No. 1. The prepayment was made on 1 April 2022, when the official euro-ruble exchange rate of the Bank of Russia was RUB 92.4930. The Claimant asserted that had the Respondent paid according to the Contract terms, i.e. on 17 March 2022, the prepayment in ruble equivalent would have amounted to RUB 8,550,727.20, as the euro exchange rate set by the Bank of Russia on 17 March 2022, was RUB 118.7601.
229. The Claimant referred to Paragraphs 1, 2 of Article 393 of the Civil Code and demanded compensation for losses, which the Claimant identified as lost profit under Paragraph 2 of Article 15 of the Civil Code and Paragraph 2 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 7 of 24 March 2016 “On Court Application of Certain Provisions of the Civil Code of the Russian Federation regarding Liability for Breach of Obligations.”
230. In its Response and subsequent correspondence, the Respondent expressed disagreement with the asserted losses since their amount exceeded the debt amount owed under the Contract (as of the first Claim of 27 December 2022); recovery of lost profit is expressly prohibited for the Supplier under Clause 12.6 of the Contract, and the Claimant did not furnish any evidence of losses beyond its calculation.
231. The Arbitral Tribunal found that the Claimant's claim for recovery of exchange losses shall not be granted.
232. According to Paragraph 2 of Article 15 of the Civil Code, losses shall be understood as the expenses, which the person, whose right has been violated, made or will have to make to restore the violated right, the loss or the damage done to his property (the compensatory damage), and also the unreceived profits, which this person would have derived under the ordinary conditions of the civil turnover, if his right were not violated (the lost profit). The Claimant's financial losses in the form of exchange difference occurred to a greater extent due to external economic circumstances, which entailed surges in the euro exchange rate and which could not have been predicted by the Claimant and the Respondent at the time of signing Additional Agreement No. 1. Therefore, the income sought by the Claimant with respect to the stark exchange difference cannot be understood as losses received by the Claimant under normal conditions of civil turnover, if its right had not been violated.
233. Moreover, participants in civil turnover should consider that in the absence of agreement on the allocation of exchange risk between them, such risk is attributable to the relevant party depending on its role in the transaction. Fluctuation in the euro/ruble exchange rate is an ordinary business risk. If the parties have not established a currency corridor, they have assumed the exchange rate risk, thereby excluding the possibility of seeking compensation for losses. In this scenario, they are deemed not to have exercised the necessary degree of care and diligence in formulating the currency clause.
234. In the present case, the Claimant did not prove the existence of a causal connection between the breach and the resulting losses, which is necessary for the recovery of losses (Articles 15, 393 of the Civil Code). According to the current practice and Paragraph 4 of Article 393 of the Civil Code, the Claimant must document that it has taken measures to obtain lost profit and has made specific preparations for this purpose to obtain income that was foregone due to the debtor's breach. The Claimant must prove that the Respondent's offense was the only obstacle that prevented the Claimant from obtaining lost profit. This conclusion is also confirmed by court practice, namely the Ruling of the Supreme Court of the Russian Federation No. 302-ЭС14-73 of 29 January 2015 in case No. A19-1917/2013.
235. The Claimant has not provided arguments or evidence that the Respondent's breach of prepayment was the only obstacle to receiving income from the exchange difference.

236. The Claimant could not have undertaken specific actions to prepare for the loss of profit intended to generate income because exchange losses are not a typical and foreseeable means of generating income. When entering into Additional Agreement No. 1, the Parties selected the euro as the payment currency under the Contract. By doing so, the Claimant assumed the business risk associated with potential exchange rate fluctuations and resulting adverse effects. According to court practice, exchange rate fluctuations do not depend on the will of the Parties but are one of the risks of the business activities carried out by the Parties, and therefore cannot serve as a basis for a finding on the infliction of losses. The respective conclusions were made in the Rulings of the Supreme Court of the Russian Federation No. 305-ЭC21-6620 of 28 May 2021 in case No. A40-43012/2020 and No. 305-ЭC22-2825 of 4 April 2022 in case No. A40-35460/202.

V. ALLOCATION OF ARBITRATION COSTS AND FEES

237. For clarity and convenience, a table of the Claimant's revised claims is set forth below.

Statement of relief	Request for Arbitration of 7 October 2022 and rectification of defects of 21 October 2022 ²⁹	Claims under the Claim (Claim of 27 December 2022)	Claims under the revised claim (Revision of Claim No. 1 of 22 March 2023)	Claims under the revised claim No. 2 (Revision of Claim No. 2 of 29 March 2023)
Debt for delivered products	-	Specification No. 1: RUB 755,414.73	Specification No. 1 + Additional Agreement No. 2: 1,755,414.73 + 3,322,800 = RUB 4,078,214.73	RUB 4,078,214.73
Debt for delivered products under Additional Agreement No. 1	-	-	EUR 312,616.86	EUR 312,616.86
Debt for delivered products under Additional Agreement No. 2	-	-	RUB 3,322,800 ³⁰	RUB 3,322,800 ³¹
Forfeit for delivered products	RUB 95,815.08	Specification No. 1: RUB 95,815.08	95,815.08 + 65,242.65 = RUB 161,907.73 ³²	95,815.08 + 65,242.65 = RUB 161,907.73 ³³
	RUB 70,768.74 ³⁴	Additional Agreement No. 1: RUB 70,768.74	91,207.76 + 391,908.99 = RUB 483,116.75	91,207.76 + 391,908.99 = RUB 483,116.75
	RUB 64,000.00	Additional Agreement No. 2: RUB 64,000.00	76,000 + 104,668.20 = RUB 180,668.20	64,000 + 104,668.20 = RUB 168,668.20
			In total: RUB 825,692.68	In total: RUB 813,692.68
Lost exchange profit	1,962,265.82–70,768.74 = RUB 1,891,497.08	1,962,265.82 ³⁵ –70,768.74 = RUB 1,891,497.08	RUB 1,891,231.20	RUB 1,891,231.20

238. When filing the Request for Arbitration, the Claimant paid the registration fee by payment order [No] of 6 October 2022 of RUB 29,702.15 equivalent to USD 500.00 as of the date of the payment order (at the official exchange rate: USD 1 = RUB 59.4043).

²⁹ Since neither in the initial Request for Arbitration nor in the course of rectification of its defects the Claimant specified the claims in the statement of relief, but only determined the total value of the claims (RUB 2,122,080.00), and subsequently did not object to these calculations, the RAC Administrative Office considered the claims listed in this column, specified by the Claimant in the text of the Request for Arbitration, as the claims for the purposes of commencement of arbitration and calculation of the arbitration fee.

³⁰ This amount has already been accounted for by the Claimant in the column "Debt for delivered products".

³¹ This amount has already been accounted for by the Claimant in the column "Debt for delivered products".

³² The Claimant cited the following arithmetic calculation of this claim in the table of claims: "95,815.08 + 65,242.65 = RUB 161,907.73", although the actual result of the summation is RUB 161,057.73.

³³ Similar to the footnote above.

³⁴ Included by the Claimant in the calculation of the claim for lost exchange profit, although it is not directly reflected in the text of the Request for Arbitration. In view of the risk of double accounting of of this claim, the amount without the forfeit in this amount is given in the column "Lost exchange profit".

³⁵ Indicated in the Claim's statement of relief.

239. In the Notice of Commencement of Arbitration No. 344-22 of 25 October 2022, it was stated that the value of the claims is set in USD in international commercial arbitration.³⁶ The Executive Administrator established based on the available case materials that the value of the Request amounted to USD 35,219.26 as of the date of filing the Request at the official exchange rate of the Bank of Russia.³⁷ At this value of the claims of USD 35,219.26, the arbitration fee amounted to USD 5,443.63 under the standard commercial arbitration procedure when the dispute is considered by a sole arbitrator. As it followed from the case file, the Claimant paid the registration fee – a monetary sum payable by the Party when submitting the Request to the RAC to cover the costs associated with the commencement of the arbitration.³⁸ Under Subparagraph 1 of Paragraph 1 of Article 17 of the Rules on Arbitration Fees and Arbitration Costs (hereinafter – Rules), the outstanding amount of the arbitration fee of USD 4,943.63 at the USD exchange rate as of the date of additional payment was subject to additional payment.

240. On 8 November 2022, the Claimant submitted payment order [No] of 26 October 2022 for the additional payment of RUB 303 205,68, which is equivalent to USD 4 943,63 at the US dollar exchange rate as of the date of the additional payment.³⁹

241. In the Claim of 27 December 2022, the Claimant stated a new claim for recovery of debt for the delivered products under Specification No. 1 of RUB 755,414.73. Therefore, the value of this claim amounted to USD 11,036.22 as of the date of its assertion on 27 December 2022 at the official exchange rate of the Bank of Russia.⁴⁰ Thus, the total value of the claims asserted by the Claimant in the Claim amounted to $35,219.26 + 11,036.22 = 46,255.48$ USD. The amount of the arbitration fee at the specified value of claims amounted to USD 6,381.70. In this regard, on 1 March 2023, the Claimant was suggested to pay the arbitration fee of $USD 6,381.70 - 5,443.63 = USD 938.07$ within 10 days.

242. On 9 March 2023, the Claimant submitted payment order [No] of 9 March 2023 for the additional payment of RUB 70,784.60 equivalent to USD 938.07 at the US dollar exchange rate as of the date of the additional payment.⁴¹

243. In the Revision of Claim No. 1 of 22 March 2023, the Claimant submitted new claims, as well as increased the already asserted claims:

Statement of relief	Claims under the initial claim (Claim of 27 December 2022)	Claims under the revised claim (Revision of Claim of 22 March 2023)	Difference in claim amounts
Debt for delivered products	RUB 755,414.73	4,078,214.73	+ RUB 3,322,800
Debt for delivered products under Additional Agreement No. 1	-	EUR 312,616.86	+ EUR 312,616.86 (equivalent to RUB 25,804,270.95 at the exchange rate of the Bank of Russia ⁴²)
Debt for delivered products under Additional Agreement No. 2	-	RUB 3,322,800 (accounted by the Claimant in the column "Debt for delivered products")	RUB 0 (accounted in the column "Debt for delivered products")
Forfeit for delivered products	RUB 95,815.08	RUB 161,907.73	+ RUB 66,092.65
	RUB 70,768.74	RUB 483,116.75	+ RUB 412,348.01

³⁶ Arbitration Rules, Article 8, Paragraph 5; Article 17, Paragraph 1, Subparagraph 2.

³⁷ As of 7 October 2022, the official exchange rate was USD 1 = RUB 60.2534.

³⁸ According to payment order No. 357 of 6 October 2022, the Claimant paid RUB 29,702.15 equivalent to USD 500.00 as of the date of the payment order (at the official exchange rate of USD 1 = RUB 59.4043).

³⁹ As of 26 October 2022, the official exchange rate was USD 1 = RUB 61,3326.

⁴⁰ As of 27 December 2022, the official exchange rate was USD 1 = RUB 68,4487.

⁴¹ As of 9 March 2023, the official exchange rate was USD 1 = RUB 75,4577.

⁴² As of 22 March 2023, the official exchange rate was EUR 1 = RUB 82,5428.

	RUB 64,000.00	RUB 180,668.20	+ RUB 116,668.20
Lost exchange profit	RUB 1,891,497.08	RUB 1,891,231.20	- RUB 265.88 ⁴³
		Increase in claims value:	RUB 29,722,179.81

244. Therefore, the value of the increased claims amounted to USD 386,819.68 as of the date of their revision on 22 March 2023 at the official exchange rate of the Bank of Russia.⁴⁴ Thus, the total value of the increased claims asserted by the Claimant in the Revision of Claim of 22 March 2023 amounted to 46,255.48 + 386,819.68 = USD 433,075.16. The amount of the arbitration fee at this value of the claims amounted to USD 27,942.24. Consequently, an additional payment was due: 27,942.24 – 6,381.70 = USD 21,560.54.

245. On 22 March 2023, the Claimant submitted payment order No. 106 of 21 March 2023 for additional payment of RUB 1,630,918.85 equivalent to USD 21,114.35 at the US dollar exchange rate as of the date of additional payment.⁴⁵

246. The claims stated in the Revision of Claim No. 2 of 29 March 2023 did not exceed the claims asserted by the Claimant earlier, therefore the amount of the arbitration fee did not change.

247. Thus, PO No. 6 of 19 April 2023 required the Claimant to pay USD 21,560.54 – 21,114.35 = USD 446.19 until 2 May 2023 at the exchange rate of the Bank of Russia as of the date of the additional payment.

248. The Claimant by payment order [No] of 24 April 2023 paid RUB 36,358.37 equivalent to USD 446.29 at the exchange rate of the Bank of Russia as of the date of additional payment.⁴⁶

249. Therefore, the Claimant paid the arbitration fee in full.

250. Under Article 15 of the Rules, the arbitration fee shall be borne by the party against whom the arbitral award is made unless the Parties have agreed on a different allocation of the arbitration fee.

251. Taking into account that the Claimant's claims, calculated at the time of filing the Revised Claim of 22 March 2023, were partially granted, namely:

251.1. The claim for recovery of debt for delivered products under Specification No. 1 (RUB 755,414.73⁴⁷) and Additional Agreement No. 2 (RUB 3,322,800⁴⁸) of RUB 4,078,214.73 was satisfied in full;

251.2. The claim for recovery of debt for the delivered products under Additional Agreement No. 1 was partially satisfied with EUR 312,616.80;⁴⁹

251.3. The claim for recovery of forfeit under Specification No. 1, Additional Agreement No. 1, and Additional Agreement No. 2 of EUR 813,692.68 was not granted. However, instead, the Arbitral Tribunal found that the Respondent should pay the Claimant interest for the use of the other person's means (Article 395 of the Civil Code):

251.3.1. Under Specification No. 1 – RUB 103,838.02;⁵⁰

⁴³ Under Paragraph 4 of Article 29 of the Arbitration Rules, the reduction of the claim does not entail a change in the amount of the arbitration fee, therefore, in calculating this claim will be considered the value of RUB 1,891,497.08.

⁴⁴ As of 22 March 2023, the official exchange rate was USD 1 = RUB 76,8373.

⁴⁵ As of 21 March 2023, the official exchange rate was USD 1 = RUB 77,2422.

⁴⁶ As of 24 April 2023, the official exchange rate was USD 1 = RUB 81,4863.

⁴⁷ Equivalent to USD 11,036.22 as of the date of its assertion on 27 December 2022 at the official exchange rate of the Bank of Russia (USD 1 = RUB 68.4487).

⁴⁸ Equivalent to USD 43,244.62 as of the date of its assertion on 22 March 2023 at the official exchange rate of the Bank of Russia (USD 1 = RUB 76,8373).

⁴⁹ Equivalent to RUB 25,804,270.95 at the exchange rate of the Bank of Russia (on 22 March 2023, the official exchange rate was EUR 1 = RUB 82.5428). Therefore, this claim is equivalent to USD 335,830.01 as of the date of its assertion on 22 March 2023 at the official exchange rate of the Bank of Russia (USD 1 = RUB 76.8373).

⁵⁰ Since the interest is accrued by the Arbitral Tribunal instead of forfeit, the calculation of the value of this claim in US dollars will also be determined as of the date of the Claimant's first assertion of the forfeit claim in proportion to their amounts. Therefore, the forfeit under Specification No. 1 (RUB 95,815.08) was first asserted in the Request for Arbitration of 7 October 2022, and then its amount was increased to RUB 161,907.73 in Revision of Claim of 22 March 2023. As of 7 October 2022, USD 1 = RUB 60.2534, and as of 22 March

251.3.2. Under Additional Agreement No. 1 – EUR 1,577;⁵¹

251.3.3. Under Additional Agreement No. 2 – RUB 134,660.96;⁵²

251.4. The claim for recovery of exchange losses of RUB 1,891,231.20 shall not be granted.

252. Therefore, the total value of the claims being granted is:

$11,036.22 + 43,244.62 + 335,830.01 + 2,450.36 + 1,563.25 + 1,981.80 = \text{USD } 396,106.26.$

253. However, it shall be kept in mind that the Claimant voluntarily reduced its claims during the arbitration:

253.1. Concerning lost exchange profit, its value varied from RUB 1,891,497.08 (in the Request for Arbitration) to RUB 1,891,231.20 (in the Revision of Claim of 22 March 2023, no longer changed);

253.2. Concerning forfeit for the delivered products, from RUB 180,668.20 (in the Revision of Claim of 22 March 2023) to RUB 168,668.20 (in the Revision of Claim of 29 March 2023).

254. In this regard, the difference in the arbitration fee arising from the Claimant's voluntary reduction of its claims shall be borne by the Claimant itself according to the following calculation:

$433,075.16 - (1,891,497.08 - 1,891,231.20 / 76.8373) - (180,668.20 - 168,668.20 / 76.5939) =$
 $433,075.16 - 3.5 - 156.67 = 432,914.99 \text{ (USD)} - \text{the value of the reduced claims.}$

With claims value of USD 432,914.99, the arbitration fee amounts to USD 27,937.44. Therefore, the Claimant will bear an arbitration fee of $27,942.24 - 27,937.44 = \text{USD } 4.8.$

255. Therefore, USD 27,937.44 should be allocated proportionally to the claims satisfied.

256. The Respondent shall bear USD 25,552.60 of the arbitration fee according to the following calculation:

$396,106.26 / 432,914.99 \times 27,937.44 = \text{USD } 25,562.05$

257. The remainder of the arbitration fee of USD 2,380.19 ($\text{USD } 27,942.24 - \text{USD } 25,562.05$) shall be borne by the Claimant.

258. The Claimant, in its application for recovery of costs of 17 April 2023, also requests to recover from the Respondent the representation costs of RUB 1,650,000. The Claimant confirmed these costs by submitting the Legal Services Agreement of 2 September 2022, the Acceptance and Delivery Certificate of 11 April 2023, and payment orders [No] of 16 September 2022 and [No] of 17 April 2023.

259. The Respondent objected to a possible award on recovery of additional costs of RUB 1,500,000 pursuant to Clause 4.3.2 of the Legal Services Agreement [No] of 2 September 2022, submitted by the Claimant, which states that in the event of failure to settle the dispute amicably, the Principal ([Claimant]) undertakes to pay the Contractor (the Claimant's representative) the remaining amount of RUB 1,500,000 after the final hearing. The Respondent argued that the legal costs claimed by the Claimant were non-marketable and should be substantially reduced. The Respondent argued that in a similar application for

2023, USD 1 = RUB 76.8373 at the official exchange rates of the Bank of Russia, thus, the value of the forfeit claim is equivalent to USD 2,450.36 according to the following calculation:

$95,815.08 / 60.2534 + (103,838.02 - 95,815.08) / 76.8373 = \text{USD } 1,590.20 + 104.41 = \text{USD } 1,694.61.$

A similar consideration is employed in assessing the value of the interest claim under Additional Agreements Nos. 1 and 2.

⁵¹ The amount of this claim in Request for Arbitration of 7 October 2022 is RUB 70,768.74 equivalent to EUR 1,215.14 (EUR 1 = RUB 58.2392) or USD 1,174.52 (USD 1 = RUB 60.2534) at the official exchange rate of the Bank of Russia on the date of its assertion, which is less than the amount of the claim granted by the Arbitral Tribunal by EUR 361.86. Therefore, the value of this claim was increased in Revision of Claim of 22 March 2023 (official exchange rate of the Bank of Russia on this date of EUR 1 = RUB 82.5428, USD 1 = RUB 76.8373) and the value of the granted interest claim accrued under Additional Agreement No. 1 will amount to $1,174.52 + 361.86 \times 82.5428 / 76.8373 = 1,174.52 + 388.73 = \text{USD } 1,563.25.$

⁵² The amount of this claim in Request for Arbitration of 7 October 2022 is RUB 64,000 equivalent to USD 1,062.18 (USD 1 = RUB 60.2534) at the official exchange rate of the Bank of Russia as of the date of its assertion. Therefore, the remaining part of this claim ($134,660.96 - 64,000 = \text{RUB } 70,660.96$) shall be re-calculated at the exchange rate as of 22 March 2023, since in Revision of Claim of 22 March 2023, the Claimant increased the forfeit claim under Additional Agreement No. 2 to RUB 180,668.20. Consequently, the value of the remaining part of the interest claim of RUB 70,660.96 will amount to USD 919.62 (as of 22 March 2023, USD 1 = RUB 76.8373). Thus, the value of the interest claim accrued under Additional Agreement No. 2 will amount to $\text{USD } 1,062.18 + 919.62 = \text{USD } 1,981.80.$

recovery of costs in another case involving the Respondent, which the RAC considered, the amount of legal costs recovered from the Respondent was RUB 300,000, which, as the Respondent believed, was reasonable and justified. In support of its position, the Respondent submitted a similar application for recovery of legal costs of RUB 300,000 of 17 April 2023.

260. Under Paragraph 2 of Article 16 of the Rules, upon the request of the Party, in whose favor the arbitral award was rendered, according to Paragraph 1 of this Article, the Arbitral Tribunal shall decide on placement of the costs incurred by that Party upon the Party against which the arbitral award was rendered, at the time of rendering the arbitral award.
261. Under Paragraph 4 of Article 16 of the Rules, when placing the costs incurred by that Party upon the Party against which the arbitral award was rendered, the Arbitral Tribunal shall take into account the amount of the claims advanced, the value of the claim, the complexity of the dispute, the scope of the representative's services, the time necessary for drafting procedural documents, duration of the arbitration as well as other specific circumstances of the dispute.
262. The Claimant furnished evidence of the costs of representation services in this case, which included, inter alia: drafting and sending a claim letter to the Respondent under the Contract; drafting and sending a claim to the RAC under the Contract; meeting with the Respondent for pre-trial dispute settlement and representing the Claimant in the RAC.
263. The Respondent stated that the costs sought were excessive. According to Paragraph 13 of the Plenum of the Supreme Court of the Russian Federation No. 1 of 21 January 2016 "On Certain Issues of Application of the Legislation on Reimbursement of Costs Associated with the Consideration of the Case" (hereinafter – the Resolution of the Supreme Court), court expenses for payment of representative's services incurred by the Claimant must be reasonable and justified in addition to being provable, it is necessary to take into account the nature and degree of complexity of the case, the amount of work performed by the representative, partial satisfaction of the claim.
264. Paragraph 13 of the Resolution of the Supreme Court states that reasonable costs for payment of the representative's services shall be those which in comparable circumstances are usually charged for similar services.
265. The Respondent pointed out that the representation services for arbitration at the RAC in a similar case were significantly lower. Therefore, the total value of the Claimant's costs, as the Respondent believed, was non-marketable. The application for costs in another case administered by the RAC, along with the argument that the Claimant is coordinating with the claimant in another case, serves as the sole evidence to establish that the value of the costs sought does not reflect market value. The submitted statement relied on by the Respondent does not indicate the complexity of the case, the scope of work, and the functions performed by the Claimant's representative in this dispute. Therefore, the Arbitral Tribunal lacks sufficient data to compare these cases and assess the reasonable value of the legal costs.
266. Russian legislation does not specify representation costs, making it difficult to ascertain the average market price for these services. Under Article 35 of the Arbitration Rules, each Party shall prove the circumstances on which it relies to support its claims and objections. The Respondent has not furnished sufficient evidence, such as the doctrine or the court practice regarding the reduction of costs for representation services.
267. Nevertheless, in the present case, the Claimant's claims were partially granted. Under Paragraph 20 of the Resolution of the Supreme Court and court practice, to restore violated rights and freedoms, the Claimant has the right to demand reimbursement of court costs incurred due to the necessity of participating in court proceedings, including the representation costs, but only in proportion to the extent of the Claimant's claims granted by the court (Resolution of the Constitutional Court of the Russian Federation No. 20-П of 11 July 2017 and Ruling of the Constitutional Court of the Russian Federation No. 2777-O of 23 December 2014).
268. The criteria for determining the reasonableness of the expenses incurred by a person in a case are outlined in the Information Letter of the Presidium of the Supreme Commercial Court of the Russian Federation No. 82 of 13 August 2004 "On Certain Issues of Application of the Commercial Procedure Code of the Russian Federation" and the Information Letter of the Presidium of the Supreme Commercial Court of the Russian Federation No. 121 of 5 December 2007 "Summary of Judicial Practice on Issues

Related to the Allocation between the Parties of Court Expenses for Attorneys' Fees and Other Persons Acting as Representatives in Commercial Proceedings.”

269. Paragraph 20 of Information Letter No. 82 of 13 August 2004 stipulates that in determining reasonable limits of costs for payment of representation services, consideration may be given to, in particular, the norms of expenses for business trips as established by legal acts; the cost of economical transportation services; the time that a qualified specialist could spend on preparing materials; the cost of payment for attorneys' services established in the region; available information from statistical bodies regarding prices in the legal services market; the duration and complexity of the case.
270. According to the legal position of the Constitutional Court of the Russian Federation outlined in Ruling No. 454-O of 21 December 2004 and the legal position of the Supreme Commercial Court of the Russian Federation outlined in Resolution of the Presidium No. 18118/07 of 20 May 2008, the court may exercise the right to reduce the expenses only if it deems them as excessive in light of the specific circumstances of the case.
271. Court practice (see, for example, case Resolution No. 10АП-7493/2022 of 23 May 2022 in case No. A41-22437/21) states that consulting services such as consulting the client, legal review of documents, conducting negotiations on pre-trial dispute settlement, collection of evidence, development of a legal position based on legislation and current court practice do not fall to the category of court expenses and shall not be reimbursed. These services relate to services rendered at the pre-trial stage. The above legal position is stated in the Resolution of the Presidium of the Supreme Commercial Court of the Russian Federation No. 9131/08 of 9 December 2008 in case No. A57-14559/07-3, the Resolution of the Commercial Court of the Ural District No. Ф09-7400/12 of 10 July 2019 in case No. A47-204/2012, the Resolution of the Commercial Court of the Moscow District No. Ф05-7235/2017 of 20 April 2018 in case No. A40-188321/16.
272. To ascertain the market value of the representation services mentioned by the Respondent, the Arbitral Tribunal refers to the “Study of the Cost of Representation Services in the Courts of Moscow and the Moscow District, 2022” conducted by the Federal Chamber of Advocates of the Russian Federation in collaboration with the VETA expert group (hereinafter – Study⁵³). According to this Study, for court representatives of “qualification group C” to which the Claimant’s representative belongs (as a private lawyer or an attorney engaged in personal practice, operating as a self-employed individual under the Legal Services Agreement and registered and residing at the Moscow address), the cost range of representation services in commercial courts of first instance in Moscow and Moscow district in 2022 in the category of debt recovery varies from a minimum of RUB 50,000 to a maximum of RUB 150,000, depending on the specifics of the case and the labor costs of the hired lawyer/advocate (p. 57 of the Study); the maximum value of services provided by representatives of “qualification group C” is stated as RUB 300,000 (in the category of financial/banking disputes).
273. These figures sharply contrast with the representation costs sought by the Claimant. The Legal Services Agreement [No] of 2 September 2022 outlines services that are not categorized as court costs eligible for reimbursement in the present arbitration proceedings, such as “meeting with the Respondent for pre-trial dispute settlement”, “conducting enforcement proceedings”, “drafting and sending a claim letter to [Respondent] under the Supply Contract [No]”, these actions either occurred prior to the Claimant filing a claim with the RAC or fell outside the scope of the present proceeding.
274. Moreover, the Arbitral Tribunal cannot overlook the inconsistent procedural conduct of the Claimant in the present case in light of the analysis of Paragraph 4 of Article 16 of the Rules:
- 274.1. On 30 November 2022, the Claimant submitted an application for accelerated consideration of the case, where it states that the Claimant has *“large liabilities to suppliers and obligations to make mandatory payments to the Federal Tax Service, the Pension Fund of the Russian Federation, and employees, the Claimant is unable to conduct regular financial and economic activity”*. This did not prevent the Claimant from revising its claims a total of 3 times during the arbitration, both

⁵³ The extent to which the findings of this Study have been applied in the courts, as well as examples of case law, is indicated in Chapter 3 of the Study (page 15).

reducing and increasing them (the claims, their amount, and composition were revised on 27 December 2022, 22 March 2023, 29 March 2023);

274.2. During the second hearing, the Claimant's representative admitted that he had made numerous errors in arithmetic and calendar calculations, and had incorrectly qualified the claim for forfeit accrual under Article 395 of the Civil Code, without presenting a corresponding calculation;

274.3. The Claimant repeatedly violated the time limits set by the Arbitral Tribunal for the submission of documents and evidence:

274.3.1. Pursuant to PO No. 3, the Parties had until 22 February 2023, 23:59:59 Moscow time, to submit positions, including the necessary evidence, on the amicable settlement of the dispute – the Claimant submitted correspondence with representatives of the Respondent's client regarding the amicable settlement of the dispute on 1 March 2023, i.e., one week late and 2 days before the hearing and outside the time limits set out in PO No. 3. Moreover, the last letter in the correspondence admitted by the Arbitral Tribunal was sent on 3 February 2023, almost 3 weeks before the expiration of the time limit proposed in PO No. 3, to which none of the Parties objected;

274.3.2. The Claimant was invited to clarify its claims by 2 March 2023, 15:00 Moscow time – the Claimant submitted a belated reply on 2 March 2023, at 16:18 Moscow time;

274.3.3. Despite the explicit indication in Paragraph 15 of the Notice of Suspension, Paragraph 22 of the Notice of Commencement, Paragraph 5 of PO No. 1, the Claimant, bearing the burden of proving the circumstances relied upon to substantiate its claims and defenses, did not pay attention to the fact that one of the documents related to the proof of shipments under the Contract (titled "Universal transfer document [No]") was not received by the participants involved in the proceedings. It was revealed on 7 April 2023 following a reminder to the participants about the hearing scheduled for 10 April 2023. At the same time, the document exchange period ended for the Claimant on 30 March 2023, as per PO No. 5. The Claimant submitted this document only on 9 April 2023, i.e., one day before the hearing.

275. Despite these circumstances, errors, typographical mistakes, and inconsistencies, the Arbitral Tribunal accepted the documents submitted by the Claimant and had to extend the time limit of present arbitration to fairly assess the case materials and resolve the dispute on the merits.

276. Therefore, the Arbitral Tribunal, taking into account the Claimant's procedural conduct, partial satisfaction of the claims, as well as the Respondent's unproven position in challenging the representation costs to be recovered from the Respondent, considers it possible to limit the amount of representation costs sought to RUB 500,000, which corresponds to 30.3% of the costs sought by the Claimant.

VI. OPERATIVE PART OF THE AWARD

Based on the above and guided by Articles 50 and 51 of the Arbitration Rules, the Arbitral Tribunal

AWARDS:

1. The claims of [**Claimant**], [Russia] [OGRN], [INN], [address], against [**Respondent**], registration number (Italy): [No], fiscal number (Italy): [No], [address], represented by its branch in [Russia], NZA [No], [INN], branch address: [address], under the Supply Contract [No] of 15 December 2021 as amended by Additional Agreements Nos. 1 and 2 of 10 March 2022 to grant partially.
2. To recover from [**Respondent**], registration number (Italy): [No], fiscal number (Italy): [No], [address], represented by its branch in [Russia], NZA [No], [INN], branch address: [address], in favor of [**Claimant**], [Russia], [OGRN], [INN], [address]:
 - 1) Debt for the delivered products under Specification No. 1 of RUB 755,414.73 (Seven hundred fifty-five thousand four hundred fourteen rubles 73 kopecks);
 - 2) Debt for the delivered products under Additional Agreement No. 2 to the Contract of RUB 3,322,800.00 (Three million three hundred twenty-two thousand eight hundred rubles 00 kopecks);
 - 3) Debt for the delivered products under Additional Agreement No. 1, granted partially of EUR 312,616.80 (Three hundred twelve thousand six hundred sixteen euros 80 euro cents);
 - 4) Interest for the use of the other person's means under Article 395 of the Civil Code:
 - i. Under Specification No. 1 – RUB 103,838.02 (One hundred and three thousand eight hundred and thirty-eight rubles 02 kopecks);
 - ii. Under Additional Agreement No. 1 – EUR 1,577 (One thousand five hundred and seventy-seven euros 00 euro cents);
 - iii. Under Additional Agreement No. 2 – RUB 134,660.96 (One hundred thirty-four thousand six hundred sixty rubles 96 kopecks);
 - 5) Costs of payment of arbitration fee of USD 25,562.05 (Twenty-five thousand five hundred fifty-two US dollars 60 cents);
 - 6) Costs of payment for legal services on the protection of rights and legitimate interests in the RAC rendered by the Claimant's representative, granted partially of RUB 500,000 (Five hundred thousand rubles 00 kopecks).
3. To reject the rest of the asserted claims.

The arbitral award shall be binding upon the Parties from the date of its adoption and shall be immediately enforceable.

Under Article 34 of the Law of the Russian Federation No. 5338-1 of 7 July 1993 "On International Commercial Arbitration" and the express agreement of the Parties, this arbitral award shall be final for the Parties and shall not be set aside.

The present award is made in three copies, one of which is intended for the Claimant, one for the Respondent, one for keeping in the RAC files.

The Sole Arbitrator

Levashova Yulia Igorevna