

**IN THE MATTER OF AN ARBITRATION UNDER THE
NORTH AMERICAN FREE TRADE AGREEMENT**

- and -

**THE ARBITRATION RULES OF THE
UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (1976)**

- between -

Alicia Grace; Ampex Retirement Master Trust; Apple Oaks Partners, LLC; Brentwood Associates Private Equity Profit Sharing Plan; Cambria Ventures, LLC; Carlos Williamson-Nasi in his own right and on behalf of Axis Services, Axis Holding, Clue and F. 305952; Carolyn Grace Baring; Diana Grace Beard; Floradale Partners, LLC; Frederick Grace; Frederick J. Warren; Frederick J. Warren IRA; Gary Olson; Genevieve T. Irwin; Genevieve T. Irwin 2002 Trust; Gerald L. Parsky; Gerald L. Parsky IRA; John N. Irwin III; José Antonio Cañedo-White in his own right and on behalf of Axis Services, Axis Holding and F. 305952; Nicholas Grace; Oliver Grace III; ON5 Investments, LLC; Rainbow Fund, L.P.; Robert M. Witt; Robert M. Witt IRA; Vista Pros, LLC; Virginia Grace

Claimants

v.

The United Mexican States

Respondent

PROCEDURAL ORDER NO. 17

**DECISION ON THE PARTIES' REQUESTS
FOR PROTECTION OF INFORMATION**

Tribunal

Prof. Diego P. Fernández Arroyo, President
Mr. Andrés Jana Linetzky, Arbitrator
Mr. Gabriel Bottini, Arbitrator

Secretary of the Tribunal

Ms. Patricia Rodríguez Martín

September 9, 2021

I. Procedural Background

1. On 12 July 2021, the Respondent filed its Rejoinder Submission.
2. On 2 August 2021, the Parties sent a communication informing the Tribunal that they had reached an agreement for the simultaneous submission of their requests for the protection of certain information of the Rejoinder.
3. On 5 August 2021, pursuant to § 5 (i) of Procedural Order No. 3 and the Parties' agreement reached on 2 August 2021, the Respondent filed a redacted version of the Rejoinder Submission, along with a Transparency Schedule, requesting the protection of certain information (**Annex A**). Pursuant to the Parties' agreement, on that same date the Claimants filed their Transparency Schedule (**Annex B**).
4. On 13 August 2021, the Parties again wrote to the Tribunal, informing that they had reached an agreement for the simultaneous submission of responses to the requests for the protection of information, due on 23 August 2021.
5. On 23 August 2021, the Parties submitted their objections to the other Party's requests to protect information.

II. Applicable Standards

6. The present arbitration is subject to (i) the NAFTA, (ii) the 1976 UNCITRAL Arbitration Rules (the "Arbitration Rules"); (iii) the procedural rules set out in Procedural Order No. 1 and, with regard to the confidentiality and questions related to the disclosure of information to the public, also by Procedural Order No. 3.
7. Procedural Order No. 3 provides in relevant part that:

“4. Confidential information consists of:

- i. Confidential business information includes, but is not limited to: confidential business communications, trade secrets, confidential research, competitively sensitive technical, marketing, financial, or sales information, business plans, customer and supplier information, or any other information that, if disclosed, could cause significant business injury.
- ii. Information that is protected against being made available to the public under the NAFTA, including information that the Respondent may withhold in

accordance with Article 2102 (Essential Security) and Article 2105 (Disclosure of Information);

- iii. Information that is protected against being made available to the public, in the case of information of the Respondent, under the law of the Respondent, and in the case of other information, under any law or rules determined by the Tribunal to be applicable to the disclosure of such information;
- iv. Information that is protected from disclosure by a legal obligation such as a non-disclosure agreement (or similar agreements preventing disclosure or protecting confidentiality) or confidentiality order entered by other courts (for example, protective orders); or
- v. Information the disclosure of which would impede law enforcement.”¹

III. Order

8. The Tribunal decides on the Parties’ requests and objections as set out in the completed versions of the Transparency Schedules that are attached hereto as Annexes A (Respondent’s Request for Protection of Information) and B (Claimants’ Request for Protection of Information). These Annexes form an integral part of the present Procedural Order.

¹ Procedural Order No. 3, of 26 April 2019, § 4.

On behalf of the Tribunal,

[Signed]

Professor Diego P. Fernández Arroyo
President of the Tribunal
Date: September 9, 2021
Seat of the arbitration: Toronto, Canada