

**SIAC Insolvency Arbitration Protocol
(SIAC IA Protocol)**

Application of this Protocol

1. This Protocol shall apply to:
 - 1.1 any dispute that parties have agreed to submit to arbitration under this Protocol arising out of or in connection with, or in anticipation of, any insolvency proceedings; and
 - 1.2 any dispute that parties have agreed to submit to arbitration under this Protocol notwithstanding whether such dispute arises in anticipation of, or in relation to, any insolvency proceedings.
2. For the purposes of this Protocol, “insolvency proceedings” mean and include any judicial or administrative proceeding, including an interim proceeding, pursuant to a law relating to insolvency or adjustment of debt, in which proceeding the assets and affairs of a person or entity are subject to, or will be subject to, control or supervision by a court, for the purpose of reorganisation or liquidation.
3. By agreeing to submit a dispute to arbitration under this Protocol, the parties agree that:
 - 3.1 subject to the modifications set out in this Protocol and any specific directions of the Tribunal, the SIAC Rules for the time being in force shall apply, *mutatis mutandis*, to an arbitration conducted under this Protocol; and
 - 3.2 where an arbitration is conducted in accordance with this Protocol, the rules and procedures set out in this Protocol shall apply and take precedence over any contrary provisions in the applicable SIAC Rules.
4. Unless otherwise stated in this Protocol, any term that has been defined in the applicable SIAC Rules that is used in this Protocol shall have the same meaning as under the applicable SIAC Rules.
5. The Registrar may extend or abridge any time limit under this Protocol.

Response to Notice of Arbitration

6. The Respondent shall file a Response to the Notice of Arbitration with the Registrar and send a copy of the Response to the Claimant within 7 days from the date of commencement of the arbitration under this Protocol.

Seat of Arbitration and Governing Law of Arbitration Agreement

7. In any arbitration conducted under this Protocol, unless the parties agree otherwise or the Tribunal determines otherwise:
 - 7.1 the seat of arbitration shall be Singapore.
 - 7.2 the law governing the agreement of the parties to submit disputes to arbitration under this Protocol shall be Singapore law.

Appointment of Arbitrators

8. A sole arbitrator shall be appointed in any arbitration under this Protocol unless the Registrar determines, after considering the views of the parties, that the complexity, the quantum involved, or other relevant circumstances of the dispute, warrants the appointment of three arbitrators.
9. In the event a sole arbitrator is to be appointed, the parties may jointly nominate the sole arbitrator. In the absence of such joint nomination being made within 14 days of the date of commencement of the arbitration under this Protocol or within the period otherwise agreed by the parties or set by the Registrar, or if at any time any party so requests, the President shall appoint the sole arbitrator.
10. In the event three arbitrators are to be appointed:
 - 10.1 The Claimant shall nominate an arbitrator within 7 days from the date of commencement of the arbitration under this Protocol or within the period of time otherwise agreed by the parties or set by the Registrar, and the Respondent shall nominate an arbitrator within 7 days of the receipt of the Claimant's nomination of an arbitrator or within the period of time otherwise agreed by the parties or set by the Registrar.
 - 10.2 If a party fails to make a nomination of an arbitrator within the timelines under Paragraph 10.1, the President shall appoint an arbitrator on its behalf.
 - 10.3 The presiding arbitrator shall be appointed by the President, unless the parties have agreed upon another procedure for the nomination of the presiding arbitrator or if such agreed procedure does not result in a nomination of the presiding arbitrator within the period agreed by the parties or set by the Registrar.
11. Where there are more than two parties to the arbitration, and three arbitrators are to be appointed, the Claimant(s) shall jointly nominate an arbitrator and the Respondent(s) shall jointly nominate an arbitrator within 15 days from the date of commencement of the arbitration under this Protocol or within the period of time otherwise agreed by the parties or set by the Registrar. The third arbitrator, who shall be the presiding arbitrator, shall be appointed in accordance with Paragraph 10.3. In the absence of joint nominations from both the Claimant(s) and the Respondent(s) being made within 15 days of the date of commencement of the arbitration under this Protocol or within the period otherwise agreed by the parties or set by the Registrar, the President shall appoint all three arbitrators and shall designate one of them to be the presiding arbitrator.
12. Any arbitrator nominated or appointed under this Protocol may, but is not required to be, an arbitrator listed under the SIAC Specialist Insolvency Disputes Panel.
13. Unless the parties agree otherwise, the Tribunal shall not appoint a Tribunal Secretary in an arbitration under this Protocol.

Challenge to Arbitrators

14. A party who wishes to challenge an arbitrator shall file a notice of challenge with the Registrar:
 - 14.1 within 3 days from the date of receipt of the notice of appointment of the arbitrator who is being challenged; or

- 14.2 within 3 days from the date that the reasons for challenge of an arbitrator specified in the SIAC Rules became known or should have reasonably been known to that party.
15. If within 3 days after the date the notice of challenge is filed, all other parties agree to the challenge or the challenged arbitrator voluntarily withdraws from office, the SIAC Court may direct that a substitute arbitrator be appointed in accordance with this Protocol and the SIAC Rules. In neither case does this imply acceptance of the validity of the grounds for the challenge.
16. The procedures for challenge and replacement of an arbitrator in the applicable SIAC Rules shall apply, *mutatis mutandis*, to a challenge of an arbitrator under this Protocol, save that the SIAC Court may determine that no reasons are to be provided in a decision on the challenge.

Mediation

17. The Tribunal may, at the joint request of the parties, suspend the proceedings for a period of up to 3 weeks to allow the parties to resolve their dispute, in whole or in part, through mediation. The Tribunal may extend the period of suspension at the request of a party.
18. Subject to any applicable law, no member of the Tribunal may act as a mediator in respect of the dispute or any part thereof, unless agreed by all parties in writing.
19. Where the parties agree to attempt resolution of their dispute through mediation, if the dispute:
 - 19.1 has not been settled by mediation, the Tribunal shall resume the arbitration proceedings in respect of the dispute or any remaining part of the dispute; or
 - 19.2 has been settled by mediation, the parties may request the Tribunal to record their settlement in the form of a consent award on the terms agreed by the parties.
20. Where the Tribunal is requested to make a consent award on terms agreed by the parties, the Tribunal shall seek to ensure that the matters dealt with in the consent award are:
 - 20.1 within the scope of the arbitration agreement and the Tribunal's jurisdiction; and
 - 20.2 not contrary to any applicable law or otherwise contrary to public policy.

Conduct of Proceedings

21. Within 7 days from the date of constitution of the Tribunal, the Tribunal shall conduct a case management conference with the parties to discuss:
 - 21.1 the timetable for the conduct of the proceedings, including the determination of any interlocutory applications;
 - 21.2 the parties' views on the joinder of any third party to the arbitration; and
 - 21.3 the potential for the settlement of all or part of the dispute, including through the adoption of amicable dispute resolution methods such as mediation.
22. The Tribunal shall have the power to conduct the proceedings in such manner as the Tribunal considers appropriate, taking into account the timelines under this Protocol.

23. In exercising its procedural discretion under this Protocol, the Tribunal may set a time limit on the expiry of which, the parties shall not be entitled to file any interlocutory applications without leave of the Tribunal.

Award

24. The final award shall be made as soon as practicable and, in any event, within 6 months from the date of constitution of the Tribunal, unless the parties agree otherwise or the Registrar extends the time for making such final award.
25. Before making any award, the Tribunal shall submit such award in draft form to the Registrar and inform the parties of the date of submission. The Tribunal shall submit the draft award to the Registrar not later than 30 days from the date of submission of the last directed oral or written submission in respect of the proceedings to which the award pertains, unless the Registrar extends the time for such submission.
26. The Registrar may, as soon as practicable, suggest modifications as to the form of the draft award and, without affecting the Tribunal's liberty to decide the dispute, draw the Tribunal's attention to points of substance. No award shall be issued until it has been approved by the Registrar as to its form.
27. The Tribunal shall state the reasons upon which the award is based in summary form, unless the parties have agreed that no reasons are to be given.

General Provisions

28. Notwithstanding any provisions on confidentiality in the applicable SIAC Rules, a party may:
- 28.1 request the Tribunal to provide an additional and amended copy of any decision, ruling, order, or award that does not reveal any matter, including the identity of any party to the proceedings or any other information that any party to the proceedings reasonably wishes to remain confidential;
 - 28.2 disclose such additional and amended copy of a decision, ruling, order, or award in any relevant insolvency proceedings; and
 - 28.3 with the leave of the Tribunal, disclose the status and progress of any arbitration conducted under this Protocol, in any relevant insolvency proceedings.
29. This Protocol and the applicable SIAC Rules shall apply as appropriate to any arbitration conducted under this Protocol, taking into account the nature and purpose of the proceedings. The Tribunal may decide the manner in which this Protocol and the SIAC Rules shall apply to any arbitration conducted under this Protocol.