

The background of the cover is a dark blue color with a stylized world map. The map is composed of various shades of blue and purple, with a prominent orange horizontal bar above the 'A' in the SIAC logo. The map shows the outlines of continents, with a focus on the Asia-Pacific region.

SIAC

Investment Arbitration Rules of the  
Singapore International Arbitration Centre

# SIAC Investment Rules

1<sup>st</sup> Edition, 1 January 2017

# Investment Arbitration Rules of the Singapore International Arbitration Centre

## SIAC Investment Rules

1<sup>st</sup> Edition, 1 January 2017

### Contents

<b>Rule 1</b>	Scope of Application and Interpretation	<b>2</b>
<b>Rule 2</b>	Notice and Calculation of Periods of Time	<b>4</b>
<b>Rule 3</b>	Notice of Arbitration	<b>5</b>
<b>Rule 4</b>	Response to the Notice of Arbitration	<b>6</b>
<b>Rule 5</b>	Number and Appointment of Arbitrators	<b>7</b>
<b>Rule 6</b>	Sole Arbitrator	<b>8</b>
<b>Rule 7</b>	Multiple Arbitrators	<b>8</b>
<b>Rule 8</b>	Appointment of Arbitrators by the Court	<b>9</b>
<b>Rule 9</b>	Multi-Party Appointment of Arbitrators	<b>9</b>
<b>Rule 10</b>	Qualifications of Arbitrators	<b>10</b>
<b>Rule 11</b>	Challenge of Arbitrators	<b>11</b>
<b>Rule 12</b>	Notice of Challenge	<b>11</b>
<b>Rule 13</b>	Decision on Challenge	<b>12</b>
<b>Rule 14</b>	Replacement of an Arbitrator	<b>13</b>
<b>Rule 15</b>	Repetition of Hearings in the Event of Replacement of an Arbitrator	<b>14</b>
<b>Rule 16</b>	Conduct of the Proceedings	<b>14</b>
<b>Rule 17</b>	Submissions by the Parties	<b>15</b>
<b>Rule 18</b>	Seat of the Arbitration	<b>17</b>
<b>Rule 19</b>	Language of the Arbitration	<b>17</b>
<b>Rule 20</b>	Party Representatives	<b>17</b>
<b>Rule 21</b>	Hearings	<b>17</b>

# Contents

<b>Rule 22</b>	Witnesses	<b>18</b>
<b>Rule 23</b>	Tribunal-Appointed Experts	<b>19</b>
<b>Rule 24</b>	Additional Powers of the Tribunal	<b>19</b>
<b>Rule 25</b>	Jurisdiction of the Tribunal	<b>21</b>
<b>Rule 26</b>	Early Dismissal of Claims and Defences	<b>22</b>
<b>Rule 27</b>	Interim and Emergency Interim Relief	<b>23</b>
<b>Rule 28</b>	Applicable Law, <i>Amiable Compositeur</i> and <i>Ex Aequo et Bono</i>	<b>24</b>
<b>Rule 29</b>	Third-Party Submissions	<b>24</b>
<b>Rule 30</b>	Award	<b>26</b>
<b>Rule 31</b>	Correction of Awards, Interpretation of Awards and Additional Awards	<b>28</b>
<b>Rule 32</b>	Fees and Deposits	<b>29</b>
<b>Rule 33</b>	Costs of the Arbitration	<b>30</b>
<b>Rule 34</b>	Tribunal's Fees and Expenses	<b>31</b>
<b>Rule 35</b>	Party's Legal and Other Costs	<b>31</b>
<b>Rule 36</b>	Exclusion of Liability	<b>31</b>
<b>Rule 37</b>	Confidentiality	<b>32</b>
<b>Rule 38</b>	Publication	<b>33</b>
<b>Rule 39</b>	Decisions of the President, the Court and the Registrar	<b>34</b>
<b>Rule 40</b>	General Provisions	<b>34</b>
<b>Schedule 1</b>	Emergency Arbitrator	<b>35</b>
	Schedule of Fees	<b>38</b>
	SIAC Investment Rules Model Clause	<b>40</b>
	Payment Information	<b>42</b>

# Investment Arbitration Rules of the Singapore International Arbitration Centre

## SIAC Investment Rules

1<sup>st</sup> Edition, 1 January 2017

### Introduction

- i. For the purpose of offering a specialised set of procedures for the conduct of international investment arbitration, the Singapore International Arbitration Centre developed the Investment Arbitration Rules of the Singapore International Arbitration Centre (1<sup>st</sup> Edition, 1 January 2017) to be applied by agreement in disputes involving a State, State-controlled entity or intergovernmental organisation, whether arising out of a contract, treaty, statute or other instrument.
- ii. The SIAC Investment Arbitration Rules have been developed with a view towards the issues unique to international investment arbitration. These Rules may be agreed and applied in any type of arbitration, the application of which shall not be subject to objective criteria, such as the existence of a qualifying “investor” or “investment” or the presence of a State, State-controlled entity or intergovernmental organisation, without prejudice to any requirements set out in the underlying contract, treaty, statute or other instrument.
- iii. Where the parties to a dispute have previously consented, or a party has previously offered to consent, to arbitration in accordance with rules of arbitration other than the SIAC Investment Arbitration Rules, whether in a contract, treaty, statute or other instrument, the dispute may be referred instead to arbitration in accordance with the SIAC Investment Arbitration Rules if the parties have subsequently consented to refer such dispute to arbitration in accordance with the SIAC Investment Arbitration Rules.

## 1. Scope of Application and Interpretation

- 1.1 Where the Parties have agreed to refer a dispute to arbitration in accordance with the SIAC Investment Arbitration Rules, the Parties shall be deemed to have agreed that the arbitration shall be conducted pursuant to and administered by SIAC in accordance with the SIAC Investment Arbitration Rules.
- 1.2 An agreement to refer a dispute to arbitration in accordance with the SIAC Investment Arbitration Rules may be expressed in a contract, treaty, statute or other instrument, or through an offer by a Party in a contract, treaty, statute or other instrument which is subsequently accepted by the other Party by any means, including by the other Party's commencement of arbitration.
- 1.3 An agreement by the Parties to refer a dispute to arbitration in accordance with the SIAC Investment Arbitration Rules constitutes a waiver of any right of immunity from jurisdiction in respect of proceedings relating to the arbitration to which the Parties might otherwise be entitled. Such waiver of immunity from jurisdiction is without prejudice to immunity from execution.
- 1.4 The SIAC Investment Arbitration Rules shall come into force on 1 January 2017 and shall apply to any arbitration under the SIAC Investment Arbitration Rules which is commenced on or after that date.
- 1.5 In these Rules:

“Award” includes a partial, interim or final award and an award of an Emergency Arbitrator;

“Committee of the Court” means a committee consisting of not less than three members of the Court appointed by the President (which may include the President);

“Court” means the Court of Arbitration of SIAC and includes a Committee of the Court;

“Emergency Arbitrator” means an arbitrator appointed in accordance with paragraph 3 of Schedule 1;

“Non-disputing Contracting Party” means a party to a treaty pursuant to which the dispute has been referred to arbitration in accordance with these Rules and that is not a Party to the arbitration;

“Non-disputing Party” means a person or entity that is neither a Party to the arbitration nor a party to a treaty pursuant to which the dispute has been referred to arbitration in accordance with these Rules;

“Parties” mean the Claimant(s) and Respondent(s) in a dispute referred to arbitration in accordance with these Rules;

“Party” means the Claimant(s) or Respondent(s) in a dispute referred to arbitration in accordance with these Rules;

“Practice Notes” mean the guidelines published by the Registrar from time to time to supplement, regulate and implement these Rules;

“President” means the President of the Court and includes any Vice President and the Registrar;

“Registrar” means the Registrar of the Court and includes any Deputy Registrar;

“SIAC” means the Singapore International Arbitration Centre;

“SIAC Investment Arbitration Rules” or “Rules” mean the Investment Arbitration Rules of the Singapore International Arbitration Centre (1<sup>st</sup> Edition, 1 January 2017);

“Tribunal” includes a sole arbitrator or all the arbitrators where more than one arbitrator is appointed.

Any pronoun in these Rules shall be understood to be gender-neutral. Any singular noun shall be understood to refer to the plural in the appropriate circumstances.

## **2. Notice and Calculation of Periods of Time**

- 2.1 For the purposes of these Rules, any notice, communication or proposal shall be in writing. Any such notice, communication or proposal may be delivered by hand, registered post or courier service, or transmitted by any form of electronic communication (including electronic mail and facsimile), or delivered by any other appropriate means that provides a record of its delivery. Any notice, communication or proposal shall be deemed to have been received if it is delivered: (i) to the addressee personally or to its authorised representative; (ii) to the addressee's habitual residence, place of business or designated address; (iii) to any address agreed by the Parties; (iv) according to the practice of the Parties in prior dealings; or (v) if, after reasonable efforts, none of these can be found, then at the addressee's last-known residence or place of business.
- 2.2 Any notice, communication or proposal shall be deemed to have been received on the day it is delivered in accordance with Rule 2.1.
- 2.3 For the purpose of calculating any period of time under these Rules, such period shall begin to run on the day following the day when a notice, communication or proposal is deemed to have been received. Unless the Registrar or the Tribunal determines otherwise, any period of time under these Rules is to be calculated in accordance with Singapore Standard Time (GMT +8).
- 2.4 Any non-business days at the place of receipt shall be included in calculating any period of time under these Rules. If the last day of any period of time under these Rules is not a business day at the place of receipt in accordance with Rule 2.1, the period is extended until the first business day which follows.
- 2.5 The Parties shall file with the Registrar a copy of any notice, communication or proposal concerning the arbitral proceedings.
- 2.6 Except as provided in these Rules, the Registrar may at any time extend or abbreviate any time limits prescribed under these Rules.

### 3. Notice of Arbitration

- 3.1 A Party wishing to commence an arbitration under these Rules (the "Claimant") shall file with the Registrar a Notice of Arbitration which shall include:
- a. a demand that the dispute be referred to arbitration;
  - b. the names, nationalities, addresses, telephone numbers, facsimile numbers and electronic mail addresses, if known, of the Parties to the arbitration and their representatives, if any;
  - c. a reference to the arbitration clause and a copy of the arbitration clause;
  - d. a reference to the contract, treaty, statute or other instrument out of or in relation to which the dispute arises and a copy of the contract, treaty, statute or other instrument;
  - e. where applicable, a brief statement describing the nature of the relationship between a Party and any relevant State, State-controlled entity or intergovernmental organisation, and how the Parties are bound by the arbitration clause;
  - f. a brief statement describing the nature and circumstances of the dispute, specifying the relief claimed and, where possible, an initial quantification of the claim amount;
  - g. a statement of any matters which the Parties have previously agreed as to the conduct of the arbitration or with respect to which the Claimant wishes to make a proposal;
  - h. a proposal for the number of arbitrators if not specified in the arbitration clause;
  - i. unless otherwise agreed by the Parties, the nomination of its arbitrator(s) if the arbitration clause provides for three or more arbitrators, or a proposal for a sole arbitrator if the arbitration clause provides for a sole arbitrator;



- j. any comment as to the applicable rules of law;
  - k. any comment as to the language of the arbitration; and
  - l. payment of the requisite filing fee under these Rules.
- 3.2 The date of receipt of the complete Notice of Arbitration by the Registrar shall be deemed to be the date of commencement of the arbitration. For the avoidance of doubt, the Notice of Arbitration is deemed to be complete when all the requirements of Rule 3.1 are fulfilled or when the Registrar determines that there has been substantial compliance with such requirements. SIAC shall notify the Parties of the commencement of the arbitration.
- 3.3 The Claimant shall, at the same time as it files the Notice of Arbitration with the Registrar, send a copy of the Notice of Arbitration to the Respondent, and shall notify the Registrar that it has done so, specifying the mode of service employed and the date of service.

#### **4. Response to the Notice of Arbitration**

- 4.1 The Respondent shall file a Response with the Registrar within 35 days of receipt of the Notice of Arbitration. The Response shall include:
- a. a confirmation or denial of all or part of the claims, including, where possible, any plea that the Tribunal lacks jurisdiction;
  - b. a brief statement describing the nature and circumstances of any counterclaim, specifying the relief claimed and, where possible, an initial quantification of the counterclaim amount;
  - c. any comment in response to any statements contained in the Notice of Arbitration under Rule 3.1 or any comment with respect to the matters covered in such Rule;
  - d. unless otherwise agreed by the Parties, the nomination of its arbitrator(s) if the arbitration clause provides for three or more arbitrators or, if the arbitration clause provides for a sole arbitrator, comments on the Claimant's proposal for a sole

arbitrator or a counter-proposal; and

- e. payment of the requisite filing fee under these Rules for any counterclaim.
- 4.2 The Respondent shall, at the same time as it files the Response with the Registrar, send a copy of the Response to the Claimant, and shall notify the Registrar that it has done so, specifying the mode of service employed and the date of service.

## **5. Number and Appointment of Arbitrators**

- 5.1 The Parties may agree that the Tribunal shall be composed of one, three or any other odd number of arbitrators.
- 5.2 Three arbitrators shall be appointed in any arbitration under these Rules unless the Parties have otherwise agreed; or it appears to the Court, giving due regard to any proposals by the Parties, that the complexity, the quantum involved or other relevant circumstances of the dispute, warrants the appointment of a sole arbitrator.
- 5.3 If the Parties have agreed that any arbitrator is to be appointed by one or more of the Parties, or by any third person including by the arbitrators already appointed, that agreement shall be deemed an agreement to nominate an arbitrator under these Rules.
- 5.4 In all cases, the arbitrators nominated by the Parties, or by any third person including by the arbitrators already appointed, shall be subject to appointment by the Court in its discretion.
- 5.5 The Court shall appoint an arbitrator as soon as practicable. Any decision by the Court to appoint an arbitrator under these Rules shall be final and not subject to appeal.
- 5.6 The Court may appoint an arbitrator whose appointment has already been suggested or proposed in the arbitral proceedings.
- 5.7 Where the Parties are of different nationalities, the Court shall appoint a sole arbitrator or a presiding arbitrator of a different nationality than the Parties, unless the Parties have otherwise agreed

or unless the Court otherwise determines it to be appropriate having regard to the circumstances of the case.

- 5.8 The terms of appointment of each arbitrator shall be fixed by the Registrar in accordance with these Rules and any Practice Notes for the time being in force, or in accordance with the agreement of the Parties.

## **6. Sole Arbitrator**

- 6.1 If a sole arbitrator is to be appointed, either Party may propose to the other Party the names of one or more persons to serve as the sole arbitrator. Where the Parties have reached an agreement on the nomination of a sole arbitrator, Rule 5.4 shall apply.
- 6.2 If within 42 days after the date of commencement of the arbitration, or within the period otherwise agreed by the Parties or set by the Registrar, the Parties have not reached an agreement on the nomination of a sole arbitrator, or if at any time either Party so requests, the Court shall appoint the sole arbitrator in accordance with the procedure under Rule 8.

## **7. Multiple Arbitrators**

- 7.1 If three or more arbitrators are to be appointed, the Claimant and the Respondent shall each nominate an equal number of arbitrators.
- 7.2 If a Party fails to nominate its arbitrator(s) within 35 days after receipt of the other Party's nomination of its arbitrator(s), or within the period otherwise agreed by the Parties or set by the Registrar, the Court shall proceed to appoint the arbitrator(s) on its behalf.
- 7.3 Unless the Parties have agreed upon another procedure for appointing the presiding arbitrator, or if such agreed procedure does not result in a nomination within the period agreed by the Parties or set by the Registrar, the Court shall appoint the presiding arbitrator in accordance with the procedure under Rule 8.

## **8. Appointment of Arbitrators by the Court**

In making the appointment of the arbitrator(s) under Rule 6.2, Rule 7.3, Rule 9.1 and Rule 9.2, the Court shall use the following list-procedure, unless the Parties agree that the list-procedure shall not be used or unless the Court determines, in its discretion, that the use of the list-procedure is not appropriate for the case:

- a. The Court shall invite the Parties' views on any qualifications of the arbitrator(s) prior to compiling the list of candidates. The Court shall not be bound by the Parties' recommendations, but it shall take the Parties' views and the circumstances of the case into account when compiling the list of candidates.
- b. The Court shall communicate to each of the Parties an identical list containing at least five names.
- c. Within 15 days after the receipt of such list, or within the period otherwise agreed by the Parties or set by the Registrar, each Party shall return the list directly to the Registrar, without need to copy in the other Party, after having deleted the name or names to which it objects and numbered the remaining names on the list in the order of its preference.
- d. After the expiry of the above period of time, the Court shall appoint the arbitrator(s) from among the names approved on the lists returned to the Registrar and in accordance with the order of preference indicated by the Parties.
- e. If for any reason the appointment cannot be made according to this procedure, the Court may exercise its discretion in appointing the arbitrator(s), including appointing the arbitrator(s) from outside the list communicated to the Parties.

## **9. Multi-Party Appointment of Arbitrators**

- 9.1 Where there are more than two Parties to the arbitration, and a sole arbitrator is to be appointed, the Parties may agree to jointly nominate the sole arbitrator. In the absence of such joint nomination

having been made within 42 days of the date of commencement of the arbitration or within the period otherwise agreed by the Parties or set by the Registrar, the Court shall appoint the sole arbitrator in accordance with the procedure under Rule 8.

- 9.2 Where there are more than two Parties to the arbitration, and three or more arbitrators are to be appointed, the Claimant(s) and Respondent(s) shall each jointly nominate an equal number of arbitrators. The presiding arbitrator shall be appointed in accordance with Rule 7.3. In the absence of both such joint nominations having been made within 42 days of the date of commencement of the arbitration or within the period otherwise agreed by the Parties or set by the Registrar, the Court shall appoint all the arbitrators in accordance with the procedure under Rule 8 and shall designate one of them to be the presiding arbitrator.

## **10. Qualifications of Arbitrators**

- 10.1 Any arbitrator appointed in an arbitration under these Rules, whether or not nominated by the Parties, shall be and remain at all times independent and impartial.
- 10.2 In appointing an arbitrator under these Rules, the Court shall have due regard to any qualifications required of the arbitrator by the agreement of the Parties and to such considerations that are relevant to the impartiality or independence of the arbitrator.
- 10.3 The Court shall also consider whether the arbitrator has sufficient availability to determine the case in a prompt and efficient manner that is appropriate given the nature of the arbitration.
- 10.4 A nominated arbitrator shall disclose to the Parties and to the Registrar any circumstances that may give rise to justifiable doubts as to his impartiality or independence as soon as reasonably practicable and in any event before his appointment.
- 10.5 An arbitrator shall immediately disclose to the Parties, to the other arbitrators and to the Registrar any circumstances that may give rise to justifiable doubts as to his impartiality or independence that may

be discovered or arise during the arbitration.

- 10.6 No Party or person acting on behalf of a Party shall have any *ex parte* communication relating to the case with any arbitrator or with any candidate for appointment as party-nominated arbitrator, except to advise the candidate of the general nature of the controversy and of the anticipated proceedings; to discuss the candidate's qualifications, availability or independence in relation to the Parties; or to discuss the suitability of candidates for selection as the presiding arbitrator where the Parties or Party-nominated arbitrators are to participate in that selection. No Party or person acting on behalf of a Party shall have any *ex parte* communication relating to the case with any candidate for presiding arbitrator.

## **11. Challenge of Arbitrators**

- 11.1 Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence or if the arbitrator does not possess any requisite qualification on which the Parties have agreed.
- 11.2 A Party may challenge the arbitrator nominated by it only for reasons of which it becomes aware after the appointment has been made.

## **12. Notice of Challenge**

- 12.1 A Party that intends to challenge an arbitrator shall file a notice of challenge with the Registrar in accordance with the requirements of Rule 12.2 within 28 days after receipt of the notice of appointment of the arbitrator who is being challenged or within 28 days after the circumstances specified in Rule 11.1 or Rule 11.2 became known or should have reasonably been known to that Party.
- 12.2 The notice of challenge shall state the reasons for the challenge. The date of receipt of the notice of challenge by the Registrar shall be deemed to be the date the notice of challenge is filed. The Party challenging an arbitrator shall, at the same time as it files a notice of challenge with the Registrar, send the notice of challenge to the other Party, the arbitrator who is being challenged and the other members

of the Tribunal (or if the Tribunal has not yet been constituted, any appointed arbitrator), and shall notify the Registrar that it has done so, specifying the mode of service employed and the date of service.

- 12.3 The Party making the challenge shall pay the requisite challenge fee under these Rules in accordance with the applicable Schedule of Fees. If the Party making the challenge fails to pay the challenge fee within the time limit set by the Registrar, the challenge shall be considered as withdrawn.
- 12.4 After receipt of a notice of challenge under Rule 12.2, the Registrar may order a suspension of the arbitral proceedings until the challenge is resolved. Unless the Registrar orders the suspension of the arbitral proceedings pursuant to this Rule 12.4, the challenged arbitrator shall be entitled to continue to participate in the arbitration pending the determination of the challenge by the Court in accordance with Rule 13.
- 12.5 Where an arbitrator is challenged by a Party, the other Party may agree to the challenge, and the Court shall remove the arbitrator if all Parties agree to the challenge. The challenged arbitrator may also voluntarily withdraw from office. In neither case does this imply acceptance of the validity of the grounds for the challenge.
- 12.6 If an arbitrator is removed or withdraws from office in accordance with Rule 12.5, a substitute arbitrator shall be appointed in accordance with the procedure applicable to the nomination and appointment of the arbitrator being replaced. This procedure shall apply even if, during the process of appointing the challenged arbitrator, a Party failed to exercise its right to nominate an arbitrator. The time limits applicable to the nomination and appointment of the substitute arbitrator shall commence from the date of receipt of the agreement of the other Party to the challenge or the challenged arbitrator's withdrawal from office.

### **13. Decision on Challenge**

- 13.1 If, within 21 days of receipt of the notice of challenge under Rule 12, the other Party does not agree to the challenge and the arbitrator who is being challenged does not withdraw voluntarily from office, the

Court shall decide the challenge. The Court may request comments on the challenge from the Parties, the challenged arbitrator and the other members of the Tribunal (or if the Tribunal has not yet been constituted, any appointed arbitrator), and set a schedule for such comments to be made.

- 13.2 If the Court accepts the challenge to an arbitrator, the Court shall remove the arbitrator, and a substitute arbitrator shall be appointed in accordance with the procedure applicable to the nomination and appointment of the arbitrator being replaced. The time limits applicable to the nomination and appointment of the substitute arbitrator shall commence from the date of the Registrar's notification to the Parties of the decision by the Court.
- 13.3 If the Court rejects the challenge to an arbitrator, the challenged arbitrator shall continue with the arbitration.
- 13.4 The Court's decision on any challenge to an arbitrator under this Rule 13 shall be reasoned, unless otherwise agreed by the Parties, and shall be issued to the Parties by the Registrar. Any such decision on any challenge by the Court shall be final and not subject to appeal.

#### **14. Replacement of an Arbitrator**

- 14.1 Except as otherwise provided in these Rules, in the event of the death, resignation, withdrawal or removal of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed in accordance with the procedure applicable to the nomination and appointment of the arbitrator being replaced.
- 14.2 In the event that an arbitrator refuses or fails to act or perform his functions in accordance with these Rules or within prescribed time limits, or in the event of any *de jure* or *de facto* impossibility by an arbitrator to act or perform his functions, the procedure for challenge and replacement of an arbitrator provided in Rule 11 to Rule 13 and Rule 14.1 shall apply.
- 14.3 The Court may, at its own initiative and in its discretion, remove an arbitrator who refuses or fails to act or to perform his functions in



accordance with these Rules or within prescribed time limits, or in the event of a *de jure* or *de facto* impossibility of an arbitrator to act or perform his functions, or if the arbitrator does not conduct or participate in the arbitration with due diligence and/or in a manner that ensures the fair, expeditious, economical and final resolution of the dispute. The Court shall consult the Parties and the members of the Tribunal, including the arbitrator to be removed (or if the Tribunal has not yet been constituted, any appointed arbitrator) prior to the removal of an arbitrator under this Rule 14.3.

## **15. Repetition of Hearings in the Event of Replacement of an Arbitrator**

If the sole or presiding arbitrator is replaced in accordance with the procedure in Rule 12 to Rule 14, any hearings held previously shall be repeated unless otherwise agreed by the Parties. If any other arbitrator is replaced, any hearings held previously may be repeated at the discretion of the Tribunal after consulting with the Parties. If the Tribunal has issued an interim or partial Award, any hearings relating solely to that Award shall not be repeated, and the Award shall remain in effect.

## **16. Conduct of the Proceedings**

- 16.1 The Tribunal shall conduct the arbitration in such manner as it considers appropriate, after consulting with the Parties, to ensure the fair, expeditious, economical and final resolution of the dispute.
- 16.2 The Tribunal shall determine the relevance, materiality and admissibility of all evidence. The Tribunal is not required to apply the rules of evidence of any applicable law in making such determination.
- 16.3 As soon as practicable after the constitution of the Tribunal, the Tribunal shall conduct a preliminary meeting with the Parties, in person or by any other means, to discuss the procedures that will be most appropriate and efficient for the case.
- 16.4 The Tribunal may, in its discretion, direct the order of proceedings, bifurcate proceedings, exclude cumulative or irrelevant testimony or

other evidence and direct the Parties to focus their presentations on issues the decision of which could dispose of all or part of the case.

- 16.5 Unless otherwise agreed by the Parties, the presiding arbitrator may make procedural rulings alone, subject to revision by the Tribunal.
- 16.6 All statements, documents or other information supplied to the Tribunal and/or the Registrar by a Party shall simultaneously be communicated to the other Party.
- 16.7 The Court may, at any stage of the proceedings, request the Parties and the Tribunal to convene a meeting to discuss the procedures that will be most appropriate and efficient for the case. Such meeting may be conducted in person or by any other means.

## **17. Submissions by the Parties**

- 17.1 Unless otherwise agreed by the Parties or otherwise determined by the Tribunal, the submission of written statements shall proceed as set out in this Rule 17.
- 17.2 The Claimant shall, within a period of time to be determined by the Tribunal, send to the Respondent and the Tribunal a Memorial, setting out in full detail:
  - a. a statement of facts supporting the claim;
  - b. the legal grounds or arguments supporting the claim;
  - c. any witness statement and/or expert report supporting the claim; and
  - d. the relief claimed together with the amount of all quantifiable claims;
- 17.3 The Respondent shall, within a period of time to be determined by the Tribunal, send to the Claimant and the Tribunal a Counter-Memorial, setting out in full detail:

- a. a statement of facts supporting the defence and any counterclaim;
  - b. the legal grounds or arguments supporting the defence and any counterclaim;
  - c. any witness statement and/or expert report supporting the defence and any counterclaim; and
  - d. the relief claimed together with the amount of all quantifiable counterclaims.
- 17.4 By agreement of the Parties or if deemed necessary by the Tribunal, the Parties shall file a Reply and Rejoinder within a period of time to be determined by the Tribunal.
- 17.5 A Party may amend its claim, counterclaim or other submissions unless the Tribunal considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other Party or any other circumstances. However, a claim or counterclaim may not be amended in such a manner that the amended claim or counterclaim falls outside the scope of the arbitration clause.
- 17.6 The Tribunal shall decide which further submissions shall be required from the Parties or may be presented by them. The Tribunal shall fix the periods of time for communicating such submissions.
- 17.7 All submissions referred to in this Rule 17 shall be accompanied by copies of all supporting documents and legal authorities which have not previously been submitted by any Party.
- 17.8 If the Claimant fails within the time specified to submit its Memorial, the Tribunal may issue an order for the termination of the arbitral proceedings or give such other directions as may be appropriate.
- 17.9 If the Respondent fails to submit its Counter-Memorial, or if at any point any Party fails to avail itself of the opportunity to present its case in the manner directed by the Tribunal, the Tribunal may proceed with the arbitration.

## **18. Seat of the Arbitration**

- 18.1 The Parties may agree on the seat of the arbitration. Failing such an agreement, the seat of the arbitration shall be determined by the Tribunal, having regard to all the circumstances of the case.
- 18.2 The Tribunal may hold hearings and meetings by any means it considers expedient or appropriate and at any location it considers convenient or appropriate.

## **19. Language of the Arbitration**

- 19.1 Unless otherwise agreed by the Parties, the Tribunal shall determine the language to be used in the arbitration.
- 19.2 If a Party submits a document written in a language other than the language(s) of the arbitration, the Tribunal, or if the Tribunal has not been constituted, the Registrar, may order that Party to submit a translation in a form to be determined by the Tribunal or the Registrar.

## **20. Party Representatives**

- 20.1 Any Party may be represented by legal practitioners or any other authorised representatives. The Registrar and/or the Tribunal may require proof of authority of any Party representatives.
- 20.2 After the constitution of the Tribunal, any change or addition by a Party to its representatives shall be promptly communicated in writing to the Parties, the Tribunal and the Registrar.

## **21. Hearings**

- 21.1 Unless otherwise agreed by the Parties, the Tribunal shall, if either Party so requests or the Tribunal so decides, hold one or more hearings for the presentation of evidence and/or for oral submissions on the merits of the dispute, including any issue as to jurisdiction or bifurcation.
- 21.2 The Tribunal shall, after consultation with the Parties, set the date,

time and place of any meeting or hearing and shall give the Parties reasonable notice.

- 21.3 If any Party fails to appear at a meeting or hearing without showing sufficient cause for such failure, the Tribunal may proceed with the arbitration and may make the Award based on the submissions and evidence before it.
- 21.4 Unless otherwise agreed by the Parties, all meetings and hearings shall be in private, and any recordings, transcripts, or documents used in relation to the arbitral proceedings shall remain confidential.

## **22. Witnesses**

- 22.1 Before any hearing, the Tribunal may require the Parties to give notice of the identity of witnesses, including expert witnesses, whom the Parties intend to produce, the subject matter of their testimony and its relevance to the issues.
- 22.2 The Tribunal may allow, refuse or limit the appearance of witnesses to give oral evidence at any hearing.
- 22.3 Any witness who gives oral evidence may be questioned by each of the Parties, their representatives and the Tribunal in such manner as the Tribunal may determine.
- 22.4 The Tribunal may direct the testimony of witnesses to be presented in written form, either as signed statements or sworn affidavits or any other form of recording. Subject to Rule 22.2, any Party may request that such a witness should attend for oral examination. If the witness fails to attend for oral examination, the Tribunal may place such weight on the written testimony as it thinks fit, disregard such testimony, or exclude such testimony altogether.
- 22.5 It shall be permissible for any Party or its representatives to interview any witness or potential witness (that may be presented by that Party) prior to his appearance to give oral evidence at any hearing.

## **23. Tribunal-Appointed Experts**

- 23.1 Unless otherwise agreed by the Parties, the Tribunal may:
- a. following consultation with the Parties, appoint an expert to report on specific issues; and
  - b. require a Party to give any expert appointed under Rule 23.1(a) any relevant information, or to produce or provide access to any relevant documents, goods or property for inspection.
- 23.2 Any expert appointed under Rule 23.1(a) shall submit a report in writing to the Tribunal. Upon receipt of such written report, the Tribunal shall deliver a copy of the report to the Parties and invite the Parties to submit written comments on the report.
- 23.3 Unless otherwise agreed by the Parties, if the Tribunal considers it necessary or at the request of any Party, an expert appointed under Rule 23.1(a) shall, after delivery of his written report, participate in a hearing. At the hearing, the Parties shall have the opportunity to examine such expert.

## **24. Additional Powers of the Tribunal**

Unless otherwise agreed by the Parties, in addition to the other powers specified in these Rules, and except as prohibited by the mandatory rules of law applicable to the arbitration, the Tribunal shall have the power to:

- a. order the correction or rectification of any contract, subject to the law governing such contract;
- b. except as provided in these Rules, extend or abbreviate any time limits prescribed under these Rules or by its directions;
- c. conduct such enquiries as may appear to the Tribunal to be necessary or expedient;
- d. order the Parties to make any property or item in their possession

or control available for inspection;

- e. order the preservation, storage, sale or disposal of any property or item which is or forms part of the subject-matter of the dispute;
- f. order any Party to produce to the Tribunal and to the other Parties for inspection, and to supply copies of, any document in their possession or control which the Tribunal considers relevant to the case and material to its outcome;
- g. issue an order or Award for the reimbursement of unpaid deposits towards the costs of the arbitration;
- h. direct any Party or person to give evidence by affidavit or in any other form;
- i. direct any Party to take or refrain from taking actions to ensure that any Award which may be made in the arbitration is not rendered ineffectual by the dissipation of assets by a Party or otherwise;
- j. order any Party to provide security for legal or other costs in any manner the Tribunal thinks fit;
- k. order any Party to provide security for all or part of any amount in dispute in the arbitration;
- l. order the disclosure of the existence of a Party's third-party funding arrangement and/or the identity of the third-party funder and, where appropriate, details of the third-party funder's interest in the outcome of the proceedings, and/or whether or not the third-party funder has committed to undertake adverse costs liability;
- m. proceed with the arbitration notwithstanding the failure or refusal of any Party to comply with these Rules or with the Tribunal's orders or directions or any partial Award or to attend any meeting or hearing, and to impose such sanctions as the

Tribunal deems appropriate in relation to such failure or refusal;

- n. decide, where appropriate, any issue not expressly or impliedly raised in the submissions of a Party provided such issue has been clearly brought to the notice of the other Party and that other Party has been given adequate opportunity to respond;
- o. determine the law applicable to any aspect of the arbitration; and
- p. determine any claim of legal or other privilege.

## **25. Jurisdiction of the Tribunal**

- 25.1 If any Party objects to the existence or validity of the arbitration clause, the applicability of these Rules or the competence of SIAC to administer the arbitration, before the Tribunal is constituted, the Registrar shall determine if such objection shall be referred to the Court. If the Registrar so determines, the Court shall decide if it is *prima facie* satisfied that the arbitration shall proceed. The arbitration shall be terminated if the Court is not so satisfied. Any decision by the Registrar or the Court that the arbitration shall proceed is without prejudice to the power of the Tribunal to rule on its own jurisdiction.
- 25.2 The Tribunal shall have the power to rule on its own jurisdiction, including any objections with respect to the existence, validity or scope of the arbitration clause or the admissibility of any claim or counterclaim. An arbitration clause which forms part of a contract, treaty, statute or other instrument shall be treated as a clause independent of the other terms of the contract, treaty, statute or other instrument. A decision by the Tribunal that the contract, treaty, statute or other instrument is null and void shall not entail *ipso jure* the invalidity of the arbitration clause, and the Tribunal shall not cease to have jurisdiction by reason of any allegation that the contract, treaty, statute or other instrument is non-existent or null and void.
- 25.3 Any objection that the Tribunal:
- a. does not have jurisdiction shall be raised no later than in a



Counter-Memorial or in a Rejoinder; or at the equivalent stage of the proceedings, as determined by the Tribunal, if an alternate form of written submissions has been adopted pursuant to Rule 17.1; or

- b. is exceeding the scope of its jurisdiction shall be raised within 28 days after the matter alleged to be beyond the scope of the Tribunal's jurisdiction arises during the arbitration.

The Tribunal may admit an objection raised by a Party outside the time limits under this Rule 25.3 if it considers the delay justified. A Party is not precluded from raising an objection under this Rule 25.3 by the fact that it has nominated, or participated in the nomination of, an arbitrator.

- 25.4 The Tribunal may rule on an objection referred to in Rule 25.3 either as a preliminary question or in an Award on the merits.
- 25.5 A Party may rely on a claim or defence for the purpose of a set-off to the extent permitted by these Rules and the applicable law.

## **26. Early Dismissal of Claims and Defences**

- 26.1 A Party may apply to the Tribunal for the early dismissal of a claim or defence on the basis that:
  - a. a claim or defence is manifestly without legal merit;
  - b. a claim or defence is manifestly outside the jurisdiction of the Tribunal; or
  - c. a claim or defence is manifestly inadmissible.
- 26.2 An application for the early dismissal of a claim or defence under Rule 26.1 shall state in detail the facts and legal basis supporting the application. The Party applying for early dismissal shall, at the same time as it files the application with the Tribunal, send a copy of the application to the other Party, and shall notify the Tribunal that it has done so, specifying the mode of service employed and the date of service.

- 26.3 The Tribunal may, in its discretion, allow the application for the early dismissal of a claim or defence under Rule 26.1 to proceed. If the application is allowed to proceed, the Tribunal shall, after giving the Parties the opportunity to be heard, decide whether to grant, in whole or in part, the application for early dismissal under Rule 26.1.
- 26.4 If the application is allowed to proceed, the Tribunal shall make an order or Award on the application, with reasons, which may be in summary form. The order or Award shall be made within 90 days of the date of filing of the application, unless, in exceptional circumstances, the Registrar extends the time.

## **27. Interim and Emergency Interim Relief**

- 27.1 The Tribunal may, at the request of a Party, issue an order or an Award granting an injunction or any other interim relief it deems appropriate. The Tribunal may order the Party requesting interim relief to provide appropriate security in connection with the relief sought.
- 27.2 A request for interim relief made by a Party to a judicial authority prior to the constitution of the Tribunal, or in exceptional circumstances thereafter, is not incompatible with these Rules.
- 27.3 If a Party makes a request for interim relief prior to the constitution of the Tribunal, the Registrar may, on the application of either Party, fix time limits for the Parties to file written submissions on the request. The request for interim relief and any written submissions shall be forwarded to the Tribunal upon its constitution.
- 27.4 If the Parties expressly agree on the application of the Emergency Arbitrator provisions set forth in Schedule 1, a Party in need of emergency interim relief prior to the constitution of the Tribunal may apply for such relief pursuant to the procedures set forth in Schedule 1.

## **28. Applicable Law, *Amiable Compositeur* and *Ex Aequo et Bono***

- 28.1 The Tribunal shall apply the law or rules of law designated by the Parties as applicable to the substance of the dispute. Failing such designation by the Parties, the Tribunal shall apply the law or rules of law which it determines to be appropriate, including any relevant national laws of any State, any relevant international treaties and custom and general principles of law.
- 28.2 The Tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the Parties have expressly authorised it to do so.
- 28.3 In all cases, the Tribunal shall decide in accordance with the terms of the contract, treaty, statute or other instrument, if any, and shall take into account any applicable usage of trade.

## **29. Third-Party Submissions**

- 29.1 By written notice to the Registrar and the Parties, a Non-disputing Contracting Party may make written submissions to the Tribunal, but only on a question of treaty interpretation that is directly relevant to the dispute. The Tribunal may also, after considering the views of the Parties and having regard to the circumstances of the case, invite written submissions from a Non-disputing Contracting Party under this Rule 29.1.
- 29.2 By written notice to the Registrar and the Parties, a Non-disputing Contracting Party or Non-disputing Party may apply to the Tribunal for the right to make written submissions regarding a matter within the scope of the dispute. The Tribunal may also, after considering the views of the Parties and having regard to the circumstances of the case, invite written submissions from a Non-disputing Contracting Party or Non-disputing Party under this Rule 29.2.
- 29.3 In determining whether to allow an application under Rule 29.2 to proceed, the Tribunal shall consider the views of the Parties and, among other things, the extent to which:

- a. the Non-disputing Contracting Party's or Non-disputing Party's written submissions would assist the Tribunal in the determination of a factual or legal issue related to the proceedings by bringing a perspective, particular knowledge or insight that is different from that of the Parties;
  - b. the Non-disputing Contracting Party's or Non-disputing Party's written submissions would only address a matter within the scope of the dispute;
  - c. the Non-disputing Contracting Party or Non-disputing Party has a sufficient interest in the arbitral proceedings and/or any other related proceedings; and
  - d. allowing the written submissions would violate the Parties' right to confidentiality.
- 29.4 Any Non-disputing Contracting Party or Non-disputing Party that files any written submissions under this Rule 29 shall be deemed to have consented to administration by SIAC in accordance with these Rules and submitted to the authority of the Tribunal.
- 29.5 The Tribunal may, where appropriate, determine the form and content of any written submissions under this Rule 29. The Parties shall have the right to respond to such written submissions.
- 29.6 The Tribunal shall decide which further written submissions shall be required from a Non-disputing Contracting Party or Non-disputing Party. The Tribunal shall fix the periods of time for communicating such written submissions.
- 29.7 The Tribunal may, if either Party so requests or the Tribunal so decides, hold a hearing for a Non-disputing Contracting Party or Non-disputing Party to elaborate on or be examined on its written submissions.
- 29.8 The Tribunal may order that a Non-disputing Contracting Party or Non-disputing Party be provided with access to documents related to the proceedings, including submissions, evidence, orders, decisions, Awards and any other documents produced by the Parties or any

Non-disputing Contracting Party or Non-disputing Party as may be necessary for its participation in the arbitration. The Tribunal shall take appropriate measures to safeguard the confidentiality of information related to the proceedings as set out in Rule 37.

- 29.9 The Tribunal shall take reasonable steps to ensure, with respect to all submissions under this Rule 29, that the submissions do not unreasonably disrupt the arbitration or unduly burden or unfairly prejudice any of the Parties.
- 29.10 The Tribunal may refer to and rely on a Non-disputing Contracting Party's and/or Non-disputing Party's submissions in its orders, decisions and Awards.

### **30. Award**

- 30.1 The Tribunal shall, as promptly as possible, after consulting with the Parties and upon being satisfied that the Parties have no further relevant and material evidence to produce or submissions to make with respect to the matters to be decided in the Award, declare the proceedings closed. The Tribunal's declaration that the proceedings are closed shall be communicated to the Parties and to the Registrar.
- 30.2 The Tribunal may, on its own motion or upon application of a Party but before any Award is made, re-open the proceedings. The Tribunal's decision that the proceedings are to be re-opened shall be communicated to the Parties and to the Registrar. The Tribunal shall close any re-opened proceedings in accordance with Rule 30.1.
- 30.3 Before making any Award, the Tribunal shall submit such Award in draft form to the Registrar. Unless the Registrar extends the period of time or unless otherwise agreed by the Parties, the Tribunal shall submit the draft Award to the Registrar not later than 90 days from the date on which the Tribunal declares the proceedings closed. The Registrar may, as soon as practicable, suggest modifications as to the form of the 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 made by the Tribunal until it has been approved by the Registrar as to its form.

- 30.4 The Award shall be in writing and shall state the reasons upon which it is based unless the Parties have agreed that no reasons are to be given.
- 30.5 Unless otherwise agreed by the Parties, the Tribunal may make separate Awards on different issues at different times.
- 30.6 If any arbitrator fails to cooperate in the making of the Award, having been given a reasonable opportunity to do so, the remaining arbitrators may proceed. The remaining arbitrators shall provide written notice of such refusal or failure to the Registrar, the Parties and the absent arbitrator. In deciding whether to proceed with the arbitration in the absence of an arbitrator, the remaining arbitrators may take into account, among other things, the stage of the arbitration, any explanation provided by the absent arbitrator for his refusal to participate and the effect, if any, upon the enforceability of the Award should the remaining arbitrators proceed without the absent arbitrator. The remaining arbitrators shall explain in any Award made the reasons for proceeding without the absent arbitrator.
- 30.7 Where there is more than one arbitrator, the Tribunal shall decide by a majority. Failing a majority decision, the presiding arbitrator alone shall make the Award for the Tribunal.
- 30.8 The Award shall be delivered to the Registrar, who shall transmit certified copies to the Parties upon full settlement of the costs of the arbitration.
- 30.9 The Tribunal may award simple or compound interest on any sum which is the subject of the arbitration at such rates as the Parties may have agreed or, in the absence of such agreement, as the Tribunal determines to be appropriate, in respect of any period which the Tribunal determines to be appropriate.
- 30.10 In the event of a settlement, and if the Parties so request, the Tribunal may make a consent Award recording the settlement. If the Parties do not require a consent Award, the Parties shall confirm to the Registrar that a settlement has been reached, following which the Tribunal shall be discharged and the arbitration concluded upon full settlement of the costs of the arbitration.

30.11 Subject to Rule 31 (and Schedule 1 if expressly agreed), by agreeing to arbitration under these Rules, the Parties agree that any Award shall be final and binding on the Parties from the date it is made, and undertake to carry out the Award immediately and without delay. The Parties also irrevocably waive their rights to any form of appeal, review or recourse to any State court or other judicial authority with respect to such Award insofar as such waiver may be validly made.

## **31. Correction of Awards, Interpretation of Awards and Additional Awards**

31.1 Within 30 days of receipt of an Award, a Party may, by written notice to the Registrar and the other Party, request the Tribunal to correct in the Award any error in computation, any clerical or typographical error or any error of a similar nature. If the Tribunal considers the request to be justified, it shall make the correction within 30 days of receipt of the request. Any correction, made in the original Award or in a separate memorandum, shall constitute part of the Award.

31.2 The Tribunal may correct any error of the type referred to in Rule 31.1 on its own initiative within 30 days of the date of the Award.

31.3 Within 30 days of receipt of an Award, a Party may, by written notice to the Registrar and the other Party, request the Tribunal to make an additional Award as to claims presented in the arbitration but not dealt with in the Award. If the Tribunal considers the request to be justified, it shall make the additional Award within 45 days of receipt of the request.

31.4 Within 30 days of receipt of an Award, a Party may, by written notice to the Registrar and the other Party, request the Tribunal to give an interpretation of the Award. If the Tribunal considers the request to be justified, it shall provide the interpretation in writing within 45 days of receipt of the request. The interpretation shall form part of the Award.

31.5 The Registrar may, if necessary, extend the period of time within which the Tribunal shall make a correction of an Award, interpretation of an Award or an additional Award under this Rule 31.

- 31.6 The provisions of Rule 30 shall apply in the same manner with the necessary or appropriate changes in relation to a correction of an Award, interpretation of an Award and to any additional Award made.

## **32. Fees and Deposits**

- 32.1 The Tribunal's fees and SIAC's fees shall be ascertained in accordance with the applicable Schedule of Fees in force at the time of commencement of the arbitration. The Parties may agree to alternative methods of determining the Tribunal's fees prior to the constitution of the Tribunal.
- 32.2 The Registrar shall fix the amount of deposits payable towards the costs of the arbitration. Unless the Registrar directs otherwise, 50% of such deposits shall be payable by the Claimant and the remaining 50% of such deposits shall be payable by the Respondent. The Registrar may fix separate deposits on costs for claims and counterclaims, respectively.
- 32.3 Where the amount of the claim or the counterclaim is not quantifiable at the time payment is due, a provisional estimate of the costs of the arbitration shall be made by the Registrar. Such estimate may be based on the nature of the controversy and the circumstances of the case. This estimate may be adjusted in light of such information as may subsequently become available.
- 32.4 The Registrar may from time to time direct Parties to make further deposits towards the costs of the arbitration.
- 32.5 The Parties are jointly and severally liable for the costs of the arbitration. Any Party is free to pay the whole of the deposits towards the costs of the arbitration should the other Party fail to pay its share.
- 32.6 If a Party fails to pay the deposits directed by the Registrar either wholly or in part:
- a. the Tribunal may suspend its work and the Registrar may suspend SIAC's administration of the arbitration, in whole or in part; and



- b. the Registrar may, after consultation with the Tribunal (if constituted) and after informing the Parties, set a time limit on the expiry of which the relevant claims or counterclaims shall be considered as withdrawn without prejudice to the Party reintroducing the same claims or counterclaims in another proceeding.
- 32.7 In all cases, the costs of the arbitration shall be finally determined by the Registrar at the conclusion of the proceedings. If the claim and/or counterclaim is not quantified, the Registrar shall finally determine the costs of the arbitration, as set out in Rule 33, in his discretion. The Registrar shall have regard to all the circumstances of the case, including the stage of proceedings at which the arbitration concluded. In the event that the costs of the arbitration determined are less than the deposits made, there shall be a refund in such proportions as the Parties may agree, or failing an agreement, in the same proportions as the deposits were made.
- 32.8 All deposits towards the costs of the arbitration shall be made to and held by SIAC. Any interest which may accrue on such deposits shall be retained by SIAC.
- 32.9 In exceptional circumstances, the Registrar may direct the Parties to pay an additional fee, in addition to that prescribed in the applicable Schedule of Fees, as part of SIAC's administration fees.

### **33. Costs of the Arbitration**

- 33.1 Unless otherwise agreed by the Parties, the Tribunal shall specify in the Award the total amount of the costs of the arbitration. Unless otherwise agreed by the Parties, the Tribunal shall determine in the Award the apportionment of the costs of the arbitration among the Parties. The Tribunal may take into account any third-party funding arrangements in apportioning the costs of the arbitration.
- 33.2 The term "costs of the arbitration" includes:
- a. the Tribunal's fees and expenses and the Emergency Arbitrator's fees and expenses where applicable;

- b. SIAC's administrative fees and expenses; and
- c. the costs of any expert appointed by the Tribunal and of any other assistance reasonably required by the Tribunal.

#### **34. Tribunal's Fees and Expenses**

- 34.1 The fees of the Tribunal shall be fixed by the Registrar in accordance with the applicable Schedule of Fees or, if applicable, with the method agreed by the Parties pursuant to Rule 32.1, and the stage of the proceedings at which the arbitration concluded. In exceptional circumstances, the Registrar may determine that an additional fee over that prescribed in the applicable Schedule of Fees shall be paid.
- 34.2 The Tribunal's reasonable out-of-pocket expenses necessarily incurred and other allowances shall be reimbursed in accordance with the applicable Practice Note.

#### **35. Party's Legal and Other Costs**

The Tribunal shall have the authority to order in its Award that all or a part of the legal or other costs of a Party be paid by another Party. The Tribunal may take into account any third-party funding arrangements in ordering in its Award that all or a part of the legal or other costs of a Party be paid by another Party.

#### **36. Exclusion of Liability**

- 36.1 Any arbitrator, including any Emergency Arbitrator, any person appointed by the Tribunal, including any administrative secretary and any expert, the President, members of the Court, and any directors, officers and employees of SIAC, shall not be liable for any negligence, act or omission in connection with any arbitration administered by SIAC in accordance with these Rules.
- 36.2 SIAC, including the President, members of the Court, directors, officers, employees or any arbitrator, including any Emergency Arbitrator, and any person appointed by the Tribunal, including any administrative secretary and any expert, shall not be under any

obligation to make any statement in connection with any arbitration administered by SIAC in accordance with these Rules. The President, any member of the Court, director, officer, employee of SIAC, or any arbitrator, including any Emergency Arbitrator, and any person appointed by the Tribunal, including any administrative secretary and any expert, shall not be required to act as a witness in any legal proceedings in connection with any arbitration administered by SIAC in accordance with these Rules.

### **37. Confidentiality**

37.1 Unless otherwise agreed by the Parties, any Party, Non-disputing Contracting Party and Non-disputing Party, and any arbitrator, including any Emergency Arbitrator, and any person appointed by the Tribunal, including any administrative secretary and any expert, shall at all times treat all matters relating to the proceedings and the Award as confidential. The discussions and deliberations of the Tribunal shall be confidential.

37.2 Unless otherwise agreed by the Parties, any Party, Non-disputing Contracting Party and Non-disputing Party, and any arbitrator, including any Emergency Arbitrator, and any person appointed by the Tribunal, including any administrative secretary and any expert, shall not, without the prior written consent of the Parties, disclose to a third party any such matter except:

- a. for the purpose of making an application to any competent court of any State to enforce or challenge the Award;
- b. pursuant to the order of or a subpoena issued by a court of competent jurisdiction;
- c. for the purpose of pursuing or enforcing a legal right or claim;
- d. in compliance with the provisions of the laws of any State which are binding on the party making the disclosure or the request or requirement of any regulatory body or other authority;
- e. for the purpose of facilitating the written submissions or oral submissions of a Non-disputing Contracting Party or a Non-

disputing Party under Rule 29 pursuant to an order by the Tribunal with proper notice to the other Parties; or

- f. pursuant to an order by the Tribunal on application by a Party with proper notice to the other Parties.

37.3 In Rule 37.1, “matters relating to the proceedings” includes the pleadings, evidence and other materials in the arbitral proceedings and all other documents produced by another Party in the proceedings or the Award arising from the proceedings, but excludes any matter that is otherwise in the public domain.

37.4 The Tribunal has the power to take appropriate measures, including issuing an order or Award for sanctions or costs, if a Party breaches the provisions of this Rule 37.

## **38. Publication**

38.1 Where the Parties have agreed to arbitration in accordance with these Rules, the Parties shall be deemed to have agreed that SIAC may publish information on proceedings conducted under these Rules.

38.2 Information that may be published pursuant to Rule 38.1 shall be limited to the nationality of the Parties, the identity and nationality of the members of the Tribunal, the treaty, statute or other instrument under which the arbitration has been commenced, if any, the date of the commencement of the arbitration and whether the proceedings are ongoing or have been terminated. SIAC may also publish redacted excerpts of the reasoning of the Tribunal and redacted decisions by the Court on challenges to arbitrators.

38.3 With the express consent of the Parties, SIAC may publish the identity of the Parties, the contract under which the arbitration has been commenced, if any, the identity of the Parties’ counsel, the economic sector and industry to which the dispute relates, the total sum in dispute, details of any procedural steps that have been taken in the proceedings and any orders, directions, decisions and Awards issued in the proceedings.

## **39. Decisions of the President, the Court and the Registrar**

- 39.1 Except as provided in these Rules, the decisions of the President, the Court and the Registrar with respect to all matters relating to an arbitration shall be conclusive and binding upon the Parties and the Tribunal. The President, the Court and the Registrar shall not be required to provide reasons for such decisions, unless the Court determines otherwise or as may be provided in these Rules. The Parties agree that the discussions and deliberations of the Court are confidential.
- 39.2 Save in respect of Rule 13.1 and Rule 25.1, the Parties waive any right of appeal or review in respect of any decisions of the President, the Court and the Registrar to any State court or other judicial authority.

## **40. General Provisions**

- 40.1 Any Party that proceeds with the arbitration without promptly raising any objection to a failure to comply with any provision of these Rules, or of any other rules applicable to the proceedings, any direction given by the Tribunal, or any requirement under the arbitration clause relating to the constitution of the Tribunal or the conduct of the proceedings, shall be deemed to have waived its right to object
- 40.2 In all matters not expressly provided for in these Rules, the President, the Court, the Registrar and the Tribunal shall act in the spirit of these Rules and shall make every reasonable effort to ensure the fair, expeditious and economical conclusion of the arbitration and the enforceability of any Award.
- 40.3 The Registrar may from time to time issue Practice Notes to supplement, regulate and implement these Rules for the purpose of facilitating the administration of arbitrations governed by these Rules.
- 40.4 In the event of any discrepancy or inconsistency between the English version of the SIAC Investment Arbitration Rules and any other languages in which the SIAC Investment Arbitration Rules are published, the English version shall prevail.

### Emergency Arbitrator

1. If the Parties have expressly agreed on the application of the emergency arbitrator provisions set forth in this Schedule 1, a Party that wishes to seek emergency interim relief may, concurrent with or following the filing of a Notice of Arbitration but prior to the constitution of the Tribunal, file an application for emergency interim relief with the Registrar. The Party shall, at the same time as it files the application for emergency interim relief, send a copy of the application to all other Parties. The application for emergency interim relief shall include:
  - a. the nature of the relief sought;
  - b. the reasons why the Party is entitled to such relief; and
  - c. a statement certifying that all other Parties have been provided with a copy of the application or, if not, an explanation of the steps taken in good faith to provide a copy or notification to all other Parties.
2. Any application for emergency interim relief shall be accompanied by payment of the non-refundable administration fee and the requisite deposits under these Rules towards the Emergency Arbitrator's fees and expenses for proceedings pursuant to this Schedule 1. In appropriate cases, the Registrar may increase the amount of the deposits requested from the Party making the application. If the additional deposits are not paid within the time limit set by the Registrar, the application shall be considered as withdrawn.
3. The Court shall, if it determines that SIAC should accept the application for emergency interim relief, seek to appoint an Emergency Arbitrator within one day of receipt by the Registrar of such application and payment of the administration fee and deposits.
4. If the Parties have agreed on the seat of the arbitration, such seat shall be the seat of the proceedings for emergency interim relief.

Failing such an agreement, the seat of the proceedings for emergency interim relief shall be Singapore, without prejudice to the Tribunal's determination of the seat of the arbitration under Rule 18.1.

5. Prior to accepting appointment, a prospective Emergency Arbitrator shall disclose to the Registrar any circumstances that may give rise to justifiable doubts as to his impartiality or independence. Any challenge to the appointment of the Emergency Arbitrator must be made within two days of the communication by the Registrar to the Parties of the appointment of the Emergency Arbitrator and the circumstances disclosed.
6. An Emergency Arbitrator may not act as an arbitrator in any future arbitration relating to the dispute, unless otherwise agreed by the Parties.
7. The Emergency Arbitrator shall, as soon as possible but, in any event, within two days of his appointment, establish a schedule for consideration of the application for emergency interim relief. Such schedule shall provide a reasonable opportunity for the Parties to be heard, but may provide for proceedings by telephone or video conference or on written submissions as alternatives to a hearing in person. The Emergency Arbitrator shall have the powers vested in the Tribunal pursuant to these Rules, including the authority to rule on his own jurisdiction, without prejudice to the Tribunal's determination.
8. The Emergency Arbitrator shall have the power to order or award any interim relief that he deems necessary, including preliminary orders that may be made pending any hearing, telephone or video conference or written submissions by the Parties. The Emergency Arbitrator shall give summary reasons for his decision in writing. The Emergency Arbitrator may modify or vacate the preliminary order, the interim order or Award for good cause.
9. The Emergency Arbitrator shall make his interim order or Award within 14 days from the date of his appointment unless, in exceptional circumstances, the Registrar extends the time. No interim order or Award shall be made by the Emergency Arbitrator until it has been approved by the Registrar as to its form.

10. The Emergency Arbitrator shall have no power to act after the Tribunal is constituted. The Tribunal may reconsider, modify or vacate any interim order or Award issued by the Emergency Arbitrator, including a ruling on his own jurisdiction. The Tribunal is not bound by the reasons given by the Emergency Arbitrator. Any interim order or Award issued by the Emergency Arbitrator shall, in any event, cease to be binding if the Tribunal is not constituted within 90 days of such order or Award or when the Tribunal makes a final Award or if the claim is withdrawn.
11. Any interim order or Award by the Emergency Arbitrator may be conditioned on provision by the Party seeking such relief of appropriate security.
12. The Parties agree that an order or Award by an Emergency Arbitrator pursuant to this Schedule 1 shall be binding on the Parties from the date it is made, and undertake to carry out the interim order or Award immediately and without delay. The Parties also irrevocably waive their rights to any form of appeal, review or recourse to any State court or other judicial authority with respect to such Award insofar as such waiver may be validly made.
13. The costs associated with any application pursuant to this Schedule 1 may initially be apportioned by the Emergency Arbitrator, subject to the power of the Tribunal to determine finally the apportionment of such costs.
14. These Rules shall apply as appropriate to any proceeding pursuant to this Schedule 1, taking into account the urgency of such a proceeding. The Emergency Arbitrator may decide in what manner these Rules shall apply as appropriate, and his decision as to such matters is final and not subject to appeal, review or recourse. The Registrar may abbreviate any time limits under these Rules in applications made pursuant to proceedings commenced under Rule 27.4 and Schedule 1.



## Schedule of Fees

(All sums stated are in Singapore dollars)

This Schedule of Fees is effective as of 1 January 2017 and is applicable to all arbitrations commenced under the SIAC Investment Arbitration Rules on or after 1 January 2017.

### Filing Fee\* (Non-Refundable)

<b>Singapore Parties</b>	S\$2,140*
<b>Overseas Parties</b>	S\$2,000

+ A filing fee is applicable to all arbitrations conducted pursuant to and administered by SIAC in accordance with the SIAC Investment Arbitration Rules, and to each claim or counterclaim.

\* Fee includes 7% GST.

### Administration Fees

The administration fee calculated in accordance with the Schedule below applies to all arbitrations conducted pursuant to and administered by SIAC in accordance with the SIAC Investment Arbitration Rules and is the maximum amount payable to SIAC.

<b>Sum in Dispute (S\$)</b>	<b>Administration Fees (S\$)</b>
Up to 50,000	3,800
50,001 to 100,000	3,800 + 2.200% excess over 50,000
100,001 to 500,000	4,900 + 1.200% excess over 100,000
500,001 to 1,000,000	9,700 + 1.000% excess over 500,000
1,000,001 to 2,000,000	14,700 + 0.650% excess over 1,000,000
2,000,001 to 5,000,000	21,200 + 0.320% excess over 2,000,000
5,000,001 to 10,000,000	30,800 + 0.160% excess over 5,000,000
10,000,001 to 50,000,000	38,800 + 0.095% excess over 10,000,000
50,000,001 to 80,000,000	76,800 + 0.040% excess over 50,000,000
80,000,001 to 100,000,000	88,800 + 0.031% excess over 80,000,000
Above 100,000,000	95,000

The administration fee does not include the following:

- Fees and expenses of the Tribunal;
- Usage cost of facilities and support services for and in connection with any hearing (e.g. hearing rooms and equipment, transcription and interpretation services); and
- SIAC's administrative expenses.

SIAC will charge a minimum administration fee of S\$3,800, payable for all cases conducted pursuant to and administered by SIAC in accordance with the SIAC Investment Arbitration Rules, unless the Registrar otherwise determines.

## Arbitrator's Fees

For arbitrations conducted pursuant to and administered by SIAC in accordance with the SIAC Investment Arbitration Rules, the fee calculated in accordance with the Schedule below is the maximum amount payable to each arbitrator, unless the Parties have agreed to an alternative method of determining the Tribunal's fees pursuant to Rule 32.1.

Sum in Dispute (S\$)	Arbitrator's Fees (S\$)
Up to 50,000	6,250
50,001 to 100,000	6,250 + 13.800% excess over 50,000
100,001 to 500,000	13,150 + 6.500% excess over 100,000
500,001 to 1,000,000	39,150 + 4.850% excess over 500,000
1,000,001 to 2,000,000	63,400 + 2.750% excess over 1,000,000
2,000,001 to 5,000,000	90,900 + 1.200% excess over 2,000,000
5,000,001 to 10,000,000	126,900 + 0.700% excess over 5,000,000
10,000,001 to 50,000,000	161,900 + 0.300% excess over 10,000,000
50,000,001 to 80,000,000	281,900 + 0.160% excess over 50,000,000
80,000,001 to 100,000,000	329,900 + 0.075% excess over 80,000,000
100,000,001 to 500,000,000	344,900 + 0.065% excess over 100,000,000
Above 500,000,000	605,000 + 0.040% excess over 500,000,000 up to a maximum of 2,000,000

## Emergency Interim Relief Fees

The following fees shall be payable in an application for emergency interim relief under Rule 27.4 and Schedule 1 to the SIAC Investment Arbitration Rules:

An application under Rule 27.4 and Schedule 1 must be accompanied by a payment of the following:

### 1. Administration Fee for Emergency Arbitrator Applications (Non-Refundable):

<b>Singapore Parties</b>	S\$5,350*
<b>Overseas Parties</b>	S\$5,000

\*Fee includes 7% GST.

2. **Emergency Arbitrator's Fees and Deposits:** The deposits towards the Emergency Arbitrator's fees and expenses shall be fixed at S\$30,000, unless the Registrar determines otherwise pursuant to Schedule 1 to these Rules. The Emergency Arbitrator's fees shall be fixed at S\$25,000, unless the Registrar determines otherwise pursuant to Schedule 1 to these Rules.

### Challenge Fee (Non-Refundable)

A Party submitting a notice of challenge shall make payment of the following challenge fee pursuant to Rule 12.3:

<b>Singapore Parties</b>	S\$8,560*
<b>Overseas Parties</b>	S\$8,000

\*Fee includes 7% GST.

## SIAC Investment Rules Model Clause

*The Investment Arbitration Rules of the Singapore International Arbitration Centre (1<sup>st</sup> Edition, 1 January 2017) may be agreed and applied in any type of arbitration, including disputes involving a State, State-controlled entity or intergovernmental organisation.*

*In drawing up international contracts and investment agreements, SIAC recommends that parties include the following arbitration clause:*

Any dispute arising out of or in connection with this agreement, including any question regarding its existence, validity or termination, shall be finally resolved by arbitration administered by the Singapore International Arbitration Centre (SIAC) in accordance with the Investment Arbitration Rules of the Singapore International Arbitration Centre (1<sup>st</sup> Edition, 1 January 2017).

The seat of the arbitration shall be [Singapore].\*

The Tribunal shall consist of \_\_\_\_\_ arbitrator(s).\*\*

The language of the arbitration shall be \_\_\_\_\_.

[The parties agree to the application of the Emergency Arbitrator provisions.]\*\*\*

\* Parties should specify the seat of arbitration of their choice. If the parties wish to select an alternative seat to Singapore, please replace “[Singapore]” with the city and country of choice (e.g., “[City, Country]”).

\*\* State an odd number of arbitrators [e.g., one, three, or five].

\*\*\* Parties should specify if they agree to the application of the Emergency Arbitrator provisions.

*Parties may, in appropriate circumstances, adapt this Model Clause to suit the needs of their particular transaction. Parties may also mutually agree to modify a previous arbitration clause to provide for arbitration at SIAC in accordance with the SIAC Investment Arbitration Rules.*

*This Model Clause is suggested for use only in international contracts and investment agreements. SIAC also welcomes reference to the SIAC Investment Arbitration Rules in investment treaties, statutes and similar instruments, in which event the SIAC Secretariat is available to provide drafting information and assistance. Given the issues unique to arbitration under investment treaties, statutes and similar instruments, SIAC recommends that parties obtain specialised legal advice on the text for any dispute resolution clause.*

## Payment Information

1. Payments may be made by a local cheque payable to **“Singapore International Arbitration Centre”**. All cheques should be sent directly to:


Singapore International Arbitration Centre  
28 Maxwell Road #03-01  
Maxwell Chambers Suites  
Singapore 069120  
Attn: Accounts Department

2. Payments may also be made by bank transfer to our bank account (**please absorb bank charges**). Details are as follows:

<b>Name of Beneficiary</b>	: Singapore International Arbitration Centre
<b>Name of Bank</b>	: United Overseas Bank Limited
<b>Bank Branch</b>	: Coleman Branch
<b>Bank address</b>	: 1 Coleman Street, #01-14 & B1-19, The Adelphi, Singapore 179803
<b>Bank a/c</b>	: 302-313-540-8
<b>Swift code</b>	: UOVBSGSG

For easy identification of the remittance, parties are requested to include in their remittance details “Case Reference Number - Claimant / Respondent”. To help us with tracking the deposits, we request that you send us a copy of the remittance record as soon as the funds are transferred. Please note that SIAC’s policy is to accept payments from the party or its authorised representative (e.g. the party’s counsel).

Parties are advised to check with SIAC for the latest bank account details before making any bank transfer. For payments in currencies other than Singapore Dollars, parties are also advised to check with SIAC.



**Singapore International  
Arbitration Centre**

28 Maxwell Road # 03-01  
Maxwell Chambers Suites  
Singapore 069120

T +65 6713 9777

F +65 6713 9778

[corpcomms@siac.org.sg](mailto:corpcomms@siac.org.sg)

[www.siac.org.sg](http://www.siac.org.sg)