

**IMC International Adr Centre (IIAC)**

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**IIAC**

**IMC**

**International**

**ADR Centre**

**IIAC**

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# IMC INTERNATIONAL ADR CENTRE (IIAC)

## A Brief Overview

Welcome to the IMC International ADR Centre (IIAC), located in Mumbai, India. The Centre is a non-profit organization & is a dispute resolution provider.

IIAC is an independent arm of the IMC Chamber of Commerce and Industry (IMC); a premier Chamber of Commerce & Trade formed 110 years ago to represent Indian trade, commerce, business and industry. Over 250 trade associations including from overseas are affiliated to IMC.

Realizing the acute need for Institutional Arbitration with fixed cost and time bound schedule of proceedings as well as need for other means of dispute resolution mechanisms for early settlement, IMC embarked upon establishing a comprehensive International Alternative Dispute Resolution (ADR) Centre.

ADR is a collection of processes used for the purpose of resolving conflict or disputes informally and confidentially and without going to courts.

IIAC was incorporated in 2015 as an independent company constituted under the Companies Act, 2013 and is promoted by the IMC Chamber of Commerce and Industry. It is housed in IMC Suresh Kotak International ADR Centre and is spread over 3rd floor of the IMC building.

With IMC's rich legacy, IIAC brings to the table over 100 years of experience in doing business, yet it remains apolitical and neutral.

The Centre is located at Churchgate in Mumbai, a city known as Gateway of India, the commercial hub of India. Mumbai's geographical position, moderate climate, its rich diverse culture & sincere hospitality makes IIAC an ideal choice for the business entities worldwide.

IIAC aims to provide alternative dispute resolution service that meets parties' specific interests. It offers arbitration, mediation, conciliation and fully administered dispute resolution services upholding the highest standard in the domestic and international arena.

## IIAC Benefits

IIAC aims at providing full spectrum of alternate dispute resolution services i.e. "arbitration" and /or "mediation/conciliation". Options range from standalone arbitration and mediation processes to combinations such as Med-Arb-Med or Med-Arb or Arb-Med-Arb processes.

IIAC assists and encourages reluctant parties to proceed with ADR processes.

IIAC provides for a code of conduct both for the arbitrators as well as for the parties and their representatives, thus ensuring highest standards of integrity, transparency and neutrality in functioning. Value system based in creating public confidence.

Specially modeled rules to cater to and meet different requirement of the users. Rules include CAP 16, SCAP 16, MedCon16, General Rules 16 and Code.

Cost effective, time efficient with reasonable Neutral's fees and detailed administrative charges.

Systematic processes and flexible procedures.

Parties' privilege to appoint Neutral (Arbitrator, Conciliator, Mediator).

IIAC may appoint Neutral at the request of parties or in circumstances where parties fail to appoint them.

Model clauses with variations to suit different needs.

Experts available for assistance of the Tribunal.

Panel of Neutrals and Experts with specialized domain knowledge. Panel consists of both national and international members to resolve the complexity of the matters.

Fast Track summary procedure available for small claims and disputes arising from written contracts involving few issues.

Provisions for Emergency Arbitrators and speedy interim orders for protection of subject matters in disputes.

Freedom to parties to choose who will present and argue their Case. Parties can appoint Lawyers as also Non Lawyers or other technically qualified persons if they desire that such persons should represent them before the Arbitral Tribunal.

Excellent facilities as per international norms like video conferencing facility, projection system, etc.

IIAC assures to maintain the quality and neutrality of the dispute resolution process.

Trained and efficient Secretariat.

IIAC, India and International Arbitration

India is growing as a major player in the global economy. Its economic strength and human resources have been recognized worldwide. The laws and courts in India support ADR Services. India is a signatory to the New York Convention. The Statute and Rules of IIAC are based on UNCITRAL laws to suit both domestic and international standard.

IIAC aims at establishing and sustaining international quality standards and is attuned to meet all regulations in this regard.

It is our mission to provide commendable ADR Services to the business entities throughout the world.

IIAC welcomes all domestic and international business entities to avail its ADR services.

# SUMMARY CLAIMS ARBITRATION PROCEDURE 2016 RULES (SCAP 16 RULES)

## BACKGROUND AND INTRODUCTION

The IMC International ADR Centre (IIAC) is an independent company constituted under the Companies Act, 2013 promoted by the Indian Merchants Chamber for purposes of propagating alternate dispute resolution methods to assist all sections of society, individuals, corporate, firms, institutions and others in resolving disputes.

IIAC does not itself resolve disputes; it administers resolution processes including constituting arbitral tribunals in accordance with the various rules framed by it.

*“The Summary Claims Arbitration Procedure 2016 Rules (SCAP 16 Rules)”* is designed to make it easier, faster and cost effective for processing and determining disputes involving claims up to Rupees Two Crore (exclusive of interest) of each of the disputant parties and arising out of written contracts as defined.

This scheme allows businesses to claim and recover small money claims, which are often written off as it is too costly and time consuming to go to court. This procedure is primarily suited for small money claims but where parties desire, it may be adopted for larger claims.

Parties have to elect to follow this procedure, by specifically agreeing to go to arbitration under this procedure of IIAC

The process is recommended to be adopted where disputes/claims arise from written contracts, or involve interpretation of statutes applicable and do not entail recording of considerable oral evidence of witnesses.

This Procedure is designed to reduce administration costs for all parties involved and to ensure speedy disposal of the reference by referring the dispute to an Arbitral Tribunal comprising a Sole Arbitrator unless otherwise agreed by the parties in their written contracts.

Where parties are unable to agree upon a Sole Arbitrator, a suitably qualified Sole Arbitrator shall be appointed by IIAC.

A “Panel of Arbitrators” comprising of past judges, trained and experienced advocates, chartered accountants, engineers, civil servants, persons with specialised domain knowledge is maintained by IIAC for selection of Sole Arbitrators.

Suggested formats of Arbitration Agreements which parties may incorporate in their written contracts at time of entering into written contracts are set out in Appendix hereto by way of guidance.

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## SCHEDULE

FORM No. 1A – Format of “Request For Arbitration” per Rules 3 and 4.2 (i) – “Request For Arbitration”

FORM No. 1B – Format of Request to appoint a Sole Arbitrator referred to in Rule 4.2 sub-paragraph (ii) – Request For Appointment of A Sole Arbitrator by IIAC20

FORM No. 1C – Format of Request to appoint a Sole Arbitrator referred to in Rule 4.2 (iii) – Request For Appointment of A Sole Arbitrator by IIAC

FORM No. 1D – Format of Request to appoint a Sole Arbitrator under Rule 4.2 (iv) Request For Appointment of A Sole Arbitrator by IIAC

FORM No. 1E – Refer Rule 4.3 of SCAP 16 Rules

FORM No. 1F – Refer Rule 4.3.4 of SCAP 16 Rules – “Request For Arbitration” – Under Order/Direction of Court of Law

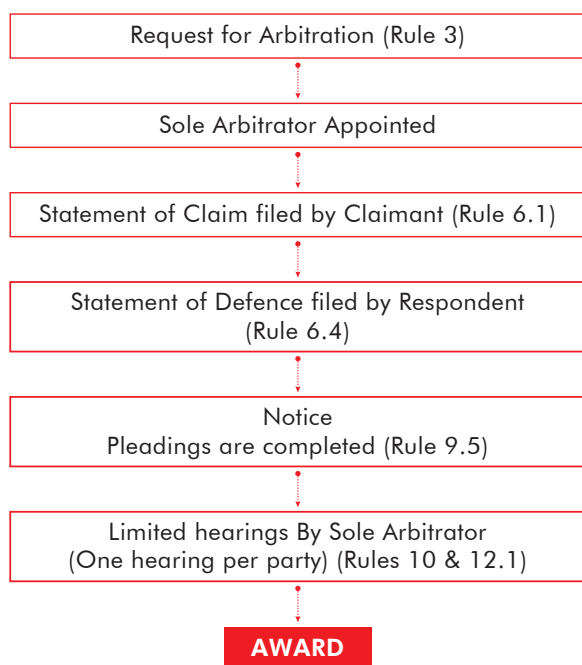
FORM No. 2 – Summary Claims Arbitration Procedure under IIAC (SCAP 16 Rules) Statement of Claim

FORM 2A – List of Dates and Events

FORM No. 3 – Summary Claims Arbitration Procedure 2016 under IIAC (SCAP 16 Rules) Statement of Defence

APPENDIX – General Guidance Notes – Suggested Formats of Arbitration Agreement / Clauses

### Flow Chart for a typical Documents only SCAP 16 Rules Arbitration



These rules of procedure shall be called the “Summary Claims Arbitrations Procedure 2016 (SCAP 16 Rules)” of the IMC International ADR Centre (IIAC), hereinafter referred to as the “Rules”.

## 1. APPLICABILITY OF SCAP 16 RULES

1.1 These Rules shall come into force from 1st April, 2016. These Rules of procedure shall apply to disputes arising in relation to written contracts between parties and will apply to disputes where neither the claim nor any counterclaim exceeds the sum of Two Crore each (excluding interest and costs) and to larger claims if agreed to by parties.

1.2 Where parties have agreed to refer their disputes to arbitration in writing under the SCAP 16 Rules of IIAC, they shall be deemed to have agreed that the arbitration shall be conducted and administered by IIAC in accordance with these Rules in force on date of commencement

of the arbitration, unless the parties have agreed to submit to the Rules in effect on the date of their agreement.

## 2. DEFINITIONS

In these rules, the following words have the following meanings:

### a) “Arbitrator” and “Arbitral Tribunal”

“Arbitrator” means the Sole Arbitrator appointed for determining disputes and claims or differences between the parties in accordance with the Summary Claims Arbitration Procedure (SCAP 16 Rules) of the IMC International ADR Centre (IIAC).

A person must be on the Panel of Arbitrators of IIAC to be eligible for being appointed as a Sole Arbitrator to conduct Arbitration under the SCAP 16 Rules.

“Arbitral Tribunal”: A Sole Arbitrator when appointed in accordance with these rules upon giving his/her consent to act as Sole Arbitrator, shall constitute the “Arbitral Tribunal” for conduct of the Arbitration proceeding under the SCAP 16 Rules and to make an Award.

b) “Award” means Award made by the “Arbitral Tribunal”.

c) “Code of Conduct” means the “Code of Conduct & Disclosure Rules for Arbitrators” published by IIAC.

d) “General Rules of Procedure & Guidelines” means the “General Rules of Procedure and Guidelines to Arbitrators and Parties for Conduct of Proceedings and Hearings 2016”, published by IIAC and all amendments made thereto from time to time and in force at the date of making of the reference. The General Rules of Procedure & Guidelines to Arbitrators and Parties for Conduct of Proceedings and Hearings 2016 shall be applicable to all arbitration proceedings and constituted Arbitral Tribunals and to parties involved in arbitrations conducted in accordance with these Rules.

e) “Fees and Charges” shall mean and include all prescribed fees, costs and charges etc., as prescribed by IIAC from time to time. Fees and Charges, as in force at the commencement of the arbitration shall be payable. Additionally, taxes as applicable during the tenure of the proceedings shall also be borne and paid by the parties.

f) “IIAC” means the **IMC International ADR Centre**

All references to applications, filing of pleadings and communications etc., with IIAC in these rules shall be addressed to the “Secretariat, IMC International ADR Centre (“IIAC”), IMC Building 3rd Floor, IMC Suresh Kotak International ADR Centre, IMC Marg, Churchgate, Mumbai - 400020.

- g) **“Panel”** means the Panel of Arbitrators maintained and published by IIAC.
- h) **“Secretariat”** means the Secretariat of IIAC situated at “Secretariat, IMC International ADR Centre (“IIAC”), IMC Building 3rd Floor, IMC Suresh Kotak International ADR Centre, IMC Marg, Churchgate, Mumbai-400023, and includes such other persons as IIAC may nominate from time-to-time for carrying out the duties of the Secretariat.
- i) **“Rules”** means this Summary Claims Arbitration Procedure (SCAP 16 Rules).
- j) **“Written Contracts”** shall mean contracts as defined in the Indian Contract Act, 1872 and which are agreements reduced to writing signed by parties including, loan agreements, guarantees, undertakings and insurance contracts. It is clarified that sellers invoices and related purchase orders, delivery notes/challans and correspondence exchanged between parties can also constitute contracts in writing.
- k) Words importing the singular number include, where the context admits or requires, the plural number and vice versa.
- l) Words describing a gender such as “his” or “her”; “shall include all genders where the context admits or requires.

### 3. COMMENCING OF ARBITRATION PROCEEDINGS

- 3.1 Any Party desiring to commence arbitration under these Rules (“the Claimant”) shall send a written request for arbitration (“Request for Arbitration”) to IIAC. The Request for Arbitration shall contain all particulars as set out in the prescribed format (**FORM No. 1A**) set out in the Schedule to these Rules.
- 3.2 On receipt of the “Request for Arbitration”, along with the prescribed institution fees, IIAC shall immediately number the request and shall send a copy of the Request to the other party (“the Respondent”).
- 3.3 “Date of commencement of the arbitration”: shall be the date when the “Request for Arbitration” as per the Rules duly completed is received by IIAC from any Party to an arbitration agreement (which is subject to/ incorporates SCAP 16 Rules), along with institution fees.
- 3.4 A “Request for Arbitration” if received incomplete shall be liable to be completed by the Claimant within 10 (ten) working days from date of receipt of intimation by IIAC of any deficiencies, failing which it shall be construed as if no such request for arbitration was made.

It is clarified that where a “Request for Arbitration” is completed within 10 (ten)

working days from date of receipt of intimation of deficiencies by IIAC, it shall relate back to the date of its original filing.

- 3.5 Where parties have agreed to initiate mediation or conciliation process before going to arbitration, parties must first commence mediation/ conciliation and the Report of the neutral person must be enclosed with the “Request for Arbitration”.
- 3.6 Request for Arbitration along with prescribed Fees and Charges may also be filed on line at [www.iiac.net.in](http://www.iiac.net.in) from such date as may be notified by IIAC.
- 3.7 Where appropriate a party applying to IIAC, should provide a concise explanation of the issues which are likely to arise and indicate whether any particular expertise on the part of the Arbitrator is required.

### 4. APPOINTMENT OF ARBITRAL TRIBUNAL

- 4.1 Disputes under SCAP 2016 Rules shall be decided by an Arbitral Tribunal comprising a Sole Arbitrator to be appointed by IIAC. The Sole Arbitrator appointed by IIAC may be either:
  - (i) a person agreed on by the parties (named Arbitrator), or
  - (ii) a person selected by IIAC when parties are unable to agree upon a Sole Arbitrator, or
  - (iii) a person selected by IIAC, when the arbitration agreement provides for the appointment of the Sole Arbitrator by IIAC.

- 4.2 Appointment of Sole Arbitrator by parties:

Where arbitration agreement provides for the appointment of a Sole Arbitrator by the parties subject to these Rules:

- (i) If the Parties have already agreed upon the name of a person to act as their Sole Arbitrator before the filing of the Request for Arbitration, then on a request made by one of the parties with the Request for Arbitration, **FORM No. 1A** (as set out in the Schedule to these Rules) such person shall be appointed by IIAC as the Sole Arbitrator.
- (ii) Where under the arbitration agreement, the Parties are required to agree upon the appointment of a Sole Arbitrator by mutual consent and after filing of the Request for Arbitration, they come to an agreement on the name of a person to be appointed as Sole Arbitrator, then on the parties jointly informing IIAC in **FORM No.1B** (as set out in the Schedule to these Rules), within a period of 30 (thirty) days of their having agreed upon a person to be appointed as the Sole Arbitrator, IIAC shall appoint such person as the Sole Arbitrator.

## Appointment of Sole Arbitrator by IIAC

- (iii) Where parties fail to agree on naming a Sole Arbitrator and intimating such name within 30 (thirty) days of filing a Letter of Request or where a person agreed upon by parties to act as Sole Arbitrator declines or is unable to act or fails to communicate his acceptance to act as an Arbitrator within (7) (seven) working days or when a vacancy arises on an appointed Arbitrator ceasing or declining to act or becomes unable to act at any stage and there is no consensus between the parties as to the name of Sole Arbitrator within 30 (thirty) days then on a request being made to IIAC in FORM No. 1C (set out in Schedule of these Rules), by any of the Parties to the arbitration agreement to appoint a Sole Arbitrator, IIAC shall appoint a Sole Arbitrator.
  - (iv) Where the Arbitration Agreement provides for appointment of a Sole Arbitrator by IIAC, then on a request being made to IIAC by any of the Parties to the arbitration agreement FORM No. 1D (set out in Schedule of these Rules), IIAC shall appoint a suitable person as Sole Arbitrator.
- 4.3 Application for Appointment of Sole Arbitrator where there is no arbitration agreement:
- 4.3.1 Where parties do not have an arbitration agreement in their written contract but parties are desirous of referring their disputes to Arbitration under the Summary Claim Arbitration Procedure (SCAP 16 Rules) of IIAC they must submit a joint application to the Secretariat IIAC in **FORM No. 1E** (as set out in the Schedule to these Rules) informing of their desire and agreement to go to Arbitration of an agreed Sole Arbitrator or requesting for the appointment of a Sole Arbitrator by IIAC under these Rules.
  - 4.3.2 Such an application shall be signed by both parties and will be accompanied by a remittance for prescribed Fees and Charges plus taxes as applicable, in favour of IIAC.
  - 4.3.3 The **FORM No. 1E** (as set out in the Schedule to these Rules) on filing, if duly completed will be treated as a Request for Arbitration under Rule 3 and the procedure applicable consequently will apply.
  - 4.3.4. Where parties in a proceeding before any court of law are directed by an order or a direction of such court to refer the pending suit/ proceeding to arbitration and IIAC is appointed to administer such arbitration proceedings then the parties may also commence arbitration by filing FORM (as set out in Form 1F). Such application shall be signed jointly by the parties and will be accompanied by remittance of Fees and

Charges, as prescribed by IIAC. The FORM (as set out in Form 1F) to these rules on filing, if duly completed will be treated as a Request for Arbitration and Rules applicable consequently will apply.

- 4.4 Selection and Appointment of Arbitrator by IIAC
- All selections and appointments of a Sole Arbitrator by IIAC shall be made in accordance with IIAC "Selection of Arbitrators Rules for Appointment on Arbitral Tribunal Rules" in force on date of receipt of the "Request for Arbitration".
- 4.5 In all above cases, IIAC shall appoint a person as an Arbitrator to act as the Arbitral Tribunal after ascertaining the availability of a proposed arbitrator and only after he has given his consent to act as an Arbitrator in the prescribed format, namely "Letter of Consent to act as Arbitrator & Disclosure of Interest" given in the Appendix 1 to "The Code of Ethics and Conduct & Disclosure Rules for Arbitrators".
- 4.6 IIAC shall intimate and confirm the appointment of the Arbitral Tribunal/ Sole Arbitrator.

## 5. CONSENT AND DISCLOSURE BY SOLE ARBITRATOR

- 5.1 All persons proposed as a Sole Arbitrator shall expeditiously intimate IIAC their acceptance and consent to act or refusal in writing and shall also make a disclosure of all his interests known to him in the prescribed Format ("Letter of Consent to Act as Arbitrator and Disclosure of Interest") given in Appendix 1 (of the Code of Conduct) in accordance with "The Code of Ethics and Conduct & Disclosure Rules for Arbitrators".
- 5.2 Failing receipt of prompt reply in the prescribed Format within 7 (seven) working days from enquiry by IIAC, the arbitrators silence shall be treated as his inability to act and accept the appointment and IIAC shall take steps to appoint another person as arbitrator.
- 5.3 The duty and obligation of an Arbitrator to make disclosure shall continue throughout the arbitration proceedings until the Award is signed and published by IIAC.
- 5.4 Where during the subsistence of an arbitration proceeding, if any new facts or circumstances arise which if they had existed at time of making the aforesaid disclosure statement was liable to have been disclosed, then the Arbitrator concerned shall immediately make a further Statements of Disclosure to IIAC in prescribed FORMAT ("Letter of Further Disclosure") given in the Appendix 2 to "The



Code of Ethics and Conduct & Disclosure Rules for Arbitrators”.

- 5.5 A person accepting to act as an Arbitrator shall abide by these Rules and the General Rules of Procedure & Guidelines and the Code of Ethics and Conduct & Disclosure Rules for Arbitrators.
- 5.6 IIAC shall make the Arbitrators “Letter of Consent to act as Arbitrator & Disclosure of Interests” and “Letter of Further Disclosure” when filed by Arbitrators, available to parties.

## 6. PLEADINGS

### 6.1 Statement of Claim

The Claimant shall file the Statement of Claim with the Request for Arbitration or at the latest within a period of 10 (ten) days thereafter.

- 6.2 The Claimant shall file its Statement of Claim in **FORM No. 2** (as set out in the Schedule to these Rules) together with copies of all relevant documents including any experts’ reports in support of the Claim along with a remittance of Fees and Charges as prescribed by IIAC.

### 6.3 Statement of Defence/Reply

The Respondent shall submit its Statement of Defence/Reply to the Statement of Claim in **FORM No. 3** (as set out in the Schedule to these Rules) hereto.

- 6.4 If the Respondent has a counterclaim, it shall be submitted to IIAC in **FORM No. 2** (as set out in the Schedule to these Rules) along with the Statement of Defence. The Respondent shall at the time of filing its Counterclaim with IIAC, pay the prescribed Fees and Charges in relation to the Counterclaim as a condition precedent to the Respondent’s entitlement to bring any such Counterclaim within the arbitral proceedings in question. Failing payment of the prescribed Fees and Charges at time of submission of the Counterclaim to IIAC, it will not be liable to be entertained and will be rejected.
- 6.5 The Respondents shall submit its Statement of Defence/Reply and counterclaim if any along with copies of all relevant documents including any experts’ reports relied upon by the Respondent within 45 (forty-five) days from receipt of the Statement of Claim.
- 6.6 A Statement of Defence/Reply restricted to the counterclaim only, together with documents relied upon in support of this Defence/ Reply, shall be submitted by the Claimant to the Respondent within a further period of 21 (twenty one) days from receipt of the Statement of Defence and Counter Claim by the Claimant.

## 6.7. Filing of Pleadings

- 6.7.1 All pleadings documents and materials shall be filed with IIAC in the manner prescribed by IIAC after serving a copy on the opposite Party together with proof of such service or attempt to serve.
- 6.7.2 IIAC shall send to the Sole Arbitrator a copy of the Statement of Claim, Statement of Defence and Counterclaim (if any) and Reply to the Statement of Defence and to Counterclaim (if any) and the documents when filed by parties.

## 7. FAILURE TO SUBMIT PLEADINGS

- 7.1 If a party fails to serve its pleading within the time limit set, the Sole Arbitrator, on the application of the other party or of his own motion, will notify the defaulting party that unless the outstanding pleadings are received within a fixed period [maximum 14 (fourteen) days], he will proceed to give the Award on the basis of the submissions and documents before him to the exclusion of all others.
- 7.2 In the case of failure to file or serve the Statement of Claim within the prescribed time the Arbitrator shall make an award dismissing the claim.
- 7.3 The time allowed by the Arbitrator’s notice, added to any extension of time previously agreed between the parties in respect of the same pleading, shall not in total exceed 30 (thirty) days.
- 7.4 Any pleading or evidence submitted by the defaulting party subsequent to expiry of the time limit set by the Arbitrator’s notice shall not be admissible.

## 8. NOTICE OF COMPLETION OF PLEADINGS

- 8.1 Following the submission of the Statement of Reply, or, where there is a counterclaim, following submission of the Statement of Reply to Defence and counterclaim, IIAC shall declare to the parties, that pleadings have been closed.

No further pleadings shall be considered by the Arbitral Tribunal following such a declaration.

- 8.2 After pleadings have been closed, IIAC shall after consultation with the Sole Arbitrator fix and intimate all parties concerned, a date for preliminary or other hearings and issue other directions for the conduct of the Arbitration hearings.

## 9. DISCLOSURE OF DOCUMENTS

- 9.1 Parties shall be bound to produce all documents and materials in their possession and control which relate to the matters in issue.

9.2 There shall be no application for making of disclosure, but if in the opinion of the sole Arbitrator, a party has failed to disclose or to produce any documents or materials which ought to have been disclosed and produced by a party, then the Sole Arbitrator may order the production of such documents or may indicate to the party to whom the order is directed that, if without adequate explanation that party fails to produce the documents or materials, the Arbitrator may proceed on the assumption that the contents of such documents or materials would not favour that party's case.

## **10. EVIDENCE**

- 10.1 Sole Arbitrator will be entitled to decide the disputes and claims on basis of documents submitted by parties.
- 10.2 After pleadings are closed, the Sole Arbitrator shall determine whether any issue/defence raised requires oral evidence to be led and direct that Affidavit In Lieu of Evidence may be filed by parties and also the time frame for allowing cross-examination of that witness as also additional sums liable to be deposited by any party for that purpose. The arbitrator may also rule on relevancy and strike out evidence any Affidavit In Lieu of Evidence or portions thereof.
- 10.3 A party desirous of leading Oral Evidence must apply to the Sole Arbitrator at the earliest and before commencement of oral arguments.
- 10.4 A party desiring to lead oral evidence shall also deposit as a condition precedent additional Arbitrators Fees and Charges as prescribed by IIAC.
- 10.5 The Sole Arbitrator will have the power to decide which party shall ultimately bear liability for such additional fees, administrative charges and other expenses of hearings when making the Award.
- 10.6 The Sole Arbitrator shall complete the recording of evidence within 10 (ten) working days unless time is extended by IIAC.
- 10.7 Parties shall produce the witness for cross-examination on the date fixed for examining/hearing that party's evidence.
- 10.8 After completion of recording of evidence, IIAC shall give notice to parties of closure of evidence.

## **11. HEARINGS**

11.1 Unless otherwise agreed to by the parties to dispense with oral arguments, there shall be one hearing for oral arguments. The Arbitral Tribunal shall thereafter proceed to determine

the issues and make an award. In exceptional circumstances for reasons to be recorded by Arbitral Tribunal, additional hearings may be held if the Arbitral Tribunal so requires.

- 11.2 In the case of an hearing for oral arguments the Arbitral Tribunal shall have power to allocate the time available (which shall be limited to 1 (one) working day) between the parties in such manner that each party has an equal opportunity to present its case.
- 11.3 The Arbitration Hearings will be held at IIAC Mumbai unless specifically otherwise agreed to by the parties.
- 11.4 Any request for extension of time limits including that for the service of a pleading within the prescribed time limit as set out in these Rules must be applied for before expiry of the existing time limit.
- 11.5 The Arbitral Tribunal shall be entitled to refuse extension of time limits set out in these Rules.
- 11.6 In event of non-compliance or non-observance of this procedural Rule, the party in default as determined by the Arbitral Tribunal, will be liable to pay costs before being heard on any adjourned date.
- 11.7 On expiry of time for filing of written submissions/ arguments (where there is no hearing of oral arguments) or conclusion of oral arguments, the Arbitral Tribunal shall close the hearing.

## **12. AWARD**

- 12.1 The Arbitral Tribunal will make every effort to publish the Award within 30 (thirty) working days from the close of the hearing. In the event of the Arbitral Tribunal is unable to make an Award within the said period, then the Arbitral Tribunal shall state the reasons for delay in the Award.
- 12.2 The Award made in pursuance to these Rules shall be final and binding on the parties and persons claiming under them respectively.

## **13. FEES & CHARGES**

- (i) The Summary Claim's Fees and Charges shall be standard Fees and Charges which shall be fixed and notified from time-to-time by IIAC.
- (ii) The Summary Claims Fees and Charges basically includes the appointment fee, a hearing fee, the writing of the Award and for assessment of costs as prescribed by IIAC from time-to-time.
- (iii) If the jurisdiction of the Sole Arbitrator is challenged and IIAC is required to determine that issue, additional fees as specified by IIAC from time-to-time shall

be payable in the first instance by the party so challenging, before the Award is made.

- (iv) The Arbitral Tribunal will have the power to decide which party shall ultimately bear liability for Fees and Charges, other expenses, etc., when making the Award.
- (v) Charges of IIAC and charges for venue and all amenities provided at the venue, shall be payable by Parties in accordance with the Schedule of Fees and Charges published by IIAC from time-to-time.
- (vi) After receipt of a "Request for Arbitration", the Secretariat may require the Claimant to deposit an amount likely to cover Fees and Charges until framing of Issues is completed by the Arbitral Tribunal.
- (vii) Where any party fails to deposit Fees and Charges as directed, then the other party may deposit, the defaulting parties share of Fees, and Charges subject to orders being passed by the Arbitral Tribunal as to quantum and liability.
- (viii) Where both parties fail to deposit Fees, and Charges as prescribed by IIAC, the Secretariat shall place the matter before the Arbitral Tribunal for passing orders and directions. The Arbitral Tribunal will be entitled to pass appropriate orders and directions including terminating the arbitration proceedings.

#### **14. COSTS**

- 14.1 The Arbitral Tribunal shall assess and award costs on a commercial basis having regard to the nature of the reference.
- 14.2 The Arbitral Tribunal shall have absolute discretion to assess, determine and fix the amount of costs (including disbursements) which one party may be ordered to pay to the other subject to such maximum figure as shall be fixed and published from time to time by IIAC.
- 14.3 No breakdowns of such costs are to be provided unless the parties agree otherwise or the Arbitrator so requires.
- 14.4 The successful party will normally be awarded the Summary Claims Fees and Charges, etc. In addition to any costs which the party has incurred (subject to limits, if any, prescribed by IIAC), provided always that any award of costs shall be in the sole discretion of the Arbitral Tribunal.

#### **15. ARBITRAL TRIBUNALS POWER TO VARY PROCEDURE**

- 15.1 The Arbitral Tribunal may in exceptional circumstances, and for reasons to be

recorded, depart from or vary the above provisions as he considers appropriate, save and except that he shall not be entitled to vary his fees as Arbitral Tribunal and the maximum figure which can be awarded under the Summary Claims Arbitration Procedure 2016 in respect of costs unless the parties agree otherwise in writing.

- 15.2 In any case where it is determined by Arbitral Tribunal or agreed to by parties in writing that, because of the nature and/or weight of a case, the SCAP 16 Rules is inappropriate and shall not be applicable, it shall cease to apply in its entirety and thereafter the CAP 16 Rules will be applied and adopted by parties for completion of the arbitration proceedings. Thereafter, Fees and Charges shall be borne by parties as prescribed and applicable to proceedings under CAP 16 Rules published by IIAC.

#### **16. COMMUNICATIONS**

- 16.1 No Party shall communicate, directly or indirectly, with any member of the Arbitral Tribunal and the Arbitral Tribunal shall not communicate with any Party during the pendency of the arbitration proceedings.
- 16.2 Throughout the Arbitral proceedings all communications by parties to the Arbitral Tribunal shall be addressed to the Secretariat, IAC only, who shall in turn communicate with the Arbitral Tribunal.
- 16.3 All communications between any party and IIAC and in particular, communications intended to be communicated to the Arbitral Tribunal, shall be simultaneously endorsed/marked to the other party.
- 16.4 All communications shall be in writing in English language and may be delivered by hand delivery, registered post, courier or by e-mails.

#### **17. EXCLUSION OF LIABILITY**

- 17.1 IIAC and its Chairperson, Secretariat, office bearers, directors, officers, employees, committee members, advisors/consultants and Arbitrators shall not be liable to any person for any act with relation to any arbitration governed by these Rules.
- 17.2 Parties will not require IIAC and its Chairperson, Secretariat, office bearers, directors, officers, employees, committee members, advisors/consultants and Arbitrators to make any statements in connection with any arbitration proceedings. It is clarified that IIAC and its Chairperson, Secretariat, office bearers, directors, officers, employees, committee members, advisors/consultants and Arbitrators shall not be summoned or be liable to make any

statements or appearances in any capacity in any tribunal or court of law or to file affidavits or any other document in any proceedings relating to any arbitration proceeding and these Rules.

## 18. WAIVERS

A Party who proceeds with an arbitration without raising objections as to any failure to comply with any Rules or any directions or any requirements and terms under the arbitration agreement required to be complied with or relating to the constitution of the Arbitral Tribunal or conduct of the arbitration proceedings shall be deemed to have waived his rights to object.

## 19. CONFIDENTIALITY

All proceedings relating to the work of IIAC, the Arbitral Tribunal, and conduct of arbitral proceedings are confidential. All parties and the Arbitral Tribunal shall at all times, treat all matters relating to and connected with arbitral proceedings as strictly confidential and shall not disclose them.

## 20. INTERPRETATION

- 20.1 Any question arising as to interpretation of these Rules, Guidelines or Arbitrators, Code of Conduct shall be determined by IIAC and its decision and interpretation shall be final and binding.
- 20.2 If any of these Rules are in conflict with a mandatory provision of the applicable law of the arbitration from which parties cannot derogate, then, that provision of law will prevail.
- 20.3 In all matters not expressly provided for in these Rules, the Arbitral Tribunal shall act in the spirit of these Rules and shall make all endeavours to proceed with the Arbitral hearing and make an enforceable Award.

## 21. AMENDMENTS

These rules may be amended, varied or modified by IIAC at any time.

## 22. MISCELLANEOUS PROVISIONS

IIAC "General Rules of Procedure and Guidelines to Arbitrators and Parties for Conduct of Proceedings and Hearings 2016" (General Rules of Procedure & Guidelines) to the extent that they are not inconsistent with the SCAP 16 Rules shall be applicable to all Arbitration proceedings and constituted Arbitral Tribunals and to parties involved in arbitrations conducted in accordance with these rules and The "Code of Ethics & Conduct & Disclosure Rules for Arbitrators" published by IIAC shall apply to the

proceedings conducted under the SCAP 16 Rules.

## 23. PRACTICE NOTES

The Secretariat, IIAC may from time-to-time issue practice notes to clarify, supplement or implement these Rules for facilitating better administration of arbitration proceedings.

## SCHEDULE FORM NO. IA FORMAT OF "REQUEST FOR ARBITRATION" PER RULES 3 AND 4.2 (I) "REQUEST FOR ARBITRATION"

To,

SCHEDULE FORM No. IA  
FORMAT OF "REQUEST FOR ARBITRATION"  
PER RULES 3 AND 4.2 (i)  
"REQUEST FOR ARBITRATION"

The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate,  
Mumbai 400 020. Maharashtra, INDIA

Dear Sir/Madam,

**RE: Case No: \_\_\_\_\_.**  
**(To be filled in by IIAC at time of filing)**

1. WE \_\_\_\_\_  
(Claimants), have entered into a written Contract dated \_\_\_\_\_ with Respondents), which contains an arbitration agreement/clause whereunder disputes arising in relation to the agreement are liable to be referred to arbitration to be conducted in accordance with the SCAP 16 Rules of IIAC by a Sole Arbitrator.
2. Whereas disputes and claims have arisen between the Parties in relation to and out of/ in respect of the said agreement as set out below and which are liable to be referred to arbitration to be conducted as per SCAP 16 Rules of IIAC.
3. We, the Claimants herein hereby invoke the arbitration agreement and request that a Arbitrator be appointed as per the SCAP 16 Rules of IIAC.
4. We provide / enclose the following:
  - (i) The Claimants details:-
    - a) Name:
    - b) Address:
    - c) E-mail address:
    - d) Telephone:
    - e) Facsimile:
  - (ii) The Respondents details:-
    - a) Name:
    - b) Address:

- c) E-mail address:
  - d) Telephone:
  - e) Facsimile:
- (iii) A copy of the contract in relation to which disputes and claims arise.
  - (iv) A copy of the arbitration agreement between the Parties if not included in the contract.
  - (v) A summary of relevant facts setting out the dispute and the stand taken by the Claimants and Respondents thereon:

\_\_\_\_\_

(A separate sheet may be annexed to this application/ request).

- (vi) The nature and value of reliefs and claims: \_\_\_\_\_

5. Re: ARBITRATOR: [Tick One]

- i) Arbitration Agreement provides for appointment of a named Sole Arbitrator viz.: Ms/Mr \_\_\_\_\_ ; having her/his office at: \_\_\_\_\_

Please appoint the above named person as Sole Arbitrator.

- ii) Parties are required under the arbitration agreement to agree upon appointment of a Sole Arbitrator.

**Please furnish parties with a list of Panel Arbitrators.**

6. INSTITUTION FEES

Institution Fees as prescribed under Schedule: Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) (to be enclosed by way of Pay Order in favour of IIAC payable at Mumbai)

Payment details:

- (a) Name of Bank issuing Pay Order:
- (b) Date and Number of Pay Order:
- (c) Amount of Pay Order in Figures:
- (d) Amount of Pay Order in Words:

Date: \_\_\_\_\_

(Claimants NAME and SIGNATURE)

To be signed by Claimants /Claimants authorized signatory.

**FORM NO. 1B  
FORMAT OF REQUEST TO APPOINT A  
SOLE ARBITRATOR REFERRED TO IN  
RULE 4.2 SUB-PARAGRAPH (II)  
REQUEST FOR APPOINTMENT  
OF A SOLE ARBITRATOR BY IIAC**

To,

FORM No. 1B  
FORMAT OF REQUEST TO APPOINT A SOLE  
ARBITRATOR REFERRED TO IN RULE 4.2  
SUB-PARAGRAPH (ii)  
REQUEST FOR APPOINTMENT OF A SOLE  
ARBITRATOR by IIAC

The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate, Mumbai 400020.  
Maharashtra, INDIA.

Dear Sir/Madam,

**RE: CASE No.:** \_\_\_\_\_

- 1) WE \_\_\_\_\_ (Claimants), have entered into a written contract dated \_\_\_\_\_ with \_\_\_\_\_ (Respondents), which contains an arbitration agreement /clause whereunder disputes arising in relation to the contract are liable to be referred to arbitration of a Sole Arbitrator to be conducted in accordance with the SCAP 16 Rules of IIAC.
- 2) A Request for Arbitration has been filed on \_\_\_\_\_. (Copy of Request for Arbitration and Fees and Charges paid is annexed).
- 3) A list of Panel Arbitrators has been furnished to us by the IIAC.
- 4) WE have agreed upon and are desirous of appointing Shri \_\_\_\_\_ (a Panel Arbitrator) as Sole Arbitrator to arbitrate upon our disputes arising under the above Written Contract in accordance with the SCAP 16 Rules of IIAC.
- 5) We, the Claimants and Respondents abovenamed hereby request that IIAC to appoint the person named in paragraph 3 above as Sole Arbitrator/ Arbitral Tribunal.

Date: \_\_\_\_\_

(Claimants SIGNATURE)  
NAME and SIGNATURE)  
To be signed by parties authorized Signatory

(Respondents SIGNATURE)  
NAME and SIGNATURE)  
To be signed by parties authorized Signatory

NOTE: If both parties are not signing this application, Party submitting application must annex correspondence evidencing that the parties have arrived at a consensus between themselves as to the name of the Sole Arbitrator.

**FORM NO. 1D  
FORMAT OF REQUEST TO APPOINT A  
SOLE ARBITRATOR UNDER RULE 4.2  
(IV) REQUEST FOR APPOINTMENT OF  
A SOLE ARBITRATOR BY IIAC**

To,

FORM No. 1D  
FORMAT OF REQUEST TO APPOINT A SOLE  
ARBITRATOR UNDER RULE 4.2 (iv)  
REQUEST FOR APPOINTMENT OF A SOLE  
ARBITRATOR BY IIAC

The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate, Mumbai 400020.  
Maharashtra, INDIA.

Dear Sir/Madam,

**RE: CASE No.:** \_\_\_\_\_

- 1) WE:  
(i) \_\_\_\_\_ (Claimants), with  
(ii) \_\_\_\_\_ Respondents),  
have entered into a Written  
contract dated \_\_\_\_\_  
which contains an arbitration agreement  
/clause where under disputes arising in  
relation to the written contract are liable to  
be referred to arbitration of a Sole  
Arbitrator to be conducted in accordance  
with the SCAP 16 Rules of IIAC.
- 2) A Request for Arbitration has been filed on  
\_\_\_\_\_ by Claimants  
\_\_\_\_\_(Copy of Request for Arbitration  
and Fees and Charges paid are annexed).
- 3) The Arbitration Agreement provides for  
appointment of a Sole Arbitrator to be  
appointed by IIAC, (Copy annexed).
- 4) We (Claimants / Respondents) named above,  
request that IIAC appoint a suitable person as a  
Sole Arbitrator to arbitrate upon the disputes.

Date: \_\_\_\_\_

(Claimants or Respondents)  
NAME and SIGNATURE)  
To be signed by party's authorized signatory.

**FORM No. 1E  
REFER RULE 4.3 OF SCAP 16 RULES**

(To be used where parties do not have an arbitration agreement in their written contract but are desirous of referring their disputes to arbitration under the Summary Claims Arbitration Procedure (SCAP 16 Rules) of IIAC)

To,  
The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate, Mumbai 400020.  
Maharashtra, INDIA.

Dear Sir/Madam,

WE the undersigned Claimant and Respondents, in  
intended Arbitration namely,

Claimant's name and address: \_\_\_\_\_  
\_\_\_\_\_

Respondent's name and address: \_\_\_\_\_  
\_\_\_\_\_

State as Under:

1. Whereas certain disputes and claims as set out  
in Form 2 hereto and counterclaims have arisen  
between us which we are desirous of referring  
to arbitration as per Summary Claims  
Arbitration Procedure 2016 Rules (SCAP 16  
Rules) of IIAC.

WE have agreed to refer these disputes to  
arbitration of a Sole Arbitrator as per Summary  
Claims Arbitration Procedure 2016 Rules (SCAP  
16 Rules) of IIAC.

2. Accordingly we have to inform IIAC (Tick any  
one of the boxes below)  
 We have agreed to refer these disputes to the  
Sole arbitration of Shri \_\_\_\_\_  
having his office at \_\_\_\_\_  
to be held in accordance with the Summary  
Claims Arbitration Procedure 2016 (SCAP 16  
Rules) of IIAC, Mumbai and he has consented  
to do so as per his Statement of Consent to act  
as Arbitrator & Disclosure of Interest dated  
enclosed herewith. Or

We have agreed to refer these disputes to sole  
arbitration of IIAC to be held in accordance  
with the Summary Claims Arbitration Procedure  
2016 Rules (SCAP 16 Rules) of IIAC.

That parties have not been able to come to an  
agreement on the name of a Sole Arbitrator.

In the circumstances, We \_\_\_\_\_  
(Claimants) and (Respondents) hereby request  
IIAC to appoint a Sole Arbitrator in accordance  
with the Summary Claims Arbitration Procedure  
2016 Rules (SCAP 16 Rules) of IIAC.

3. We agree/do not agree (delete as appropriate) that the Sole Arbitrator/Arbitral Tribunal may make their decision about our disputes claims and Counterclaims based only on documents and written submissions and that we will submit to the Sole Arbitrator as per Summary Claims Arbitration Procedure 2016 Rules, IIAC.
4. We consent / do not consent (delete as appropriate) to Sole Arbitrator dispensing with an oral hearing entirely at his discretion.
5. We will comply with all directions of the Sole Arbitrator and agree to be bound by the Summary Claims Arbitration Procedure 2016 Rules and revisions made thereto by IIAC from time-to-time.
6. We agree that the Arbitrator's Award is final and can be enforced by the relevant court.
7. Documents and Fees and Charges as per Summary Claims Arbitration Procedure 2016 Rules (SCAP 16 Rules) of IIAC, Mumbai are enclosed herewith.
8. We agree and confirm that we will pay all Fees and Charges as prescribed by IIAC for administration and conduct of the Arbitration proceedings.

Claimants (please Place Name and sign / Co. Seal here)

Respondents (please Place Name and sign/co. Seal here).

Date:

**NOTE:**

- 1) This FORM must be signed by both parties and submitted to the Secretariat, IIAC.
- 2) The application shall be accompanied by a "Request of Arbitration" in the prescribed format of FORM 1A to Schedule of SCAP 2016 Rules.

**FORM No. 1F  
REFER RULE 4.3.4 OF SCAP 16 RULES  
"REQUEST FOR ARBITRATION" UNDER  
ORDER/ DIRECTION OF COURT OF  
LAW**

To,

FORM No. 1F  
REFER RULE 4.3.4 OF SCAP 16 RULES "REQUEST  
FOR ARBITRATION"  
UNDER ORDER/DIRECTION OF COURT OF LAW

The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate, Mumbai 4000203.  
Maharashtra, INDIA.

Dear Sir/Madam,

**RE: Case No: \_\_\_\_\_  
(To be filled in by IIAC at time of filing)**

Under mentioned parties

- (i) \_\_\_\_\_ (Claimants), with  
(ii) \_\_\_\_\_ (Respondents),

WHEREAS we are parties to the proceedings pending before Hon'ble Court \_\_\_\_\_ (Please fill in details of the case).

AND WHEREAS by an order/direction of the Hon'ble Court dated \_\_\_\_\_, the matter is referred to arbitration of a Sole Arbitrator/ Arbitral Tribunal. Attached herewith is the original certified order/direction.

2. The order/direction of the court of law provides for appointment of: (Tick one of the three boxes from the options below):

- We jointly request IIAC to appoint a Sole Arbitrator.  
 A Sole Arbitrator whose name has been agreed upon by parties and whose name and details are set out below.  
 A Sole Arbitrator to be appointed by mutual consent of parties.

3. The claimant(s) details:-

- a) Name:
- b) Address \*:
- c) Email address \*:
- d) Telephone \*:
- e) Facsimile \*:

4. The Respondent(s) details :-

- Name:
- Address \*:
- E-mail address \*:
- Telephone \*:
- Facsimile \*:

5. A copy of the pleadings in relation to which the order/direction has been passed.

6. A brief description of the claim and summary of relevant facts supporting the claim and setting out the dispute and the stand taken by the claimant and respondent thereon:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(A separate sheet may be annexed to this application/ request).

7. The nature and value of reliefs and claims:

8. Institution Fees as prescribed by IIAC  
Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only)

(To be enclosed by way of Pay Order in favour of the IMC International ADR Centre payable at Mumbai.)

- (a) Name of Bank issuing Pay Order:
- (b) Date and Number of Pay Order:
- (c) Amount of Pay Order in Figures:
- (d) Amount of Pay Order in Words: Date:

(Claimants NAME and SIGNATURE)  
To be signed by Claimants/Claimants authorized signatory.

**FORM No. 2  
SUMMARY CLAIMS ARBITRATION  
PROCEDURE UNDER IIAC (SCAP 16  
RULES) STATEMENT OF CLAIM**

Arbitration CASE No. \_\_\_\_\_ of 20\_\_ .  
Before Sole Arbitrator Shri \_\_\_\_\_

NOTE:

This form uses the word 'CLAIMANT' and 'RESPONDENT' often. The 'CLAIMANT' is the person making a claim.

The 'RESPONDENT' is the person an action is being taken against.

Sr. No	Particulars
1	Please fill in the Claimant's details here.
	1) Name 2) Address 3) Describe Claimant's business
2	Please fill in the Respondent's details here.
	1) Name 2) Address 3) Describe Respondent's business
3	'Details of claim' Please outline the dispute that you have with the Respondent.  NOTE:  (i) If you have any additional information please try to confine to one page and attach to this document.  (ii) A List of Dates and Events in Form 2A given below are to be prepared and filed by Claimants along with Statement of Claim.

4	Please state the Issues which according to Claimants arise for determination by Arbitrator in this Arbitration.	
5	Please outline what you are claiming from the Respondent.	
6	Please list all the documents in your possession relating to the claim. Please send IIAC the documents you are using to support your claim with this form duly Indexed and paged.	Claimants confirm that the following is a List of all documents relating to the Claim herein other than privileged documents.  1) 2)  Following Documents relevant to the claim were in our possession but are now not in our possession And control.  1) 2)
7	Please give details and reference to Arbitration Agreement pursuant to which claim is referred.	

Please read the following statement and sign it to show you understand and accept it.

The Claimant confirms that the facts stated in List of Dates and in Item No. 3 listed above are true and correct to the Claimants own knowledge.

The Claimant confirms and accepts that only the documents that are enclosed with this Claim Form will be used by Claimants in support of their claim and at the oral hearing.

Dated this \_\_\_\_\_ day of \_\_\_\_ 20 .

Signed by Claimant / Claimant's Authorized signatory Name and Address of Claimants Legal Representative, if any.

Notes

- 1) Authorized signatory must be a person who is able to confirm the truth and correctness of statements made in Claim Statement and List of Dates to his own personal knowledge or based on knowledge obtained from documents (Please specify the items separately).



- 2) Where Claimant is a company or a body corporate or an artificial entity, a copy of power of attorney, resolution of Board of Directors and other prescribed authorizations inter alia authorizing the signatory to sign and affirm this Claim Statement must be filed along.
- 3) Where Claimants and Respondent have a Legal Representative all proceedings and correspondence will be addressed to or by that Legal Representative only.

**FORM NO. 2  
SUMMARY CLAIMS  
ARBITRATION PROCEDURE UNDER  
IIAC (SCAP 16 RULES) STATEMENT OF  
CLAIM**

(To be filed by Claimants at first Instance and filed along with Claim Statement and Claimants Compilation of Documents)

1	2	3	4	5
	<b>Date</b> (in <b>Bold</b> and underlined) And below date in ITALICS fonts give Description of Documentary Evidence, if any and its page Reference to be disclosed in Claimants 'Compilation / or Respondents' Compilation establishing Events set out in Column No. (3) See Illustration given below	<b>Particulars of Event</b>	<b>Whether Respondents admit Event or Documents referred to by Claimants in Column Nos. (2) and (3) and in Claimants 'Compilation'</b>	Date (in <b>Bold</b> and underlined) And below date in ITALICS fonts give Description of Documentary Evidence, if any and its page Reference to be disclosed in Claimants 'Compilation / or Respondents' Compilation establishing Events set out in Column No. (3) See Illustration given below
1	<b>1-12-2011</b> (C/C pg.1)	Purchase Order of Respondents for Supply of Good being 10 Drums of Oil @ ₹ 10/- each		

2	<b>10-12-2011</b> (C/C pg.3)	Claimants' Invoice ₹ 1,000/- For 10 drums of Oil @ ₹ 100 each		
3	<b>10-12-2011</b> Delivery Challans (C/C pg. 4) Lorry Receipts (C/C pg.5)	Goods delivered by Claimants to Respondents per Order Under Lorry Receipts and Delivery Challans bearing Respondents acknowledgements.		
4	Correspondence and demand for payment			

KEY:

C/C = Claimants Compilation  
R/C = Respondents Compilation

WHEREUSED

NOTES:

- (i) LIST of Dates and Events -- Column Nos. 1, 2 and 3 are to be prepared and filed by Claimants along with Statement of Claim.
- (ii) In LIST of Dates and Events -- Column No. 4 is to be filled by Respondents and filed along with Respondents Defence.
- (iii) Where parties desire to add additional Facts and Events in Claimants List of Dates they may do so by adding additional Rows in the Form so as to maintain the chronology of dates. Additional Facts and Events and References to Documents, if any, relied upon by Respondents in their Defence and Counterclaim will be set out by Respondent in Column Nos. 1, 2, and 3 in same manner as done by Claimant however the additional rows inserted by Respondents should have new Serial Numbers running Alphabetically, e.g. Additional dates after date at Serial No. 2 will be: 2(A), 2(B), 2(C). The Numeric Serial Numbers given by Claimants should be maintained.
- (iv) The Respondents will also fill in Column No. 4

- (v) List of Dates and Events duly completed along with the Defence and Counter Claim in Form 3 along with Respondents Compilation of Documents duly indexed and paged will be sent by Respondents in prescribed time to IIAC, the Sole Arbitrator and to Claimants/ Claimants Legal Representative.

**FORM NO. 3  
SUMMARY CLAIMS ARBITRATION  
PROCEDURE 2016 UNDER IIAC  
(SCAP 16) STATEMENT OF DEFENCE**

Arbitration No. \_\_\_\_\_ of 20\_\_ .  
Before Sole Arbitrator  
Shri \_\_\_\_\_

**NOTE:**

This form uses the word 'CLAIMANT' and 'RESPONDENT' often. The 'CLAIMANT' is the person making a claim.

The 'RESPONDENT' is the person an action is being taken against.

Sr. No	Particulars	
1	Please fill in the Claimant's details here.	
	1) Name 2) Address 3) Describe Claimant's business	1) 2) 3)
2	Please fill in the Respondent's details here.	
	1) Name 2) Address 3) Describe Respondent's business	1) 2) 3)
3	<p><b>DEFENCE</b> Please give your response to the dispute as described by the claimant in paragraphs 3 in their 'Details of claim'. and to the questions/issues arising for determination given by Claimants at Para No.4.</p> <p><b>NOTE:</b></p> <p>(i) If you have any additional information please try to confine to one page and attach to this document In the List of Dates and Events in Form 2A given prepared and filed by Claimants along with Statement of Claim please fill up particulars of any</p>	

	additional Dates and Events and Documents relied upon by you in support of your defence as indicated in Notes to Form 2A	
3A	<p><b>COUNTERCLAIM</b> Do you want to make a claim against the claimant (this is known as a 'counterclaim')? If you do please outline the Nature of dispute and counterclaim here.</p> <p><b>NOTE:</b></p> <p>In the List of Dates and Events in Form 2A given prepared and filed by Claimants along with Statement of Claim please fill up particulars of Dates and Events and Documents relied upon in support of Counterclaim as indicated in Notes to Form 2A</p>	A claim is being made by the Respondent (Counter-Claimant) Against:
4	Please state the Issues which according to Respondent arise for determination by Arbitrator in this Arbitration.	
5	Please outline what you are claiming from the Claimant in your Counterclaim	
6	Please list all the documents in your possession relating to your defence and counterclaim. Please send the documents you are using to support your defence and counterclaim with this form duly Indexed and paged.	<p>Respondents confirm that the following is a List of all documents relating to their Defence and/ counterclaim herein other than privileged documents.</p> <p>1) 2)</p> <p>Following Documents relevant to the Defence and/ counterclaim were in Respondents possession but are now not in Respondents possession and control.</p> <p>1) 2)</p>

Please read the following statement and sign it to show you understand and accept it.

## VERIFICATION

The Respondent confirms that the facts stated in List of Dates and in paras 3 & 3A of the Respondents Statement of Defence and / Counterclaim above are true and correct to the Respondents own knowledge. The Respondent confirms that the documents that are enclosed with this Statement of Defence will be relied in their defence and at the oral hearing.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20.

Signed by Respondent / Respondents Authorized signatory Name and Address of Respondents

Legal Representative, if any.

## NOTES:

- 1) Authorized signatory must be a person who is able to confirm the truth and correctness of statements made in Statement and List of Dates to his own personal knowledge or based on knowledge obtained from documents (Please specify the items separately).
- 2) Where Respondent is a Company or a Body Corporate a Copy of Power of Attorney and Resolution of Board of Directors authorizing the Signatory to sign and affirm this Statement of Defence must be filed along with this Statement of Defence.
- 3) Where Claimants and Respondent have a Legal Representative all proceedings and correspondence will be addressed to or by that Legal Representative.

## APPENDIX General Guidance Notes SUGGESTED FORMATS OF ARBITRATION AGREEMENT / CLAUSES

### For Future Disputes

Parties desirous of adopting IIAC SCAP 16 Rules for resolving any disputes and claims that may arise during the performance of their written contracts, should incorporate an arbitration agreement in their written contract, Purchase Order or Invoice (preferably in the Purchase Order) at the time of entering into the contract.

Some suggested formats of Arbitration Agreements, which parties may incorporate in their written contracts at the time of entering into written contracts, are set out by way of guidance below:

"All dispute and differences arising out of or in connection with or relating to this Contract including any question regarding its existence, validity or termination, shall be referred to and be resolved by arbitration by a Sole Arbitrator at Mumbai

conducted in accordance with the Summary Claims Arbitration Procedure 2016 (SCAP 16 Rules) of IMC International ADR Centre (IIAC) and the award made in pursuance thereof shall be final binding on the parties".

Followed by any one of the following sentences.

- "The Arbitral Tribunal shall comprise of Shri who shall act as Sole Arbitrator"; or
- "The Arbitral Tribunal shall comprise of one Arbitrator to be agreed upon by parties and failing an agreement on the Arbitrator, to be appointed by IIAC"; or
- "The Arbitral Tribunal shall comprise of one Arbitrator to be appointed by IIAC".

# COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

## BACKGROUND AND INTRODUCTION

IMC International ADR Centre (IIAC) is an independent company constituted under the Companies Act, 2013 promoted by the Indian Merchants' Chamber for purposes of propagating alternate dispute resolution methods to assist all sections of society, individuals, corporate, firms, institutions and others in resolving disputes. IIAC does not itself resolve disputes; it administers resolution processes including constituting arbitral tribunals in accordance with the various rules framed by it.

The "Commercial Arbitrations Procedure 2016 Rules (CAP 16 Rules)", of the IMC International ADR Centre (IIAC) is a procedure devised to provide alternate means to resolve commercial disputes arising in course of trade and business where parties have an arbitration agreement to refer disputes and differences between them to arbitration to be conducted in accordance with the Commercial Arbitrations Procedure 2016 Rules of the IMC International ADR Centre (IIAC), (CAP 16 Rules).

Under these Rules, disputes shall be heard and determined by

- (i) an arbitral Tribunal consisting of sole Arbitrator unless otherwise agreed to by parties to be heard and determined by an uneven number of Arbitrators.
- ii) where parties have agreed to a larger Arbitral Tribunal, each party/ group shall be entitled to appoint one Arbitrator and IIAC shall appoint the third Arbitrator who shall serve as the Presiding Arbitrator of the Arbitral Tribunal.

IIAC Code of Conduct shall apply to all Arbitrators on the Arbitral Tribunal and they shall ensure that the parties are treated with impartiality and equality and that each party who has a right to be heard, is given a full and fair opportunity to represent its case.

The objectives of an Arbitral Tribunal shall be to conduct the proceedings in accordance with law with a view to resolving and determining the disputes and claims of parties expeditiously, fairly, and within a reasonable time and costs framework. Suggested formats of Arbitration Agreements which parties may incorporate in their Contracts at time of entering into Contracts, are set out in Appendix hereto by way of guidance.

It is essential that Arbitration Agreements are in writing.

A "Panel of Arbitrators" comprising of past judges, trained and experienced advocates, chartered accountants, engineers, civil servants, persons with specialised domain knowledge is maintained by IIAC for selection of Sole Arbitrators.

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- APPENDIX — Suggested formats of Arbitration Agreements

## IIAC ARBITRATION PROCESS FLOWCHART (CAP 16 RULES)

**REQUEST FOR ARBITRATION:**  
Claimant to send a Written Request For Arbitration to IIAC in prescribed Form along with the prescribed fees. (Rule 3)

Claimants to file their **STATEMENT OF CLAIM** along with "Request for Arbitration" or within 10 days thereafter. (Rule 11.1)

**CONSTITUTION OF ARBITRATOR TRIBUNAL:**  
On receipt of the Request for Arbitration from the Claimants, the IIAC will Number the same and send a Notice to the Respondents.

Respondents to name their Arbitrator within 30 days, failing which IIAC will appoint an Arbitrator on behalf of Respondents.  
IIAC shall appoint the Presiding Arbitrator within 10 working days of the appointment of two Arbitrators

**STATEMENT OF DEFENCE AND COUNTER CLAIM:**  
Respondents to file within 30 days of receipt of Statement of Claim (Rule 11.2)

Claimants to file their **REPLY TO COUNTER CLAIM** within 21 days of receipt of Statement of Counter Claim.

**NOTICE OF COMPLETION OF PLEADINGS**  
(Rule 11.5)

**PRELIMINARY MEETING:**  
Hearing of all Applications, Framing Issues and Fixing Hearing Dates (Rule 12)

Applications for further Disclosure & Interim Reliefs (Rules 13 & 15)

**HEARINGS:**  
full days, day-to-day

**AWARD**

These rules of procedure shall be called the "Commercial Arbitrations Procedure 2016 (CAP 16 Rules)" of the IMC International ADR Centre (IIAC), hereinafter referred to as the "Rules".

## 1. APPLICABILITY OF RULES

- 1.1 These Rules shall come into force from 1st April, 2016 (except Rule 16 which will come into effect when separately notified by IIAC), and shall apply to any arbitration commenced on and after that date.
- 1.2 This procedure shall apply where the parties have agreed in writing to seek resolution of their disputes (whether present or future) to arbitration under these Rules.
- 1.3 Where parties have agreed to refer their disputes to arbitration under the CAP 16 Rules of IIAC, they shall be deemed to have agreed that the arbitration shall be conducted and administered by IIAC in accordance with these Rules in force on the date of commencement of arbitration unless parties have agreed to the Rules in force on date of their agreement.

## 2. DEFINITIONS

- 2.1 In these Rules, the following words have the following meanings:
  - (a) **"Arbitrator"**: means a person appointed as an Arbitrator to constitute the Arbitral Tribunal for determining disputes/ differences and claims between the Parties in accordance with these Rules.

An individual person to be eligible to be appointed as an Arbitrator under these Rules must be:

- (i) A person listed on the "Panel" of Arbitrators of IIAC, or
- (ii) A person, not listed on the "Panel" of Arbitrators of IIAC, if his appointment as an Arbitrator, has been approved by IIAC for appointment as a member of the Arbitral Tribunal in relation to that dispute on an application made by a party. The application shall be made in Form prescribed in **Schedule 1** to these Rules.

The approval or rejection of any application for appointment of a proposed non-panel person as an Arbitrator on an Arbitral Tribunal shall be at the discretion of IIAC who will not be required to give any reasons. In the event of a person proposed under this rule, not being approved by IIAC, then, IIAC shall appoint a suitable person as Arbitrator on the Arbitral Tribunal.

After grant of approval the proposed non-panel person shall not be appointed as an Arbitrator for that Arbitral Tribunal until he has complied with conditions in Rule 7 and has agreed in writing and (submitted to IIAC) to conduct the Arbitration in accordance with the CAP 16 Rules

and that he will comply with, "The Code of Ethics and Conduct & Disclosure Rules for Arbitrators".

- (b) **"Arbitral Tribunal"**: where an arbitration agreement provides for appointment of a Sole Arbitrator under these Rules, the Sole Arbitrator when duly appointed in accordance with these Rules, shall constitute the "Arbitral Tribunal" for the conduct and completion of the Arbitration proceedings in accordance with these Rules including making an Award.

Where an arbitration agreement provides for appointment of three Arbitrators under these Rules, the three Arbitrators when duly appointed in accordance with these Rules, shall constitute the "Arbitral Tribunal" for the conduct and completion of the Arbitration proceedings under these Rules including making an Award.

An Emergency Arbitrator under Rule 16 shall also be regarded as an Arbitral Tribunal until an Arbitral Tribunal is constituted and appointed by IIAC as per arbitration agreement between the parties.

- (c) **"Award"**: includes an interim Award made by the "Arbitral Tribunal".
- (d) **"Code of Conduct"**: means the "Code of Ethics and Conduct & Disclosure Rules for Arbitrators" published by IIAC.
- (e) **"Fees and Charges"**: shall mean and include all prescribed fees, costs and charges etc. as prescribed by IIAC from time-to-time. Fees and Charges, as in force at the commencement of the arbitration shall be payable. Additionally, applicable taxes from time-to-time shall also be borne and paid by the parties.
- (f) **"General Rules of Procedure & Guidelines"**: means the "General Rules of Procedure and Guidelines to Arbitrators and Parties for Conduct of Proceedings and Hearings 2016", published by IIAC and all amendments made thereto from time-to-time and in force at the date of making of the reference. The General Rules of Procedure & Guidelines to Arbitrators and Parties for Conduct of Proceedings and Hearings 2016 shall be applicable to all Arbitration proceedings and constituted Arbitral Tribunals and to parties involved in arbitrations conducted in accordance with these Rules.
- (g) **"IIAC"**: means the IMC International ADR Centre.
- All references to applications, filing of pleadings and communications etc. with IIAC in these rules shall be addressed to "The Secretariat, IIAC, IMC Building, 3rd Floor, IMC Suresh Kotak International Centre Churchgate, Mumbai-400 020".
- (h) **"Panel of Arbitrators"**: means Panel of Arbitrators maintained and published by IIAC.

- (i) **"Presiding Arbitrator"**: shall have the meaning assigned in Rule 4.
- (j) **"The Secretariat"**: means "Secretariat, IMC International ADR Centre ("IIAC"), IMC Building, 3rd Floor, IMC Suresh Kotak International ADR Centre, IMC Marg, Churchgate, Mumbai 400 023".
- (k) **"Rules"**: means these Commercial Arbitrations Procedure Rules 2016 (CAP 16 Rules).
- (l) Words importing the singular number include, where the context admits or requires, the plural number and vice versa.
- (m) Words describing a gender such as "his" or "her" shall include all genders where the context admits or requires.

### 3. COMMENCING OF ARBITRATION PROCEEDINGS

- 3.1 Any Party desiring to commence arbitration under these Rules ("the Claimant") shall send to IIAC a written request for arbitration ("Request for Arbitration"). The Request for Arbitration shall contain all particulars as set out in the format prescribed in Schedule 2 of these Rules.
- 3.2 On receipt of the "Request for Arbitration" duly completed, along with the institution fees as prescribed under Fees and Charges, IIAC shall immediately number the request and shall send a copy of the Request to the other Party ("the Respondent").
- 3.3 **"Date of commencement of the arbitration"**: shall be the date when the "Request for Arbitration" as per the Rules duly completed is received by the Secretariat, IIAC from any Party to an arbitration agreement along with institution fees as prescribed under Fees and Charges.
- 3.4 A "Request for Arbitration" if received incomplete shall be liable to be completed by the Claimant within 10 (ten) working days from date of receipt of intimation by IIAC of any deficiencies, failing which it shall be construed as if no such request for arbitration was made.
- It is clarified that where a "Request for Arbitration" is completed within 10 (ten) working days from date of receipt of intimation of deficiencies by IIAC, it shall relate back to the date of its original filing.
- 3.5 Where parties have agreed to initiate mediation or conciliation process before going to arbitration, parties must first commence mediation/ conciliation and the Report of the neutral persons must be enclosed with the "Request for Arbitration".
- 3.6 Requests for arbitration along with prescribed fee may also be filed online at [www.iiac.net.in](http://www.iiac.net.in) from such date as may be notified by IIAC.

- 3.7 Where appropriate a party applying to IIAC, should provide a concise explanation of the issues which are likely to arise and indicate whether any particular expertise on the part of the Arbitrator is required.

#### **4. APPOINTMENT OF ARBITRAL TRIBUNAL**

- 4.1 Disputes may be decided by an Arbitral Tribunal consisting of a Sole Arbitrator or of three Arbitrators.

- 4.2 Subject to an agreement to the contrary, the Arbitral Tribunal shall consist of a Sole Arbitrator.

##### **4.3 Appointment of Sole Arbitrator**

Where the agreement is silent as to number of Arbitrators or where the arbitration agreement provides for appointment of one **Arbitrator** ("Sole Arbitrator") then:

- (a) If the Parties have already agreed upon the name of a person to act as their Sole Arbitrator from the Panel of Arbitrators, then such person will be appointed by IIAC as the Sole Arbitrator.
- (b) If before commencing of arbitration the Parties have already agreed upon the name of a non-panel person to act as their Sole Arbitrator, then such person may be appointed by IIAC as the Sole Arbitrator in those particular arbitral proceeding, subject to and in accordance with these Rules.
- (c) Where the Parties are required to agree upon the appointment of a Sole Arbitrator from the Panel of Arbitrators by mutual consent under the arbitration agreement and they communicate their consent in writing (as set out in the Schedule 3) to IIAC to the appointment of such person as Sole Arbitrator, then such person will be appointed by IIAC as the Sole Arbitrator.
- (d) Where parties fail to agree on naming a Sole Arbitrator from the Panel of Arbitrators within 30 (thirty) days of filing a Request for Arbitration or where a person agreed upon by parties to act as Sole Arbitrator declines or is unable to act or fails to communicate his acceptance to act as an Arbitrator within 7 (seven) working days IIAC shall appoint a suitable person as Sole Arbitrator from the Panel of Arbitrators.

##### **4.4 Appointment of Sole Arbitrator where there is no Arbitration Agreement**

Where parties do not have an arbitration agreement but parties are desirous of referring their disputes to Arbitration under the CAP 16

Procedure of IIAC, they must submit a joint application to the Secretariat IIAC in FORM (as set out in the Schedule 4 to these Rules)

informing of their desire and agreement to go to Arbitration of an agreed Sole Arbitrator or requesting for the appointment of a Sole Arbitrator by IIAC under these rules.

Such application shall be signed by both parties and will be accompanied by a remittance of Fees and Charges, as prescribed by IIAC.

The FORM (as set out in the Schedule 4 to these Rules) on filing, if duly completed will be treated as a Request for Arbitration under Rule 3 and the Rules applicable consequently will apply.

##### **4.5 Appointment of Three Arbitrators**

- 4.5.1 Nomination of all three Arbitrators by IIAC  
Where the arbitration agreement provides for appointment of three Arbitrators all to be appointed by IIAC, IIAC shall, on the filing of a Request for Arbitration and on payment of Fees and Charges by any party to the Arbitration Agreement, appoint three Arbitrators including the Presiding Arbitrator from the panel of Arbitrators in the manner prescribed and intimate their appointment to the parties.  
Nomination by Parties

##### **4.5.2 Nomination of Arbitrator by Claimants**

- (a) Where the arbitration agreement provides for appointment of three Arbitrators, one by each disputants then, the Claimants shall give, names of three persons from the Panel of Arbitrators or such other names (in order of preference) whom the Claimants would like to appoint/nominate as an Arbitrator along with the Request for Arbitration.
- (b) IIAC shall inter alia after ascertaining the availability of the persons named by Claimants appoint an Arbitrator on behalf of the Claimants.

If in the event none of the three persons named by the Claimants are ready or available to accept appointment as an Arbitrator, then IIAC shall appoint an Arbitrator from the Panel of Arbitrators on behalf of the Claimants.

##### **4.5.3 Nomination of Arbitrator by Respondents**

- (a) Upon receipt of a "Request for Arbitration" made in accordance with these Rules, IIAC shall forward a copy of the "Request for Arbitration" to the Respondents and shall call upon the Respondents, to name his/ their Arbitrator from the Panel of Arbitrators or such other names within 30 (thirty) days of receipt of the said notice by informing IIAC names of three persons (in order of their preference).
- (b) IIAC shall inter alia after ascertaining the availability of the persons named by the Respondents; appoint an Arbitrator on behalf of the Respondents.

If in the event that none of the three persons named by the Respondents are ready or available to accept appointment as Arbitrator then IIAC shall appoint an Arbitrator from the Panel of Arbitrators on behalf of the Respondents.

#### **4.5.4 Respondents' failure to appoint Arbitrator**

If the Respondent fails to take steps to nominate an Arbitrator from the Panel of Arbitrators (by giving names of three persons in order of their preference) within 30 (thirty) days from receipt of a request to do so, IIAC shall appoint an Arbitrator on behalf of the Respondent and IIAC shall give notice of the name of the Arbitrator so appointed to the Parties (after obtaining that Arbitrator's consent to act).

#### **4.5.5 Presiding Arbitrator**

IIAC shall within 10 (ten) working days of the appointment of the two Arbitrators, appoint the third Arbitrator from the Panel of Arbitrators who shall serve as Presiding Arbitrator of the Arbitral Tribunal.

#### **4.6 Appointment of an Arbitral Tribunal under order of the Court.**

Where parties in a proceeding before any court of law are directed by an order or a direction of such court to refer the pending suit/proceeding to arbitration and IIAC is appointed to administer such arbitration proceedings then the parties may also commence arbitration by filing FORM (as set out in Schedule 5). Such application shall be signed jointly by the parties and will be accompanied by remittance of Fees and Charges, as prescribed by IIAC. In cases where the order of the court is silent as to the constitution of the Arbitral Tribunal, a Sole Arbitrator shall constitute the Arbitral Tribunal and provisions for the appointment as set out in Rule 4.3 will apply. The FORM (as set out in Schedule 5) to these rules on filing, if duly completed will be treated as a Request for Arbitration and Rules applicable consequently will apply.

### **5. MULTIPLE PARTIES**

Where there are more than two parties to the disputes in an arbitration and Arbitrators are to be appointed, the parties claiming against the others, (Claimants) shall jointly nominate one Arbitrator and other parties (Respondents) shall jointly nominate one arbitrator and the Presiding Arbitrator on the Arbitral Tribunal shall be appointed by IIAC. In the event of both such joint nominations not being made within 30 (thirty) days of filing of a "Request for Arbitration"; then at the request of any party, IIAC shall appoint all three Arbitrators including the Presiding Arbitrator. The procedure set out in Rules 4.5.4 and 4.5.5 shall apply.

### **6. APPOINTMENTS OF ARBITRATORS ON ARBITRAL TRIBUNAL BY IIAC**

- 6.1 IIAC shall appoint a person as an Arbitrator on an Arbitral Tribunal after ascertaining the availability of a proposed arbitration and only after he has given his consent to act as an Arbitrator in the prescribed format, namely "Letter of Consent to act as Arbitrator & Disclosure of Interest" given in the Appendix 1 to "The Code of Ethics and Conduct & Disclosure Rules for Arbitrators".
- 6.2 IIAC shall intimate the parties of the appointment and constitution of the Arbitral Tribunal.

### **7. DISCLOSURE BY ARBITRATORS AND THEIR CONSENT**

- 7.1 All proposed Arbitrators shall expeditiously intimate IIAC their acceptance and consent to act or refusal in writing and shall also make a disclosure of all their interests known to them in the prescribed format ("Letter of Consent to act as Arbitrator & Disclosure of Interest" given in Appendix 1 to the Code of Conduct) and in accordance with "The Code of Ethics and Conduct & Disclosure Rules for Arbitrators".
- 7.2 Failing receipt of prompt reply in the prescribed form within 7 (seven) working days from enquiry by IIAC, the proposed arbitrator's silence will be treated as his inability to act and accept the appointment and IIAC shall take steps to appoint another person as an Arbitrator.
- 7.3 The duty and obligation of an Arbitrator to make disclosure shall continue throughout the arbitration proceedings until the Award is signed and published by IIAC.
- 7.4 Where during the subsistence of an arbitration proceeding, if any new facts or circumstances arises which if they had existed at time of making the aforesaid disclosure statement was liable to have been disclosed, then the Arbitrator concerned shall immediately make a further Statements of Disclosure to IIAC in prescribed FORMAT ("Letter of Further Disclosure") given in the Appendix 2 to "The Code of Ethics and Conduct & Disclosure Rules for Arbitrators".
- 7.5 A person accepting to act as an Arbitrator shall strictly abide by these Rules and the General Rules of Procedure & Guidelines and the Code of Ethics and Conduct & Disclosure Rules for Arbitrators.
- 7.6 IIAC shall make the Arbitrators "Letter of Consent to act as Arbitrator & Disclosure of Interests" and "Letter of Further Disclosure" when filed by Arbitrators, available to parties.



## 8. CHALLENGE TO APPOINTMENT OF AN ARBITRATOR

- 8.1 A party may challenge an Arbitrator or an Emergency Arbitrator if:
- (a) Facts or circumstances exist that give rise to justifiable doubts as to his independence or impartiality, or
  - (b) The Arbitrator does not possess the qualifications agreed to by the Parties.
- 8.2 A Party who intends to challenge an Arbitrator shall make a written application within 15 (fifteen) days after receiving intimation of the constitution of the Arbitral Tribunal or date of receipt of "Letter of Consent to act as Arbitrator & Disclosure of Interests" whichever is later, or within 15 (fifteen) days after becoming aware of any other facts or circumstances referred to in Rule 7.4 above.
- 8.3 The application of challenge shall be filed with the Secretariat of IIAC and a copy will simultaneously be sent to the opposite party. The application shall set out the name of the Arbitrator challenged and the grounds and reasons for the challenge.
- 8.4 IIAC may after consulting the Arbitral Tribunal, suspend arbitration hearings until the application is heard and disposed of.
- 8.5 When an Arbitrator is challenged by a Party:
- (a) The other Party may agree to the challenge; or
  - (b) The Arbitrator challenged, may withdraw from his office.
- 8.6 If within 10 (ten) days, the other Party does not agree to the challenge, or if the Arbitrator challenged does not withdraw, the Governing Council of IIAC or any committee constituted by it for that purpose shall decide on the challenge at an early date after hearing parties if necessary.
- 8.7 The Governing Council of IIAC or the Committee constituted by it when passing orders on the challenge application shall be entitled to make an order of costs on the application and also direct which party will bear such costs.
- 8.8 If a challenge is not successful, the Arbitral Tribunal shall continue the Arbitration proceedings and make an Arbitral award.

## 9. CHALLENGES TO JURISDICTION

- 9.1 The Arbitral Tribunal shall have the power to determine its own jurisdiction including matters relating to existence or validity of the arbitration agreement, and for that purpose –
- (a) An arbitration clause which forms part of a contract shall be treated as an agreement

independent of the other terms of the contract; and

- (b) A decision by the Arbitral Tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.
- 9.2 A plea that the Arbitral Tribunal does not have jurisdiction shall be raised not later than the submission of the Statement of Defence; however, a party shall not be precluded from raising such a plea merely because he has appointed, or participated in the appointment of an Arbitrator.

## 10. TERMINATION OF MANDATE AND SUBSTITUTION OF AN ARBITRATOR

- 10.1 The mandate of an Arbitrator shall terminate in the event of:
- (a) IIAC concluding, on an application by any Party to the arbitration, that an Arbitrator has failed to act without undue delay or that the Arbitrator has become de jure or de facto unable to perform his functions for any reasons; or
  - (b) A challenge application being allowed, under rule 8 above; or
  - (c) Death, resignation or withdrawal by an Arbitrator for any reason; or
  - (d) By or pursuant to agreement of Parties.
- 10.2 Upon termination of the mandate of an Arbitrator, a substitute Arbitrator shall be appointed by IIAC in accordance with the rules that were applicable to the appointment of Arbitrator being replaced.
- 10.3 All orders, directions and rulings of the Arbitral Tribunal prior to the replacement of an Arbitrator shall not be invalid solely because there has been a change in the composition of the Arbitral Tribunal.
- 10.4 Where Arbitrator is replaced, evidence already recorded shall be used by the reconstituted Arbitral Tribunal. However, oral hearings on arguments by parties previously held need not be repeated, unless requested for by any party or the Arbitral Tribunal so directs.

## 11. FILING OF PLEADINGS BY PARTIES

### 11.1 Claimant's Pleadings

- (a) The Claim Statement shall be filed with the "Request for Arbitration" or within 10 (ten) days thereafter.
- (b) The Statement of Claim will be accompanied with copies of all documents referred to and relied upon by Claimants in support of their claim.

## 11.2 Respondent's Pleadings

Statement of Defence and Counter Claim

(a) The Respondents shall file their Statement of Defence and any Counter Claim or Set Off that they may desire to make within 30 (thirty) days of receipt of the Statement of Claim.

(b) The Respondents shall be liable to pay Fees and Charges as may be prescribed in relation to their Counter Claim at the time of filing the Counter Claim.

The Statement of Defence and Counter Claim/Set Off will be accompanied by copies of all documents, reports etc. referred to and relied upon by Respondents in support of their Statement of Defence and Counter Claim/Set Off.

(c) The Arbitral Tribunal may in appropriate cases require Claimant to file a Rejoinder to certain allegations made in the Statement of Defence or permit a Claimant to do so, if it is applied for.

## 11.3 Reply to Counter Claim/Set Off

The Claimant shall be entitled to file a Reply restricted to the Counter Claim /Set Off with supporting documents if any within 21 (twenty-one) days of the service of the Counter Claim.

The Arbitral Tribunal may in appropriate cases require Respondent to the Counter Claim/Set Off to file a Rejoinder to certain allegations made in the Reply to the Counter Claim/Set Off or permit a Respondent to the Counter Claim/Set Off to do so if it is applied for.

11.4 Parties shall file their pleadings with IIAC after serving a copy on the opposite Party/parties together with proof of such service or attempt to serve.

## 11.5 Notice of Completion of Pleadings

After the Respondents have submitted their Statement of Defence with no Counter Claim/Set Off, or where there is a Counter Claim/Set Off, after the Claimants have submitted their Reply to Counter Claim/Set Off, to IIAC, the Secretariat shall notify the Arbitral Tribunal and parties in writing that the pleadings have been completed.

## 12. DIRECTIONS FOR HEARINGS

12.1 On constitution of the Arbitral Tribunal, it shall issue directions/orders fixing a time-table for the conduct of the arbitration hearings, recording evidence and the conduct of inter alia the following proceedings:

- (a) For framing of issues/questions for determination;
- (b) For hearing of any applications for interim reliefs;
- (c) For hearing of any applications for discovery, disclosure, inspection and production of documents and materials including further documents and materials;
- (d) For the marking of documents and materials disclosed by the Parties in the record of evidence;
- (e) For hearing of any objections of a party to the marking of any documents or materials disclosed by the opposite party, in the record of evidence;
- (f) For the filing of affidavit evidence, expert/technical reports that Parties may desire to rely upon; or
- (g) Any other matter that the Arbitral Tribunal may deem fit.

12.2 The parties shall have a duty to do all things necessary for adhering to the time-table and for the proper and expeditious conduct of the arbitration proceedings, including complying with orders and directions of the Arbitral Tribunal without delay.

12.3 If either party to the dispute fails to adhere to the time-table or to comply with any orders or directions of the Arbitral Tribunal, then the Arbitral Tribunal shall have powers to pass such orders including for payment of costs as a condition precedent.

## 13. DOCUMENTARY EVIDENCE & DISCLOSURE OF DOCUMENTS

13.1 All documents and material filed by parties including copies thereof shall be treated as part of the record, unless a party disputes any specific document or material or its contents and gives written reasons for such objection/s.

A party disputing any document shall file its objections in writing within 15 (Fifteen) days of date of notice of completion of all pleadings.

13.2 Any party requiring a disclosure and production of further documents or materials shall make an application in this regard to the Arbitral Tribunal within 15 (Fifteen) days of date of notice of completion of all pleadings. These applications shall be taken up for hearing at time of framing issues or soon thereafter as may be directed.

- 13.3 A party may file additional documents or materials on which it relies on until expiry of 10 (ten) days after settlement of issues but not thereafter.

#### **14. CASE MANAGEMENT**

- 14.1 The time-table for conduct of the arbitration may be amended and modified by issue of written directions by the Arbitral Tribunal as may be necessary in consultation with all the Parties.
- 14.2 The consultation for amending or modifying the time-table and giving of directions may be conducted through a meeting in person, by video conference, telephone conference or other electronic means of communications.
- 14.3 The Arbitral Tribunal shall decide upon the manner of hearing the parties and examining their evidence. The Arbitral Tribunal may also impose time limits on the duration of oral hearings and submissions and the examination or cross examination of witnesses.
- 14.4 Where a party (who has received written communication within the meaning of Section 3 of the Arbitration and Conciliation Act 1996) remains absent at a Meeting or hearing or to produce documentary evidence or material or fails to comply with orders and directions, the Arbitral Tribunal or Emergency Arbitrator as the case may be, may continue with the arbitral proceeding and pass orders or Award on basis of evidence and material before them.
- 14.5 IIAC shall communicate the directions and orders of the Arbitral Tribunal to the parties.

#### **15. INTERIM RELIEFS**

- 15.1 Any Party may apply to the Arbitral Tribunal for any interim measure or protection by filing a written application to the Arbitral Tribunal. The Application must be filed along with the Claim Statement or within 10 (ten) days of occurrence of an event giving rise to need for issue of protective interim measures. The application shall set out facts and circumstances which entitle that party to reliefs as also the nature of interim reliefs sought.
- 15.2 The other party shall file their reply, if any, to the application for interim measures of protection within 10 (ten) days of receipt of the application by that party.
- 15.3 The Arbitral Tribunal shall hear the application for interim measures expeditiously and shall pass appropriate orders within 7 (seven) days of concluding hearings. While doing so the Arbitral

Tribunal may order the Party requesting interim relief to provide appropriate security.

- 15.4 The Arbitral Tribunal may hear parties by video or telephone conference or other electronic means of communications or on written submissions as an alternative to a formal hearing.
- 15.5 In cases of urgency and for just and sufficient reasons, the Arbitral Tribunal will be entitled to pass an order granting interim measure of protection, without the filing of a reply or hearing the parties. In such a case, the interim order shall expire and cease to operate 10 (ten) days after the other party files its reply, unless further extended or modified by the Arbitral Tribunal after hearing parties.
- 15.6 The orders/awards/directions of the Arbitral Tribunal shall be in writing setting out reasons and shall be dated and signed by the Arbitral Tribunal.

#### **16. EMERGENCY ARBITRATOR**

A party in need of urgent interim reliefs, who cannot await the constitution of the Arbitral Tribunal, may make an application to the Secretariat in the manner set out in Schedule 6, at time of or following the filing of a "Request for Arbitration" for appointment of an Arbitrator known as "Emergency Arbitrator".

##### **Appointment of Emergency Arbitrator**

- 16.1 IIAC shall appoint an Emergency Arbitrator (from Panel of Arbitrators), expeditiously, normally within 1 (one) working day of IIAC receiving an application complete in all respects.
- 16.2 No Emergency Arbitrator shall be appointed after the Arbitral Tribunal is appointed.
- 16.3 Once an Emergency Arbitrator is appointed, the Secretariat shall notify the parties and shall transmit the application and file to the Emergency Arbitrator.
- 16.4 Before being appointed, a prospective Emergency Arbitrator shall disclose to IIAC and shall sign a, "Letter of Consent to act as Arbitrator & Disclosure of Interest" given in "The Code of Ethics and Conduct & Disclosure Rules for Arbitrators" of IIAC and shall disclose any circumstance that may give rise to justifiable doubts as to his impartiality or independence.
- 16.5 An Emergency Arbitrator shall not subsequently act as an Arbitrator in any arbitration relating to the dispute and agreement giving rise to the arbitration.

### **Powers of Emergency Arbitrator**

- 16.6 The Emergency Arbitrator shall have powers to order any interim measure of protection as may be considered necessary in respect of the subject matter of the dispute and may require a party to provide appropriate security.
- 16.7 The Emergency Arbitrator shall endeavour to pass orders within 10 (ten) days of his appointment as an Emergency Arbitrator. The Order shall be in writing and shall state reasons.
- 16.8 The Emergency Arbitrator shall sign and date his order and send it to the Secretariat of IAC who shall communicate it to the parties.
- 16.9 Before appointment of the Arbitral Tribunal, an Emergency Arbitrator may, on a written application of a party setting out good and sufficient cause, modify, vary or vacate his order after hearing the other party.
- 16.10 The Emergency Arbitrator shall have no further powers to act after the Arbitral Tribunal is constituted and appointed by IAC as per arbitration agreement between the parties.

### **Conduct of hearings by Emergency Arbitrator**

- 16.11 The Emergency Arbitrator shall have powers to conduct the proceedings in the manner which he considers appropriate having regard to the circumstances of the application and urgency and nature of the reliefs sought. The Emergency Arbitrator shall give reasonable opportunity to all parties to be heard and to file written representations. However, he may, if circumstances so require, pass interim orders or measures without filing of a written reply or hearing the parties in person. The Emergency Arbitrator may also provide a hearing by video or telephone conference or other electronic means or on written submissions as alternatives to a formal hearing.
- 16.12 The Emergency Arbitrator shall act fairly and impartially and shall give parties a reasonable opportunity to represent their case having regard to the circumstances of the application and urgency and nature of the reliefs sought.

### **Orders of Emergency Arbitrator**

- 16.13 The Order of the Emergency Arbitrator (except in respect of payment of costs) shall remain in force for 45 (forty five) days unless reversed, modified or confirmed by the Arbitral Tribunal on an application of parties.
- 16.14 The Order of the Emergency Arbitrator shall also cease to be binding on parties:

(i) On a challenge against the appointment of the Emergency Arbitrator being allowed.

(ii) The withdrawal of all claims or the termination of the arbitration.

16.15 The Order of the Emergency Arbitrator shall not bind the Arbitral Tribunal with respect to any issues or matters or findings determined by the Emergency Arbitrator and the Arbitral Tribunal will be entitled to modify, vary or vacate the interim orders passed by the Emergency Arbitrator after hearing the Parties.

16.16 The Emergency Arbitrator may pass an order of costs in relation to the application subject to the power of the Arbitral Tribunal determining the final apportionment of costs.

16.17 An order pursuant to the rules for appointment of an Emergency Arbitrator shall be binding on the Parties when rendered. By agreeing to arbitration under these Rules, the Parties undertake to comply with such an order or award without delay.

16.18 The right to apply for urgent interim reliefs before appointment of an Arbitral Tribunal by seeking appointment of an Emergency Arbitrator is not intended to prevent any party from approaching a civil court for seeking urgent interim reliefs or filing an application for interim reliefs to the Arbitral Tribunal when appointed.

## **17. MULTIPLE ARBITRATION PROCEEDINGS AND CONSOLIDATION, ETC.**

17.1 IAC on a written application being made to it in writing by one or more of the parties to any pending arbitration, or by any appointed Arbitral Tribunal, after reviewing pending arbitrations under the rules of IAC or any request for arbitration, may pass following orders, namely:

(i) direct certain pending arbitrations or arbitrations which are intended to be commenced by any party to a pending arbitration to be consolidated on such terms as it considers just, or;

(ii) direct them to be heard at the same time or one immediately after another, or;

(iii) order any of them to be stayed until after the determination of any of them, or; and

(iv) Reconstitute the Arbitral Tribunal so as to make the hearing and disposal of the arbitrations more effective, save costs, time and to ensure that required expertise is available to the Arbitral Tribunal for hearing the matters.

17.2 IIAC shall exercise powers under Rule 17.1 above where it appears to IIAC that any of following conditions are satisfied in addition to the conditions specified in Rule 17.3 below:

- (i) that there are other contracts between parties to a pending arbitration or between a party to a pending arbitration and third parties which are connected or are part of a series of similar contracts so that claims are best dealt with by orders contemplated under this Rule, or;
- (ii) that some common question of law or facts arises in two or more pending arbitrations or intended arbitrations, or;
- (iii) the rights to relief claimed in pending arbitrations or intended arbitrations are in respect of or arise out of contracts which are part of the same transaction or series of transactions or;
- (iv) for some other reason it is desirable to make a direction under this Rule.

17.3 IIAC shall exercise powers under Rule 17.1 above when:

- (i) other contracts involved contain arbitration agreements for reference to arbitration to be conducted by rules of IIAC, or
- (ii) parties affected are ready and willing to arbitration to be conducted by the rules of IIAC, and a notice invoking arbitration has been given or is intended to be given by a party / parties in pending arbitration proceedings, or
- (iii) the subject matter or issues or contracts of a pending arbitration are connected with the subject matter of a pending suit in court (wherein connected issues or contracts and parties are involved) and the parties to the suit are ready and willing to arbitration to be conducted by these Rules of IIAC and have obtained a Court Order referring the pending suit/proceedings to arbitration to be conducted by these Rules of IIAC.

17.4 Before passing any orders under this Rule IIAC shall inform all parties to all relevant arbitrations and consult the concerned Arbitral Tribunals.

## **18. MEDIATION AND CONCILIATION PENDING ARBITRATION**

18.1 At any stage of Arbitration, the Arbitral Tribunal may encourage parties to settle a dispute and with the agreement of Parties, the Arbitral Tribunal may use mediation,

conciliation or other procedures to encourage settlement.

18.2 If during arbitration proceedings the parties arrive at a settlement, the Arbitral Tribunal shall terminate the proceedings and if jointly requested by parties, (and not objected to by the Arbitral Tribunal), the settlement may be recorded in the form of an Arbitral award on agreed terms.

The Arbitrator shall not act as mediator, conciliator or any other functionary in such settlement proceedings. However, should an Arbitrator at the request of the parties agree and act other than as Arbitrator in the Arbitral proceedings, such Arbitrator shall not be entitled to continue and act as an Arbitrator in those arbitral proceedings and a substitute Arbitrator shall be appointed by IIAC in accordance with the Rules.

## **19. ARBITRATION AWARD**

19.1 The Arbitral Tribunal shall have powers to pass interim awards.

19.2 After conclusion of final submissions by the parties, the Arbitral Tribunal shall make and publish its Award within a period of 45 (forty five) days of conclusion of hearings. In the event the Arbitral Tribunal is unable to make an Award within the said period, then the Arbitral Tribunal shall state the reasons for delay in the Award.

The Arbitral Tribunal may hold separate hearing for costs before making and publishing its Award.

19.3 The Award including any interim award shall be in writing and shall be dated and signed by all members of the Arbitral Tribunal, to the extent possible. The signatures of the majority of all members of the Arbitral Tribunal shall be sufficient as long as the reason for any omitted signature is stated.

19.4 The Award shall state the reasons for the Award unless the parties otherwise agree, or if the Award is by consent.

19.5 The Arbitrator's fees as laid down by IIAC under Fees and Charges in force on date of commencement of the Arbitration proceedings shall be applied for determining Arbitrator's fees, costs, etc.

19.6 After the Award is signed by the Arbitral Tribunal, IIAC will forward a signed copy to each Party, provided that all outstanding Fees and Charges due, are paid to IIAC.

19.7 Awards made by IIAC Arbitral Tribunal may be published on IIAC's website after

obtaining written consent of all parties; provided, however, that the names of parties and other materials which IIAC or the parties consider confidential in nature, shall be deleted.

## **20. AWARD OF INTEREST**

Unless otherwise agreed by the Parties, where and in so far as an Award is for the payment of money, the Arbitral Tribunal shall be entitled to award interest thereon at such rate as it deems reasonable as per applicable provisions of law/contract.

## **21. COMMUNICATIONS**

- 21.1 No party shall communicate, directly or indirectly, with any member of the Arbitral Tribunal and the Arbitral Tribunal shall not communicate with any party during the pendency of the arbitration proceedings.
- 21.2 Throughout the Arbitral proceedings all communications by parties to the Arbitral Tribunal shall be addressed to IIAC (Secretariat of IIAC) only, who shall in turn communicate with the Arbitral Tribunal.
- 21.3 All communications between any party and IIAC and in particular, communications intended to be communicated to the Arbitral Tribunal, shall simultaneously be endorsed/marked to the other party.
- 21.4 All communications shall be in writing in English language and may be delivered by hand, registered post, courier or by e-mails.

## **22. FEES & CHARGES**

- 22.1 The fees and reimbursement of costs payable to the Arbitral Tribunal, shall be paid as per Fees and Charges published by IIAC and in force at time of commencement of arbitration.
- 22.2 Charges of IIAC and charges for venue and all amenities provided at the venue, shall be payable by parties in accordance with the Fees and Charges published by IIAC from time-to-time.
- 22.3 After receipt of a "Request for Arbitration", the Secretariat may require the Claimant to deposit an amount likely to cover Fees and Charges until framing of Issues is completed by the Arbitral Tribunal.
- 22.4 Parties shall deposit the Fees and Charges payable to Arbitral Tribunal and to IIAC in advance and in equal proportions or as directed by the Secretariat, IIAC.
- 22.5 Where any party fails to deposit Fees and Charges as directed, then the other party may deposit, the defaulting parties share of

Fees and Charges subject to orders being passed by the Arbitral Tribunal as to quantum and liability.

- 22.6 Where both parties fail to Fees and Charges as prescribed by IIAC, the Secretariat shall place the matter before the Arbitral Tribunal for passing orders and directions. The Arbitral Tribunal will be entitled to pass appropriate orders and directions including terminating the arbitration proceedings.

## **23. EXCLUSION OF LIABILITY**

- 23.1 IIAC and its Chairperson, office bearers, directors, Secretariat, officers, employees, advisors/consultants and Arbitrators shall not be liable to any person for anything done in good faith with relation to any arbitration governed by these Rules.
- 23.2 Parties will not require IIAC and its Chairperson, office bearers, directors, officers and employees and Arbitrators to make any statements or appear in connection with any arbitration proceedings. It is clarified that IIAC and its office bearers, directors, officers and employees and Arbitrators shall not be summoned or be liable to make any statements or appearances in any capacity in any Tribunal or court of law or to file affidavits or any other document in any proceedings relating to any arbitration proceedings and these Rules.

## **24. WAIVERS**

A Party who proceeds with arbitration without raising objections as to any failure to comply with any Rules or any directions or any requirements and terms under the arbitration agreement required to be complied with or relating to the constitution of the Arbitral Tribunal or conduct of the arbitration proceedings shall be deemed to have waived his rights to object.

## **25. CONFIDENTIALITY**

All proceedings relating to the work of IIAC, the Arbitral Tribunal, and conduct of Arbitral proceedings are confidential. All parties and the Arbitral Tribunal shall at all times, treat all matters relating to and connected with Arbitral proceedings as strictly confidential and shall not disclose or publish them.

## **26. INTERPRETATION**

- 26.1 Any question arising as to interpretation of these Rules, Guidelines or Arbitrators Code of Conduct shall be determined by IIAC and its decision and interpretation shall be final and binding.

26.2 If any of these Rules are in conflict with a mandatory provision of the applicable law of the arbitration from which parties cannot derogate, then, the provisions of law will prevail.

26.3 In all matters not expressly provided for in these Rules, the Arbitral Tribunal shall act in the spirit of these Rules and shall make all endeavours to proceed with the Arbitral hearing expeditiously and make an Award.

## 27. AMENDMENTS

These rules may be amended, varied or modified by IIAC at any time.

## 28. MISCELLANEOUS PROVISIONS

IIAC "General Rules of Procedure and Guidelines to Arbitrators and Parties for Conduct of Proceedings and Hearings 2016" (General Rules of Procedure & Guidelines) and Arbitrators Code of Conduct & Disclosure Rules other rules as may be notified from time-to-time shall apply to all proceedings under these Rules.

## 29. PRACTICE NOTES

The Secretariat, IIAC may from time-to-time issue practice notes to clarify, supplement or implement these Rules for facilitating better administration of arbitration proceedings.

## SCHEDULE – 1 FORMAT OF APPLICATION UNDER RULE 2.1(A)(ii)

to be made by a party naming a person who is not on the Panel of IIAC Arbitrators for appointment as an Arbitrator on an Arbitration Tribunal in relation to a dispute being referred to arbitration under these Rules.

(PLEASE FILL ALL QUESTIONS & BLANKS.  
INCOMPLETE FORMS ARE LIABLE TO BE REJECTED)

To  
The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate, Mumbai-400 020.  
Maharashtra, INDIA.

Dear Sir/Madam,

**SUB: Application under Rule 2.1 (a) (ii) of the  
CAP 16 Rules for appointment of an Arbitrator  
not on IIAC's Panel.**

**RE: Case No.:** \_\_\_\_\_  
**(To be filled in by IIAC at time of filing)**

\_\_\_\_\_ (Claimants),  
\_\_\_\_\_ (Respondents),

We are the Claimants / Respondents in arbitration which has been invoked pursuant to a Request for Arbitration dated \_\_\_\_\_, submitted by us/ Claimants to IIAC on \_\_\_\_\_.

Under the Arbitration agreement between parties, disputes arising are required to be referred to arbitration to be conducted under CAP 16 Rules of IIAC.

The Arbitration agreement provides for appointment of a Sole Arbitrator / Three Arbitrators (strike out one).

We have seen the List of Arbitrators on the Panel and are required to appoint an Arbitrator. We are desirous of appointing a person as an Arbitrator who is not on the panel as per details and reasons set out below:

- i. Name of person proposed as an Arbitrator:
- ii. Address:
- iii. E-mail Address:
- iv. Telephone Number:
- v. Age: Male / Female
- vi. Qualifications:
- vii. Experience as Arbitrator:
- viii. Here please give number of Awards written by that person :
- ix. Reasons why appointment of this person is sought, instead of a panel arbitrator:

(Here briefly set out reasons)

We request IIAC to approve for appointment the above named person as an arbitrator in relation to the dispute between the above mentioned parties. We agree that the person if approved by IIAC shall be required to accept the Fees and Charges structure as fixed and published by IIAC and to abide by and observe IIAC's "Code of Ethics and Conduct & Disclosure Rules for Arbitrators" and that he/ she shall be required to conduct the arbitration in accordance with the CAP 16 Rules and other applicable rules of IIAC.

We further agree that even if the person proposed by us to act as an arbitrator is approved by IIAC pursuant to this application, such person shall not be appointed unless and until he has confirmed in writing that he shall accept the Fees and Charges structure as fixed and published by IIAC and that he/she shall abide by, observe and comply with IIAC "Code of Ethics and Conduct & Disclosure Rules for Arbitrators" and other IIAC Rules and that he/ she shall conduct the arbitration in accordance with the CAP 16 Rules and other applicable rules of IIAC.

We have paid non-refundable processing fees for this application as prescribed and copy of IIAC Receipt dated \_\_\_\_\_ No. \_\_\_\_\_ is enclosed.

We agree and understand that the grant of permission or refusal thereof by IIAC pursuant to this application is entirely a matter of discretion of IIAC and its management and officer delegated to consider this application.

We agree that no reasons need be given by IIAC or its management and officers in the event of refusal of this application.

Date:  
Yours Sincerely,

CLAIMANTS /RESPONDENTS

Address: \_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE – 2  
FORMAT OF “REQUEST FOR  
ARBITRATION” PER  
RULE 3.1:**

**“REQUEST FOR ARBITRATION”**

To,  
The Secretariat,  
IMC INTERNATIONAL ADR CENTRE (“IIAC”)  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate, Mumbai-400 020.  
Maharashtra, INDIA.

Dear Sir/Madam,

**RE: Case No.:** \_\_\_\_\_  
**(To be filled in by IIAC at time of filing)**

- 1) WE \_\_\_\_\_  
(Claimants), have entered into an agreement dated \_\_\_\_\_ with \_\_\_\_\_  
(Respondents) which contains an arbitration agreement /clause under which disputes arising in relation to the agreement are to be referred to arbitration to be conducted in accordance with CAP 16 Rules of IIAC.
2. Whereas disputes and claims have arisen between the parties in relation to and out of/in respect of the said agreement as set out below and which are to be referred to arbitration to be conducted as per CAP 16 Rules of IIAC.
3. We claimants herein hereby invoke the arbitration agreement and request that arbitrators be appointed as per the CAP 16 Rules of IIAC.
4. The Arbitration Agreement between parties provides for appointment of:

(Tick one of the five boxes from the options below):

- A Sole Arbitrator, to be appointed by IIAC
- A Sole Arbitrator whose name has been agreed upon by parties and whose name and details are set out below.

Name:  
Address:  
E-mail :  
Tel. Nos.:

A Sole Arbitrator to be appointed by mutual consent of parties.

- Three Arbitrators all, to be appointed by IIAC
- Three Arbitrators one to be appointed by each disputing party/ group and presiding arbitrator to be appointed by IIAC.

Accordingly, we would like to appoint/nominate one of the following persons out of the following persons from the Panel of Arbitrators (set out in our order of our preference) as an Arbitrator subject to his availability to act.

- (i)
- (ii)
- (iii)

Should none of the above-mentioned three persons not being ready or available to act as an Arbitrator then an Arbitrator be appointed by IIAC pursuant to Rule 4.5.4 & 4.5.5

- (i) The Claimants details:-
  - a) Name :
  - b) Address \*:
  - c) E-mail address \*:
  - d) Telephone \*:
  - e) Facsimile \*:
- (ii) The Respondents details :
  - a) Name:
  - b) Address \*:
  - c) E-mail address \*:
  - d) Telephone \*:
  - e) Facsimile \*:
- (iii) A copy of the contract in relation to which disputes and claims arise.  
  
The arbitration agreement is found in paragraph of the contract dated \_\_\_\_\_.
- (iv) A copy of the arbitration agreement between the parties, if not included in the contract.
- (v) A brief description of the claim and summary of relevant facts supporting the claim and setting out the dispute and the stand taken by the claimant and respondent thereon:  
  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(A separate sheet may be annexed to this application/request).

- (vi) The nature and value of reliefs and claims:



(vii) Interim reliefs, if any, which claimants intend to seek: \_\_\_\_\_

(viii) Institution Fees as prescribed by IIAC ₹ \_\_\_\_\_ (Rupees only)  
(To be enclosed by way of Pay Order in favour of the IMC International ADR Centre payable at Mumbai.)

- (a) Name of Bank issuing Pay Order:
- (b) Date and Number of Pay Order:
- (c) Amount of Pay Order in Figures:
- (d) Amount of Pay Order in Words:

Date: \_\_\_\_\_

\_\_\_\_\_  
(Claimants NAME and SIGNATURE)  
To be signed by Claimants/Claimants authorized signatory.

#### NOTE 1

\*The postal address to be provided must be the registered address / principal place of business of the parties as also the postal address, e-mail address, telephone and facsimile number of the parties at which communications are liable to be sent under the agreement between parties and must also include addresses at which parties have communicated with each other during the tenure and performance of the contract in relation to which dispute has arisen and which is the subject matter of the dispute.

#### NOTE 2

Where arbitrator proposed by party is not a person on IIAC's Panel of Arbitrators, an application under Rule 2.1(a)(ii) in prescribed format (See Schedule 1) must be submitted along with this letter of Request.

### SCHEDULE – 3 FORMAT OF REQUEST TO APPOINT A SOLE ARBITRATOR REFERRED TO IN RULE 4.3.(c) REQUEST FOR APPOINTMENT OF A SOLE RBITRATOR by IIAC

The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate, Mumbai-400 0020.  
Maharashtra, INDIA.

Dear Sir/Madam,

**RE: Case No.:** \_\_\_\_\_

1) WE \_\_\_\_\_  
(Claimants), have entered into a Contract dated \_\_\_\_\_ with \_\_\_\_\_  
(Respondents), which contains an arbitration agreement / clause whereunder disputes arising in relation to the Contract are to be referred to arbitration of a Sole Arbitrator.

2) A Request for Arbitration has been filed on \_\_\_\_\_ . (Copy annexed).

WHEREAS:

- The person agreed upon by parties as the Sole Arbitrator, Shri \_\_\_\_\_, has declined to act as a Sole Arbitrator, or
- The Sole Arbitrator named is unable to act, or
- Parties are unable to arrive at a consensus between themselves as to name of Sole Arbitrator.  
(Tick any one above)

We, the CLAIMANTS/RESPONDENTS above named, request IIAC to appoint a suitable person as Sole Arbitrator to conduct the arbitration proceedings in accordance with CAP 16 Rules.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Claimants SIGNATURE)  
NAME and SIGNATURE)  
To be signed by parties authorized Signatory

\_\_\_\_\_  
(Respondents SIGNATURE)  
NAME and SIGNATURE)  
To be signed by parties authorized Signatory

**NOTE:** If both parties are not signing this application, Party submitting application must annex correspondence evidencing that the person agreed upon by parties as Sole Arbitrator has declined to act or the Sole Arbitrator named is unable to act or that Parties have been unable to arrive at a consensus between themselves as to name of Sole Arbitrator as the case may be.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Claimants/ Respondents' NAME and SIGNATURE)  
(To be signed by Claimants/ Claimants authorized signatory).

**SCHEDULE – 4  
FORMAT OF REQUEST TO APPOINT A  
SOLE ARBITRATOR UNDER RULE 4.4**

**REQUEST FOR APPOINTMENT OF A  
SOLE ARBITRATOR  
by IIAC**

To  
The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate, Mumbai-400 023.  
Maharashtra, INDIA.

Dear Sir/Madam,

**RE: Case No.:** \_\_\_\_\_

- 1) Under mentioned parties  
(i) \_\_\_\_\_ (Claimants),  
with  
(ii) \_\_\_\_\_ (Respondents),

WHEREAS certain disputes have arisen between us set out in attached sheet.

AND WHEREAS we do not have any existing arbitration agreement / clause where under disputes are liable to be referred to arbitration of a Sole Arbitrator.

- 2) We, the above-mentioned parties, are desirous and hereby agree to refer our disputes set out in sheet annexed to arbitration, before a Sole Arbitrator to be conducted as per CAP 16 Rules.

- 3) We hereby request IIAC to appoint a Sole Arbitrator as under: (tick any one)

- we jointly request IIAC to appoint a Sole Arbitrator
- we have mutually agreed that \_\_\_\_\_ person be appointed as Sole Arbitrator if he is available.

- a) Name:  
b) Address :  
c) E-mail address \*:  
d) Telephone \*:

In the event, the above named person be not ready or available to act as Sole Arbitrator then a Sole Arbitrator be appointed by IIAC pursuant to Rule 4.5.4 & 4.5.5

Date: \_\_\_\_\_

\_\_\_\_\_  
(Claimant's Signature)  
NAME and SIGNATURE

To be signed by parties authorized signatory.

\_\_\_\_\_  
(Respondent's Signature)

NAME and SIGNATURE

To be signed by parties authorized signatory.

**SCHEDULE – 5  
FORMAT OF "REQUEST FOR  
ARBITRATION" PER RULE 4.6:**

**"REQUEST FOR ARBITRATION" UNDER  
ORDER/DIRECTION OF COURT OF  
LAW**

To,  
The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate, Mumbai 400023.  
Maharashtra, INDIA.

Dear Sir/Madam,

**RE: Case No.:** \_\_\_\_\_  
**(To be filled in by IIAC at time of filing)**

- Under mentioned parties  
(i) \_\_\_\_\_ (Claimants),  
with  
(ii) \_\_\_\_\_ (Respondents),

WHEREAS we are parties to the proceedings pending before Hon'ble Court \_\_\_\_\_ (Please fill in details of the case).

AND WHEREAS by an order/direction of the \_\_\_\_\_ Hon'ble Court dated \_\_\_\_\_, the matter is referred to arbitration of a Sole Arbitrator/Arbitral Tribunal. Attached herewith is the original certified order/direction.

2. The order/direction of the court of law provides for appointment of: (Tick one of the five boxes from the options below):

- We jointly request IIAC to appoint a Sole Arbitrator.
- A Sole Arbitrator whose name has been agreed upon by parties and whose name and details are set out below.
- A Sole Arbitrator to be appointed by mutual consent of parties.
- Three Arbitrators all, to be appointed by IIAC
- Three Arbitrators one to be appointed by each disputing party/ group and presiding arbitrator to be appointed by IIAC.

Accordingly, we would like to appoint/nominate one of the following persons out of the following persons from the Panel of Arbitrators (set out in our order of our preference) as an Arbitrator subject to his availability to act.

- (i)  
(ii)  
(iii)

Should none of the above mentioned three persons not being ready or available to act as an Arbitrator then an Arbitrator be appointed by IIAC pursuant to Rule 4.5.4 and 4.5.5

- (i) The Claimants details:-
  - a) Name:
  - b) Address \*:
  - c) Email address \*:
  - d) Telephone \*:
  - e) Facsimile \*:
- (ii) The Respondents details :-
  - a) Name:
  - b) Address \*:
  - c) E-mail address \*:
  - d) Telephone \*:
  - e) Facsimile \*:
- (iii) A copy of the pleadings in relation to which the order/direction has been passed.
- (iv) A brief description of the claim and summary of relevant facts supporting the claim and setting out the dispute and the stand taken by the claimant and respondent thereon:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(A separate sheet may be annexed to this application/ request).

- (v) The nature and value of reliefs and claims:
- (vi) Interim reliefs, if any, which claimants intend to seek:
- (vii) Institution Fees as prescribed by IIAC Rs. \_\_\_\_\_(Rupees only)

(To be enclosed by way of Pay Order in favour of the IMC International ADR Centre payable at Mumbai.)

- (a) Name of Bank issuing Pay Order:
- (b) Date and Number of Pay Order:
- (c) Amount of Pay Order in Figures:
- (d) Amount of Pay Order in Words:

Date: \_\_\_\_\_

\_\_\_\_\_  
 (Claimants NAME and SIGNATURE)  
 To be signed by Claimants/Claimants authorized signatory.

**NOTE 1**

\* The postal address to be provided must be the registered address / principal place of business of the parties as also the postal address, e-mail address, telephone and facsimile number of the parties at which communications are liable to be sent under the agreement between parties and must also include addresses at which parties have communicated with each other during the tenure and performance of the contract in relation to which dispute has arisen and which is the subject matter of the dispute.

**NOTE 2**

Where arbitrator proposed by party is not a person on IIAC's Panel of Arbitrators, an application under Rule 2.1 (a)(ii) in prescribed format (See Schedule - 1) must be submitted along with this letter of Request.

**SCHEDULE – 6  
 APPLICATION FOR EMERGENCY  
 ARBITRATOR**

- 1. A party in need of urgent interim reliefs before appointment of an Arbitral Tribunal may apply for appointing an Emergency Arbitrator and seek urgent relief by making a written application to the Secretariat of IIAC as under:

The Application shall state that party is in need of urgent interim reliefs before appointment of an Arbitral Tribunal and such application shall contain the following information:

- (i) The full name, description and address and other contact details of the Applicant as also details of any persons representing the Applicants.
- (ii) The full name, description and address and other contact details of the Respondents.
- (iii) The full names, description and address and other contact details of persons against whom the urgent orders and reliefs are sought.
- (iv) Facts and circumstances giving rise to the application and the dispute between the parties and the subject matter referred to arbitration.
- (v) Copies of all relevant agreements including the arbitration agreement between parties and documents in support of application must be enclosed with the application.
- (vi) The nature of urgent orders and reliefs sought and the reasons, urgency and need for grant of such orders and reliefs.
- (vii) A statement whether the application is being moved at the time of or following the filing of a "Request for Arbitration" and claim statement. A copy of the "Request for Arbitration" should be enclosed with the application.
- (viii) Proof of payment of Fees and Charges paid for (a) the appointment of an Emergency Arbitrator and (b) filing of the "Request for Arbitration".

- 2. The applicant will file the application along with supporting documents and applicable Fees and Charges with the Secretariat of IIAC along with as many copies as there are Arbitrators proposed to be appointed under the arbitration agreement plus two extra copies and shall also

serve copies thereof on the Respondents directly. The Claimant shall also file a proof of service of the application on the Respondents along with the application.

3. On receipt of the application, IIAC shall forward the pleadings and file to the Emergency Arbitrator and intimate the parties of appointment of the Emergency Arbitrator and hearing date.

## **APPENDIX Suggested formats of Arbitration Agreements**

IIAC recommends that parties should include suitable arbitration clauses / agreements in their contracts so that disputes in relation to them may be referred to arbitration under IIAC rules :

**Following are some suggested formats of Arbitration Agreements given by way of guidance which parties may incorporate in their contracts at time of entering into contracts:**

**“All disputes and differences arising out of or in connection with or relating to this Contract including any questions regarding its interpretation, existence, validity or termination, shall be referred to and be resolved by arbitration at Mumbai conducted in accordance with the Commercial Arbitration Procedure Rules 2016 (CAP 16 Rules) of the IAC International ADR Centre (IIAC) for the time being in force, which rules are deemed to be incorporated by reference in this clause, and the Award made in pursuance thereof shall be final binding on the parties”.**

Above may be followed by any one of the following sentences –

### **For reference to Arbitration by a Named Sole Arbitrator:**

“The Arbitral Tribunal shall comprise of Shri \_\_\_\_\_”

### **For reference to Arbitration by a Sole Arbitrator (to be agreed upon by choice of Parties, and failing an agreement between them, by IIAC):**

“The Arbitral Tribunal shall comprise of one Arbitrator (Sole Arbitrator), to be agreed upon by Parties and failing an agreement on name of a Sole Arbitrator, the Sole Arbitrator, shall be appointed by IIAC”.

### **For reference to Arbitration by a Sole Arbitrator to be nominated by IIAC:**

“The Arbitral Tribunal shall comprise of one Arbitrator to be appointed by IIAC”.

### **For reference to Arbitration by Arbitral Tribunal of Three Arbitrators all Arbitrators to be appointed by IIAC:**

“The Arbitral Tribunal shall comprise of three Arbitrators to be appointed by IIAC.

### **For reference to Arbitration by Three (3) Arbitrators one Arbitrator to be appointed by each party:**

“The Arbitral Tribunal shall comprise of three Arbitrators, one Arbitrator to be appointed by each party and the third arbitrator to be appointed by IIAC”.

### **It is essential that Arbitration Agreements are in writing.**

**IIAC strongly recommends that the Arbitration Agreement is incorporated in written contracts signed by Parties.**

# GENERAL RULES OF PROCEDURE AND GUIDELINES FOR ARBITRATORS AND PARTIES FOR CONDUCT OF ARBITRATION PROCEEDINGS 2016 (GENERAL RULES 16)

## BACKGROUND AND INTRODUCTION

The IMC International ADR Centre (IIAC) is an independent company constituted under the Companies Act, 2013 promoted by the Indian Merchants Chamber for purposes of propagating alternate dispute resolution methods to assist all sections of society, individuals, corporate, firms, institutions and others in resolving disputes.

IIAC does not itself resolve disputes; it administers resolution processes including constituting arbitral tribunals in accordance with the various rules framed by it.

Fair and just processes for resolving disputes which are also expeditious and affordable are indispensable in our society. These “General Rules of Procedure & Guidelines” Rules are designed to set out practical aspects of the proceedings such as the manner of filings, nature of pleadings, admissibility of documents etc.

This General Rules have various guidelines inter alia setting out provisions for filing and inspection of documents, manner of writing awards, notices and communication etc. The General Rules also provides for guidelines for Code of Conduct of the parties in the representative.

This Rules provide for physical as well as e-filing. These Rules are supplementary to other applicable rules, conduct and procedures published by IIAC and the “General Rules of Procedure & Guidelines” apply to the extent the other rules are silent or do not provide to the contrary. They are designed with a view to further the objectives set out in each of the rule books.

The General Rules of Procedure & Guidelines in force at time of filing the “Request for Arbitration” (as defined in applicable Rules) shall be applicable to proceedings commenced pursuant to such Request.

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These rules of procedure are hereinafter called the "General Rules of Procedure and Guidelines to Arbitrators and Parties for Conduct of Proceedings 2016" of the IMC International ADR Centre (IIAC) and for sake of brevity are referred to as "General Rules of Procedure & Guidelines".

## 1. APPLICABILITY OF THE RULES

- (i) These Rules shall come into force from 1st April, 2016 except Rule 5 which will come into force as and when notified by IIAC.
- (ii) All references to "General Rules of Procedure & Guidelines" in any Rules and procedures for conduct of arbitration proceedings by IIAC shall mean these "General Rules of Procedure and Guidelines to Arbitrators and Parties for Conduct of Proceedings 2016", published by the "IMC International ADR Centre" (IIAC) and all amendments made to them from time-to-time.
- (iii) The "General Rules of Procedure & Guidelines" are supplementary to other applicable rules, conduct and procedures published by IIAC and the "General Rules of Procedure & Guidelines" shall apply to the extent the other Rules are silent or do not provide to the contrary.

The General Rules of Procedure & Guidelines in force at time of filing the "Request for Arbitration" (as defined in applicable Rules) shall be applicable to proceedings commenced pursuant to such Request.

- (iv) Subject to the above, these "General Rules of Procedure & Guidelines", shall apply to all proceedings and shall be binding on all Panel Arbitrators, constituted Arbitral Tribunals and to parties who have agreed to refer their disputes or who have referred disputes and differences to arbitration, and their representatives appearing in arbitrations conducted in accordance with Rules framed by IIAC. These Rules shall also, to the extent required, apply to Neutrals and to parties who have agreed to refer their disputes or who have referred disputes and differences to MedCon 16 framed by IIAC.

## 2. PLEADINGS

- (a) Pleadings shall include claim statements, defence statements, counter claims and set offs, applications, replies and rejoinders to applications, witness statements and affidavits.
- (b) All pleadings shall be typed on A4 size white paper on one side of the page and shall be indexed and numbered/paginated serially. All paragraphs shall be numbered. Documents annexed to claimant's pleadings will be marked as annexures in alphabetical order and those annexed to respondent's pleadings will be marked in numerical order. Page numbers and

annexure numbers shall continue to run serially through successive pleadings filed by parties and shall not be repeated.

- (c) Compilation of documents and materials filed by parties shall also be indexed and numbered serially in same manner as pleadings.
- (d) All pleadings shall be signed and verified on oath before a Notary Public by the party to the dispute or its authorized employee having personal knowledge of the allegations made in the pleadings identifying in the verification clause, which statements in the various paragraphs of the pleadings are true to the deponents personal knowledge and which are based on information or belief or advice. The source of information shall also be stated briefly.
- (e) Parties shall sign and verify all pleadings in accordance with above rule before filing or serving such pleadings with IIAC or the opposite party.
- (f) All pleadings shall be filed within the prescribed time periods unless extension of time has been granted pursuant to an application made by the party in writing.
- (g) IIAC may, upon sufficient grounds being made out by a party in writing explaining the cause of delay, grant that party an extension of time for filing its pleadings only upon payment of costs as may be prescribed; Provided, that an application requesting for extension of time shall be entertained only once and an extension of time will not exceed 15 (fifteen) working days.
- (h) Where a claimant fails to file a statement of claim within the time prescribed or the time as extended by IIAC, the Arbitral Tribunal shall terminate the proceedings. Failure of the respondents to file a reply or the claimant to file a reply to counter-claim or set off within the time stipulated or the extended time shall constitute a waiver by that party of the opportunity to file the reply/reply to counter-claim.

## 3. FILING OF PLEADINGS & COMMUNICATIONS

All communications, pleadings, compilations of documents and materials etc., shall be filed with the Secretariat, IIAC in the manner set out in these Rules.

All communications, pleadings, compilations of documents and materials etc., shall state on the first page the arbitration case number assigned by IIAC, the name of the Arbitral Tribunal and the names and addresses of the parties as also the description of pleadings e.g. statement of claim, reply and defence, compilation of documents relied on by claimants etc., as the case may be.

Fees and Charges as prescribed by IIAC shall be paid at time of filing.

#### **4. PHYSICAL FILING AND SERVICE**

4.1 Pleadings and copies of supporting documents and other materials relied upon by a party when filed by parties in physical form, shall be filed with IIAC in sets of 5 (five) copies where the Arbitral Tribunal comprises of three arbitrators and sets of 3 (three) copies when Arbitral Tribunal is a Sole Arbitrator. Out of the sets filed, one set in case of pleadings shall bear the original verification and signatures of deponent and Notary Public and copies of documents or materials shall be certified as true copies of the original.

A party filing any pleadings, documents or materials shall first serve copies on the opposite party and shall furnish IIAC with proof of service on the opposite party at time of filing pleadings, documents etc., with IIAC in the time as prescribed.

4.2 IIAC shall send to the Arbitral Tribunal a copy of the statement of claim, statement of defence and counterclaim/set off, communications, pleadings, compilations of documents and materials etc., and reply to the statement of defence and to counterclaim/set off communications, pleadings, compilations of documents and materials etc., and the documents when filed by parties.

4.3 A party may serve any pleading duly signed and verified as per these Rules and copies of supporting document on the opposite party by hand delivery, registered post, courier, or by emails or other electronic media.

#### **5. E-FILING**

PDF copies of pleadings duly affirmed and verified by parties as per Rule 4 and copies of supporting documents and other materials relied upon may be e-filed by a party after obtaining an authentication number from the Secretariat, IIAC.

A Party e-Filing any pleadings, documents or materials shall simultaneously also e-Serve a copy of such pleadings, documents or materials on the opposite party.

One set in physical form of any pleadings, (bearing original verification and signatures of deponent and Notary Public) and copies of documents or materials certified as true copies of the original when E-Filed, shall be filed and delivered to IIAC within 24 hours of e-filing.

#### **6. DISCLOSURE OF DOCUMENTS**

a) Parties shall file a list of all documents, materials and evidence that they rely upon and intend to submit to the Arbitral Tribunal in support of their claim or defence along with their statement of claim, reply, defence, counterclaim as the case may be.

b) Parties shall also file a Compilation of Documents and other materials duly indexed and paginated which are relied upon by them in support of their respective cases along with their claim statements, reply, counterclaim as the case may be. The Compilation of Documents will be arranged in chronological order, indexed and paginated.

c) A party shall also file along with their statement of claim, defence, reply and counterclaim/Set Off as the case may be, within 10 (ten) days of receipt of "Notice of Completion of Pleadings" from IIAC. Both parties shall file with IIAC a List titled "List of Disclosure", setting out all documents, records and materials with their dates along with a brief description thereof which are in that party's possession or which at material times were in that parties possession and which relate to the matters in issue or are necessary for determining the controversies arising in the arbitration. When a document, record or material has ceased to be in a party's possession, then the date and reason for loss of possession shall also be given.

d) Arbitral Tribunal shall disallow production of documents or other materials if not disclosed before closure of evidence.

#### **7. APPLICATIONS FOR DISCLOSURE OF DOCUMENTS AND INTERROGATORIES**

(a) Applications for disclosure or production of any documents or materials or for administration of interrogatories on the opposite party shall be made at the earliest opportunity and before the time table of hearings is finalized.

(b) A party intending to make an application shall be responsible for giving notice of intention to make such application and serve the application on the opposite party and the Secretariat, IIAC.

(c) All applications shall be heard and disposed of by a reasoned order passed at the earliest, by the Arbitral Tribunal.

#### **8. INSPECTION OF DOCUMENTS**

A party filing or disclosing any documents or materials shall, at time of furnishing copies to the opponent, fix and intimate an appointment for taking inspection of original documents and materials disclosed by that party. There shall be at least 5 (five) working days between the date of service of copies of the documents and materials on a party and the date/appointment fixed for giving of inspection. The opponents shall carry and complete inspection of original documents and materials disclosed by the party within 5 (five) working days of commencing inspection.

#### **9. ADMISSION AND DENIAL OF DOCUMENTS**

The Arbitral Tribunal shall be entitled to determine

the admissibility, relevance and evidentiary value of documents and materials filed by parties having regard to all the documents material and evidence placed by parties before the Arbitral Tribunal. Any party desiring to dispute the execution or contents of a document or material produced by the opponent shall file its objections setting out what is disputed and reasons thereof. The objections will be heard and decided upon at the earliest.

## 10. WITNESSES

- (i) Parties shall be responsible to ensure that their witness remain present at the hearings fixed for their examination or cross-examination.
- (ii) Examination in Chief will be by way of an affidavit of evidence of the witness, made before a Notary Public, unless otherwise directed by the Arbitral Tribunal.
- (iii) All costs for production of a witness will be borne at the first instance by the party producing that witness and such costs may form part of an order of costs at time of making the Award.
- (v) A witness may be examined by a video link or any electronic communication with leave of the Arbitral Tribunal.
- (vi) If the witness remains absent/unavailable without reasonable cause the Arbitral Tribunal will be entitled to proceed with the hearing.

## 11. NOTICES & COMMUNICATIONS

- (i) No Party shall communicate directly with any member of the Arbitral Tribunal and the Arbitral Tribunal shall not communicate with any Party during the pendency of the arbitration proceedings.
- (ii) Throughout the Arbitral proceedings all communications by parties to the Arbitral Tribunal shall be addressed to the Secretariat, IIAC only, who shall in turn communicate with the Arbitral Tribunal.
- (iii) All communications between any Party and the Secretariat, IIAC and in particular, communications intended to be communicated to the Arbitral Tribunal, shall be simultaneously endorsed/marked to the other Party.
- (iv) All communications shall be in writing in English language and may be delivered by hand delivery, registered post, courier or by e-mails or other electronic media.

## 12. LANGUAGE OF PLEADINGS AND PROCEEDINGS

All pleadings including claim statements, defence statements, affidavits, documentary evidence, contracts, correspondence, etc., must be submitted in the English language.

All proceedings (including oral hearings) will be conducted in English language unless otherwise agreed by the parties.

Whenever documentary evidence is submitted in a regional or foreign language, it must be accompanied by an officially certified English translation.

Where parties agree to permit use of a language other than the English language during oral hearings or for examination of a witness, then an Arbitral Tribunal will be entitled to order the use of services of a qualified translator and to make an order for bearing the costs of translator's services in such manner as they feel just and proper.

## 13. CODE OF CONDUCT OF PARTIES & THEIR REPRESENTATIVES

- (i) The parties have a duty to do all things necessary for adhering to the timetable for hearings and for the proper fair and expeditious conduct of the proceedings, including complying with orders or directions of the Arbitral Tribunal without delay.
- (ii) During the pendency of the arbitration proceedings, parties and their representative shall not, directly or indirectly, communicate with a person serving as an Arbitrator and shall endeavour to maintain the dignity and distance maintained by Arbitrator from parties.
- (iii) Parties and their representatives shall not, directly or indirectly, discuss or attempt to discuss a case or any matter which is connected with or in issue in the arbitration proceedings with any serving Arbitrator.
- (iv) For a reasonable period after the publication of an Award, parties who have been appearing in arbitration proceedings should not, directly or indirectly, offer any appointment to any Arbitrator who constituted their Arbitral Tribunal or offer them opportunity to acquire interests in that parties business or enter into relationships with the Arbitrator in circumstances which may reasonably create the appearance that they had influenced the Arbitrator in their conduct or decision on the arbitration proceeding in expectation or anticipation of the appointment, interest or relationship.
- (v) Parties who indulge in unacceptable practices or in violation of these "General Rules of Procedure" and Guidelines or other Rules and procedures of IIAC may be ordered to pay costs or may also be refused participating in Arbitration or Mediation proceedings conducted by IIAC under its Procedures and Rules.

## 14. POWERS OF ARBITRATORS

- (i) An arbitrator may ask questions, call witnesses, and request for additional disclosure of documents or other evidence if he is satisfied



that more information or evidence than what has been presented by the parties is required to decide the case.

- (ii) If either party to the dispute fails to comply with any procedural order of the Arbitral Tribunal, then the Arbitral Tribunal shall have power to order costs to be paid either as a condition precedent or otherwise or proceed with the arbitration and make an Award.

## 15. HEARINGS

- (i) All Arbitral Tribunal Meetings for directions and hearings shall be held at the premises of IIAC at IMC International ADR Centre (IIAC), IMC Building 3rd Floor, IMC Suresh Kotak International ADR Centre, IMC Marg, Churchgate, Mumbai 400 020, unless otherwise directed by IIAC.
- (ii) An Arbitral Tribunal may decide to undertake site inspection, if necessary.
- (iii) If the Arbitral Tribunal fixes a date, time and place of hearing other than in the premises of IIAC, reasonable notice of such hearings and venue shall be given to parties.
- (iv) All hearings, except meeting for preliminary orders, directions or hearings for interim relief and applications shall as far as possible, be full day hearings commencing from 10.00 am to 1.30 pm (morning sessions) and 2.30 pm to 5.30 pm in the afternoon.
- (v) Hearings shall as a rule be held from day-to-day basis.
- (vi) Where an Arbitral Tribunal does not hold full day hearings or day-to-day hearings it shall record reasons for not holding such hearings.
- (vii) Unless otherwise agreed between the parties in writing, the Arbitral Tribunal shall hold oral hearings.
- (viii) An Arbitral Tribunal may ask parties to submit written arguments in advance or after conclusion of oral arguments.
- (ix) All meetings and hearings shall be in private.
- (x) After the conclusion of evidence and hearing of arguments the Arbitral Tribunal shall in the presence of the parties, fix a date for pronouncement of the Award.
- (xi) When a party fails to appear after due notice, an Arbitrator will be entitled to proceed with the arbitration hearings. However, an Arbitrator should do so only after satisfying himself that the other party has been duly served with notice.

## 16. PARTIES CONDUCT DURING PROCEEDINGS

- (i) Parties appearing shall ensure that they and

their representatives and witnesses remain present at the hearings venue at the appointed time.

## 17. EXTENSIONS OF TIME & ADJOURNMENTS

- (i) The parties have a duty to do all things necessary for adhering to the time table fixed by the Arbitral Tribunal and for the proper and expeditious conduct of the proceedings, including complying with all orders and directions.
- (ii) A party desirous of seeking any extension of time fixed for filing of any pleadings or documents or seeking an adjourning of a hearing shall apply in writing at least 10 (ten) working days prior to the date fixed for filing or hearing setting out the reasons why extension of time or adjournment is sought. The application will be accompanied with a payment of prescribed Fees & Charges (Non-refundable). Payment shall be made in the form as prescribed by IIAC.
- (iii) The Arbitral Tribunal may grant extension of time or adjournment for reasons to be recorded in writing and on such terms and conditions and costs or additional costs as it considers just and proper or may refuse extension/adjournment. Provided, no request for adjournment shall be entertained 5 (five) working days before the scheduled hearing date, unless special circumstances or exceptional reasons are shown to exist or in cases of emergency. In such cases the Arbitral Tribunal may order payment of prescribed costs or additional costs or a percentage thereof or may for good reasons recorded in writing exempt the payment of costs.
- (iv) The Sole Arbitrator/Presiding Arbitrator of the Arbitral Tribunal shall ensure the prompt progress of the arbitration, by making orders.

## 18. REPRESENTATIONS AT PERSONAL HEARINGS

- a) Parties to a dispute may appear in person or may be represented by advocates or other representatives of their choice.
- b) Where a party to a dispute desires to be represented by an advocate or other representative of their choice, the party shall within 10 (ten) working days of appointment of the Arbitral Tribunal file an Authority Letter on its letterhead naming and authorizing the name of the advocate or representative who will act for and on behalf of the party to the proceedings.
- c) The Authority Letter shall be in Format prescribed or as may be required and shall be signed by that party.
- d) Communications duly served on the representative of a party at the address given in

the Format shall be deemed to have been duly served on the relevant party. Filing of the Authority Letter as aforesaid, all communications shall be carried out with the so appointed advocate/representatives as the case may be.

## 19. ARBITRATION AWARDS

- a) The Arbitral Tribunal shall have powers to pass Interim Awards on application of a party. The Arbitral Tribunal shall after hearing parties make an Interim Award if it considers it fit and just to do so. All Interim Awards shall give reasons.
- b) After conclusion of arguments the Arbitral Tribunal shall make and publish its Award.
- c) Unless the parties otherwise agree, or if the Award is by consent, the Award shall set out sufficient reasons to show why the Arbitral Tribunal has reached the decisions contained in it.
- d) The Presiding Arbitrator will be responsible for drafting the Award but may delegate this responsibility to a member of the Arbitral Tribunal.
- e) An Award shall state that the seat of the arbitration as being Mumbai, India, or such other place if the parties have agreed upon another place as being the seat of the arbitration.
- f) All Awards made under these Rules of Procedure will be deemed to have been made in India irrespective of where matters were decided, or where the Award was signed, or dispatched to or delivered to the parties in dispute.
- g) All Awards will be stamped by IIAC.
- h) The Award including Interim Award shall be in writing on IIAC's official form and shall be dated and signed by all members of the Arbitral Tribunal, that is all three Arbitrators where the Arbitral Tribunal comprises of three Arbitrators or the Sole Arbitrator as the case may be.
- i) An Award will become effective and binding after it is stamped and signed by all Arbitrators constituting the Arbitral Tribunal.
- j) After Award is stamped and signed by the Arbitral Tribunal IIAC will notify all parties to the dispute of the making of the Award.
- k) A certified true copy of the Award will be released to all parties to the disputes only upon payment of the stamping fee and any outstanding Fees and Charges, costs and expenses.
- l) The Original Award will remain in the possession of the IIAC and will be filed in any

Court of law, if required, to do so by any party.

- m) Awards made by IIAC Arbitral Tribunals may be published on the IIAC website, however the names of parties and other materials which IIAC considers are confidential in nature, shall be obliterated.

## 20. AWARD OF INTEREST

The Arbitral Tribunal can award simple or compound interest from such dates and at such rates as the Arbitral Tribunal considers fit, to meet the ends of justice.

## 21. AWARD OF COSTS

The Arbitral Tribunal shall have powers to order actual costs incurred by a party in appropriate cases at any stage as also when making an order for costs at time of making an Award.

## 22. POWER TO REMOVE DIFFICULTIES

On an application made by any Arbitrator or party, IIAC shall have powers to pass orders, or directions for conduct of proceedings or to clarify, supplement, interpret its rules with view to removing any difficulties or hardship and ensuring speedy and fair disposal and minimising costs in the conduct of any proceedings administered under any of its Rules.

## 23. AMENDMENTS

These rules may be amended, varied or modified by IIAC.

## 24. INTERPRETATION

Any question arising as to interpretation of these General Rules of Procedure & Guidelines shall be determined by IIAC and its decision and interpretation will be final and binding.

## SCHEDULE (FORMAT OF AUTHORITY LETTER NAMING AND AUTHORIZING REPRESENTATIVE TO ACT FOR AND ON BEHALF OF A PARTY TO THE DISPUTE)

(Rule 12 of "General Rules of Procedure and Guidelines to Arbitrators and Parties for Conduct of Proceedings, 2016")

To,  
The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate,  
Mumbai - 400 020.  
Maharashtra, INDIA.

Dear Sir/Madam,

**RE ARBITRATION No.:** \_\_\_\_\_

IN the Matter of Arbitration Proceedings between  
\_\_\_\_\_ Claimants And  
\_\_\_\_\_ Respondents

WE the Claimants/ Respondents above named,  
having our address at:

\_\_\_\_\_

\_\_\_\_\_ and E-mail as follows: \_\_\_\_\_

Tel. No.: \_\_\_\_\_, appoint \_\_\_\_\_

Advocate / (give other qualifications) to act,  
appear and plead on my behalf in the above  
Arbitration proceedings.

All Communications and service of pleadings,  
documents are to be made at the undermentioned  
address \_\_\_\_\_

\_\_\_\_\_ and E-mail address: \_\_\_\_\_

Tel. Nos.: \_\_\_\_\_, Mobile No: \_\_\_\_\_

\_\_\_\_\_, Dated \_\_\_\_\_ day of \_\_\_\_ 20

Signed  
Claimants/Respondents

# CODE OF ETHICS AND CONDUCT & DISCLOSURE RULES FOR ARBITRATORS 2016 (CODE 16)

## BACKGROUND AND INTRODUCTION

The IMC International ADR Centre (IIAC) is an independent company constituted under the Companies Act, 2013 promoted by the Indian Merchants' Chamber for purposes of propagating alternate dispute resolution methods to assist all sections of society, individuals, corporate, firms, institutions and others in resolving disputes. IIAC does not itself resolve disputes; it administers resolution processes including constituting Arbitral Tribunals in accordance with the various rules framed by it.

The success of the arbitration process depends on the performance and ethical conduct of the Arbitrator because it is the Arbitrator who is primarily responsible for conduct of the arbitration process and passing of an award in accordance with the relevant rules.

Persons who act as Arbitrators undertake serious responsibilities. They are chosen as Arbitrators by the parties in order that their special knowledge of their trade or industry or profession will expedite and assist in deciding disputes expeditiously and in accordance with trade practices and also to meet expectations of the trade and industry.

An Arbitrator has responsibility not only to the parties but also to the process of arbitration itself, and must therefore observe highest standards of conduct so that the integrity and fairness of the process is always preserved. The Arbitrator is responsible for the quality of dispute resolution services delivered to the parties resorting to arbitration of this Dispute Resolution Centre (IIAC). Arbitrators should recognize that they owe a duty not only to the parties before them but also a larger responsibility to the public, and to all other participants in the proceedings. For arbitration to become effective to the satisfaction of persons availing of the services, it is necessary that public confidence is created, in the integrity and fairness of the arbitration process and the persons delivering their services.

Fair and just processes for resolving disputes which are also expeditious and affordable are indispensable in our society.

Arbitration is an important way for deciding many types of commercial and other disputes. The success of an expeditious and fair dispute resolution process helps build and maintain those good business ethics and fair play in the conduct of business which are

necessary for promoting the reputation of Indian business and commerce to the world at large. This Code of Ethics and Conduct & Disclosure Rules should be construed and applied to further these objectives.

This Code is intended to embody principles of best practices and provide ethical guidelines for the conduct of all types of arbitrations conducted under the procedures framed by the IMC International ADR Centre (IIAC) and applies to and shall be deemed to be incorporated as part of all procedures and rules framed for the conduct of IIAC arbitrations whether or not specifically so stated in the procedures and rules of IIAC and Arbitrators are expected to observe the spirit of the principles set out in this Code.

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## CODE OF ETHICS AND CONDUCT & DISCLOSURE RULES FOR ARBITRATORS (CODE 16)

### 1. APPLICABILITY

This Code of Ethics and Conduct & Disclosure Rules for Arbitrators (Code) shall be effective from 1st April, 2016.

This Code shall apply to and shall be observed by all persons who act as Arbitrators on Arbitral Tribunals constituted under the rules and procedures published by IIAC.

### 2. DEFINITIONS

In this Code and Rules, the following words have the meanings as set out under:

- (i) **"IIAC"** means IMC International ADR Centre (IIAC).
- (ii) **"Secretariat"** means the Secretariat of IIAC situated at "Secretariat, IMC International ADR Centre ("IIAC"), IMC Building 3rd Floor, IMC Suresh Kotak International ADR Centre, IMC Marg, Churchgate, Mumbai – 400 023, and includes such other persons as IIAC may nominate from time-to-time for carrying out the duties of the Secretariat.
- (iii) **"Panel of Arbitrators"** means Panel of Arbitrators maintained and published by the IIAC.
- (iv) Words importing the singular number include, where the context admits or requires, the plural number and vice versa.
- (v) Words describing a gender such as "his" or "her"; shall include all genders where the context admits or requires.

### 3. THE CODE OF CONDUCT

All persons who are to be appointed by IIAC and are appointed to act as Arbitrators on Arbitral Tribunals constituted under the Rules and procedures published by IIAC for conduct of arbitrations:

- (i) Shall act so as to maintain the highest standards to uphold the neutrality, integrity and fairness of the arbitration process and IIAC;
- (ii) Shall disclose existence or absence of facts and circumstance that may give rise to justifiable doubts as to his/her impartiality or independence or may result in a conflict of interest.

Attention of Arbitrators is drawn to Explanation 1 given below;

- (iii) Shall conduct the proceedings in a fair and impartial manner and treat all parties with equality at all stages of the proceedings and give adequate opportunity to parties to present their respective cases;

- (iv) Shall decide all matters fairly and justly and should exercise his/ her own judgment independently and fearlessly. An Arbitrator should not delegate his/her duty to decide or permit outside pressures to affect his/her decision;
- (v) Shall accept appointment as an Arbitrator only if they are fully satisfied that they are fit and qualified and have sufficient time to be able to conduct the arbitration proceedings in a prompt and timely manner and publish the award;
- (vi) Shall perform duties diligently, efficiently and conclude the proceedings promptly;
- (vii) Shall conduct all communication through IIAC and not enter into or carry out any independent communications or discussions with a party or its representative in relation to a pending arbitration;
- (viii) Shall maintain confidentiality of all matters relating to the arbitration proceedings and not use or allow exploitation/misuse of any such information;
- (ix) Shall accept and abide by the fees structure framed by IIAC and not act in any manner contrary thereto;
- (x) Shall not accept any gifts, hospitality or considerations, directly or indirectly, from a party to the arbitration proceedings during the arbitration proceedings and a reasonable period thereafter;
- (xi) Shall not enter into any financial, business, professional or personal relationship or acquire any financial or personal interest with any parties directly or indirectly, which is likely to affect impartiality or which is likely to give rise to justifiable doubts as to his independence or impartiality;
- (xii) Shall not solicit for work as an Arbitrator;
- (xiii) An Arbitrator shall follow and abide by the applicable Rules of procedure, the "General Rules of Procedure & Guidelines" and the "The Code of Ethics and Conduct & Disclosure Rules for Arbitrators" published by IIAC and provisions of applicable laws.  
Explanation 1: The phrase "justifiable doubts" has been taken from the United Nations Commission on International Trade Laws (UNCITRAL) Model Law and is the standard adopted in the Arbitration & Conciliation Act, 1996 (Act). The standard was not defined in any Law or Rules.  
Doubts are to be regarded as "justifiable" if a reasonable third party having knowledge of the facts and circumstances, would reach a conclusion that there is likelihood that the Arbitrator may be influenced by factors other than the merits of the case. Arbitrators are required to observe and adhere to

interpretations given in judicial pronouncements from time-to-time and the guidelines set out in the Lists annexed to these Rules for ascertaining the meaning and scope and ambit of this standard.

"List A" in Appendix 3 to these Rules sets out and describes facts and circumstances that IIAC considers as necessarily giving rise to "justifiable doubts" as to an Arbitrator's impartiality or independence and Arbitrators are therefore required to mandatorily comply with this List.

"List B" in Appendix 3 to these Rules sets out and describes facts and circumstances that IIAC considers, may give rise to doubts as to an Arbitrator's impartiality or independence. When any doubts arise as to whether an Arbitrator should disclose certain facts or circumstances, then the Arbitrator should make a disclosure.

#### **4. DISCLOSURE RULES FOR ARBITRATORS**

- 4.1 Arbitrator shall expeditiously intimate IIAC their acceptance and consent to act or refusal in writing and shall also make a disclosure of all their interests known to them in the format prescribed herein (as set out in Form No. 1 i.e. "Letter of Consent to act as Arbitrator & Disclosure of Interest" of Appendix I, to these Rules) in accordance with "The Code of Ethics and Conduct & Disclosure Rules for Arbitrators."
- 4.2 Failing receipt of a prompt reply in the Form (as set out in Appendix 1 to these Rules) within 7 (seven) working days from enquiry by the IIAC of his availability, the proposed Arbitrator's silence will be treated as his inability to act and accept the appointment and IIAC shall take steps to appoint another person as an Arbitrator.
- 4.3 A person shall, on or before accepting appointment as an Arbitrator in any dispute, expeditiously disclose in writing the existence or absence of all facts and circumstances that may give rise to justifiable doubts as to his impartiality or independence, including the information set out in the printed form titled, "Letter of Consent to act as Arbitrator & Disclosure of Interest", to IIAC in the Form (as set out in Appendix 1 to these Rules). An Arbitrator shall be liable to disclose all facts and circumstances set out in List A and List B of Appendix 3 to these Rules.
- 4.4 A person shall be ineligible for appointment or continuing as an Arbitrator by reason of existence of facts enumerated in List A of Appendix 3 to these Rules. Disclosure of facts and circumstances (as set out in List B of Appendix 3 to these Rules) will not automatically disqualify a person from being appointed as an Arbitrator on an Arbitral Tribunal, but a party will be entitled to raise

objection and challenge the appointment of an Arbitrator on such grounds.

- 4.5 If a party does not raise any objection within 15 (fifteen) working days from date of receipt of an appointed Arbitrators' disclosure from IIAC, then that party shall be deemed to have waived his rights to object to or challenge the appointment of the Arbitrator on basis of the facts and circumstances disclosed.
- 4.6. IIAC may refuse to appoint any person as an Arbitrator if such person has failed to make required disclosures in a timely manner.
- 4.7. The duty and obligation of an Arbitrator to make disclosures shall continue throughout the arbitration proceedings until the Award is signed and published by IIAC. Where during the subsistence of an arbitration proceedings, if any new facts or circumstances arise which if they had existed at time of making the aforesaid disclosure statement was liable to have been disclosed, then the Arbitrator concerned shall immediately make a disclosure of such facts or circumstances and date of their occurrence to all parties to the arbitration proceedings and to IIAC in the format prescribed herein (as set out in Form No. 2 of Appendix 2 to these Rules).
- 4.8. Where facts or circumstance which ought to have been disclosed, are discovered subsequently and an objection is raised by a party, the Arbitrator may either withdraw or be challenged.
- 4.9 IIAC shall make the Arbitrators "Letter of Consent to act as Arbitrator & Disclosure of Interest" and "Letter of Further Disclosure" when filed by Arbitrators, available to the parties.

#### **5. AMENDMENTS**

These Rules may be amended, varied or modified by IIAC.

SEE:

Appendix 1: FORM No. 1 – For giving Consent and making of disclosure. Appendix 2: FORM No. 2 – For further disclosure. Appendix 3: LIST A and LIST B.

### **Frequently Asked Questions (FAQs)**

**FAQ 1: What are the aspects that a person should consider in order to be satisfied that he or she is, "fit and qualified" to accept an appointment as Arbitrator?**

Answer: The satisfaction is subjective and based on facts generally known only to the person in question. Briefly, a person should satisfy him/herself by asking oneself the following questions namely:

- a) Whether that person is fully satisfied that he or she has sufficient time available to conduct the arbitration proceedings promptly with the speed that parties are entitled to expect.

- b) Whether he or she will be able to discharge his duties without any influence, fear of criticism, self-interest or bias.
- c) Whether he/she, has adequate knowledge of subject matter and the language of the arbitration.

**FAQ 2: What are the nature of facts and circumstance that may justifiably give rise to doubts as to his/her impartiality or independence?**

Answer: The Arbitrators have a duty to evaluate their facts and circumstances and ensure that their conduct does not give rise to doubts as to their impartiality or independence.

Any relationship or interest likely to create conflict of interest or a justifiable apprehension of bias should be disclosed.

The Arbitrators are expected to maintain the highest standards and persons contemplating acceptance of appointment as Arbitrators are advised to consider this issue with care and caution to uphold the integrity of the arbitration process and the institution and when necessary to withdraw from the appointment.

When any doubts arise as to whether an arbitrator should disclose certain facts or circumstances, then the Arbitrators should make a disclosure.

As a guidance some illustrative examples of circumstances which have been regarded as giving rise to justifiable doubts as to an Arbitrator’s impartiality or independence are set out in Lists A and B to the Code.

**FAQ 3 : Would it be fair and proper for an Arbitrator to assist parties to arrive at a settlement?**

Answer: An Arbitrator/s function is to decide on the dispute, however, it is not incompatible with an arbitration agreement for an Arbitral Tribunal to encourage settlement of the dispute. Arbitrators should not act as legal advisors nor act as advocates of a party. With the agreement of the parties, the Arbitral Tribunal may use mediation, conciliation or other procedures to encourage settlement.

One Arbitrator out of an Arbitral Tribunal of three, if alone, should refrain from actively assisting a settlement or remaining present or participating in arriving at a settlement.

**FAQ 4: Is an Arbitral Tribunal bound to make an Award in terms of a settlement agreement between parties if requested by them?**

Answer: Where parties arrive at and agree upon a settlement of issues in dispute and jointly request an Arbitrator to embody that agreement in an award, an Arbitral Tribunal may do so if it has no objection thereto. An Arbitral Tribunal shall satisfy itself that the settlement agreement is not in contravention of law.

**FAQ 5: Is it permissible for an Arbitrator to discuss a case with a party?**

Answer: Arbitrators should not discuss the case with

any party in the absence of other parties to the arbitration. Arbitrators should not act as advisors to any party.

**FAQ 6: Is it permissible for a Panel Arbitrator to mention the fact that he/ she is a panel Arbitrator of IIAC or use the logo of IIAC on their visiting cards?**

Answer: An Arbitrator may mention his qualifications if any as an Arbitrator or the fact that he is a panel Arbitrator of IIAC on his business card, however, he/she shall not use IIAC logo. An Arbitrator will not canvass for work as an Arbitrator but is at liberty to indicate his/her general willingness to serve as an Arbitrator when asked.

NOTE: These FAQs are in nature of guidance to understand the spirit of the Code and are not intended to interpret the meaning of language used in the Code.

**APPENDIX 1**

**Form No. 1**

**“Letter of Consent to act as Arbitrator & Disclosure of Interests”**

**(See Rule No. 4)**

**(Information provided in this form will be shared with the Parties)**

To  
 The SECRETARIAT  
 IMC INTERNATIONAL ADR CENTRE (“IIAC”)  
 IMC Building 3rd Floor  
 IMC Suresh Kotak International ADR Centre  
 IMC Marg, Churchgate, Mumbai - 400 020.  
 Maharashtra, INDIA

**Re: CASE No.:**

I \_\_\_\_\_, having my place of business at \_\_\_\_\_

1) I have been requested by \_\_\_\_\_, to act as a Sole Arbitrator/ Arbitrator in relation to disputes arising under a contract dated \_\_\_/\_\_\_/\_\_\_ between the following parties:

(I) : \_\_\_\_\_  
 (Claimants)

(II) : \_\_\_\_\_  
 (Respondents)

- 2) I have read and familiarised myself with:
  - (i) The Code of Ethics and Conduct & Disclosure Rules for Arbitrators.
  - (ii) The Rules and Procedure applicable to the proposed arbitration proceeding.
  - (iii) The Rules and Terms relating to appointment and payment of Fees to Arbitrators published by IIAC.

3) I agree to serve/decline to serve as Arbitrator in the above case.

(NOTE: If you “decline to” serve as Arbitrator you may return this Form without completing the rest of the form).

4) I agree to serve as Arbitrator under and in accordance with IAC Rules applicable to arbitrations and agree to observe and abide by the "Code of Ethics and Conduct & Disclosure Rules for Arbitrators", as also the Rules and Terms relating to appointment and payment of Fees to Arbitrators and all Rules and Procedures published by IAC from time- to-time applicable for conduct of the proposed arbitration proceeding and agreed to by parties for the conduct of their arbitration, including those referred to in paragraph 2 above and on that basis, I accept appointment as a sole Arbitrator/Arbitrator in respect of the above referred disputes (Case Number) and make the following disclosures:

**Disclosure required to be made by Arbitrator**

Sr. No	Arbitrators Disclosure
1	Whether Arbitrator has in past 5 years, had any business relationship or dealing with any parties to the dispute or any person representing a party or had a common identity with any party to the arbitration such as being partners, ex-partners, employee, agent or business representative?
2	Whether Arbitrator is part of the management of any of the parties or in a position to control or influence of any of the parties to the dispute or any entity that has an economic or financial interest in the business of a party to the dispute or in the subject matter of the dispute or in the outcome of the award.
3	Whether Arbitrator has a significant financial or personal interest in any of the parties or outcome of the dispute?
4	Whether the Arbitrator has or had a prior interest or involvement in the dispute, whether financial, business, professional or any other kind.
5	Whether any person appearing before an Arbitrator is a "Related person", within the meaning of the term "relative" as defined in the Companies Act, 2013.
6	Whether the Arbitrator or any of his partners or associates regularly represents, advices or provides services or has business dealings with a party to the arbitration or any of its affiliates, associates or subsidiaries.

7	Whether the Arbitrator is related to another Arbitrator in the same Arbitral Tribunal or associated to him as a partner or as a Chamber colleague.	
8	Whether there exists any facts or circumstances likely to affect the Arbitrator's ability to devote sufficient time to the arbitration and in particular his ability to complete the entire arbitration within period prescribed by IAC Rules or a period statutorily prescribed.	
9	The extent of any prior knowledge that Arbitrator may have of the dispute.	
10	Whether the Arbitrator has rendered any advice or services or has had some business dealings with a party to the arbitration.	
11	Whether the Arbitrator has within the past three years been appointed as an Arbitrator on two or more occasions by one of the parties or an affiliate of one of the parties.	
12	Whether a close personal friendship or enmity exists between the Arbitrator and a party or its representative appearing in the arbitration proceedings.	
13	Whether any person appearing before the Arbitrator as party or representative is or has been related or associated with the Arbitrator.	
14	Whether there is or has been any past or present relationship or business relationship or interest or dealings whether, direct or indirect, with any person who may be or is appearing as a witness.	
15	Any facts which may affect his/her independence and impartiality as Arbitrator or any prejudice or reservation he/she may have as to any party or to the subject matter of the dispute which may affect his/her impartiality, or which comes within the grounds enumerated in 5th Schedule of Arbitration and Conciliation Act, 1996 as amended.	(Use an Attached Sheet if necessary)



16	I confirm that I have the qualifications to conduct this arbitration as agreed by parties.	
17	I confirm that apart from the above disclosed facts there are no other facts and circumstances to my knowledge which I need to disclose and which may be regarded as giving rise to justifiable grounds affecting my independence and/or my impartiality.	

Dated this \_\_\_\_\_ day of \_\_\_\_\_

Place:

Name and Signature of Arbitrator

# MEDIATION AND CONCILIATION 2016 RULES (MEDCON 16 RULES)

## BACKGROUND AND INTRODUCTION

The MedCon 16 Rules are framed in order to enable the parties to resolve their differences and disputes by way of mediation or conciliation.

Mediation and Conciliation proceedings are not adversarial and may not involve advocates. They are aimed at settling the differences and disputes using services of a trained conciliator thereby avoiding conflict and laying foundations for a better future business relationship.

A settlement agreement in a conciliation proceeding is enforceable in Law as an award under S 74 of the Arbitration and Conciliation Act 1996.

The settlement agreement may either:

- (i) put an end to the contractual relationship giving rise to the dispute with or without suitable compensation without going through an adversarial contentious process, or;
- (ii) result in a new modality of performing and completing intended contractual obligations under the original contract which gave rise to differences and disputes.

The MedCon 16 Rules apply where parties have agreed in writing to seek resolution of a dispute through mediation or conciliation by MedCon 16 Rules of IIAC prior to the disputes arising or by a subsequent agreement referring disputes to IIAC for mediation or conciliation under these Rules. Disputes may be referred to mediation or conciliation by MedCon 16 Rules of IIAC by any party, court, tribunal or other authority or by a constituted IIAC Arbitral Tribunal in a pending arbitration proceeding.

The MedCon 16 Rules provide for disputes to be resolved in a limited time frame and in a cost efficient manner by utilizing services of qualified mediators and conciliators on the panel of IIAC. This process is also helpful to assist parties to evaluate the strength and weaknesses of their respective evidences and narrow down the issues involved, with a view to resolve the disputes or if failing a settlement assist in identifying the real and core issues of the dispute which may form subject matter of arbitration or litigation.

Proceedings commence on application to refer the matter for Mediation/ Conciliation by either party to the dispute in the format prescribed under these Rules. Parties endeavour to appoint the Neutral from the panel and the IIAC appoints, if the parties do not appoint one.

The IMC International ADR Centre (IIAC) is an independent company constituted under the

Companies Act, 2013 promoted by the Indian Merchants Chamber for purposes of propagating alternate dispute resolution methods to assist all sections of society, individuals, corporate, firms, institutions and others in resolving disputes.

IIAC does not itself resolve disputes; it administers resolution processes including appointing Neutral in accordance with the rules framed by it.

Suggested format for request for Mediation/Conciliation which parties may adopt is set out in Appendix hereto by way of guidance.

A "Panel of Neutrals" is maintained by IIAC comprising of past judges, advocates and trained and experienced persons for selection as Neutrals.

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## IMC INTERNATIONAL ADR CENTRE (IIAC) MEDIATION AND CONCILIATION 2016 RULES

These Rules shall be called the Mediation and Conciliation Rules 2016 (MedCon 16 Rules) of the IMC International ADR Centre (IIAC), hereinafter referred to as the 'Rules'.

### 1. APPLICABILITY OF THE RULES

1.1 These Rules shall come into force from 1st April, 2016 and shall apply to any mediation or conciliation proceedings commenced on and after that date.

1.2 These Rules shall apply:

- (a) Where parties have agreed in writing to seek resolution of a dispute, through mediation or conciliation under these Rules. Such agreement may have been:-
  - (i) entered into before the dispute arose; or
  - (ii) arrived at after the emergence of the dispute, on the invitation of one party and acceptance thereof by the other parties; or
  - (iii) arrived at, on the invitation of IIAC.
- (b) To disputes referred to IIAC for mediation/conciliation by any Court of law, Tribunal or other Authority; and
- (c) To disputes referred to IIAC for mediation/conciliation by any Arbitrator or Arbitral Tribunal.

1.3. All mediation / conciliation proceedings shall be conducted and administered by IIAC in accordance with these Rules in force on the date of commencement of such proceedings unless parties have agreed otherwise.

### 2. DEFINITIONS

In these Rules following words and phrases will have the meanings assigned thereto as hereunder stipulated:

- (a) '**Act**' means the Arbitration & Conciliation Act, 1996 as amended from time-to-time.
- (b) '**ADR Centre**' means the "IMC International ADR Centre" (IIAC).
- (c) '**Application**' means an application for mediation/conciliation, briefly identifying therein the subject of the dispute, which is sought to be resolved.
- (d) '**Conciliation**' means a non-adversarial, resolutionary process whereby parties, with the assistance of a Neutral ("the Conciliator"), attempt to reach an amicable settlement of their dispute(s) arising out of or relating to a contractual or other legal relationship. Such settlement, when arrived at, shall be of parties' own volition, based on informed consent. The Conciliator may, at any stage

of the conciliation proceedings, make proposals for a settlement of the dispute, but shall not have the authority at any stage to impose upon the parties a solution to the dispute. In terms of Section 74 of the Act, a settlement agreement reached under conciliation proceedings shall have the same status and effect as if it is an arbitral award under Section 30 of the Act.

- (e) '**IIAC**' means the IMC International ADR Centre. All references to applications, filing of pleadings and communications etcetra with IIAC in these Rules shall be addressed to: The Secretariat, IMC International ADR Centre ('IIAC'), IMC Building, 3rd Floor, IMC Suresh Kotak International ADR Centre, IMC Marg, Churchgate, Mumbai – 400020.
- (f) '**Mediation**' means a non-adversarial, resolutionary process whereby Parties, with the assistance of a Neutral ("the Mediator"), attempt to reach an amicable settlement of their dispute(s). Such settlement, when arrived at, shall be of parties' own volition, based on informed consent. The Mediator shall not have the authority at any stage to impose upon the parties a solution to the dispute.
- (g) '**Neutral**' means a Mediator or a Conciliator.
- (h) '**Panel**' means the Panel of Neutrals maintained by IIAC under these Rules.
- (i) '**party**' or '**parties**' means the parties to the agreement referred to in Rule 1 hereinabove and shall also include those entities who, with consent of all parties referred to in Rule 1 hereinabove, have agreed in writing to be added as parties for the purpose of Mediation/Conciliation of the dispute at hand.
- (j) '**Rules**' means these Mediation and Conciliation Rules, 2016 (MedCon 16 Rules).
- (k) '**Secretariat**' means the Secretariat of IIAC appointed by IIAC.
- (l) '**Stake-holder**' means any person or entity having a concern for, an interest in, or likely to be affected in some way by, the outcome of the dispute at hand.
- (m) Words importing the singular number include, where the context admits or requires, the plural number and vice versa.
- (n) Words describing a gender such as "his" or "her", "he" or "she" shall include all genders where the context admits or requires.

### 3. COMMENCEMENT OF PROCEEDINGS

3.1 Any party or parties, desiring to commence

Mediation/ Conciliation of a dispute to which these Rules apply, or are sought to be applied, shall make an Application for Mediation/Conciliation with the Secretariat in the Form (as set out in Annexure 1) of these Rules together with applicable Fees and Charges prescribed by IIAC.

A copy of the Application shall be sent to other parties to the dispute by the Applicant.

- 3.2 The party making such Application (hereinafter referred to as 'the Applicant'), shall indicate whether it seeks a Mediation or a Conciliation, and shall forward along with its Application such documents as be required for IIAC Secretariat to expeditiously process the said Application.
- 3.3 If the Application is not complete as per this Rule on submission, it shall be liable to be completed and all deficiencies removed by the Applicant within 10 (ten) working days, failing which it shall be construed as if no such application was made.  
It is clarified that where an "Application for Mediation/Conciliation" is completed within 10 (ten) working days of its filing, it shall relate back to the date of original filing.
- 3.4 The Secretariat shall number the Application and notify the parties of the acceptance of the Application within 3 (three) working days of the Application being filed with the Secretariat. The Secretariat shall also, at such time, provide to the parties requisite forms required to be submitted by them to the Secretariat duly completed, as also a list of Neutrals on the relevant Panel of IIAC.
- 3.5 The Mediation/Conciliation proceedings shall be deemed to have commenced, for the purposes of these Rules, on the day the Secretariat receives the last of the requisite forms duly completed and submitted by the parties alongwith the applicable Fees and Charges.
- 3.6 At any stage of the proceedings the parties may jointly agree to add any stake-holder or other entity as a party to the Mediation/Conciliation proceedings.
- 3.7 All communications between the Neutral(s) and the Secretariat may be conducted through e-mail, unless otherwise requested, copying in all parties to the Mediation/Conciliation, except where circumstances warrant otherwise.

#### **4. APPOINTMENT OF NEUTRAL**

- 4.1 Parties shall endeavour to appoint a neutral within 7 (seven) days.
- 4.2 If the parties are unable to appoint a Neutral from the Panel within 7 (seven) days, IIAC will appoint the Neutral.

- 4.3 There shall be one Neutral unless the parties agree that there shall be more than one. It shall not be out of place for parties to jointly agree with the appointed Neutral, at any stage of the proceedings, that an additional Neutral be appointed along with the existing Neutral.

- 4.4 The Neutral shall forthwith, on his nomination as such by the parties or IIAC, make a Disclosure to IIAC of all such facts as are likely to raise in any person of common prudence a perception of a conflict of interest or a bias towards or against any party or stakeholder. IIAC shall thereupon forward the said Neutral's Disclosure to all the parties.

- 4.5 The nominated Neutral shall stand appointed on the expiry of 3 (three) working days of the parties being intimated, unless any party seeks, in writing, any clarifications on the Neutral's Disclosure. In such event, such party shall be required to make its efforts to get satisfaction on the neutrality of the Neutral and if deemed necessary, lodge a formal objection to the appointment of the nominated Neutral within further 2 (two) working days.

- 4.6 Where a formal objection has been received by IIAC to the appointment of the nominated Neutral, it shall immediately nominate another neutral in place and stead of the originally nominated Neutral.

- 4.7 IIAC Secretariat shall support parties in all ways possible for them to agree upon the appointment of a Neutral by mutual agreement. Where, however, parties have not been able to agree upon an appointment after two rounds of nominations, IIAC shall appoint as a Neutral any person other than the ones nominated earlier and the same shall be binding on parties.

- 4.8 Where the appointed Neutral has recused himself at any stage or has become disabled from acting, parties shall agree upon the appointment of another Neutral within 7 (seven) days of being intimated of such disability or recusal.

- 4.9 In the event of parties not being able to agree upon a Neutral within the stipulated time or on their request, IIAC shall appoint a new Neutral.

- 4.10 Where jointly appointing a specific Neutral from IIAC's Panel of Neutrals, it shall be open to the parties to give in writing a waiver for requirement of the Neutral's Disclosure.

#### **5. CONDUCT OF NEUTRAL**

- 5.1 The appointed Neutral(s) shall:
  - a) Explain, in brief, the Mediation/Conciliation process to the parties and their representatives at the preliminary meetings and/or the first joint session and answer such queries as may be raised thereupon;

- b) At all times during the Mediation/Conciliation process bear in mind the need to make a disclosure of any factum which comes to his/her notice as is likely to raise in any person of common prudence a perception of a conflict of interest or a bias towards or against any party or stake-holder;
- c) In consultation with the parties or their legal representatives, fix the date, time and venue for the first joint session to discuss the dispute and intimate the details to the Secretariat;
- d) Take on record the authority to represent, participate and settle from the parties' respective representatives;
- e) Assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute;
- f) Be guided by principles of objectivity, confidentiality and fairness in the conduct of the process;
- g) Not be bound by the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872;
- h) Highlight the fact that the Neutral(s) is in charge of only the process and that it is the parties who are in charge of reaching a mutually acceptable settlement or outcome; and
- i) Use mediatory skills and techniques to engage the parties in a collaborative conversation.

#### 5.2 The Neutral may:

- a) Where considered appropriate, prior to the first joint session, meet each party and/or their respective representative/s in a preliminary private meeting;
- b) Seek from each party a brief statement in writing describing the general nature of the dispute, the likely issues and the known constraints touching upon the parties' relationship qua the dispute. The parties shall, on such request being made by the Neutral, forward such statement in a brief write-up to the Neutral with a copy to all the other parties within a period of 7 (seven) days or such other time as is agreed by the Neutral and the parties.
- c) Seek from the parties individually an additional understanding of their underlying concerns and a sense of what they expect to achieve through the present process. Such information need not be in writing and shall, in either case, be held in confidence between the party expressing them and the Neutral,
- d) Meet the parties (either with or without their representatives), or their representatives (either with or without the concerned parties in person), together in joint sessions or meet separately in private sessions only one of the party(s) or its representatives, as may be deemed fit,
- e) Call upon the parties to consider, where required, obtaining expert opinion, support, advice, valuation or determination on any aspect which the parties are not able to agree upon and which appears helpful for achieving an objective view-point on any aspect of the dispute,
- f) Where considered necessary, on the request and concurrence of all parties, make site visits

- so as to better understand any aspect of the dispute in greater detail,
- g) Assist the parties in brainstorming for generating options for further consideration,
- h) Assist the parties in evaluating the options generated,
- i) Where it is requested by any party and convenient to all concerned, conduct the whole or part of the proceedings online or through video conference as per mutual understanding of the parties.

### 6. ROLE OF THE NEUTRAL(S)

The Neutral(s) shall not act as an arbitrator, expert determinant, representative or counsel of a party in any arbitral or judicial proceeding in respect of the dispute that is the subject of the Mediation/ Conciliation proceedings before him.

### 7. CONFIDENTIALITY

7.1 Parties, their representatives and all present during the proceedings, the Neutral and any third person, including those involved in the administration of the Mediation/Conciliation proceedings shall be bound to keep confidential the proceedings of the Mediation/Conciliation process and all matters relating thereto, including all documents, records and communications, during as well as after its completion.

This confidentiality shall also extend to the settlement agreement, except where required for the purpose of implementation and enforcement.

7.2 When the Neutral receives factual information concerning the dispute from a party, he shall only disclose such part thereof as is permitted to be disclosed by the disclosing party.

7.3 Where the Neutral invites experts or other witnesses, they shall be bound by the confidentiality of the process and shall submit to the Neutral a written undertaking to that effect. The said undertaking shall also be forwarded to the Secretariat.

7.4 All confidential documents disclosed, confessions and submissions made and concessions offered shall be privileged to the Mediation/Conciliation process and shall not be called into evidence in any court, arbitral or other proceedings.

### 8. PARTY REPRESENTATION

8.1 Where any party is not present in person, he may, or where the party concerned is a corporate entity it shall, depute a representative conversant with the matter in dispute to appear on his or its behalf with authority to participate, negotiate and settle the dispute in a way that would bind the authorising party. Prior to the first preliminary or joint meeting, each party shall provide to the Neutral (with a

copy to the Secretariat), a letter of authority empowering its representative for the said purpose. Failure in this regard would be sufficient ground for the Neutral not to proceed with or adjourn the Mediation/Conciliation proceedings and inform the Secretariat accordingly.

- 8.2 The parties as well as their authorised representatives shall in good faith co-operate with the Neutral and, in particular, shall endeavour to comply with requests by the Neutral to submit relevant documents and material and attend meetings and make all efforts to work towards an amicable settlement.
- 8.3 Each party may, on his own initiative or at the invitation of the Neutral, submit to the Neutral suggestions for the settlement of the dispute.
- 8.4 The language of the Mediation/Conciliation proceedings and the documentation and correspondence pertaining thereto will be in the English language unless agreed otherwise by the parties.
- 8.5 The parties shall not initiate, during the Mediation/Conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject-matter of the Mediation/Conciliation proceedings except where, in his opinion, such proceedings are necessary for preserving his rights.

## **9. SETTLEMENT**

- 9.1 The Mediation/Conciliation under these Rules shall be completed within a period of 60 (sixty) days from the date of commencement of the proceedings, subject to one extension not exceeding 30 (thirty) days if agreed to by the parties with the consent of the Neutral in writing with a copy to the Secretariat.
- 9.2 Where parties come to an agreement settling a part or whole of the dispute, unless otherwise agreed mutually in writing, they shall enter into a written agreement to that effect, duly signed by themselves or their authorized representatives and the Neutral (the "Settlement Agreement"). If requested by the parties, the Neutral may draw up, or assist the parties in drawing up, the Settlement Agreement. The Settlement Agreement may be executed in as many originals as the parties may require. The Neutral shall authenticate the Settlement Agreement (and each original thereof), and furnish an authenticated original to each of the parties.
- 9.3 The Neutral shall inform the Secretariat in writing that the parties have settled and resolved their disputes. The Settlement Agreement or a copy thereof shall not be required to be filed with the Secretariat unless the parties instruct the Neutral in writing to do so. In the event of the parties resolving their

disputes and opting to not enter into a written Settlement Agreement to that effect, they shall inform the Neutral and the Secretariat of their said decision in writing.

- 9.4 The Settlement Agreement shall be final and binding on the parties and persons claiming under them respectively.
- 9.5 A Settlement Agreement in Conciliation shall have the same status and effect as if it is an arbitral award on agreed terms on the substance of the dispute rendered by an arbitral tribunal under Section 30 of the said Act.
- 9.6 Where the dispute has been referred to Mediation/Conciliation by any Court of Law, Tribunal, Arbitral Tribunal or other Authority, the Neutral shall submit a report ("Report") to the Secretariat of IIAC for submission to the referring forum.  
The Secretariat shall, along with the Report of the Neutral, submit its own report, as may be required, to the referring forum. The Secretariat shall also forward therewith the written Settlement Agreement of the parties duly authenticated by the Neutral or, in place and stead thereof, the joint letter of the parties that they have settled the dispute and do not seek to enter into a written agreement for the said purpose or disclose the same where entered into.

## **10. TERMINATION**

- 10.1 Where it appears to any party that the continuation of the Mediation/ Conciliation proceedings will not serve any purpose, or that he would like to end the proceedings, he shall intimate their intention to the other parties and the Neutral. On receiving such intimation from any party, the Neutral shall endeavour to have a private session with each party to individually ascertain the view of all and consider steps to be taken pursuant thereto. On having satisfied himself that the proceedings cannot continue, the Neutral shall terminate the proceedings and inform the Secretariat of such termination in writing, with a copy to all parties.
- 10.2 Where the Neutral is of the view that the continuation of the Mediation/Conciliation proceedings shall serve no purpose, he shall meet each party in a private session and then call a joint session where he shall announce the termination of the Mediation/Conciliation proceedings and inform the Secretariat of such termination, in writing.
- 10.3 Where the Neutral is of the view that he needs to disassociate himself from the process, he may call a joint session or address a joint communication to inform all parties of his decision so that the parties may proceed to appoint another Neutral.
- 10.4 Where the Neutral is of the considered view that one of the parties is abusing the

Mediation/Conciliation process, the Neutral may terminate the proceedings.

- 10.5 The Neutral shall, for any steps taken under this Rule, copy the Secretariat on every communication to the parties.

## 11. CLOSURE

- 11.1 The Mediation/Conciliation proceedings shall stand determined on and from the date of execution of the settlement agreement, if any, or expiry of a period for completion specified in Rule 9.1 or the date of announcement of the termination of the Mediation/Conciliation proceedings by the Neutral, as the case may be.
- 11.2 Where the parties have agreed to refer a dispute to arbitration failing resolution of that dispute or part thereof through Mediation/Conciliation, then that dispute or such part thereof shall stand referred to arbitration as per relevant IAC Rules of Arbitration, either on the Neutral filing a Report with the Secretariat of IAC informing closure of Mediation/Conciliation proceedings without a Settlement Agreement or on any party filing a Request for Arbitration with IAC.

## 12. CERTIFICATE OF SETTLEMENT AGREEMENT

For the purposes of implementation and enforcement of the Settlement Agreement, a certificate shall be issued by the Secretariat signifying the reference of the parties' dispute to Mediation/Conciliation in accordance with these Rules and the resolution thereof with a copy of the Settlement Agreement, if so filed with the Secretariat.

## 13. IMMUNITY / WAIVER OF LIABILITY

- 13.1 IAC and its Chairperson, Secretariat, office bearers, directors, officers, employees, committee members, advisors/consultants and Neutral shall not be liable to any person for any act with relation to any Mediation/Conciliation proceedings governed by these Rules.
- 13.2 Parties will not require IAC and its Chairperson, Secretariat, office bearers, directors, officers, employees, committee members, advisors/consultants and Neutral to make any statements in connection with any Mediation/Conciliation proceedings. It is clarified that IAC and its Chairperson, Secretariat, office bearers, directors, officers, employees, committee members, advisors/consultants and Neutral shall not be summoned or be liable to make any statements or appearances in any capacity in any tribunal or court of law or to file affidavits or any other document in any Mediation/Conciliation proceedings or to any arbitration proceedings. The parties agree that IAC, and its Chairperson, office bearers, directors, Secretariat and employees and the Neutral shall not be liable for any act, deed or thing done in the course of the Mediation/Conciliation

proceedings and nor shall any of them be summoned by any party to any Court of Law or file any Affidavit or any other documents for any proceedings relating to any Mediation/Conciliation proceedings and these Rules.

## 14. FEES AND CHARGES

- 14.1 "Fees and Charges" shall mean and include all prescribed fees, costs and charges etc. as prescribed by IAC from time to time. Fees and Charges, as in force at the commencement of the mediation/conciliation shall be payable. Additionally, taxes as applicable during the tenure of the proceedings shall also be borne and paid by the parties.
- 14.2 The party lodging the Application shall deposit the applicable Fees and Charges as prescribed by IAC at the time of lodging the Application.
- 14.3 Parties shall pay the Fees and Charges payable for the services of the Neutral and IAC's administrative charges as prescribed by IAC from time to time.
- 14.4 All Fees and Charges as communicated to parties by the Secretariat shall be deposited by parties in advance in equal proportions failing which the Applicant shall be liable to make the deposit with liberty to add the issue of such payment to the agenda of points required to be addressed in the Mediation/Conciliation process.
- 14.5 Where any expert or other witness has been arranged, or a site visit is made or is required to be made by the Neutral with or without accompaniment of a representative of IAC, an advance towards the Fees and Charges for facilitating such attendance or visit, as the case may be, and the expert's, witness's, Neutral's and/or representative's Fees and Charges shall be paid in advance by the parties in such sum as is stipulated by the Neutral. IAC shall in due course intimate the parties the residual amounts, if any, due from each of them.
- 14.6 For the sake of expediency, it would not be out of place for parties to directly make the requisite payments, with the permission of the Neutral, and submit proof thereof to IAC Secretariat if seeking re-imburement from the other parties.
- 14.7 The parties are required to pay such further Fees and Charges to IAC as are informed to them and by such date as they are stated to be due.
- 14.8 The parties shall ensure that all the Fees and Charges of IAC are paid well in advance of their due dates.
- 14.9 In absence of the Fees and Charges having been deposited with IAC, the Mediation/Conciliation process will not be

commenced or be continued.

14.10 The parties adopting these Rules shall be bound by any rectifications revisions, changes and amendments to the Fees and Charges fixed by IIAC.

14.11 An applicant or any other party or stake-holder may make a payment of some or all of the requisite Fees and Charges on behalf of some or all of the parties with notice to all the parties and the Secretariat as to which of the payments it is remitting on behalf of which of the parties. The Secretariat shall thereupon intimate this position to the Neutral with copy to the parties and other stake-holders, if any.

### 15. INTERPRETATION

Any question arising as to interpretation of these Rules, shall be determined by IIAC and its decision and interpretation shall be final and binding.

### 16. AMENDMENTS

These rules may be amended, varied or modified by IIAC.

### 17. PRACTICE NOTES

The Secretariat of IIAC may from time-to-time issue practice notes to clarify, supplement or implement these Rules for facilitating better administration of the mediation/conciliation proceedings.

## ANNEXURE 1 (under Rule 3)

IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre, IMC  
Marg, Churchgate, Mumbai-400 020.  
Maharashtra, INDIA.

Dear Sir/Madam,

### Re: REQUEST FOR MEDIATION/CONCILIATION

- 1) I/We, \_\_\_\_\_  
SUBMIT that \_\_\_\_\_ (Party  
A) have a working relationship with and/or  
have entered into a contract/agreement /  
Memorandum of Understanding  
with \_\_\_\_\_ Party B) AND  
\_\_\_\_\_  
(Party C) (Delete/ Add, as may be applicable).
- 2) Disputes/differences have arisen between the  
Parties, OR Some of them on certain issues  
which require resolution/settlement.
- 3) THE APPLICANT SUBMITS THAT Parties are :  
(Tick below as applicable)
  - (i) Bound by an agreement to:
    - (a) mediate

(b) conciliate  
as per copy attached \*:

(ii) Required/Requested/Suggested (Strike out  
what is Inapplicable) by (mention referring  
authority) to attempt resolution /  
settlement as per IIAC Mediation /  
Conciliation Rules 2016. \*\*

(iii) In a working relationship and the Applicant  
is desirous of these disputes being  
resolved through mediation/ conciliation  
conducted by IIAC and therefore request  
IIAC to invite ALL/the other parties (Strike  
out the Inapplicable) to participate in a  
mediation/ conciliation process to be  
conducted by IIAC under IIAC  
Mediation/Conciliation Rules 2016.

- 4) We hereby apply for initiating the mediation  
/conciliation process, with a copy to ALL/the  
other party/PARTIES. We request you to  
intimate to both/all parties the names of  
Neutrals currently empanelled by IIAC with  
necessary instructions for selection of the  
Neutral/s.
- 5) Details of Party A/the Applicant (Strike out the  
Inapplicable) are as under:  
Name:  
Address:  
Tel. No.:  
E-mail Address:
- 6) Details of THE PARTIES ARE AS UNDER:  
**Party A:**  
Name:  
Address:  
Tel. No.:  
E-mail Address: Contact Person: Cell No.:  
**Party B:**  
Name:  
Address:  
Tel. No.:  
E-mail Address:  
Contact Person:  
Cell No.:
- 7) The prescribed Fees and Charges of  
Rs \_\_\_\_\_ (Rupees only) are forwarded  
herewith vide Bank Draft No.  
Dated \_\_\_\_\_ day of \_\_\_\_\_.

Yours Sincerely

NOTES \* A copy of the agreement to mediate  
/conciliate or a copy of the relevant excerpts of  
the document containing the said agreement,  
sufficiently indicating the title of the document,  
the dispute resolution clause, the parties  
signatory thereto and the execution thereof,  
must be annexed to this Application.

\*\* Where parties are required by any authority  
to attempt resolution/ settlement as per IIAC  
Mediation/Conciliation Rules 2016, a copy of  
the direction/order of that authority must be  
annexed to this Application.



# LIST OF EMPANELLED ARBITRATORS, MEDIATORS AND CONCILIATORS WITH IIAC.

## PANEL OF ARBITRATORS

Sr. No.	Title / Position	Name	Area of Practice/ Business, Place
<b>(A) Chief Justice of India - Retired</b>			
1	CJI, SC Justice (Retired)	Shri. Lodha	Mumbai
2	CJI, SC Justice (Retired)	Dr. Arjan Kumar Sikri	Mumbai
<b>(B) Supreme Court Justice – Retired</b>			
1	SC Justice (Retired)	Smt. Sujata Manohar	Mumbai
2	SC Justice (Retired)	Shri. C. K. Thakker	Mumbai
3	Supreme Court Justice (Retired)	Shri. Srikrishna	Mumbai
<b>(C) Chief Justice's of High Court's Retired</b>			
1	CJ High Court (Retired)	Shri. A. P. Shah	Delhi, Gujarat
2	CJ High Court Justice of Punjab & Haryana HC (Retired)	Shri. Shiavax J. Vazifdar	Punjab & Haryana, Mumbai
<b>(D) High Court Justice</b>			
1	High Court Justice (Retired)	Shri. D. R. Dhanuka	Mumbai
2	High Court Justice (Retired)	Shri. V. S Daga	Mumbai
3	High Court Justice (Retired)	Shri. F. I. Rebello	Mumbai
<b>(E) Senior Advocates</b>			
1	Sr. Advocate	Mr. Rohit Kapadia	Mumbai
2	Senior Advocate, Former president of the Supreme Court Bar Association	Mr. Dushyant Dave	Mumbai
3	Sr. Advocate	Mr. Janak Dwarkadas	Mumbai
4	Sr. Advocate	Mr. Milind Sathe	Mumbai
5	Sr. Advocate	Mr. S. U. Kamdar	Mumbai
6	Sr. Advocate	Mr. Rajiv Kumar	Civil Engineer, Mumbai

<b>(F) SR. SOLICITORS</b>			
1	Senior Solicitor	Mr. Dilip D. Udeshi	Mumbai
2	Senior Solicitor	Mr. C Rashmikant	Mumbai

<b>(G) COUNSEL ADVOCATE</b>			
1	Counsel, Arbitrator	Mr. Anant Shende	Mumbai
2	Counsel, Arbitrator	Mr. Gautam T. Mehta	Mumbai
3	Counsel, Arbitrator	Mr. Kirti Munshi	Mumbai
4	Advocate Counsel	Mr. Phiroze Colabawalla	Mumbai
5	Advocate Counsel	Mr. Naushad Engineer	Mumbai
6	Advocate Counsel	Mr. Sharan Jagtiani	Mumbai
7	Advocate Counsel	Mr. Karl Shroff	Mumbai
8	Advocate Counsel	Mr. Farhan Dubash	Mumbai
9	Advocate City Civil Court	Mr. Bhadang	Mumbai

<b>(H) ADVOCATES</b>			
1	Advocate	Ms. Shikhermal Surana	Mumbai
2	Advocate	Ms. Rita Kumar	Mumbai
3	Advocate	Mr. Kalyan Jhabakh	Mumbai

<b>(I) SOLICITORS</b>			
1	Solicitor	Mr. Chaitanya Mehta	Mumbai
2	Solicitor	Mr. Mac Savaksha Bodhanwalla	Financial Services, Mumbai
3	Solicitor	Mr. Paresah Shah	Mumbai
4	Solicitor	Mr. Bhavesh Panjuani	Mumbai
5	Solicitor	Mr. Nilesh Modi	Mumbai
6	Solicitor	Mr. Tushar Mavani	Mumbai
7	Solicitor	Mr. Bhakti Popat	Mumbai
8	Solicitor	Mr. Gitanjali Prabhu	Mumbai
9	Solicitor	Mr. Raj Panchmatia	Mumbai

<b>(J) SHIPPING AND LOGISTICS</b>			
1	Capt.	Mr. Mohan Naik	Mumbai
2	Capt.	Mr. Vinod Gupta	Mumbai
3	Capt.	Mr. Tony Fernandes	Mumbai

<b>(K) FINANCIAL SERVICES</b>			
1	Asit C. Mehta Investments Intermediates Ltd.	Mrs. Deena Mehta	Mumbai
2	Vice President Finance at Mastek Ltd	Mr. Arun Agarwal	Mumbai

<b>(L) CHARTERED ACCOUNTANTS</b>			
1	CA	Ms. Bhavna Doshi	Mumbai
2	CA	Ms. Shailesh Haribhakti	Mumbai
3	CA	Ms. Uday M. Chitale	Mumbai

<b>(M) COST ACCOUNTANTS</b>			
1	Cost Accountants	Mr. Ashok Shah	Mumbai
2	Cost Accountants	Mr. Dushyant Dave	D. C. Dave & Co Mumbai

<b>(N) ARCHITECTS / CIVIL ENGINEERS/ SURVEYORS</b>			
1	Civil Engineer	Mr. Nitin Doshi	Mumbai

<b>(O) BUSINESSMEN / INDUSTRIALISTS</b>			
1	Chairman & MD, Beacons Pvt. Ltd	Mr. Ram Gandhi	Business Trading Mumbai
2	Director, Exedy India Ltd	Mr. Pradeep B. Chinai	Manufacturing Sector Mumbai

<b>(P) OTHER AREAS</b>			
1	Director General, Finance Industry Development Council	Mr. Mahesh Thakkar	Finance Sector
2	Director, Mehta and Padamsey Pvt. Ltd	Mr. Saumil Mehta	Insurance and Re-Insurance Sector, Mumbai

## PANEL OF MEDIATORS/ CONCILIATORS

<b>Sr. No.</b>	<b>Title / Position</b>	<b>Name</b>	<b>Area of Practice/ Business, Place</b>
1	Mediator	Mr. Shriram Panchu	Mumbai
2	Mediator	Ms. Rajni Iyer	Mumbai
3	Mediator	Mr. Prathamesh D Popat	Mumbai
4	Mediator	Ms. Tanu Mehta	Mumbai
5	Mediator	Ms. Bhakti Popat	Mumbai
6	Mediator	Mr. Bharat Joshi	Mumbai
7	Mediator	Ms. Seema Sarnaik	Mumbai
8	Mediator	Mr. Nilesh Modi	Mumbai
9	Mediator	Mr. Dipak Parmar	Mumbai
10	Mediator	Mr. Karl Dsouza	Mumbai
11	Mediator	Mr. Subramaniam Vutha	Mumbai
12	Mediator	Mr. M.P. Rao	Mumbai
13	Mediator	Ms. Geetanjali Prabhu	Mumbai

15	Mediator	Ms. Sheela Balsari	Mumbai
16	Mediator	Mr. Parimal Shah	Mumbai
17	Mediator	Ms. Hutoxee Tavadia	Mumbai
18	Mediator	Ms. Prosper Dsouza	Mumbai
19	Mediator	Mr. Braj Bhai Das	Mumbai
20	Mediator	Mr. Sambhaji Mohite	Mumbai
21	Mediator	Mr. Prashant Chande	Mumbai
22	Mediator	Dr. Vinayak Koparkar	Mumbai
23	Mediator	Dr. Suyash Patankar	Mumbai
24	Solicitor, Mediator	Ms. Payal Kothari	Mumbai
25	Mediator	Mr. Prashant D. Popat	Mumbai

## PANEL OF FOREIGN ARBITRATORS

Sr. No.	Country	Title/ Position	Name of Arbitrator
1	NSW, Australia	JUSTICE	Mr. JAMES SPIGALMAN
2	Singapore	MR.	JAMIE HARISON
3	Singapore	MR.	KABIR SINGH
4	London, UK	MR.	LUDOVIC DE WALDEN
5	Singapore	MR.	NISH SHETTY
6	Singapore	MR.	OOMAN MATHEW
7	London, UK	MR.	RUSTAM DUBASH
8	London, UK	MS.	SHERINA PETIT
9	London, UK	MR.	ARSHAD GHAFAR

**IMC CHAMBER OF COMMERCE AND INDUSTRY (IMC) has been rendering services of institutional Arbitration since last many years to those who are desirous or resolving their commercial disputes expeditiously and economically.**

**Realizing the acute need for institutional arbitration with fixed cost and time bound schedule of proceedings, IMC embarked upon establishing a comprehensive International Alternate Dispute Resolution (ADR) Centre. At present, this kind of service is provided in Singapore, Paris and London only and a number of Indian Businessmen had to travel to these centres to settle their disputes.**

**The IMC Suresh Kotak International Arbitration Centre was formally inaugurated by His Lordship Justice Mr. Mohit Shah of the Bombay High Court on Tuesday the 17th June, 2014. The Centre is located in about 3000 sq ft. area on the 3rd floor of the IMC Building at Churchgate, Mumbai.**

**The Centre has excellent facilities as per international norms like video conferencing facility, projection system, internet bandwidth of higher speed etc. Excellent catering services are also available.**





