

**COMMERCIAL ARBITRATIONS
PROCEDURE 2016 RULES
(CAP 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 “*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.

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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.

Please visit IIAC Web site for more details: www.iiac.net.in

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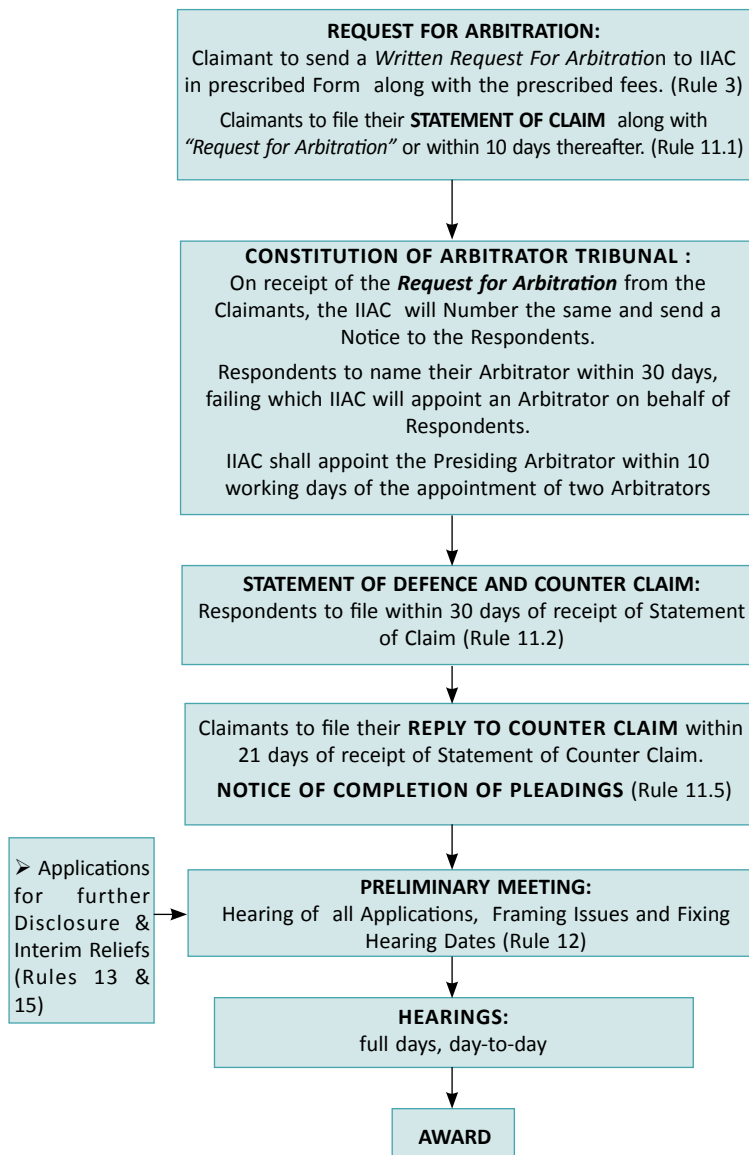
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These rules of procedure shall be called the “*Commercial Arbitrations Procedure 2016 (CAP 16 Rules)*” of the IMC International ADR Centre (IIAC), hereinafter referred to as the “**Rules**”.

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

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- (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.

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- (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 IAC.
- (e) **“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 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 IAC 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) **“IAC”**: means the IMC International ADR Centre.

All references to applications, filing of pleadings and communications etc. with IAC in these rules shall be addressed to *“The Secretariat, IAC, 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 IAC.
- (i) **“Presiding Arbitrator”**: shall have the meaning assigned in Rule 4.
- (j) **“The Secretariat”**: means *“Secretariat, IMC International ADR Centre (“IAC”), 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).

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- (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 IAC 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, IAC 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, IAC 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 IAC 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 IAC, 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.iac.net.in from such date as may be notified by IAC.
- 3.7 Where appropriate a party applying to IAC, 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 IAC 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 IAC 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 IAC to the appointment of such person as Sole Arbitrator, then such person will be appointed by IAC 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 IAC 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

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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, IAC 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 IAC names of three persons (in order of their preference).
- (b) IAC 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 IAC 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, IAC shall appoint an Arbitrator on behalf of the Respondent and IAC 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

IAC 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 IAC 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 IAC. In cases where the order of

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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”*.

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- 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 aforestated 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

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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.

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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.

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- 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

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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.

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- 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 IAC 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 IAC 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

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

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.

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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 IIAC 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 IIAC 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;

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- (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

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

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 IAC 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 IAC 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, IAC will forward a signed copy to each Party, provided that all outstanding Fees and Charges due, are paid to IAC.
- 19.7 Awards made by IAC Arbitral Tribunal may be published on IAC's website after obtaining written consent of all parties; provided, however, that the names of parties and other materials which IAC 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

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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.

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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-400 023.
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*).

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

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.

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

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-400 023.
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

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

- 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 *:*

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

- (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:

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

(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 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) WE _____ with
(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)

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

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)

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

- 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)

(Respondent's Signature)

NAME and SIGNATURE

NAME and SIGNATURE

To be signed by parties
authorized signatory.

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.

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

- A Sole Arbitrator to be appointed by mutual consent of parties.
- Three Arbitrators all, to be appointed by IAC
- Three Arbitrators one to be appointed by each disputing party/ group and presiding arbitrator to be appointed by IAC.

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 IAC 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 *:

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- (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.

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

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 IAC 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 IAC along with

COMMERCIAL ARBITRATIONS PROCEDURE 2016 RULES (CAP 16 RULES)

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 IMC 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”.

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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.

