MARITIME LAW ASSOCIATION OF SINGAPORE

2020 MOOTING COMPETITION

By a time charter on the NYPE form Head Pte Ltd ("Head Owners") chartered their vessel "THREE CORNERS" ("the Vessel") to Clew Pte Ltd ("Charterers") for a period of 12 months from 1 January - 31 December 2017. The time charter incorporated the Inter Club Agreement 1996, as amended in 2011 ("the ICA)".

By a booking note dated 1 March 2017 on the Charterers' house form between the Charterers as carrier and Tack Pte Ltd as merchant, the Charterers agreed to carry a cargo of wind turbine equipment from Singapore to Perth, Australia.

Upon loading a bill of lading was issued by the Charterers as the carrier, also on their house form, at Singapore dated 5 March 2017. The bill of lading was signed by Charterers and is a Charterer's bill - that is, a contract between the Charterers as contracting carrier and the shipper. Tack Pte Ltd ("the Shipper") was named as the shipper and consignee. Neither the booking note nor the bill of lading was at any time sent or copied to Head Owners, although pro-forma copies of both were at all times available on the Charterers' web site. Both contracts contained a Singapore law and arbitration clause, to be conducted in accordance with the rules of the SCMA.

On 25 March 2017 the Vessel's crew accidentally pumped water into the No 2 cargo hold. The cargo stowed in that hold was partially submerged in water as a result. Head Owners promptly informed the Charterers of the incident, who replied the same day:

> "We hold the Head Owners fully responsible for all Charterers' liabilities, costs and expenses resulting from the crew's negligence. We will arrange for a surveyor to attend at the discharge port and invite you to do likewise. Please acknowledge receipt of this notification."

A survey was held upon discharge on 1 April 2017, attended by surveyors for the Shipper, for Charterers and for Head Owners. Although it was clear the cargo had suffered some damage, the extent of it and the cost of repairs were difficult to assess at that stage. The Shipper has not yet quantified its claim or formally commenced suit, nor clearly articulated how and under which contract it intends to bring its claim.

In mid-March 2018, when the 12 month time bar under the Hague-Visby Rules was approaching, the Shipper requested a 3 month extension of time for commencement of suit from the Charterers, who in turn wrote to Head Owners saying

> "Cargo interests have asked us for a 3 month extension of time and therefore we ask you to provide us with the same extension".

Owners responded

> "We grant the extension requested provided the matter is not already time-barred."

As each 3 month period neared its end the Shipper asked the Charterers for another 3 month extension of time. Messages in materially similar terms to those set out above were exchanged between Charterers and Head Owners in June, September and December 2018, and in March 2019 and June 2019. ~~In June 2019~~ In September 2019, the Shipper asked the Charterers for a yet further 3 months extension and Charterers made a request to Head Owners in the same terms as their previous requests set out above.

But this time the Head Owners responded that Charterers' claim against them could only lie under the ICA and had become time barred under the terms of that agreement, on the grounds that: (i) Charterers did not give written notification of the Cargo Claim within 24 months of the date of delivery of the Cargo, as required by clause 6 of the ICA, and (ii) the extensions of time granted by them had only related to a prospective cargo claim under the Hague-Visby Rules and did not extend Charterers' time for giving notification of a claim under the ICA. The Head Owners said the Charterers' claim was therefore waived and absolutely barred.

Clause 6 of the ICA provides as follows:

> "Time Bar
>
> (6) Recovery under this Agreement by an Owner or Charterer shall be deemed to be waived and absolutely barred unless written notification of the Cargo Claim has been given to the other party to the charterparty within 24 months of the date of delivery of the cargo or the date the cargo should have been delivered, save that, where the Hamburg Rules or any national legislation giving effect thereto are compulsorily applicable by operation of law to the contract of carriage or to that part of the transit that comprised carriage on the chartered vessel, the period shall be 36 months. Such notification shall if possible include details of the contract of carriage, the nature of the claim and the amount claimed."

Charterers responded that (i) compliance with all the requirements of clause 6 is not a requirement of an effective notification, and they had adequately notified their claim so that it had not become barred; alternatively (ii) the several extensions of time granted by the Owners should be understood as extending time for giving notification under clause 6 of the ICA.

Owners commenced an arbitration for a declaration that the Charterers' claim is waived and time barred. Both issues are now heard as preliminary questions of law.

Inter-Club New York Produce Exchange Agreement 1996 (as amended September 2011)

This Agreement, the Inter-Club New York Produce Exchange Agreement 1996 (as amended September 2011) (the Agreement), made on 1st September 2011 between the P&I Clubs being members of The International Group of P&I Associations listed below (hereafter referred to as "the Clubs") amends the Inter-Club New York Produce Exchange Agreement 1996 in respect of all charterparties specified in clause (1) hereof and shall continue in force until varied or terminated. Any variation to be effective must be approved in writing by all the Clubs but it is open to any Club to withdraw from the Agreement on giving to all the other Clubs not less than three months' written notice thereof, such withdrawal to take effect at the expiration of that period. After the expiry of such notice the Agreement shall nevertheless continue as between all the Clubs, other than the Club giving such notice who shall remain bound by and be entitled to the benefit of this Agreement in respect of all Cargo Claims arising out of charterparties commenced prior to the expiration of such notice.

The Clubs will recommend to their Members without qualification that their Members adopt this Agreement for the purpose of apportioning liability for claims in respect of cargo which arise under, out of or in connection with all charterparties on the New York Produce Exchange Form 1946 or 1993 or Asbatime Form 1981 (or any subsequent amendment of such Forms), whether or not this Agreement has been incorporated into such charterparties.

Scope of application

This Agreement applies to any charterparty which is entered into after the date hereof on the New York Produce Exchange Form 1946 or 1993 or Asbatime Form 1981 (or any subsequent amendment of such Forms).

The terms of this Agreement shall apply notwithstanding anything to the contrary in any other provision of the charterparty; in particular the provisions of clause (6) (time bar) shall apply notwithstanding any provision of the charterparty or rule of law to the contrary.

For the purposes of this Agreement, Cargo Claim(s) mean claims for loss, damage, shortage (including slackage, ullage or pilferage), overcarriage of or delay to cargo including customs dues or fines in respect of such loss, damage, shortage, overcarriage or delay and include:

any legal costs claimed by the original person making any such claim;

any interest claimed by the original person making any such claim;

all legal, Club correspondents' and experts' costs reasonably incurred in the defence of or in the settlement of the claim made by the original person, but shall not include any costs of whatsoever nature incurred in making a claim under this Agreement or in seeking an indemnity under the charterparty.

(4) Apportionment under this Agreement shall only be applied to Cargo Claims where:

(a) the claim was made under a contract of carriage, whatever its form,

(i) which was authorised under the charterparty; or

(ii) which would have been authorised under the charterparty but for the inclusion in that contract of carriage of Through Transport or Combined Transport provisions, provided that

(iii) in the case of contracts of carriage containing Through Transport or Combined Transport provisions (whether falling within (i) or (ii) above) the loss, damage, shortage, overcarriage or delay occurred after commencement of the loading of the cargo on to the chartered vessel and prior to completion of its discharge from that vessel (the burden of proof being on the Charterer to establish that the loss, damage, shortage, overcarriage or delay did or did not so occur); and

(iv) the contract of carriage (or that part of the transit that comprised carriage on the chartered vessel) incorporated terms no less favourable to the carrier than the Hague or Hague Visby Rules, or, when compulsorily applicable by operation of law to the contract of carriage, the Hamburg Rules or any national law giving effect thereto; and

(b) the cargo responsibility clauses in the charterparty have not been materially amended. A material amendment is one which makes the liability, as between Owners and Charterers, for Cargo Claims clear. In particular, it is agreed solely for the purposes of this Agreement:

(i) that the addition of the words "and responsibility" in clause 8 of the New York Produce Exchange Form 1946 or 1993 or clause 8 of the Asbatime Form 1981, or any similar amendment of the charterparty making the Master responsible for cargo handling, is not a material amendment; and

(ii) that if the words "cargo claims" are added to the second sentence of clause 26 of the New York Produce Exchange Form 1946 or 1993 or clause 25 of the Asbatime Form 1981, apportionment under this Agreement shall not be applied under any circumstances even if the charterparty is made subject to the terms of this Agreement; and

(c) the claim has been properly settled or compromised and paid.

(5) This Agreement applies regardless of legal forum or place of arbitration specified in the charterparty and regardless of any incorporation of the Hague, Hague Visby Rules or Hamburg Rules therein.

Time Bar

(6) Recovery under this Agreement by an Owner or Charterer shall be deemed to be waived and absolutely barred unless written notification of the Cargo Claim has been given to the other party to the charterparty within 24 months of the date of delivery of the cargo or the date the cargo should have been delivered, save that, where the Hamburg Rules or any national legislation giving effect thereto are compulsorily applicable by operation of law to the contract of carriage or to that part of the transit that comprised carriage on the chartered vessel, the period shall be 36 months. Such notification shall if possible include details of the contract of carriage, the nature of the claim and the amount claimed.

The apportionment

The amount of any Cargo Claim to be apportioned under this Agreement shall be the amount in fact borne by the party to the charterparty seeking apportionment, regardless of whether that claim may be or has been apportioned by application of this Agreement to another charterparty.

Cargo Claims shall be apportioned as follows:

(a) Claims in fact arising out of unseaworthiness and/or error or fault in navigation or management of the vessel: 100% Owners
save where the Owner proves that the unseaworthiness was caused by the loading, stowage, lashing, discharge or other handling of the cargo, in which case the claim shall be apportioned under sub-clause (b).

(b) Claims in fact arising out of the loading, stowage, lashing, discharge, storage or other handling of cargo: 100% Charterers
unless the words "and responsibility" are added in clause 8 or there is a similar amendment making the Master responsible for cargo handling in which case: 50% Charterers 50% Owners
save where the Charterer proves that the failure properly to load, stow, lash, discharge or handle the cargo was caused by the unseaworthiness of the vessel in which case: 100% Owners

(c) Subject to (a) and (b) above, claims for shortage or overcarriage: 50% Charterers 50% Owners
unless there is clear and irrefutable evidence that the claim arose out of pilferage or act or neglect by one or the other (including their servants or sub-contractors) in which case that party shall then bear 100% of the claim.

(d) All other cargo claims whatsoever (including claims for delay to cargo): 50% Charterers 50% Owners
unless there is clear and irrefutable evidence that the claim arose out of the act or neglect of the one or the other (including their servants or sub-contractors) in which case that party shall then bear 100% of the claim.

Security

(9) If a party to the charterparty provides security to a person making a Cargo Claim, that party shall be entitled upon demand to acceptable security for an equivalent amount in respect of that Cargo Claim from the other party to the charterparty, regardless of whether a right to apportionment between the parties to the charterparty has arisen under this Agreement provided that:

(a) written notification of the Cargo Claim has been given by the party demanding security to the other party to the charterparty within the relevant period specified in clause (6); and

(b) the party demanding such security reciprocates by providing acceptable security for an equivalent amount to the other party to the charterparty in respect of the Cargo Claim if requested to do so.

Governing Law

(10) This Agreement shall be subject to English Law and the exclusive Jurisdiction of the English Courts, unless it is incorporated into the charterparty (or the settlement of claims in respect of cargo under the charterparty is made subject to this Agreement), in which case it shall be subject to the law and jurisdiction provisions governing the charterparty.

American Steamship Owners Mutual Protection & Indemnity Association, Inc.
Assuranceforeningen Gard
Gard P&I (Bermuda) Ltd
Assuranceforeningen Skuld
The Britannia Steam Ship Insurance Association Ltd.
The Japan Ship Owners' Mutual Protection and Indemnity Association
The London Steam-Ship Owners' Mutual Insurance Association Ltd.
The North of England Protecting and Indemnity Association Ltd.
The Shipowners' Mutual Protection and indemnity Association (Luxembourg)
Skuld Mutual Protection and Indemnity Association (Bermuda) Ltd.
The Standard Steamship Owners' Protection and Indemnity Association (Asia) Ltd
The Standard Steamship Owners' Protection & Indemnity Association (Bermuda) Ltd.
The Standard Steamship Owners' Protection and Indemnity Association (Europe) Ltd
The Standard Steamship Owners' Protection and Indemnity Association (London) Ltd
The Steamship Mutual Underwriting Association Ltd
The Steamship Mutual Underwriting Association (Bermuda) Ltd.
Sveriges Angfartygs Assurans Forening (The Swedish Club)
The United Kingdom Mutua! Steam Ship Assurance Association (Bermuda) Ltd.
United Kingdom Mutual Steam Ship Assurance Association (Europe) Ltd
The West of England Ship Owners Mutual Insurance Association (Luxembourg)

SCMA RULES

3RD EDITION (OCTOBER 2015)

MODEL CLAUSES

A) SCMA BIMCO Arbitration Clause (2013)
(Introduced in Nov 2012 for use with BIMCO Documents, Agreements and Forms)

This Contract shall be governed by and construed in accordance with Singapore*/ English* law.

Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration in Singapore in accordance with the Singapore International Arbitration Act (Chapter 143A) and any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause.

The arbitration shall be conducted in accordance with the Arbitration Rules of the Singapore Chamber of Maritime Arbitration (SCMA) current at the time when the arbitration proceedings are commenced.

The reference to arbitration of disputes under this clause shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator and give notice that it has done so within fourteen (14) calendar days of that notice and stating that it will appoint its own arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the fourteen (14) days specified. If the other party does not give notice that it has done so within the fourteen (14) days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by agreement.

Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.

In cases where neither the claim nor any counterclaim exceeds the sum of USD 150,000 (or such other sum as the parties may agree) the arbitration shall be conducted before a single arbitrator in accordance with the SCMA Small Claims Procedure current at the time when the arbitration proceedings are commenced.

*Delete whichever does not apply. If neither or both are deleted, then English law shall apply by default.

B) SCMA Arbitration Clause

"Any and all disputes arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore Chamber of Maritime Arbitration ("SCMA Rules") for the time being in force at the commencement of the arbitration, which rules are deemed to be incorporated by reference in this clause".

C) SCMA Bunker Arbitration Clause

Any disputes arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration at SCMA in accordance with the Singapore Bunker Claims Procedure ("SBC Terms") for the time being in force at the commencement of the arbitration which terms are deemed to be incorporated by reference into this clause

D) SCMA Arb-Med-Arb Clause

The parties further agree that following the commencement of arbitration, they will attempt in good faith to resolve the disputes referred to arbitration through mediation at [one of the following:]

[Singapore Mediation Centre ("SMC")]

[Singapore International Mediation Centre ("SIMC")]

[any other recognised mediation institution to be identified], [delete as appropriate],

in accordance with the SCMA AMA Protocol for the time being in force [refer to Schedule C]. Any settlement reached in the course of the mediation shall be referred to the Arbitral Tribunal appointed in accordance with the SCMA Rules and may be made a consent Award on agreed terms.

Comment

It is strongly recommended that an additional paragraph determining the governing law of the contract be included into the SCMA Arbitration Clauses (B&C).

An example is provided below:

This Contract shall be governed by and construed in accordance with Singapore / English Law* (Select one)

*In the event that no governing law is selected, the default governing law shall be Singapore Law.

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RULE 1

1. Definitions

1.1. These Rules shall be referred to as "the SCMA Rules".

1.2. In these Rules:

"Act" means the International Arbitration Act (Cap 143A) and any statutory re-enactment thereof.

"Chairman" means the Chairman of the Singapore Chamber of Maritime Arbitration.

"Chamber" means the Singapore Chamber of Maritime Arbitration.

"Registrar" or "Assistant Registrar" means the Executive Director of SCMA or such other person as the Chairman may appoint.

"SCMA Small Claims Procedure" means the procedure for claims under the sum of US$150,000 made under Rule 46.

"Secretariat" means the Secretariat of the Singapore Chamber of Maritime Arbitration.

"Seat" means the juridical seat of the arbitration.

"Tribunal" means either a sole Arbitrator or all Arbitrators when more than one is appointed.

RULE 2

2. Scope of Application

These Rules shall apply to an arbitration agreement whenever parties have so agreed and shall govern the arbitration save that, if any of these Rules is in conflict with a mandatory provision of the Act (where the seat of the arbitration is Singapore) or the applicable law governing the arbitration (where the seat of the arbitration is outside Singapore), from which the parties cannot derogate, such provision or such applicable law, as the case may be, shall prevail.

RULE 3

3. Notice, Calculation of Periods of Time

3.1. Without prejudice to the effectiveness of any other form of written communication, written communication may be made by fax, email or any other means of electronic transmission effected to a number, address or site of a party. The transmission is deemed to have been received on the day of transmission.

3.2. For the purposes of these Rules, any notice, including a notification, communication or proposal, is deemed to have been received if it is physically delivered to the addressee or if it is delivered at his habitual residence, place of business or mailing address, or, if none of these can be found after making reasonable inquiry, then at the addressee's last-known residence or place of business. Notice shall be deemed to have been received on the day it is so delivered.

3.3. For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

RULE 4

4. Commencement of Arbitration

4.1. Any party referring a dispute to arbitration under these Rules ("the Claimant") shall serve on the other party ("the Respondent"), a written Notice of Arbitration ("the Notice of Arbitration") which shall include the following:

a. a request that the dispute be referred to arbitration;

b. the identity of the parties to the dispute;

c. a reference to the arbitration clause or any separate arbitration agreement that is invoked;

d. a reference to the contract out of, or in relation to, which the dispute arises;

e. a proposal as to the number of Arbitrators (i.e. one or three), if the parties have not previously agreed on the number; and

f. the name(s) of the Claimant's proposed Arbitrator(s).

4.2. The Notice of Arbitration may also include:

a. a brief statement describing the nature and circumstances of the dispute; and

b. the relief or remedy sought.

RULE 5

5. Response by Respondent

5.1. Within 14 days of receipt of the Notice of Arbitration, the Respondent shall serve on the Claimant, a Response including:

a. a comment in response to any proposals contained in the Notice of Arbitration; and

b. the name(s) of the Respondent's proposed Arbitrator(s).

5.2. The Response may also include:

a. a confirmation or denial of all or part of the claims; and

b. a brief statement of any envisaged counterclaims.

RULE 6

6. Appointment of Tribunal

6.1. The parties may, notwithstanding any of the provisions in this Rule 6, agree on the number of Arbitrators and the procedure for the appointment of the Arbitrators and any such agreement shall prevail over the provisions in Rule 6. 3 Arbitrators shall be appointed unless the parties have agreed otherwise.

6.2. If a sole Arbitrator is to be appointed, and parties are unable to agree on the appointment within 14 days from the date of service of the Notice of Arbitration, the Chairman shall appoint the sole Arbitrator upon the application of any of the parties. The Chairman is not bound to appoint any of the nominees of the parties.

6.3. If 3 Arbitrators are to be appointed, each party shall appoint 1 Arbitrator, and the 2 Arbitrators thus appointed shall appoint the third Arbitrator.

6.4. Where a party fails to appoint the Arbitrator within 14 days of receipt of a request to do so from the other party, or if the 2 Arbitrators fail to agree on the appointment of the third Arbitrator within 14 days of their appointment, the appointment shall be made, upon the request of a party, by the Chairman. An appointment service fee of S$750 per party is payable to SCMA before release of the letter. If a full response is not received at time of release of the appointment letter, the party applying for the appointment shall make the full payment of S$1,500 for release and seek recovery of S$750 through their claims from the other party.

6.5. An appointment fee of S$500 shall be paid to the Arbitrator upon appointment and is non-refundable.

6.6. The booking fee for the Tribunal is S$1,500 per day and should be paid to the Arbitrator. If the matter is settled beforehand, parties may request from the Arbitrator for a partial refund but this shall be subject to Arbitrator's discretion.

6.7. The Tribunal shall within 7 days of its appointment, inform the Secretariat of the appointment along with a brief nature of the dispute, without disclosing the parties' names.

6.8. The constitution of the Tribunal shall not be impeded by:

a. any dispute with respect to the sufficiency of the Notice of Arbitration or the Response which shall be finally resolved by the Tribunal; or

b. failure by the Respondent to communicate a Response to the Notice of Arbitration.

In either circumstance, the Tribunal shall proceed as it considers appropriate.

RULE 7

7. Multi-party Appointment of the Tribunal

7.1. If there are more than 2 parties in the arbitration, the parties shall agree on the procedure for appointing the Tribunal within 21 days of the date of service of the Notice of Arbitration.

7.2. If the parties are unable to do so, upon the lapse of the 21 day time period mentioned above, the Tribunal shall be appointed by the Chairman as soon as practicable.

RULE 8

8. Service of Case Statements

8.1. Unless otherwise agreed, within 30 days after the appointment of the Tribunal, the Claimant shall deliver to the Tribunal and serve on the Respondent, a Statement of Claimant's Case.

8.2. Within 30 days after the Service of the Statement of Claimant's Case, the Respondent shall deliver to the Tribunal and serve on the Claimant, a Statement of Respondent's Defence and Counterclaim (if any).

8.3. Within 30 days after the Service of the Statement of Respondent's Defence, if the Claimant intends to challenge anything in the Statement of Respondent's Defence and/or Counterclaim, the Claimant shall then deliver to the Tribunal and serve on the Respondent, a Statement of Claimant's Reply and if necessary, Defence to Counterclaim.

8.4. No further case statements shall be served without the leave of the Tribunal.

RULE 9

9. Contents of Case Statements

9.1. The case statements shall contain the fullest possible particulars of the party's claim, defence or counterclaim and shall thus contain a comprehensive statement of the facts and contentions of law supporting the party's position.

9.2. It shall thus:

a. set out all items of relief or other remedies sought together with the amount of all quantifiable claims and detailed calculations;

b. state fully its reasons for denying any allegation or statement of the other party; and

c. state fully its own version of events if a party intends to put forward a version of events different from that given by the other party.

9.3. A case statement shall be signed by, or on behalf of, the party making it.

9.4. All written statements referred to in Rule 8 must be accompanied by all supporting documents relevant to the issues between the parties.

RULE 10

10. Default in Serving of Case Statements

10.1. If the Claimant fails within the time specified under these Rules or as may be fixed by the Tribunal, to serve its Statement of Case, the Tribunal may issue an order for the termination of the arbitral proceedings or make such other directions as may be appropriate in the circumstances.

10.2. If the Respondent fails to submit a Statement of Respondent's Defence, the Tribunal may nevertheless proceed with the arbitration and make the Award.

RULE 11

11. Further Written Statements

11.1. The Tribunal will decide which further written statements, in addition to the case statement(s) already filed, are required from the parties and shall fix the periods of time for giving, filing and serving such statements.

11.2. All such further statements shall be given to the Tribunal and served on the Claimant or Respondent, whichever is applicable.

RULE 12

12. Tribunal's Fees

12.1. An Arbitrator may in his discretion require payment of his fees to date (which for these purposes include any expenses) at appropriate intervals (which shall be not less than 3 months). Any such demand for payment shall be addressed to the parties and shall be copied to any other member of the Tribunal. Any such demand for payment is without prejudice to ultimate liability for the fees in question and to the parties' joint and several liabilities therefor.

12.2. If any amount due under Rule 12.1 above remains unpaid for more than 28 days after payment has been demanded, the Arbitrator in his sole discretion may give written notice to the parties and Arbitrators that he will resign his appointment if such amount still remains unpaid 14 days after such notification. Without prejudice to ultimate liability for the fees in question, any party may prevent such resignation by paying the amount demanded within the said 14 days. Upon any resignation under this paragraph, the Arbitrator will be entitled to immediate payment of his fees to date, and shall be under no liability to any party for any consequences of his resignation.

RULE 13

13. Tribunal's Security for Costs

13.1. Without prejudice to the rights provided for elsewhere under these Rules, a Tribunal is entitled to reasonable security for its estimated costs (including its fees and expenses) up to the making of an Award. The form of such security and when it shall be provided shall be in the Tribunal's discretion.

13.2. If a Tribunal exercises the right to request security, it shall advise the parties of its total estimated costs.

13.3. The Tribunal shall have discretion as to which party or parties shall provide the security and if more than one party the amount to be provided by each. If such party fails to provide such security within the time set, any other party will be given 7 days' notice in which to provide it; failing which the Tribunal may vacate any hearing dates or, in the case of a documents-only arbitration, refrain from reading and/or drafting.

13.4. With respect to the periods of time set out in this rule, the Tribunal shall be entitled at its discretion to set such shorter periods as are reasonable in the circumstances.

13.5. Any security provided or payment made in accordance with these provisions shall be without prejudice to ultimate liability as between the parties for the fees and expenses in question, and to the parties' joint and several liability to the Tribunal until all outstanding fees and expenses have been paid in full.

RULE 14

14. Appointment of Substitute Arbitrator

14.1. In the event of the death, resignation or removal of any of the Arbitrators, a substitute Arbitrator shall be appointed according to the Rules that were applicable to the appointment of the Arbitrator that is being replaced.

RULE 15

15. Independence and Impartiality of the Tribunal

15.1. The Tribunal conducting arbitration under these Rules shall be, and remain at all times independent and impartial, and shall not act as advocate for any party.

15.2. A prospective Arbitrator shall disclose to any party who approaches him in connection with his possible appointment, any circumstances likely to give rise to justifiable doubts as to his impartiality or independence.

15.3. An Arbitrator, once nominated or appointed, shall disclose any such circumstance referred to in Rule 15.2 above to all parties.

RULE 16

16. Challenge to the Arbitrators

16.1. An Arbitrator may be challenged if there are circumstances that give rise to justifiable doubts as to his impartiality or independence.

16.2. An Arbitrator may also be challenged if he does not possess the qualifications required by the agreement of the parties.

16.3. A party may challenge an Arbitrator appointed on its nomination or with its agreement only for reasons of which it becomes aware after the appointment has been made.

16.4. A party who intends to challenge an Arbitrator shall deliver to the Tribunal (and where the Tribunal comprises of more than one Arbitrator, to each Arbitrator comprising the Tribunal) and on the other party or all other parties, whichever is applicable, a Notice of Challenge.

16.5. The Notice of Challenge shall be delivered to the Tribunal and served within 14 days from the appointment of the Arbitrator or within 14 days after the circumstances mentioned in Rule 16.1 or Rule 16.2 became known to that party.

16.6. The Notice of Challenge shall state the reasons for the challenge.

16.7. While the challenge is pending, the Tribunal may continue the arbitration proceedings and make an Award.

16.8. When an Arbitrator has been challenged by one party, the other party may agree to the challenge. The Arbitrator may also, after the challenge, withdraw from his office. However, it is not implied in either case that there has been an acceptance of the validity of the grounds for the challenge. In both cases, the procedure provided in Rule 6 read with Rule 14, shall be used for the appointment of a substitute Arbitrator.

RULE 17

17. Decision on Challenge

17.1. If the other party does not agree to the challenge under Rule 16 and the challenged Arbitrator does not withdraw, the party who brought the challenge may refer the matter to the Chairman for the Chairman to make a decision on the challenge.

17.2. If the Chairman sustains the challenge, a substitute Arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment of an Arbitrator as provided in Rule 6 read with Rule 14.

17.3. The decision of the Chairman under Rule 17.1 shall not be subject to any appeal.

RULE 18

18. Removal of the Tribunal

18.1. A court of competent jurisdiction may, on the application of a party, remove an Arbitrator:

a. who is physically or mentally incapable of conducting the proceedings or where there are justifiable doubts as to his ability to do so; or

b. who has refused or failed to use all reasonable dispatch in conducting the arbitration or making an Award.

18.2. The Arbitrator(s) concerned is entitled to appear and be heard at the hearing of the application to remove him.

18.3. Upon the removal of the Arbitrator, a substitute Arbitrator shall be appointed; Rule 6 read with Rule 14 similarly applies.

RULE 19

19. Conduct of the Proceedings in the Event of the Substitution of Arbitrator(s)

In the event of the appointment of any substitute Arbitrator, the reconstituted Tribunal shall, at its discretion, decide if, and to what extent, prior proceedings shall be repeated before it.

RULE 20

20. Jurisdiction of the Tribunal

In addition to the jurisdiction to exercise the powers defined elsewhere in these Rules or any applicable statute for the time being in force, the Tribunal shall have jurisdiction to:

a. rule on its own jurisdiction;

b. determine all disputes arising under or in connection with the transaction or the subject of reference, having regard to the scope of the arbitration agreement and any question of law arising in the arbitration;

c. receive and take into account such written or oral evidence as it shall determine to be relevant; and

d. proceed with the arbitration and make an Award notwithstanding the failure or refusal of any party to comply with these Rules or with the Tribunal's written orders or written directions, or to exercise its right to present its case, but only after giving that party written notice that it intends to do so.

RULE 21

21. Applicable Law

The Tribunal shall apply the law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the Tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

RULE 22

22. Juridical Seat of Arbitration

22.1. Unless otherwise agreed by the parties, the juridical seat of arbitration shall be Singapore. Where the seat of the arbitration is Singapore, the law of the arbitration under these Rules shall be Singapore law and the Act.

22.2. An Award made under these Rules shall be deemed to be made in the juridical seat of arbitration.

22.3. Regardless of the seat of the arbitration, all physical hearings and meetings of the arbitration shall be held in Singapore save where parties agree otherwise or where the Tribunal directs.

RULE 23

23. Language of Arbitration

Unless otherwise agreed by the parties and the Tribunal, the language of the arbitration shall be English.

RULE 24

24. Interpreters

24.1. If required, one or both of the parties may appoint an interpreter with the leave of the Tribunal.

24.2. The interpreter shall be independent of both parties and the party appointing the interpreter shall pay for the interpreter's fees.

24.3. If the interpreter is appointed by both parties, the fees will be shared by both parties in such proportion as the Tribunal may determine.

RULE 25

25. Conduct of the Proceedings

25.1. The Tribunal shall have the widest discretion allowed by the Act (where the seat of the arbitration is Singapore) or the applicable law (where the seat of the arbitration is outside Singapore) to ensure the just, expeditious, economical and final determination of the dispute.

25.2. Subject to these Rules, it shall be for the Tribunal to decide the arbitration procedure, including all procedural and evidential matters subject to the right of the parties to agree to any matter.

25.3. Unless the parties agree that the reference is ready to proceed to an Award on the exclusive basis of the written submissions that have already been served, both parties must complete the Questionnaire set out in Schedule A. Every such Questionnaire must contain the declaration set out at the end of the Questionnaire below, which shall be signed by a properly authorized officer of the party on whose behalf it is served. Completed Questionnaires must be delivered to the Tribunal and the other party within 14 days after the time fixed for the service of the Statement of the Claimant's Reply.

RULE 26

26. Communications between Parties and the Tribunal

26.1. Where the Tribunal sends any written communication to one party, it shall send a copy of it to the other party or parties as the case may be.

26.2. Where a party sends any written communication (including statements, expert reports or evidentiary documents) to the Tribunal, the same shall be copied to the other party or all other parties, whichever is applicable, and show to the Tribunal that the same has been so copied.

26.3. Where the Tribunal consists of more than one Arbitrator, any communication to the Tribunal must be sent to each of the Arbitrators.

RULE 27

27. Party Representatives

Any party may be represented by persons of their choice, subject to such proof of authority as the Tribunal may require. The names and addresses of such representatives shall be notified to the other party or parties.

RULE 28

28. Hearings

28.1. Unless the parties have agreed on a documents-only arbitration or that no hearing should be held, the Tribunal shall hold a hearing for the presentation of evidence by witnesses, including expert witnesses, or for oral submissions.

28.2. The Tribunal shall fix the date, time and place of any meetings and hearings in the arbitration, and shall give the parties reasonable notice thereof.

28.3. Prior to the hearing, the Tribunal may provide the parties with a list of matters or questions to which it wishes them to give special consideration.

28.4. In the event that a party to the proceedings, without sufficient cause, fails to appear at a hearing of which the notice has been given, the Tribunal may proceed with the arbitration and make the Award.

28.5. All meetings and hearings shall be in private unless the parties agree otherwise.

RULE 29

29. Booking Fees

29.1. For a hearing of up to 10 days, there shall be payable to the Tribunal a booking fee of such sum per Arbitrator as the Chamber may from time to time decide, for each day reserved. The booking fee will be invoiced to the party asking for the hearing date to be fixed or to the parties in equal shares at the discretion of the Tribunal and shall become due and shall be paid within 14 days of confirmation of the reservation or 6 months in advance of the first day reserved ("the start date"), whichever date be later. If the fee is not paid in full by the due date, the Tribunal will be entitled to cancel the reservation forthwith without prejudice to its entitlement to be paid the fee in question or the appropriate proportion thereof in accordance with Rule 29.4 below. In the event of a cancellation under this provision, either party may secure reinstatement of the reservation by payment within 7 days of any balance outstanding.

29.2. For hearings of over 10 days, the booking fee in Rule 29.1 above shall for each day reserved, be increased by 30% in the case of a hearing of up to 15 days and 60% in the case of a hearing of up to 20 days and may, at the discretion of the Tribunal, be subscribed in non-returnable instalment payments. For hearings in excess of 20 days, the booking fee shall be at the rate for a hearing of 20 days plus such additional sum as may be agreed with the parties in the light of the length of the proposed hearing.

29.3. The booking fee for any third Arbitrator shall be due and payable as above, save that the booking fee due to any third Arbitrator appointed less than 6 months before the start date shall be due forthwith upon his appointment and payable within 14 days thereof.

29.4 When a hearing is adjourned or a hearing date is vacated prior to or on or after the start date due to the following:-

a. at the request of one or both of the parties, or

b. by reason of settlement of any dispute, or

c. by reason of cancellation pursuant to Rule 29.1 above or

d. by reason of the indisposition or death of any Arbitrator;

then, unless non-returnable instalment or other payments have been agreed, the booking fee will be retained by (or, if unpaid, shall be payable to) the Tribunal either in full, if the date is adjourned or vacated less than 3 months before the start date, or 50% if the date is adjourned or vacated 3 months or more before the start date. Any interlocutory fees and expenses incurred will also be payable or, as the case may be, deductible from any refund if the date is adjourned or vacated 3 months or more before the start date.

29.5. Where, at the request of one or both of the parties, or by reason of the indisposition or death of any Arbitrator, a hearing is adjourned or a hearing date is vacated and a new hearing date is fixed, a further booking fee will be payable in accordance with Rule 29.1 and Rule 29.2 above.

29.6. An Arbitrator who, following receipt of his booking fee or any part thereof is for any reason replaced is, upon settlement of his fees for any interlocutory work, responsible for the transfer of his booking fee to the person appointed to act in his place. In the event of death, the personal representative shall have corresponding responsibility.

RULE 30

30. Witnesses

30.1. The Tribunal may require each party to give notice of the names and designations of the witnesses he intends to call at any hearing.

30.2. No party shall adduce expert evidence without the leave of the Tribunal.

30.3. Any witness who gives evidence may be questioned by each party or its representative subject to any rulings made by the Tribunal.

30.4 A witness may be required by the Tribunal to testify under oath or affirmation.

30.5. Subject to such order or direction which the Tribunal may make, the testimony of witnesses may be presented in written form, either as signed statements or by duly sworn/affirmed affidavits. If a witness does not attend the hearing to give oral evidence, the Tribunal may place such weight on his written testimony as it thinks fit.

30.6 The Tribunal shall determine the admissibility, relevance, materiality and weight of the evidence given by any witness.

RULE 31

31. Experts Appointed by the Tribunal

31.1. Unless otherwise agreed by the parties, the Tribunal may:

a. appoint one or more experts to report to the Tribunal on specific issues; and/or

b. require a party to give any such expert any relevant information or to produce and provide access to any relevant documents, goods or property for inspection by the expert.

31.2. Unless otherwise agreed to by the parties, if a party so requests or if the Tribunal deems it fit, the expert shall, after delivery of his written or oral report, participate in a hearing, at which the parties may question him and to present expert witnesses in order to testify on the points at issue.

31.3. Rule 31.2 above shall not apply to an assessor appointed by agreement of the parties, or to an expert appointed by the Tribunal to advise solely in relation to procedural matters.

RULE 32

32. Closure of Proceedings

32.1. The Tribunal shall at an appropriate stage declare the proceedings closed and proceed to an Award.

32.2. The Tribunal may also, in view of exceptional circumstances, reopen the proceedings at any time before the Award is made.

RULE 33

33. Additional Powers of the Tribunal

33.1. In addition to the powers conferred by the Act or the applicable law at the juridical seat of arbitration, the Tribunal shall also have the power to:

a. allow any party, upon such terms (as to costs and otherwise) as it shall determine, to amend claims or counterclaims;

b. extend or abbreviate any time limits provided by these Rules;

c. conduct such enquiries as may appear to the Tribunal to be necessary or expedient;

d. order the parties to make any property or thing available for inspection;

e. order any party to produce to the Tribunal, and to the other parties for inspection, and to supply copies of any documents or classes of documents in their possession, custody or power which the Tribunal determines to be relevant;

f. order samples to be taken from, or any observation to be made from or experiment conducted upon, any property which is or forms part of the subject matter of the dispute;

g. make orders or give directions to any party for interrogatories; and

h. make such orders or give such directions as it deems fit in so far as they are not inconsistent with the Act or any statutory re-enactment thereof (if applicable) or such law which is applicable or these Rules.

33.2. If the parties so agree, the Tribunal shall also have the power to add other parties (with their consent) to the arbitration and make a single Final Award determining all disputes between them.

33.3. Where two or more arbitrations appear to raise common issues of fact or law, the Tribunals shall have the power to direct that the two or more arbitrations shall be heard concurrently and where such an order is made, the Tribunals may give such directions as the interests of fairness, economy and expedition require, including:

a. that the documents disclosed by the parties in one arbitration shall be made available to the parties to the other arbitration upon such conditions as the Tribunals may determine; and/or

b. that the evidence given in one arbitration shall be received and admitted in the other arbitration, subject to all parties being given a reasonable opportunity to comment upon it and subject to such other conditions as the Tribunals may determine.

RULE 34

34. Decision Making by the Tribunal

Where a Tribunal has been appointed, any direction, order, decision or Award of the Tribunal shall be made by the whole Tribunal or by a majority. If an Arbitrator refuses or fails to sign the Award, the signatures of the majority shall be sufficient, provided that the reason for the omitted signature is stated.

RULE 35

35. Preliminary Meetings

The Tribunal may decide at any stage that the circumstances of the arbitration require that a preliminary meeting be convened. The purpose of the preliminary meeting(s) would include, to enable the parties and the Tribunal to set out the procedure of the arbitration, review the progress of the arbitration; to reach agreement so far as possible upon further preparation for, and the conduct of the hearing; and, where agreement is not reached, to enable the Tribunal to give such directions as it thinks fit.

RULE 36

36. The Award

36.1. Unless all parties agree otherwise, the Tribunal shall make its Award in writing within 3 months from the date on which the proceedings are closed and shall state the reasons upon which its Award is based. The Award shall state its date and shall be signed by the Tribunal or a majority of the Tribunal.

36.2. The Tribunal may make interim Awards or separate Awards on different issues at different times.

36.3. All Awards shall be issued by the Tribunal or by a majority of the Tribunal in accordance with Rule 34.

36.4. By agreeing to arbitration under these Rules, the parties undertake to carry out the Award without delay.

36.5. The members of a Tribunal need not meet together for the purpose of signing their Award or for effecting any corrections thereto.

36.6. As soon as practicable after an Award has been made it shall be notified to the parties by the Tribunal serving on them, a notice in writing which shall inform the parties of the amount of the fees and expenses of the Tribunal, and which shall indicate that the Award is available for sending to, or collection by the parties upon full payment of such amount. At the stage of notification, neither the Award nor any copy thereof need be served on the parties and the Tribunal shall be entitled thereafter to refuse to deliver the Award or any copy thereof to the parties except upon full payment of its fees and expenses.

36.7. If any Award has not been paid for and collected within one month of the date of publication, the Tribunal may give written notice to either party requiring payment of the costs of the Award, whereupon such party shall be obliged to pay for and collect the Award within 14 days.

36.8. The Tribunal shall send a copy of the Award to the Chamber within 14 days from the date of collection by one of the parties.

36.9. Unless any party, by a notice in writing, informs the Chamber of its objection to publication within 60 days of the publication of an Award, the Award may be publicised by the Chamber for academic and professional purposes. The publication will be redacted to preserve anonymity as regards the identity of the parties, of their legal or other representatives and of the Tribunal.

36.10. The fee for authenticating arbitration Awards is S$ 150 and should be paid to SCMA.

RULE 37

37. Currency and Interest

37.1. The Tribunal may make an Award in any currency as it considers just.

37.2. The Tribunal may award simple or compound interest on any sum awarded at such rate or rates and in respect of such period or periods both before and after the date of the Award as the Tribunal considers just.

RULE 38

38. Additional Award

38.1. Within 30 days after the receipt of the Award, either party, with notice to the other party, may request the Tribunal to make an additional Award as to claims presented in the arbitral proceedings but omitted from the Award.

38.2. If the Tribunal considers the request for an additional Award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall notify all the parties within 7 days of the receipt of the request, that it will make an additional Award, and complete the additional Award within 60 days after the receipt of the request.

RULE 39

39. Correction of Awards and Additional Awards

39.1. Within 30 days of receiving an Award, unless another period of time has been agreed upon by the parties, a party may by notice to the Tribunal request the Tribunal to correct the Award, any errors in computation, any clerical or typographical errors or any errors of similar nature.

39.2. If the Tribunal considers the request to be justified, it shall make the correction(s) within 30 days of receiving the request. Any correction shall be notified in writing to the parties and shall become part of the Award.

39.3. The Tribunal may correct any error of the type referred to in Rule 39.1 above on its own initiative within 30 days of the date of the Award.

RULE 40

40. Settlement

40.1. If, before the Award, not being a partial Award, is made; the parties agree on a settlement of the dispute, the Tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the Tribunal, record the settlement in the form of an arbitral Award on agreed terms. The Tribunal is not obliged to give reasons for such an Award.

40.2. The parties shall:

a. notify the Tribunal immediately if the arbitration is settled or otherwise terminated;

b. make provision in any settlement for payment of the costs of the arbitration.

40.3. If the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in Rule 40.1 above, before the Award is made, the Tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The Tribunal shall have the power to issue such an order unless a party raises justifiable grounds for objection.

40.4. Copies of the order for termination of the arbitral proceedings or of the arbitral Award on agreed terms, signed by the Tribunal, shall be communicated by the Tribunal to the parties.

RULE 41

41. Costs

41.1. The Tribunal shall specify in the final Award, the costs of the arbitration and decide which party shall bear them and in what proportion they shall be borne.

41.2. "Costs of the arbitration" shall include:

a. the fees and expenses of the Tribunal; and

b. the costs of expert advice or of other assistance rendered.

41.3. The Tribunal has power to order in its Award that all or part of the legal or other costs of one party shall be paid by the other party. The Award shall fix such costs or direct the costs be taxed by the Tribunal if not agreed by the parties.

41.4. When deciding which party shall bear the costs of the arbitration and the legal or other costs of the parties and the amounts of such costs, the Tribunal may take into account any unreasonable refusal by a party to participate in mediation.

RULE 42

42. Fund Holding Terms and Charges:

42.1. A Fund Holding fee of S$1,200 per annum is payable to SCMA (not pro-rated);

42.2. A transaction fee of S$100 per transaction (excluding disbursements and/or bank charges with charges being borne by depositors) is payable to SCMA;

42.3. Interest, if any, on the deposit to accrue to the benefits of the depositors;

42.4. SCMA shall be free from any liability with respect to the funds held when acting on the instructions of the Tribunal.

42.5. The SCMA fund holding fee of S$ 1,200 per annum is payable on the date of receipt of the funds by SCMA and every year thereafter. Termination of the fund holding at any part of the year shall be considered a full year for purposes of the fund holding fee. Unless otherwise instructed, the SCMA fund holding fee, transaction fee and other disbursements incurred (if any) will be deducted from the fund holding account.

RULE 43

43. Waiver

A party which is aware of non-compliance with these Rules and yet proceeds with the arbitration without promptly stating its objection to such non-compliance shall be deemed to have waived its right to object.

RULE 44

44. Confidentiality

The parties and the Tribunal shall at all times treat all matters relating to the arbitration (including the existence of the arbitration) and the Award as confidential. A party or any Arbitrator shall not, without the prior written consent of the other party or the parties, as the case may be, disclose to a third party any such matter except:

a. for the purpose of making an application to any competent court;

b. for the purpose of or in relation to an application to the courts of any State to enforce the Award;

c. pursuant to the order of a court of competent jurisdiction;

d. in compliance with the provisions of the laws of any State which is binding on the party making the disclosure; or

e. in compliance with the request or requirement of any regulatory body or other authority which, if not binding, nonetheless would be observed customarily by the party making the disclosure.

RULE 45

45. Exclusion of Liability

45.1. The Tribunal, the Chairman, the Chamber and any of its officers, employees or agents shall not be liable to any party for any act or omission in connection with any arbitration conducted under these Rules.

45.2. After the Award has been made and the possibilities of correction and additional Awards have lapsed or been exhausted, neither the Tribunal nor the Chairman shall be under any obligation to make any statement to any person about any matter concerning the arbitration, and no party shall seek to make any Arbitrator or the Chairman or the Chamber or any of its officers, employees or agents a witness in any legal proceedings arising out of the arbitration.

RULE 46

46. Small Claims Procedure

Application

46.1. The expedited procedure set out in this Rule shall apply if the aggregate amount of the claim and/or counterclaim in dispute is less than US$150,000 (excluding interest and costs) or is unlikely to exceed US$150,000(excluding interest and costs).

46.2. This Rule may also apply to any claim in excess of US$150,000 (excluding interest and costs) if the parties agree in writing that the claim shall be dealt with under this Rule.

46.3. This Rule shall not apply if the parties expressly agree that this Rule shall not apply to that arbitration.

Time Abridgment

46.4. For the purposes of service of case statement(s) referred to in Rule 8, the time limit for each statement shall be reduced to 14 days.

Summary Determination

46.5. The Tribunal shall as soon as practicable, proceed to give directions for the determination of the matters in issue summarily.

46.6. Unless the Tribunal so requires, there shall be no oral hearing. The oral hearing if so directed shall be held for arguments only and the Tribunal may allocate and limit the time for such a hearing.

46.7. Unless the Tribunal requires the production of any document or class of documents it considers relevant for the determination of the matters in dispute, no party may seek any order for discovery, further particulars or interrogatories.

46.8. The Tribunal may draw such inferences from any document disclosed or not disclosed as the Tribunal deems appropriate.

Time for Making Award

46.9. The Tribunal shall issue the Award within 21 days either from the date of receipt of all parties' Statement of Case or, if there be an oral hearing, from the close of the oral hearing.

46.10. No reason need be given for an Award made under this procedure.

Appointment of Arbitrator(s)

46.11. Notwithstanding Rule 6.1, a sole Arbitrator shall be appointed unless parties otherwise agree.

46.12. The fees of the Arbitrator(s) shall be capped at US$5,000 or, if there is a counterclaim, US$8,000 in total per Arbitrator (which for small claims, it is usually a sole Arbitrator).

Costs

46.13. The Tribunal may order that all or part of the legal or other costs of one party shall be paid by the other party but the amount of legal costs to be paid by that other party shall not exceed US$7,000, or if there is a counterclaim, US$ 10,000 in total for each party's lawyers.

Applicability of Rules

46.14. Save as expressly provided for or modified by this Rule, all other provisions of the Rules shall apply mutatis mutandis to arbitration under the procedure set out in this Rule.

RULE 47

47. SCMA Expedited Arbitral Determination of Collision Claims (SEADOCC)

47.1. Parties seeking a determination of a dispute arising out of a collision may agree to refer the dispute to the terms of SEADOCC as set out in Schedule B.

47.2. Cost and Fees

a. The Arbitrator will be entitled to charge the rates set out in the Engagement Letter for work carried out in preparing a Liability Award or Settlement Award as described in these Terms.

b. The costs of the Arbitrator ("the Arbitrator's Costs") will be shared equally between the Parties regardless of the outcome of the SEADOCC Arbitration. The Parties shall be jointly and severally liable for payment of all the Arbitrator's Costs. Payment will be made promptly within 30 days of receiving his or her invoice. Thereafter the Arbitrator shall be entitled to charge interest at 5% per annum on any unpaid Arbitrator's Costs.

RULE 48

48. Singapore Bunker Claims Procedure (SBC Terms)

The parties to any contract for the sale and/or supply of bunkers may agree that the Singapore Bunker Claims Procedure (SBC Terms) as set out in Singapore Standards Council SS600:2014 shall apply to any or all disputes arising out of or in connection with of the contract for the sale and/or supply of bunkers.

RULE 49

49. Adjournment

If a case is for any reason adjourned part-heard, the Tribunal will be entitled to an interim payment, payable in equal shares or otherwise as the Tribunal may direct, in respect of fees and expenses already incurred, appropriate credit being given for any fee relating to the booking of premises in connection with the arbitration.

RULE 50

50. Service of Documents

Where a party is represented by a lawyer or other agent in connection with any arbitral proceedings, all notices or other documents required to be given or served for the purposes of the arbitral proceedings together with all decisions, orders and Awards made or issued by the Tribunal shall be treated as effectively served if served on that lawyer or agent.

RULE 51

51. General

51.1. Three months after the publication of a final Award, the Tribunal may notify the parties of its intention to dispose of the documents and to close the file, and it will act accordingly unless otherwise requested within 21 days of such notice being given.

51.2. In relation to any matters not expressly provided for herein the Tribunal shall act in accordance with the spirit of these Rules.

RULE 52

52. Amendment to Rules

These Rules may from time to time be amended by the Chamber.

SCHEDULE A

QUESTIONNAIRE

(Information to be provided as required in Rule 25)

As far as possible, the procedural issues should be agreed by the parties. If agreement has been possible, then this should be made clear in the answers to the Questionnaire.

1. A brief note of the nature of the claim.
2. Estimated quantum of the claim/ of any counterclaim.
3. The main issues requiring determination raised by the claim and any counterclaim.
4. Whether any amendments to the claim, defence or counterclaim are required?
5. Whether any of the issues are suitable for determination as a preliminary issue?
6. Whether there are there any areas of disclosure that remain to be dealt with?
7. Whether the arbitration will be a documents-only arbitration or whether an oral hearing is required?
8. What statement evidence is it intended to adduce and by when; and (if there is to be a hearing) what oral evidence will be adduced?
9. What expert evidence is it intended to adduce by way of reports and/or oral testimony and by when will experts' reports be exchanged?
10. Estimated length of the hearing, if any.
11. Which witnesses of fact and experts are likely to be called at the hearing, if there is to be one?
12. Estimated costs of the party with a breakdown.
13. Does either party consider that it is entitled to security for costs and, if so, in what amount?
14. Does the party consider that the case is suitable for mediation?

DECLARATION (TO BE SIGNED BY A PROPERLY AUTHORISED OFFICER OF THE PARTY COMPLETING THE QUESTIONNAIRE):

On behalf of the [Claimant/Respondent] I, the undersigned [name] being [state position in organisation] and being fully authorised to make this declaration, confirm that I have read and understood, and agree to, the answers given above.

....

Signed Dated

SCHEDULE B

SCMA EXPEDITED ARBITRAL DETERMINATION OF COLLISION CLAIMS ("SEADOCC")

THE SEADOCC TERMS

The Terms

1. These Terms relate to the maritime arbitration procedure referred to herein, which will be governed exclusively by the Singapore Chamber of Maritime Arbitration ("the SCMA").

2. This procedure will be known as the SCMA Expedited Arbitral Determination of Collision Claims ("SEADOCC") and these Terms may be referred to as "the SEADOCC Terms".

Objective

3. SEADOCC aims to provide a fair, timely and cost-effective means of determining liability for a collision in circumstances where it has not been possible or appropriate to reach such an apportionment of liability using other means of dispute resolution.

4. The purpose of arbitration under these Terms ("the SEADOCC Arbitration") is to provide a binding decision on liability ("the Liability Award") for a collision between two or more ships ("the Collision") by a single appointed Arbitrator ("the Arbitrator").

5. The Arbitrator will be appointed jointly by each Party to the dispute arising out of the collision (together "the Parties"). It is a condition precedent of the Parties taking part in SEADOCC that they agree in writing to the identity and appointment of the Arbitrator and commencement of a SEADOCC Arbitration.

6. By agreement between the Parties, the Arbitrator may also be called upon to review the quantum of the inter-ship claims and, pursuant to an agreement on the apportionment of liability between the Parties or a Liability Award under these Terms, provide a final and binding Award on the payment to be made on the balance of claims from one Party to the other ("the Settlement Award").

7. The Parties will be free to appoint any person as an Arbitrator. It is envisaged that this would be someone with legal or practical experience in dealing with claims arising from collisions between vessels, drawn from the maritime community in Singapore. The SCMA will maintain a list of Arbitrators ("the SEADOCC Panel") who have taken part in SEADOCC Arbitration and produced at least one Liability Award as defined herein.

8. The Parties hereby agree that the determination of the apportionment of liability and, where agreed between the Parties, the assessment of inter-ship claims arising out of the Collision will be conducted under the SEADOCC Terms, rather than in accordance with the procedure of the Courts of any jurisdiction. The SEADOCC Terms may however be varied by agreement between the Parties.

9. The juridical seat of the SEADOCC Arbitration shall be Singapore. Unless the parties agree to the contrary, the dispute shall be determined according to Singapore law.

10. The SEADOCC Terms shall govern the SEADOCC Arbitration save that if any of these Terms is in conflict with a mandatory provision of the International Arbitration Act (Cap 143A) and any statutory re-enactment thereof in Singapore ("the Act"), from which the Parties cannot derogate, such provisions shall prevail.

11. The SCMA will not be liable for any claims or disputes arising out of the appointment of any Arbitrator, whether chosen from the SEADOCC Panel or not. The Parties will make any such appointments at their own risk.

Initial Assessment

12. As soon as possible following the appointment of the Arbitrator, he or she will hold an initial meeting or telephone conference with the Parties to establish the nature of their dispute, the broad issues involved, the likely level of documentation and the service they require.

13. Based on this, the Arbitrator will provide an estimate of his or her likely costs for providing the Liability Award and/or Settlement Award. This will be indicative only and will not be binding on the Arbitrator.

Engagement Letter and Options

14. On appointment, the Arbitrator will provide the Parties with an engagement letter ("the Engagement Letter") clearly setting out his or her hourly rates and terms and conditions which shall be no greater than his or her usual hourly rates.

15. The Arbitrator may also seek a letter of comfort or security from the Parties' respective P&I insurers or such other body as the Arbitrator shall consider satisfactory, confirming that these insurers shall in the first instance be jointly and severally liable for settling the Arbitrator's Costs as defined herein.

Early settlement

16. If the Parties settle their dispute at any stage following the appointment of the Arbitrator ("an Early Settlement"), they will inform him or her as soon as reasonably possible.

17. The Arbitrator will be entitled to the costs and expenses of any work conducted prior to and up to the date of an Early Settlement in accordance with the Engagement Letter.

Submissions

18. The Parties shall each within 14 days of the Arbitrator's appointment provide him or her with the following documents and information (collectively "the Evidence"):

    a. A summary of the background facts of the case set out on no more than six pages of A4 paper.

    b. A maximum of one lever arch file of key documents ("The Arbitration Bundle"), which may be provided in electronic form, such as:
        i. Navigation charts;
        ii. Deck and engine logbook extracts;
        iii. Deck and engine bell books;
        iv. Engine data logger records;
        v. Course recorder extracts;
        vi. Weather forecasts and reports; if relevant
        vii. STCW Crew certificates for those officers and ratings involved in the incident;
        viii. Any photographs or notes made by the witnesses;

ix. Other ship's documents or records which may be relevant to the case;
x. Any key advices provided to the Parties by their legal advisors;
xi. Any criminal or civil reports by national maritime administrations;
xii. Any surveyors' reports; and/or
xiii. Any available AIS data.

c. Copies of any ECDIS or VDR/SVDR data, including playback software, from the respective Ships.

19. The Parties will promptly after provision of the Evidence to the Arbitrator make appropriate arrangements for the simultaneous exchange of their Arbitration Bundles.

20. The Arbitrator will review the Evidence and determine whether there is any additional information or documentary evidence ("Additional Evidence") which might assist him or her in making the Liability Award. It is envisaged that this initial review would be conducted within 14 days of the Parties providing to the Arbitrator their Arbitration Bundles. The Arbitrator will then provide a written list of any such Additional Evidence to the Parties.

21. The Parties shall within 14 days of the Arbitrator's written request provide such Additional Evidence as he or she may request. Neither Party shall be obliged to provide such Additional Evidence to the Arbitrator, but the Arbitrator may draw whatever inference he or she considers appropriate in the circumstances from any failure to do so.

22. Where Additional Evidence is provided to the Arbitrator, the Parties will at the same time serve on each other an identical copy of their respective Additional Evidence. The Parties will make appropriate arrangements for the simultaneous exchange of such Additional Evidence.

23. The Arbitrator will then prepare a draft Liability Award in writing, with reasons ("the Draft Award") on the apportionment of liability for the Collision, which he will provide to the Parties for their consideration.

24. The Parties agree that once such a Draft Award has been published they will be bound to obtain a final written Liability Award from the Arbitrator, subject to the Parties achieving an Early Settlement and regardless of whether they provide further written submissions in response to the Draft Award as set out below.

25. The Draft Award will normally be available to the Parties within six weeks after the Parties have provided such Additional Evidence as the Arbitrator may require.

26. The Parties shall within 21 days of receiving the Draft Award provide to the Arbitrator any further written submissions they may have, on not more than four pages of A4 paper, in response to the Draft Award.

27. Where the Parties provide further written submissions to the Arbitrator, the Parties will promptly make appropriate arrangements for the simultaneous exchange of such further written submissions.

28. The Arbitrator will then prepare his or her Liability Award with reasons on the apportionment of liability for the collision. The Liability Award will normally be available to the Parties within four weeks after the Parties have provided their further written submissions in response to the Draft Award.

29. It is envisaged that the timescale from the appointment of the Arbitrator to the publication of the Liability Award will be no longer than five months, and hopefully shorter than this, subject to any exceptional circumstances.

Inter-ship Claims and Settlement

30. By agreement between the Parties, the Arbitrator may also provide a Settlement Award on the payment to be made on the balance of inter-ship claims arising out of the Collision from one Party to the other.

31. The Arbitrator shall make such directions and orders as he or she considers necessary to obtain evidence on claims ("the Quantum Evidence") including invoices, vouchers and payment receipts. Having reviewed the Quantum Evidence, the Arbitrator will then provide a Settlement Award.

32. The Liability Award and any Settlement Award will be final and binding on the Parties. The Liability Award and any Settlement Award shall each have the force of an Arbitration Award made under the Act.

Costs and Fees

33. The Arbitrator will be entitled to charge the rates set out in the Engagement Letter for work carried out in preparing a Liability Award or Settlement Award as described in these Terms.

34. The costs of the Arbitrator ("the Arbitrator's Costs") will be shared equally between the Parties regardless of the outcome of the SEADOCC Arbitration. The Parties shall be jointly and severally liable for payment of all the Arbitrator's Costs. Payment will be made promptly within 30 days of receiving his or her invoice. Thereafter the Arbitrator shall be entitled to charge interest at 5% per annum on any unpaid Arbitrator's Costs.

File Closure

35. Three months after the publication of the Liability Award and/or Settlement Award (as appropriate) the Arbitrator shall notify the Parties of his or her intention to dispose of the Evidence and any other documents and to close the file. He or she will act accordingly unless otherwise requested by either Party within 21 days of such notice being given.

Law and Jurisdiction

36. Any dispute arising under these Terms shall be subject to Singapore Law and the exclusive Jurisdiction of the Singapore Courts.

Dated this [ ] day of [ ]

SCHEDULE C

SCMA ARB-MED-ARB PROTOCOL ("SCMA AMA PROTOCOL")

1. This SCMA AMA Protocol shall apply to all disputes submitted for resolution under the SCMA Arb-Med-Arb Clause or other similar clause ("SCMA AMA Clause") and/or any dispute which parties have agreed to submit for resolution under this SCMA AMA Protocol. Under the SCMA AMA Protocol, parties agree that any dispute settled in the course of the mediation at the Singapore Mediation Centre ("SMC"), Singapore International Mediation Centre ("SIMC") or any other recognized mediation institution (each of which known as the "Mediation Centre") shall fall within the scope of their arbitration agreement.

2. A party wishing to commence arbitration under the "SCMA AMA" Clause shall commence arbitration under the SCMA Rules.

3. The parties will inform the Mediation Centre of the arbitration commenced pursuant to an "SCMA AMA" Clause within 4 working days from the commencement of the arbitration, or within 4 working days from the agreement of the parties to refer their dispute to mediation under the "SCMA AMA" Protocol. The parties will send to the Mediation Centre a copy of the notice of arbitration.

4. The Tribunal shall be constituted in accordance with the SCMA Rules and/or the parties' arbitration agreement.

5. The Tribunal shall, after the exchange of the Notice of Arbitration and Response to the Notice of Arbitration, stay the arbitration. The parties will send the Notice of Arbitration and the Response to the Mediation Centre for mediation at the Mediation Centre. Upon the Mediation Centre's receipt of the documents, the Mediation Centre will inform the parties of the commencement of mediation at the Mediation Centre (the "Mediation Commencement Date") pursuant to the relevant Mediation Rules applicable at the Mediation Centre. All subsequent steps in the arbitration shall be stayed pending the outcome of mediation at the Mediation Centre.

6. The mediation conducted under the auspices of the Mediation Centre shall be completed within 8 weeks from the Mediation Commencement Date, unless, the parties in consultation with the Mediation Centre extends the time. For the purposes of calculating any time period in the arbitration proceedings, the time period will stop running at the Mediation Commencement Date and resume upon notification by either party to the Tribunal of the termination of the mediation proceeding.

7. At the termination of the 8-week period (unless the deadline is extended by the parties in consultation with the Mediation Centre) or in the event the dispute cannot be settled by mediation either partially or entirely at any time prior to the expiration of the 8-week period, the Mediation Centre shall promptly inform the parties of the outcome of the mediation, if any.

8. In the event that the dispute has not been settled by mediation either partially or entirely, either party may inform the Tribunal that the arbitration proceeding shall resume. Upon the date of such notification to the Tribunal, the arbitration proceeding in respect of the dispute or remaining part of the dispute (as the case may be) shall resume in accordance with the SCMA Rules.

9. In the event of a settlement of the dispute by mediation between the parties, the Mediation Centre shall inform the parties that a settlement has been reached. If the parties request the Tribunal to record their settlement in the form of a consent Award, the parties shall refer the settlement agreement to the Tribunal and the Tribunal may render a consent Award on the terms agreed to by the parties.

Financial Matters

10. Parties shall also pay the Mediation Centre administrative fees and expenses for the mediation ("Mediation Advance") in accordance with the respective Mediation Centre's Schedule of Fees ("the Deposit"). The quantum of the Deposit will be determined by the Mediation Centre.

11. Where a case is commenced pursuant to the "SCMA AMA" Clause and where parties have agreed to submit their dispute for resolution under the "SCMA AMA Protocol" before the commencement of arbitration proceedings, the Mediation Advance shall be paid upon the submission of the case for mediation at the Mediation Centre.

12. Any party is free to pay the Deposit of the other party, should the other party fail to pay its share. The Mediation Centre shall inform the parties if the Deposit remains wholly or partially unpaid.