ADJUSTING CIAC FEES AND CHARGES AND REVISING THE CIAC TABLES OF ARBITRATION AND MEDIATION FEES

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WHEREAS, Section 13 of Executive Order No. 1008, the Construction Industry Arbitration Law, empowers the Commission “to determine and collect fees, deposits, costs of arbitration, as well as administrative and other charges as may be necessary in the performance of its functions and responsibilities” and “to use its receipts and deposits of funds to finance its operations subject to the approval of the Philippine Domestic Construction Board (PDCB), the provision of any law to the contrary notwithstanding”;

WHEREAS, pursuant to its power and authority under the law, the Commission, in its 8th Regular Meeting held on 25 August 1989, approved the first CIAC Table of Fees for arbitration cases involving monetary claims consisting of filing fees, administrative fees, and arbitrator’s/mediator’s fees. In its 23rd Regular Meeting held on 14 July 1993, arbitration fees for non-monetary claims were approved by the Commission. The Commission, in its 37th Regular Meeting held on 28 May 1996, likewise, imposed a special assessment fee of 1/10 of 1% of the sum in dispute of cases involving claims above P1 million, to be deposited in the Arbitration Development Fund (ADF) established by the Commission to finance its Small Claims Assistance Program and to help defray the required capital outlay and expenses of the CIAC relative to the development of arbitration and other alternative dispute resolution (ADR) schemes for construction disputes nationwide;

WHEREAS, in response to the directive for an increase in government rates and charges under Executive Order No. 197 dated 13 January 2000, the Commission, in its Special Meeting held on 13 February 2001, approved the mandated minimum increase of 20% in filing fees and administrative charges under the CIAC Table of Fees. Arbitrator’s fees and the ADF special assessment fees, however, remained the same;

WHEREAS, in line with its adoption of the new Mediation Rules during the CIAC Special Meeting held on 19 November 2005, the Commission approved the Table of Mediation Fees which, in effect, superseded the old schedule of fees for mediation;

WHEREAS, it has been twelve years since the filing & administrative fees for CIAC arbitration cases were increased, and almost eight years since the fees for mediation were adjusted to 50% of the base amounts for arbitrator’s fees. The rates for arbitrators’ fees and ADF fees, on the other hand, have not been changed for the past 24 and 17 years, respectively;

WHEREAS, for the last five (5) years, the country’s inflation rates for all items have increased at an average of 4.82% per year;

WHEREAS, while the funding requirements of the CIAC from 2010 (P6,137,574.00) to the present (P9,336,404.82.00) have increased at an annual average of 13%, the administrative fees and ADF charges earned from cases resolved/settled/ dismissed/withdrawn have declined at an annual rate of 23.58% from 2010 to 2012;

WHEREAS, budgetary appropriations for the period 2010 (P2,801,523.00) to 2013 (P6,671,254.00) have been insufficient to cover CIAC funding requirements resulting in an average yearly deficit of 44.56% of the cost of CIAC services;

WHEREAS, to cover the deficits in the CIAC budget, supplemental funding from CIAC collections of administrative fees and ADF charges have been tapped to defray direct costs, overhead expenses, and other incidental charges incurred by the CIAC in rendering its services;

WHEREAS, to ensure that its fees and charges would adequately cover the budgetary shortfalls of the CIAC, thus helping in the recovery of the costs of its services and contributing to the sustainability of effective CIAC operations, upward adjustments in the fees and charges imposed by the Commission are necessary;

WHEREAS, to address this need, the Commission, in its 150th Regular Meeting held on 1 February 2013, approved the following increases in the base amounts of arbitration fees for monetary claims recommended by the Philippine Institute of Construction Arbitrators & Mediators, Inc. (PICAM), subject to the parameters for just and reasonable rates to be prescribed under the Implementing Rules and Regulations (IRR) of Administrative Order No. 31, Series of 2012, directing the rationalization of government fees & charges:

1)

Filing Fees -

20% (applying the minimum increase prescribed under E.O. 197 dated 13 January 2000)

2)

Administrative Fees -

70% (based on the amount of administrative expenses charged to the ADF from 2009 to 2011)

3)

Arbitrators' Fees

70% (based on a comparison of CIAC Fees with that of other arbitral institutions such as the Phil. Dispute Resolution Center, Inc. or PDRCI which fees are more than 100% higher than the CIAC fees);

WHEREAS, in response to the request of the Commission for its recommendations on non-monetary claims, mediation cases, and ADF charges, the PICAM also proposed the following increases/adjustments:

1)

ADF charges -

1/10 of 1.5% of the Sum in Dispute (based on a yearly average shortfall of 51.70% in ADF collections from 2009 to 2011 as against expenses charged)

2)

Arbitration Fees for non-monetary claims - same as increases in base amounts for monetary claims (Filing: 20%; Administrative Fee: 70%; and Arbitrators' Fees: 70%)

3)

Mediation Fees -

70% of base amounts (same as rates of increase for arbitration fees for uniformity);

WHEREAS, the 70% increase in administrative & arbitrator's fees recommended by PICAM, in effect, translates to an annual rate of increase of 5.4% for administrative fees since the last adjustment in 2000, and only 2.9% for

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arbitrator's fees since the approval of the original fees in 1989. These are well within the range of inflationary increases in the last five (5) years;

WHEREAS, the Commission believes that the recommended adjustments/ increases are just and reasonable taking into consideration the cost of the services rendered by CIAC; inflation over the period of years since the last approval/revision of the fees; uniformity in the imposition of the new rates; and the costs of comparable services rendered by similar institutions.

NOW, THEREFORE, THE COMMISSION, by virtue of the powers vested in it by law and after due deliberation in its 155th Regular Meeting held on 23 August 2013, RESOLVED, as it is hereby RESOLVED, to adjust the CIAC arbitration and mediation fees as recommended, and to revise the following pertinent portions of the CIAC Table of Arbitration Fees and Table of Mediation Fees accordingly:

CIAC TABLE OF ARBITRATION FEES

A. For Monetary Claims

I. SCHEDULE OF FILING AND ADMINISTRATIVE FEES

SUM IN DISPUTE[1] (M=Million)

FILING FEE[2]

ADMINISTRATIVE FEE[3]

Less than P100,000.00 P4,320.00 P10,200.00

P100,000.00 to P1.0M P4,320.00 + 0.36% of excess over P100,000 P10,200.00 + 0.24% of excess over P100,000

P1.0M to P10.0M P8,208.00 + 0.12% of excess over P1.0M P13,800.00 + 0.12% of excess over P1.0M

P10.0M to P50.0M P21,168.00 + 0.06% of excess of P10.0M P32,200.00 + 0.06% of excess over P10.0M

More than P50.0M P49,968.00 + 0.03% of excess of P50.0M P73,000.00 + 0.03% of excess over P50.0M

[1] See Rules for computing the Sum in Dispute attached as Annex "A" and made an integral part of CIAC Resolution No. 07-2013

[2] 20% increase in the base amounts approved in the CIAC Special Meeting held on 13 February 2001

[3] 70% increase in the base amounts approved in the CIAC Special Meeting held on 13 February 2001

Note: Pursuant to CIAC Res. No. 02-1996 (dtd. May 28, 1996), a special assessment fee for the establishment of the Arbitration Development Fund (ADF), equivalent to 1/10 of 1.5% of the Sum in Dispute (SID), as amended by CIAC Resolution No. 07-2013, shall be imposed on cases with SID over P1.0 Million.

II. ARBITRATOR'S FEES

(The Honoraria of the arbitrators shall consist of a Base Amount plus Adjustments to reflect complexity of the case, number of disputants and number of arbitrators

1. SUM IN DISPUTE (SID)

BASE AMOUNT (for arbitrator's fees)

< P 1 Million

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3% of SID but not < P17,000 or as may be prescribed by CIAC**

Over 1M – 5.0M

P 34,000.00 + 1.00% in excess of P1.0M

Over P5M - P10.0M

P 102,000.00 + 0.75% in excess of 5.0M

Over P10M - P20.0M

P 165,750.00 + 0.50% in excess of P10.0M

Over P20M - P50.0M

P 250,750.00 + 0.20% in excess of P20.0M

Over P50M - P100.0M

P 352,750.00 + 0.10% in excess of P50.0M

Over P100M - P500.0M

P 437,750.00 + 0.05% in excess of P100.0M***

Over P500M – P1 Billion

P 777,750.00 + 0.035% in excess of P500.0M***

Above 1 Billion

P1,075,280.00 + 0.025% in excess of P1 Billion***

*70% increase in the base amounts approved in the 8th CIAC Regular Meeting held on 25 August 1989

**70% increase in minimum amount for Arbitrator's Fee of P10,000 for small claims per Rule 20.1.1, CIAC Rules (revised December 2005)

***70% increase in base amounts prescribed under CIAC Resolution No. 05-2009 (Approving Additional Ranges & Base Amounts for Arbitrator's Fees)

B. For Non-Monetary Claims

ARBITRATION FEES FOR NON-MONETARY CLAIMS

B.1 PURELY NON-MONETARY AWARD INVOLVED SCHEDULE OF PAYMENTS*

1. Filing Fee

P4,320.00 plus 9.0% of arbitrators' fees (20% increase in the base amount approved on 13 February 2001)

- 100% upon filing of the Request for Arbitration based on estimated total arbitrators' fees for 3 sessions of 3 hours per session

- Before the final hearing, balance of the filing fee based on actual total arbitrators' fees

2. Administrative Fees

P10,200 plus 6.0% of total Arbitrators' Fees (70% increase in the base amount approved on 13 February 2001)

- 100% upon filing of the Request for Arbitration based on estimated total arbitrators' fees for 3 sessions of 3 hours per session
- Before the final hearing, balance of administrative fees based on actual total arbitrators' fees

3. Arbitrator's Fees

(70% increase in the amounts approved on 25 August 1989)

3.1 Acceptance Fee

3.2 Fees per session

For a Tribunal:

Chairman:

- Minimum of P7,650.00 per session of 3 hours or less plus P2,550.00 in excess of 3 hours

Members

- Minimum of P5,100.00 per session of 3 hours or less plus P1,700.00 per hour in excess of 3 hours

For Sole Arbitrator:

- Minimum of P12,750.00 per session of 3 hours or less plus P4,250.00 per hour in excess of 3 hours

3.3Award Drafting

P17,000.00

P17,000.00 upon filing of the Request for Arbitration

- Upon signing of the TOR, 50% of the estimated arbitrators' fees

- Before the final hearing, balance of arbitrator's fees based on actual number of sessions

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- Before the final hearing

*Amended by CIAC Resolution No. 09- 2012 (Effective 5 July 2012)

B.2. FOR NON-MONETARY CLAIMS BUT WITH MONETARY AWARD INVOLVED

- Fess will be based on the schedule of monetary claims

TABLE OF MEDIATION FEES

I. From Filing to Formulation of Settlement

Agreement A. Mediation Fees (Filing, Administrative and Mediator's Fees)

SUM IN DISPUTE

MEDIATION FEE*

1st Php 1M

1.7% of the SID

Next 4M

5M

17,000 + 0.50% in excess of 1M

Next 5M

10M

68,000 + 0.375% in excess of 5M

Next 10M

20M

110,500 + 0.25% in excess of 10M

Next 20M

50M

153,000 + 0.10% in excess of 20M

Next 50M

100M

204,000 + 0.05% in excess of 50M

Above 100M

246,500 + 0.25% in excess of 100M

B. Breakdown: 10% Filing Fee 30% Administrative Fee 60% Mediator's Fee

C. Payment Schedule**: - Full Filing and Administrative Fees upon filing of Request for Mediation

- Mediator's Fee
- 50% upon filing of Request for Mediation
- 50% upon Appointment of Mediator

*70% increase in the base amounts approved on 19 November 2005
**Pursuant to CIAC Resolution No. 09-2012 (effective 5 July 2012)

This resolution shall take effect fifteen (15) days from receipt of certified true copies thereof by the Office of the National Administrative Register, University of the Philippines Law Center.

UNANIMOUSLY APPROVED.

THE COMMISSION:

(SGD) MANUEL M. COSICO
Chairman

(SGD) ANTONIO A. ABOLA
Member

(SGD) EMILIO LOLITO J. TUMBOCON
Member

Annex A

RULES FOR COMPUTING THE SUM IN DISPUTE (SID)

1.

Where there are only two parties to arbitration or mediation:

1.1

total claims made by Claimant added to all the counterclaims made by Respondent that is not directly related to the claims (permissive counterclaims) shall constitute the sum in dispute (SID);

1.2

Compulsory counterclaims, or those directly related to the claims shall be treated only as defenses and not be added to the claims to compute the SID;

2.

Where two Respondents are sued by Claimant and a cross-claim is made by Respondent 1 against Respondent 2:

2.1

amount of a cross-claim that seeks only to pass on the liability of Respondent 1 to Respondent 2, shall not be added to the computation of the SID;

2.2

amount sought by Respondent 1 against Respondent 2 that is based on a different cause of action, shall be added to compute the SID;

2.3

amount sought by Respondent 2 against Respondent 1 that is not merely intended to defeat the cross-claim but seeks the award of amounts based on a different cause of action, shall be added to compute the SID.

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