APPROVING THE REVISED RULES OF PROCEDURE GOVERNING CONSTRUCTION ARBITRATION

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WHEREAS, the Construction Industry Arbitration Commission (CIAC), pursuant to its rule-making power granted by Executive Order No. 1008, promulgated the first Rules of Procedures Governing Construction (the "Rules") in August 1988;

WHEREAS, over the years, the Rules have been amended several times to address on an ad hoc basis the particular problems which the CIAC had during those times encountered in the administration of construction arbitration, the last amendments of which were made in August 2002;

WHEREAS, the previous amendments covered a vast range of concerns, from the filing of a case to the appointment of arbitrators, conduct of hearings, rendition of arbitral award, and execution/enforcement of arbitral awards, and other interim matters occuring in between the entire gamut of the arbitration process down to post award procedures were also considered;

WHEREAS, the Rules have been in effect for about 17 years and certain developments have occured since then in the field of alternative dispute resolution such as the passage of the Republic Act No. 9285 or the Alternative Dispute Resolution Act of 2004 which affirmed CIACs jurisdiction over disputes arising from construction contracts entered into by the parties in the Philippines, and the need to align with international practices, as far as practicable;

WHEREAS, the CIAC, responding to these developments, has created a Committee on the Revision of the CIAC Rules (the "Committee") composed of distinguished personalities in the field of ADR, headed by Prof. Alfredo F. Tadiar, incumbent legal counsel of CIAC and Chairman of the Philippine Judicial Academy's ADR Department, with the following members: Dean Custodio O. Parlade, Of counsel to Parlade, Hildawa, Parlade and Eco Law Office and former legal counsel also of CIAC; Atty. Victor P. Lazatin, incumbent President of PICA and a Senior Partner of the ACCRA Law Offices; Mr. Joven B. Joaquin, CEO of Adrian Wilson International Associates and President of ADR Management, Inc.; and Engr. Joel J, Marciano, President of Telecommunications and Computer Technologies, Inc.;

WHEREAS, the Committee, after meeting and deliberating on the revisions from August to November 2005, in close consultation with the CIAC, has finally completed the Revised Rules of Procedures Governing Construction Arbitration (the "Revised Rules") attached as Annex "A" hereof which shall form part of this Resolution;

WHEREAS, the Committee has recommended to CIAC the Revised Rules for its consideration and approval;

WHEREAS, the CIAC, during its Special Meeting held on November 19, 2005 has thoroughly reviewed the Revised Rules and finds the same to be in conformity with the direction it has provided to the Committee;

WHEREAS, Sections 6 and 21 of Executive Order No. 1008 empowers the Construction Industry Arbitration Commission (CIAC) " to enunciate policies and prescribe rules and procedures for construction arbitration" and "to formulate necessary rules and procedures for construction arbitration"

NOW, THEREFORE, we the undersigned Commissioners by virtue of the powers vested in us by law do hereby resolve as it is hereby resolved to APPROVE the REVISED RULES OF PROCEDURES GOVERNING CONSTRUCTION ARBITRATION which shall govern all arbitration proceedings conducted under the auspices of CIAC upon its effectivity.

UNANIMOUSLY APPROVED.

Adopted: 19 Nov. 2005

THE COMMISSION

(SGD.) SEDFREY A. ORDONEZ

Chairman

(SGD.) ISAAC S. DAVID

(SGD.) SAMSON C. LAZO

Member

Member

REVISED RULES OF PROCEDURE
GOVERNING CONSTRUCTION ARBITRATION

RULE 1
POLICY AND OBJECTIVES

SECTION 1.1. Statement of Policy and Objectives - It is the policy and objective of these Rules to provide a fair and expeditious resolution of construction disputes as an alternative to judicial proceedings, which may restore the disrupted harmonious and friendly relationships between or among the parties.

SECTION 1.2 Applicability of rules - These Rules are applicable to proceedings in arbitration before an Arbitral Tribunal of one or more Arbitrator/s.

SECTION 1.3 Judicial rules not controlling - In any arbitration proceedings under these Rules, the judicial rules of evidence need not be controlling, and it is the spirit and intention of these Rules to ascertain the facts in each case by every and all reasonable means without regard to technicalities of law or procedure.

RULE 2
JURISDICTION

SECTION 2.1 Jurisdiction - The CIAC shall have original and exclusive jurisdiction over construction disputes, which arose from, or is connected with contracts entered into by parties involved in construction in the Philippines whether the dispute arose before or after the completion of the contract, or after the abandonment or breach thereof. These disputes may involve government or private contracts.[1]

2.1.1 The jurisdiction of the CIAC may include but is not limited to violation of specifications for materials and

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workmanship; violation of the terms of agreement; interpretation and/or application of contractual provisions; amount of damages and penalties; commencement time and delays; maintenance and defects; payment default or employer or contractor and changes in contract cost.[2].

SECTION 2.2 Coverage - Construction dispute shall include those between or among parties to, or who are otherwise bound by, an arbitration agreement, directly or by reference, whether such parties are project owner, contractor, subcontractor, fabricator, project manager, design professional, consultant, quantity surveyor, bondsman or issuer of an insurance policy in a construction project. [3]

2.2.1 The CIAC shall continue to exercise original and exclusive jurisdiction over construction disputes although the arbitration is commercial pursuant to Section 21 of R.A. 9285 or the Alternative Dispute Resolution Act of 2004.

2.2.2 Excluded from the coverage of this Rules are disputes arising from employer-employee relationships, which shall continue to be covered by the Labor Code of the Philippines.

SECTION 2.3 Condition for exercise of jurisdiction - For the CIAC to acquire jurisdiction, the parties to a dispute must be bound by an arbitration agreement in their contract or subsequently agree to submit the same to voluntary arbitration.

SECTION 2.4 Jurisdictional challenge - A motion to dismiss based on lack of jurisdiction shall be resolved by the appointed arbitral tribunal.

SECTION 2.5 Non-Waiver of jurisdictional challenge - A party does not waive its right to challenge the jurisdiction of CIAC by any of the following acts:

a. participating in the nomination process including challenging the qualifications of a nominee;
b. praying for extension of time to file appropriate pleading/motion to dismiss;
c. opposing an application for interim relief;
d. filing of motion to dismiss/suspend;

RULE 3
REQUEST FOR ARBITRATION/COMPLAINT

SECTION 3.1 Filing - Any party to a construction contract desiring to avail of arbitration shall file its Request for Arbitration in the prescribed form and number of copies to the Secretariat of the CIAC.

SECTION 3.2 Preconditions - The claimant against the government, in a government construction contract, shall state in the complaint/request for arbitration that (1) all administrative remedies have been exhausted, or (2) there is unreasonable delay in acting upon the claim by the government office or officer to whom appeal is made, or (3) due to the application for interim relief, exhaustion of administrative remedies is not practicable.

3.2.1 The Claimant in a private construction contract has the same obligation as the above to show similar good faith compliance will all preconditions imposed therein or exemptions therefrom.

3.2.2 In case of non-compliance with the precondition contractually imposed, absent a showing of justifiable reasons, exemption, or a waiver thereof, the tribunal shall suspend arbitration proceedings pending compliance therewith within a reasonable period directed by the Tribunal.

SECTION 3.3 Request to answer - The CIAC Secretariat shall within three (3) days from filing, transmit to the Respondent a request for his Answer, attaching thereto a copy of the complaint and the Request for Arbitration together with the annexed documents

SECTION 3.4 Commencement of Arbitral Proceedings - The date when the Request for Arbitration is filed with CIAC shall, for all intents and purposes, be deemed to be the date of commencement of the proceedings.

RULE 4
EFFECT OF AGREEMENT TO ARBITRATE

SECTION 4.1 Submission to CIAC jurisdiction - An arbitration clause in a construction contract or a submission to arbitration of a construction dispute shall be deemed an agreement to submit an existing or future controversy to CIAC jurisdiction, notwithstanding the reference to a different arbitration institution or arbitral body in such contract or submission.[4]

4.1.1. When a contract contains a clause for the submission of a future controversy to arbitration, it is not necessary for the parties to enter into a submission agreement before the Claimant may invoke the jurisdiction of CIAC.

4.1.2 An arbitration agreement or a submission to arbitration shall be in writing, but it need not be signed by the parties, as long as the intent is clear that the parties agree to submit a present or future controversy arising from a construction contract to arbitration.

It may be in the form of exchange of letters sent by post or by telefax, telexes, telegrams, electronic mail or any other mode of communication.

SECTION 4.2 Failure or refusal to arbitrate - Where the jurisdiction of CIAC is properly invoked by the filing of a Request for Arbitration in accordance with these Rules, the failure despite due notice which amounts to a refusal of the Respondent to arbitrate, shall not stay the proceedings notwithstanding the absence or lack of participation of the Respondent. In such case, CIAC shall appoint the arbitrator/s in accordance with these Rules. Arbitration proceedings shall continue, and the award shall be made after receiving the evidence of the Claimant.

4.2.1 In the event that, before award, the Respondent who had not earlier questioned the jurisdiction of the Tribunal, appears and offers to present his evidence, the Arbitral Tribunal may, for reasons that justifies the failure to appear, reopen the proceedings, require him to file his answer with or without counterclaims, pay the fees, where required under these Rules, and allow him to present his evidence, with limited right to cross examine witnesses already presented in the discretion of the Tribunal. Evidence already admitted shall remain. The Tribunal shall decide the effect of such controverting evidence presented by the Respondent on evidence already admitted prior to such belated appearance.

SECTION 4.3 When Arbitration cannot proceed - Where the contract between the parties does not provide for arbitration and the parties cannot agree to submit the dispute(s) to arbitration, the arbitration cannot proceed and the Claimant/s shall be informed of that fact.

RULE 5
ANSWER/COUNTERCLAIMS

SECTION 5.1 Time to Answer - The Respondent shall, within fifteen (15) days from receipt of the Request for Arbitration/Complaint, file its answer thereto including such counterclaim/s as it may assert. For justifiable reason/s, Respondent may apply to CIAC for an extension of time to file its answer. If Respondent fails to do so, the arbitration shall proceed in accordance with these Rules.

SECTION 5.2 Transmittal of answer - A copy of the answer shall be transmitted in sufficient copies to the Claimant and to CIAC.

SECTION 5.3 Reply to counterclaim - The Claimant shall file a reply to the counterclaim with CIAC and shall

furnish the Respondent a copy thereof within fifteen (15) days from date of receipt of the answer with counterclaim.

RULE 6
SUBMISSION AND COMMUNICATIONS/NOTICES

SECTION 6.1 Number of copies - All pleadings and written statements submitted by the parties, as well as all documents attached thereto, shall be in sufficient copies to provide one copy for each party, plus one for each Arbitrator, and one for the Secretariat.

SECTION 6.2 Notices - Notifications or communications from the Secretariat and/or the Arbitrator(s) shall be validly made if they are delivered against receipt or forwarded by registered mail to the address or last known address of the party/ies for whom the same are intended as notified by the party/ies in question or by the other party/ies as appropriate.

6.2.1 Notification or communication shall be deemed to have been effected on the date when actually or constructively received.

RULE 7
CONFIDENTIALITY

SECTION 7.1 Confidentiality of proceedings - The arbitration proceedings shall be considered confidential and shall not be published except (i) with the consent of the parties, or (ii) when necessary in case resort to the Court is made under the Rules of Court. The term "arbitration proceedings" shall include communications to or from CIAC, the pleadings, applications and other papers filed with CIAC, sworn statements, documentary and testimonial evidence, reports and minutes taken of the proceedings, and other orders, decision, award or resolution issued by the Arbitrator(s).

SECTION 7.2 Violation of confidentiality - Any person who violates the immediately preceding confidentiality provision shall be subject to the following sanctions:

7.2.1 If the violator is a lawyer, administrative action or proceeding to be conducted by CIAC, with proper notice and hearing, for inhibition or prohibition from appearing as counsel for any party in any arbitration case before CIAC for a period not exceeding six (6) months; without prejudice to suspension or disbarment action before the Integrated Bar of the Philippines (IBP), at the instance of CIAC.

7.2.2 If the violator is a duly licensed and registered professional, administrative/disciplinary action before the Professional Regulation Commission (PRC), at the instance of CIAC.

RULE 8
QUALIFICATIONS OF ARBITRATORS

SECTION 8.1 General Qualification of arbitrators - The Arbitrators shall be men of distinction in whom the business sector and the government can have confidence. They shall be technically qualified to resolve any construction dispute expeditiously and equitably. The Arbitrators shall come from different professions. They may include engineers, architects, construction managers, engineering consultants, and businessmen familiar with the construction industry and lawyers who are experienced in construction disputes.

SECTION 8.2 The Arbitrators must be CIAC-accredited - Except as otherwise provided under Section 9.1.2 below, only CIAC-accredited arbitrators may be nominated by parties or by the first two arbitrators appointed as the third arbitrator of a Tribunal and appointed by CIAC as arbitrator. A replacement arbitrator shall likewise be a CIAC-accredited arbitrator.

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SECTION 8.3 Arbitrators not permanent employees of CIAC - The Arbitrators shall render service only when called upon to arbitrate a construction dispute.

SECTION 8.4 Exemptions from civil liability for official acts - Arbitrators shall not be civilly liable for acts done in the performance of their official duties except in clear case of bad faith, malice or gross negligence as provided in Section 38 (1), Chapter 9, Book 1 of the Administrative Code of 1987.

Rule 9
NOMINATION AND APPOINTMENT OF ARBITRATORS

SECTION 9.1 Number of arbitrators - A Tribunal of one or three Arbitrators may be appointed to settle a dispute in accordance with the provisions hereunder.

9.1.1 The parties shall submit the name/s of not more than six (6) nominees from CIAC-accredited arbitrators in the order of their preference for appointment as arbitrators. The common nominee/s of the parties shall be appointed, subject to their availability and other considerations. Should there be no common nominee, CIAC shall return the lists of nominees to the parties and ask them to make an agreement on a common nominee/s within 48 hours.

9.1.2 If there is no such agreement on a common nominee, CIAC shall appoint one arbitrator from among the respective nominee/s of each party giving due consideration to their desired order of preference in so far as it may be accord with applicable CIAC policies. However, as an exception to this rule, CIAC may appoint to an Arbitral Tribunal, an arbitrator who is not CIAC accredited PROVIDED that the nominee: 1) is the parties' common nominee; 2) possesses the technical/legal competence to handle the construction dispute involved; and 3) has signified his availability/acceptance of his possible appointment.

9.1.3 In the absence of an agreement on the number of arbitrators, CIAC taking into consideration the complexities and intricacies of the dispute/s or the sum involved, has the option to appoint a Sole Arbitrator or an Arbitral Tribunal.

9.1.4 In case of multiple parties, whether as Claimant or as Respondent, including three (3) or more parties in the arbitration, where all parties are unable to agree to a method for constitution of the Tribunal within ten (10) days from notice, CIAC shall appoint the arbitrator/s.

SECTION 9.2 Sole Arbitrator - Where the parties have agreed that the dispute(s) shall be settled by a Sole Arbitrator, each party shall have the right to nominate six arbitrators. If any or both of the parties fail to submit the names of their nominees within the period/s prescribed by CIAC, a Sole Arbitrator shall be appointed by CIAC.

9.2.1 CIAC shall appoint as Sole Arbitrator the common nominee of the parties who is available and not be disqualified. In the absence of a common nominee or in cases where the common nominee is disqualified or is not available, CIAC may appoint a Sole Arbitrator or an Arbitral Tribunal. If CIAC decides to appoint a Sole Arbitrator, it may select an arbitrator who is not a nominee of any one of the parties and who is not disqualified and is available for appointment.

SECTION 9.3 Arbitral Tribunal - Where the parties agree that the dispute shall be resolved by an Arbitral Tribunal, each party shall have the right to nominate six arbitrators from the list of CIAC-accredited arbitrators. If there is no common nominee, CIAC shall choose and appoint, as members of the Tribunal, one arbitrator from the claimant's nominees and another arbitrator from respondent's nominees. The Third Arbitrator shall be selected by the two Arbitrators first chosen within fifteen (15) days from acceptance of their appointment. The three arbitrators shall decide from among themselves who will be the Chairman. In case of failure to agree on the third

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member within such period, CIAC shall, within fifteen (15) days thereafter, appoint the third member from its list of accredited arbitrators.

9.3.1 If there is a common nominee, CIAC shall appoint the nominee and one from each list submitted by the parties. The three arbitrators appointed shall designate their Chairman. If there are two common nominees, CIAC shall appoint them and the third member who shall be selected by the first two appointees within the period prescribed above. If there are three common nominees, all of them shall be appointed. The appointees shall designate their Chairman.

SECTION 9.4 Conditions for appointment of foreign arbitrator [5]. A foreign arbitrator not accredited by CIAC may be appointed as a co-arbitrator or chairperson of an arbitral tribunal for a construction dispute under the following conditions:

a. the dispute is a construction dispute in which one party is an international party[6] , i.e. one whose place of business is outside the Philippines. For this purpose, the term international party shall not include a domestic subsidiary of such international party or a co-venturer in a joint venture with a party which has its place of business in the Philippines.

b. the foreign arbitrator to be appointed is not a national of the Philippines and is not of the same nationality as the international party in the dispute;

9.4.1 Procedure for appointment of foreign arbitrator - The foreign arbitrator must be nominated by the international party or is the common choice of the two CIAC-accredited arbitrators one of whom was nominated by the international party. The nomination must be accompanied by a resume or bio-data of the nominee relevant to qualifications as a construction arbitrator and a signed undertaking of the nominee to abide by CIAC arbitration rules and policies.

SECTION 9.5 Disqualification of or non-acceptance by nominees - If the nominee(s) of a party shall be disqualified or fail or refuse to accept the appointment, CIAC shall choose and appoint any qualified arbitrator who is willing to be so appointed.

SECTION 9.6 Challenge - An Arbitrator may be challenged by a party at any time after his appointment but before award upon the following grounds:

a. relationship by blood or marriage within the sixth degree of either party to the controversy, or to counsel within the fourth degree, computed according to the rules of civil law.

b. financial, fiduciary or other interest in the controversy.

c. partiality or bias,

d. incompetence, or professional misconduct.

A party may also request the inhibition of an arbitrator upon other just and valid reasons affecting independence, integrity, impartiality and interest.

9.6.1 A motion for inhibition or a request for the disqualification and replacement of an arbitrator shall be treated as a challenge.

9.6.2 The challenge, motion or request shall be in the form of a complaint under oath, stating distinctly and concisely the facts complained of, supported by affidavits, if any, of persons having personal knowledge of the facts therein alleged and shall be accompanied with copies of such documents as may substantiate said facts.

9.6.3 The arbitrator concerned shall be given by CIAC an opportunity to be heard. He may, without admitting the existence of the ground of the challenge, motion or request, choose to inhibit himself but his decision shall be subject to approval by CIAC.

9.6.4 In case the challenged arbitrator is allowed to inhibit himself or is removed, CIAC shall promptly appoint his replacement. If the arbitrator concerned is the third member of the Arbitral Tribunal, the first two members thereof shall select his replacement.

9.6.5 The decision of CIAC to retain or replace an arbitrator shall be final.

SECTION 9.6 Disqualification of mediator as arbitrator - An Arbitrator who acted as conciliator/mediator in a case previously brought before him for conciliation/mediation cannot act as arbitrator for the same case when brought to arbitration, unless both parties consent to his appointment in writing.

RULE 10
APPOINTMENT AND ACCEPTANCE OF ARBITRATORS

SECTION 10.1 Communication of appointments - The Secretariat shall communicate to the arbitrators their appointment.

SECTION 10.2 Disclosure by arbitrator of disqualification - Upon acceptance of his appointment, the Arbitrator shall disclose in writing to CIAC any circumstance likely to create in either party a presumption of bias or which he believes might disqualify him as an impartial Arbitrator. Such written disclosure shall be communicated to the parties immediately by the Secretariat. The purpose of such disclosure shall be to enable either party to investigate and ascertain whether there is a substantial legal basis to file a motion for inhibition of the arbitrator concerned or seek his replacement.

SECTION 10.3 Acceptance or refusal - The arbitrator must communicate to CIAC the acceptance or refusal of his/her appointment within five (5) days from receipt thereof. If no communication is received within the prescribed period, CIAC shall appoint a replacement.

SECTION 10.4 Vacancies - If any Arbitrator should resign, be incapacitated, refuse or be unable, or be disqualified for any reason to perform the duties of his office, CIAC may, within five (5) days from the occurrence of a vacancy or refusal/inability to accept appointment, appoint a substitute(s) to be chosen.

RULE 11
PRELIMINARY CONFERENCE/TERMS OF REFERENCE

SECTION 11.1 - Notice of Conference - The Arbitrator/Arbitral Tribunal shall set the case for preliminary conference not later than 15 days after appointment of arbitrator(s) and a notice to the parties thereof shall forthwith be sent to finalize the Terms of Reference as provided in RULE IX below, a draft copy of which is attached thereto and to consider the following among others:

a. possibility of amicable settlement;
b. necessity or desirability of amendments to pleadings;
c. obtaining stipulations or admission of facts and/or documents to avoid unnecessary proof;
d. limitation of the number of witnesses;
e. suggested formulation of issues by the parties;
f. application for interim relief, appointment of experts and necessity of site inspection; and
g. such other matters as may aid in the just and speedy disposition of the case.

SECTION 11.2 Introduction of the arbitrators - At the start of the preliminary conference, the arbitrator/s shall

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introduce themselves to the parties paying particular attention to matters related to professional training and experience.

SECTION 11.3 Disclosure - During the preliminary conference the Arbitrator who had failed to make his or her written disclosure required in the previous section shall disclose any circumstance likely to give rise to justifiable doubts as to impartiality or independence, including financial or personal interest in the outcome of the arbitration and any existing or past relationships with any individual or corporate party together with their respective relatives or principal stockholders/officers or foreseeable participant in the proceedings. On the basis of such disclosure, either party may ask clarificatory questions thereon that may lead to a decision to move for inhibition or accept the appointment.

SECTION 11.4 Terms of Reference - This document functions like a pre-trial order in judicial proceedings and controls the arbitration proceedings unless corrected for manifest errors by motion filed not later than the hearing date.

11.4.1 Contents - The TOR shall include the following particulars:

a. the full names of the parties, and their respective counsels, if any;
b. the addresses and contact numbers of the parties/counsels, to which notifications or communications arising in the course of the arbitration may validly be made;
c. a summary of the parties' respective claims;
d. full statement of admitted facts and documents;
e. the issues to be resolved in question form;
f. the Arbitrators' full names;
g. the place where arbitration proceedings shall be held;
h. the breakdown, schedule of payments, and sharing of arbitration fees;
i. such other particulars as may be required by the Arbitral Tribunal for the proper and speedy adjudication of the case.

11.4.2 Signing- The Terms of Reference (TOR) - shall be signed on each and every page thereof, by the parties together with their respective counsel and the Arbitral Tribunal immediately after finalization thereof. In any case, the TOR must be finalized and signed not later than five (5) days from inception.

SECTION 11.5 Arbitration to Proceed Even without TOR - In the exercise of the sound discretion of the Arbitral Tribunal, arbitration shall proceed even without the TOR on the basis of the issues formulated by the pleadings filed by the parties.

SECTION 11.6 Submission for Decision - No factual issue being in dispute, the case may be deemed submitted for decision without an oral hearing and on the basis of documentary evidence already submitted.

RULE 12
VENUE

SECTION 12.1 Venue, Date and Time of Hearing - The venue, date and time of the arbitral proceedings shall be mutually agreed upon by the parties and the Arbitral Tribunal. In the event of disagreement, the choice of venue made by the Arbitral Tribunal shall prevail.

RULE 13
ARBITRATION PROCEEDINGS

SECTION 13.1 Order of Proceedings - A hearing shall be opened by recording of the place, time and date of

hearing, the presence of the Arbitral Tribunal, parties, and witnesses, if any. The names and addresses of all witnesses and exhibits in the order received shall be made part of the record.

13.1.1 Quorum - Two members of a tribunal shall comprise a quorum for the purpose of conducting a hearing.

SECTION 13.2 Briefing on Rules and procedures - At the initial hearing, the Arbitral Tribunal shall inform the parties of the general rules and procedures on arbitration proceedings, stressing peculiarities from judicial proceedings, its strict adherence to time bars, its policies against postponements and other matters to insure a speedy and fair disposition of the issues.

SECTION 13.3 Order of presentation - It shall be within the discretion of the Arbitral Tribunal to determine the order of presentation of evidence. Generally, the party who seeks to enforce a right or establish a claim shall be required to present its evidence first, followed by the other party.

SECTION 13.4 Expeditious Procedures - The Arbitral Tribunal shall at all times adopt the most expeditious procedures for the introduction and reception of evidences, and shall have complete control over the proceedings, but in any case shall afford full and equal opportunity to all parties to present relevant evidence.

SECTION 13.5 Evidence - The parties may offer such evidence as they desire and shall produce such additional documents and witnesses as the Arbitral Tribunal may deem necessary to clear understanding of facts issues for a judicious determination of the dispute(s). The Arbitral Tribunal shall act according to justice and equity and merits of the case, without regard to technicalities or legal forms and need not be bound by any technical rule of evidence. Evidence shall be taken in the presence of the Arbitral Tribunal and all of the parties, except where any of the parties is absent, or has waived his right to be present.

13.5.1 Order to produce documentary evidence - Upon motion of either or both of the parties, or on its own initiative, the Arbitral Tribunal may direct any person, board, body, tribunal, or government office, agency or instrumentality, or corporation to produce real or documentary evidences necessary for the proper adjudication of the issues.

13.5.2 Order to give testimony - The Arbitral Tribunal may, likewise, direct any person to give testimony at any proceedings for arbitration.

SECTION 13.6 Affidavit in lieu of direct testimony - The Arbitral Tribunal shall require the simultaneous submission of affidavits of witnesses in lieu of their direct testimonies attaching thereto pertinent documents supportive of their respective declarations. These documents shall be properly marked for purposes of identification.

SECTION 13.7 Examination by the Arbitral Tribunal - The Arbitral Tribunal may ask clarificatory questions of the witnesses at any stage of the proceedings.

SECTION 13.8 Documentary evidence - As a general rule, no documentary evidence(s) presented and offered shall be rejected unless the same is found by the Arbitral Tribunal to be completely irrelevant.

SECTION 13.9 Offer of documents - All documents not offered with the Arbitral Tribunal at the hearing but which are arranged at the hearing subsequently by agreement of the parties to be submitted, shall be filed within five (5) days from the termination of the hearing. All parties shall be afforded opportunity to examine such documents.

SECTION 13.10 Site Inspection - The Arbitral Tribunal may, motu proprio after notice to the parties, or upon motion of a party, conduct a site inspection of any building, place or premises, including any work, material, implement, machinery, appliance or any object therein. The Tribunal in deciding on the necessity of a site

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inspection, may consider whether a video or pictorial presentation may suffice.

13.10.1 Costs including transportation, accommodations, meals, rental fee for the video/still camera, services, video tape recording, copy of pictures and other expenses shall be equally shared by both parties. In special cases upon the order of the Arbitral Tribunal, the party who seeks this video and will benefit from it shall bear the expenses.

SECTION 13.11 Adjournments - The Arbitral Tribunal for good cause shown, may adjourn the hearing upon his/its own initiative or upon the request of one of the parties. Adjournment shall not be more than five (5) working days.

13.11.1 Hearings may be adjourned for more than five working days when such have been suspended due to payment defaults of any or both of the parties. The Arbitral Tribunal shall order the suspension of hearings upon advice by CIAC of non-payment of arbitration fees by one or both parties. Hearings shall resume upon notice by CIAC of compliance by the defaulting party/ies.

SECTION 13.12 Arbitration in the absence of the party - The Arbitration may proceed despite the absence of any party who after due notice fails to be present or fails to obtain an adjournment. An award, however, shall not be made solely on the default of a party. It shall be made on the basis of evidence submitted and proven.

SECTION 13.13 Closing of the hearings - After the submission of the draft decision/final memorandum of arguments and/or the lapse of the period given for the submission thereof, the proceedings is considered closed and no further pleading/papers shall be filed nor accepted for filing.

SECTION 13.14 Reopening of hearing - The hearing may be reopened by the Arbitral Tribunal on their own motion or upon the request of any party, upon good cause shown, at any time before the award is rendered. When hearings are thus reopened, the effective date for the closing of the hearing shall be the date of closing of the reopened hearing.

SECTION 13.15. Summation - The Arbitral Tribunal may direct the parties to may make a brief oral summation at the end of the oral hearing.

SECTION 13.16 Submission of memoranda or draft decisions - If any or both of the parties so desire, written memoranda or draft decisions may be submitted at least ten (10) calendar days from the termination of the hearing or from the date of the filing of additional documents as previously agreed upon, whichever is later.

13.16.1 If both parties agree to submit memoranda or draft decisions, the filing shall be simultaneous.

SECTION 13.17 Award or decision on the pleadings - Instead of a formal hearing, the parties may agree to submit the issues for resolution after the filing of pleadings, evidence, memoranda or draft decision.

SECTION 13.18 Period to make a final award - The number of days within which an award shall be made will start from the date of the termination of the hearing, or from the filing of additional documents, or from the submission date of memoranda, pleadings, documents or evidences whichever is later.

RULE 14
INTERIM RELIEF

SECTION 14.1 Interim measures - In the course of the proceedings, the Arbitral Tribunal may, upon the request of either or both parties or upon its own initiative, issue orders as is necessary to attain the following objectives:

a. to ensure the enforcement of the award;
b. to prevent irreparable loss or injury or deterioration of property;

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c. to minimize or avoid undue delays in project or contract implementation;
d. to provide security for the performance of any obligation;
e. to produce or preserve any evidence;
f. such other measures deemed by the Arbitral Tribunal to be necessary to prevent a miscarriage of justice or abuse of rights of any of the parties.

14.1.1 The order granting provisional relief may be conditioned upon provision of security for any act or omission specified in the order.

14.1.2 Such interim measures may include but shall not be limited to preliminary injunction directed against a party, appointment of receivers or detention, preservation, inspection of property, that is the subject of dispute in arbitration. Either party may apply to the Court for assistance in implementing or enforcing an interim measure ordered by an Arbitral Tribunal.

RULE 15
APPOINTMENT OF EXPERTS

SECTION 15.1 Appointment of experts[7] - The service of technical or legal experts may be utilized if requested by any of the parties or if deemed necessary by the Arbitral Tribunal. If the request for an expert is made by either or by both of the parties, the necessity of such appointment must be confirmed by the Arbitral Tribunal before issuing an appointment.

15.1.1 Whenever the parties request for the services of an expert, they shall equally shoulder the expert's fees and expenses, half of which shall be deposited with the Secretariat before the expert renders services. When only one party makes the request, it shall deposit the whole amount required. If the request for an expert is by the Arbitral Tribunal, the cost of such service(s) shall be considered part of the arbitration expenses which may be ordered to be paid by the losing party or by both parties as the Arbitral Tribunal in his/their award may adjudge, in the absence of a provision in the TOR signed by the parties relative to the sharing of these expenses; provided, however, both parties consented to the hiring of an expert.

RULE 16
THE ARBITRATION AWARD

SECTION 16.1 Time of award - The award shall be rendered promptly by the Arbitral Tribunal within thirty (30) days from the time the case is submitted for resolution but not more than six (6) months from the date of signing of the TOR, or in cases where a TOR is absent, not more than six (6) months from the date of the last preliminary conference called for the purpose of finalizing and/or signing of the TOR. There shall be no extensions of time unless approved by the CIAC.

SECTION 16.2 Form of award - The Final award shall be in writing and signed by the Arbitral Tribunal. A dissent from the decision of the majority or a portion thereof shall be in writing and signed by the dissenting member.

SECTION 16.3 Contents of the final award - Generally, the Final Award shall contain the issues involved, a brief statement and discussion of the facts, and the authority relied upon for the resolution or disposition of the issues.

SECTION 16.4 Award upon settlement - If the parties settle their dispute (s) during the course of the arbitration, the Arbitral Tribunal, upon their request, may set forth the agreed settlement as an Arbitral Award.

16.4.1 Settlement as award - A compromise agreement settled by mediation under CIAC mediation rules shall be treated as an arbitral award if so expressly stipulated by the parties in the settlement agreement.

SECTION 16.5 Decision as to costs of arbitration - In the case of non-monetary claims or where the parties agreed that the sharing of fees shall be determined by the Arbitral Tribunal, the Final Award shall, in addition to dealing with the merits of the case, fix the costs of the arbitration, and/or decide which of the parties shall bear the cost(s) or in what proportion the cost(s) shall be borne by each of them.

SECTION 16.6 Termination of jurisdiction - The jurisdiction of the Arbitral Tribunal over the dispute is terminated upon the finality of the Final Award or Decision. Where an appeal is taken from a decision or Final Award, and the appellate court directs a re-hearing or a hearing on the merits on any issue arising in the case, jurisdiction terminates only upon a final disposition of the case by the appellate court and/or a final determination of all incidental matters thereto.

SECTION 16.7 Notification of award to parties - Once a Final Award has been made, provided that the costs of the arbitration have been fully paid to the Secretariat by the parties or by one of them, the Secretariat shall provide the parties through their respective counsel a copy of the Final Award signed by the Arbitral Tribunal.

16.7.1 Additional copies certified true by the Executive Director of the Secretariat shall be made available, on request and at any time, to the parties or their counsel but to no one else.

SECTION 16.8 Filing of Award - The original of an arbitral award shall be filed with the Secretariat.

RULE 17
POST-AWARD PROCEEDINGS

SECTION 17.1 Motion for correction of final award - Any of the parties may file a motion for correction of the Final award within fifteen (15) days from receipt thereof upon any of the following grounds:

a. an evident miscalculations of figures, a typographical or arithmetical error;
b. an evident mistake in the description of any party, person, date, amount, thing or property referred to in the award.
c. Where the arbitrators have awarded upon a matter not submitted to them, not affecting the merits of the decision upon the matter submitted;
d. Where the award is imperfect in a matter of form not affecting the merits of the controversy.

17.1.1 The filing of the motion for correction shall interrupt the running of the period for appeal.

17.1.2 A motion for correction upon grounds other than those mentioned in this Section shall not interrupt the running of the period for appeal.

SECTION 17.2 Motion for reconsideration or new trial - A motion for reconsideration or new trial shall be considered a prohibited pleading.

RULE 18
EXECUTION OF FINAL AWARD

SECTION 18.1 Execution of Award - A final arbitral award shall become executory upon the lapse of fifteen (15) days from receipt thereof by the parties.

SECTION 18.2 Petition for review - A petition for review from a final award may be taken by any of the parties within fifteen (15) days from receipt thereof in accordance with the provisions of Rule 43 of the Rules of Court.

SECTION 18.3 Entry of Judgment - If a petition for review is filed from a final award and a temporary restraining order (TRO) is issued by the appellate court, such award shall become executory only upon the issuance of the entry of judgment of the appellate court, or upon the lapse/lifting of the TRO or lifting of the preliminary

injunction.

SECTION 18.4 Effect of petition for review - The petition for review shall not stay the execution of the final award sought to be reviewed unless the Court of Appeals directs otherwise upon such terms as it deems just.

SECTION 18.5 Execution/enforcement of awards - As soon as a decision, order or final award has become executory, the Arbitral Tribunal shall, with the concurrence of CIAC, motu proprio or on motion of the prevailing party issue a writ of execution requiring any sheriff or proper officer to execute said decision, order or final award.

18.5.1 The writ of execution shall direct the sheriff or other officer to conduct the sale of property on execution in accordance with Section 15 of Rule 39 of the Rules of Court. In the case of sale of real property or personal property not capable of manual delivery, the auction sale shall be held at the office of the sheriff serving the writ. Upon proper application by the sheriff, with notice to the parties, CIAC may authorize the sale to be held in the place where the property is located.

SECTION 18.6 Stay of execution pending review - Execution issued under the preceding Section may be stayed upon approval by the Arbitral Tribunal with the concurrence of CIAC, of a bond posted by the petitioner in an amount equal to the award, conditioned upon the performance of the judgment of the appellate court in case it upholds the award in whole or in part. Such bond shall be posted within such period of time, which shall in no case be less than fifteen (15) days, as may be granted by the Arbitral Tribunal during the hearing on the motion for execution and the opposition thereto. The Surety Company posting the bond shall be agreed upon the parties during the Preliminary Conference. Upon failure to agree, the Surety Company's acceptability shall be decided upon by the CIAC.

SECTION 18.7 Effect of reversal of award - Where an award is partially or totally reversed on appeal, the Arbitral Tribunal may, on proper motion, issue such order of restitution or reparation of damages as equity and justice may warrant under the circumstances.

RULE 19
POST-EXECUTION PROCEEDINGS

SECTION 19.1 Motion for relief not covered by the Rules - Every motion or other paper filed in connection with the execution of an award not expressly authorized by the Rules shall be charged a filing fee of Php 3000.00 or as may be prescribed by CIAC.

RULE 20
SMALL CLAIMS

SECTION 20.1 Small Claims - Cases where the claim does not exceed P1 million shall be categorized as a small claim thereby entitled to special procedures of disposition and reduced fees.

20.1.1 A small claims case shall be handled by a sole arbitrator whose fees shall be a fixed rate of 3% of the claim but not less than P10,000.00 or as may be prescribed by CIAC. The expenses of the sole arbitrator and CIAC staff consisting of actual expenses for travel, accommodations, and administrative costs for at most two (2) days incurred for hearing if held outside of Metro Manila shall be borne by CIAC.

20.1.2 All prescribed periods under normal procedure shall whenever practicable, be abbreviated to fifty percent (50%) of that required.

RULE 21
GENERAL MATTERS

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SECTION 21.1 Recording of proceedings - Proceedings before an Arbitral Tribunal may be recorded by means of any audio and/or audio-visual recording equipment such as, but not limited to, tape recorders and video cameras, or if a stenographer is available, either through stenographic notes or minutes taken of the proceedings. All recordings on tapes, films, cassettes, disks, or diskettes shall be done by the CIAC and shall remain in its custody for safekeeping and eventual disposal after the resolution of the case. Copies of such recordings including transcripts and minutes of the proceedings shall be made available to the parties upon request for nominal fee. The arbitral Tribunal may opt to dispense with the use of recording devices or stenographic services and take down notes of the proceedings. Such notes taken shall be filed with CIAC and shall be part of the records of the case. Copies of the notes filed shall be made available to the parties, upon request, at reproduction cost.

SECTION 21.2 Control Over proceedings - The Arbitral Tribunal shall exercise complete control over all proceedings to insure a speedy, adequate and justifiable disposition of the disputes and cases submitted to them for resolution.

SECTION 21.3 Extent of power of arbitrator - The Arbitral Tribunal shall decide only such issues and related matters as are submitted to them for adjudication. They have no power to add, to subtract from, modify, or amend any of the terms of the contract or any supplementary agreement thereto, or any rule, regulation or policy promulgated by the CIAC.

SECTION 21.4 Interpretation and application of Rules - The Arbitral Tribunal shall interpret and apply these Rules in so far as they relate to his/its powers and duties. Where there is a difference of opinion among the Arbitrators in an arbitral tribunal concerning the meaning of application of these Rules, the same shall be decided by a majority vote.

SECTION 21.5 Attendance of hearings - Persons having direct interest in the arbitration are entitled to attend the hearings. It shall be discretionary upon the Arbitral Tribunal to determine the propriety of the attendance of any other person. The Arbitral Tribunal shall have the power to require the exclusion of any witness.

SECTION 21.6 Waiver of Rules - Any party who proceeds with the arbitration after knowledge that any provision or requirement of these Rules has not been complied with and fails to state his objection thereto in writing, shall be deemed to have waived his right to object.

SECTION 21.7 Freedom to settle - The parties shall be free to settle the dispute(s) anytime even if the same is under arbitration. In such case, the actual expenses incurred for arbitration shall be charged against the deposit. If the deposit is insufficient, the parties shall equally shoulder the balance.

21.7.1 The parties may either jointly withdraw or submit their compromise agreement to CIAC for the rendition of an award by the Arbitral Tribunal, if the latter have already been appointed. Where the arbitrators have been appointed and proceedings have commenced, the arbitration fees to be charged the parties shall be in accordance with the stage of proceedings.

RULE 22
COSTS

SECTION 22.1 Expenses and deposit - Arbitration expenses shall include the filing and administrative fees, arbitrator's fees, ADF Charges and fee and expenses of the expert, and others which may be imposed by CIAC.

22.1.1 The filing and administrative fees, ADF charges, and arbitrator's fees for monetary, non-monetary and small claims and the schedules of payment therefor shall be in accordance with the CIAC-approved Table of Administrative Charges and Arbitrator's Fees.

22.1.2 Expert's fees shall be determined and paid for in accordance with Section 15.1.1. of the Rules

SECTION 22.2 The CIAC may fix the fees of the Arbitral Tribunal at a figure higher or lower than that which would result from the application of the Table of Fees if in the exceptional circumstances of the case, the same appears to be necessary.

RULE 23
REPEALING CLAUSE

SECTION 23.1 The old rules and all policies issued in connection therewith, as well as policies inconsistent herewith are hereby repealed.

RULE 24
SEPARABILITY CLAUSE

SECTION 24.1 Separability - If for any reason or reasons, any portion or provision of these Rules shall be held unconstitutional or invalid, all other parts or provisions not affected shall thereby continue to remain in full force and effect.

RULE 25
EFFECTIVITY

SECTION 25.1 These Rules shall take effect fifteen (15) days after its publication at least once in a newspaper of general circulation and the filing of three (3) certified copies thereof with the Office of the National Administrative Register, U.P. Law Center.

Adopted: 19 Nov. 2005

(SGD.) SEDFREY A. ORDONEZ

Chairman

(SGD.) ISAAC S. DAVID

(SGD.) SAMSON C. LAZO

Member

Member

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[1] Section 4, EO No. 1004

[2] Ibid.

[3] Section 35, R.A. 9285

[4] China Chang Jiang Energy Corporation (Philippines) versus Rosal Infrastructure Builders, and the Court of Appeals September 30, 1996, G.R. No. 125706; National Irrigation Administration (NIA) v. Hon. Court of Appeals (November 17, 1999, G.R. No. 129169)

[5] Section 37, R.A. 9285

[6] Section 3 (p), R.A. 9285

[7] Section 15, E.O. No. 1008

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