RULE 1

1. Definitions

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

1.2. In these Rules:

Commentary: definitions have been expanded in certain respects for additional clarity and to cater for possible amendments to rules on appointment of sole arbitrators and guidelines to be published with the new version of the Rules and from time to time thereafter.

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

"Appointment Request" means a written notice from one party to another party where the former (i) identifies the person it has appointed as its own Arbitrator; (ii) requests the latter to appoint its own Arbitrator and give written notice to the former that it has done so; and (iii) states that it will appoint its own Arbitrator as the sole Arbitrator unless the latter appoints its own Arbitrator and gives written notice to the former that it has done so within 14 days of the latter's receipt of the former's request to do so, or such other time as may be agreed.

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

"Chamber" means the Singapore Chamber of Maritime Arbitration.

"Consent Award" means an arbitral Award on terms agreed between the relevant parties.

"Final Award" means the final Award determining the dispute between the parties. One or more partial Awards, deciding some elements of the parties' claims, may be rendered prior to the Final Award.

"Practice Note" mean the guidelines published by the Registrar from time to time to aid the implementation of these Rules.

"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$400,000 made under Rule 46.

Commentary: See detailed comments under Rule 46 for rationale.

"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, Service of Documents, 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 unless the Tribunal is satisfied that the transmission had failed, or notice had been received on a later day.

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.

COMMENTARY ON RULE 3.2:

The Committee has considered whether the "deemed notice" provision in Rule 3.2 might be improved (or the need for reliance on a deemed notice provision might be avoided) by reference to the most up to date technology for demonstrating receipt of electronic communications made by the many different means now available. Consultees with specialist technical skills are encouraged to respond with detailed, workable proposals that might be shortly but comprehensively expressed and included in a modified Rule 3.2.

3.3 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.

3.4. 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

COMMENTARY ON RULE 4:

Limited amendments to Rule 4.1 and 4.2 are outlined for efficiency and to enable introduction of a new rule 6.3 (a) (vide infra and if favoured in the result of the consultation) for a party to appoint its nominated arbitrator as sole arbitrator if the other party fails to appoint.

Additional provisions are included to apply in relation to the modified Small Claims Procedure outlined in possible amendments to Rule 46 (which may be applied upon a party's application in the Chairman's discretion) including a requirement to indicate, where possible, the quantum of the claim.

In summary, the Committee considered that:

a. **For institutional arbitrations, the commencement of arbitration is often a time-consuming and logistically complicated process. During this process, the correspondence between parties and the institution tends to cause further delay, and also opens up the possibility of the Respondent deploying delay tactics.**

b. **In comparison, the ad-hoc model in maritime arbitration is and should remain much more straightforward. The Claimant can still commence the arbitration by serving a notice of arbitration on the Respondent which may take the very simple form of a letter or email and the upfront cost of commencing arbitration is accordingly much lower. The possible amendments do not impair this distinction and advantage. They also bring early focus to the possibility of the cheaper and expedited Small Claims Procedure (in its possible enlarged scope and form)**

c. **In practice, many parties in arbitration view the commencement of arbitration as a strategic tactic. It is for this purpose imperative that the cost and time required of the commencement be as minimal as possible.**

Accordingly, the committee saw no imperative to make substantial amendments to Rule 4.1 and 4.2 which reflect a "minimalist" approach in terms of procedural hurdles in the 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 including any choice of law clause found in such contract;

e. an Appointment Request, if 3 Arbitrators are to be appointed;

f. the name(s) of the Claimant's proposed Arbitrator(s), if a sole Arbitrator is to be appointed; and

g. a brief statement describing the nature of the claim, and where possible, an indication of the amount of the claim.

4.2. The Notice of Arbitration may also indicate whether the Claimant intends to request the application of the Small Claims Procedure in Rule 46 to the arbitration.

4.3 Where the Claimant makes an application to invoke the Small Claims Procedure, Rule 46 shall apply in addition to Rules 4.1 and 4.2 above.

COMMENTARY ON RULE 4.3:

The expanded scope of the expedited procedure that would become available in the Small Claims regime by the possible amendments to it (see below at Rule 46), militate in favour of these additional requirements being imposed on the Claimant when commencing arbitration, if the Claimant intends to invoke that procedure. The adoption of Rule 4.3 would also draw attention to Rule 46 at the earliest stage of an arbitration and promote economy in use of arbitral resources in suitable cases.

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;

b. the name and contact details of the Arbitrator appointed by the Respondent, if 3 Arbitrators are to be appointed;

COMMENTARY ON RULE 5.1.b:

Amendment to Rule 5.1.b. is made purely for clarity

c. the name(s) of the Respondent's proposed Arbitrator(s) and comments (if any) on the Claimant's proposed Arbitrator(s), if a sole Arbitrator is to be appointed; and

d. a brief statement describing the nature of the Respondent's defence and any counterclaim and, where possible, an indication of the amount of any counterclaim.

5.2. The Response may also indicate whether the Respondent intends to request the application of the Small Claims Procedure in Rule 46 to the arbitration.

5.3 Where the Claimant has made an application in the Notice of Arbitration to invoke the Small Claims Procedure, or if the Respondent intends to apply to invoke the Small Claims Procedure, the Respondent shall (as the case may be) respond to the Claimant's application or set out the Respondent's application in the Response pursuant to Rule 46.

COMMENTARY ON RULE 5.3:

R. 5.3. is added to draw the Respondent's attention to Rule 46 (Small Claims Procedure) and the additional requirements thereunder where either party makes an application to invoke the Small Claims Procedure.

Case management begins after these stages and the more that is known about the dispute serves to facilitate bespoke, effective, and robust case management. For example, the Rule 8 timelines presently total 90 days and the rule does not provide an express power in the Tribunal to foreshorten them in appropriate cases. This tends towards standard management with timelines, which may be wholly excessive and cause undue delay. A good reason for not providing for expedited procedures as such in the rules, is to provide the means for a Tribunal to achieve as much expedition in the identification and determination of a dispute, in every case, as is possible.

RULE 6

6. Appointment of Tribunal

6.1. The parties may, notwithstanding any of the provisions in Rules 6 and 7, 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 Rules 6 and 7. A sole Arbitrator shall be appointed unless the parties have agreed otherwise, including if the parties have agreed that the SCMA BIMCO Arbitration Clause (2013) as set out in these Rules shall apply.

COMMENTARY ON RULE 6.1:

This is a very significant possible rule change and, if adopted, would be distinctively consistent with Singaporean practice in other arbitral fields. The default under the IAA is one arbitrator (although Model Law provides for three arbitrators).

The wording used in Rule 9.1 of the SIAC Rules is:

"A sole arbitrator shall be appointed in any arbitration under these Rules unless the parties have otherwise agreed".

Pros

1. **Cheaper to have one arbitrator compared to three arbitrators.**
2. **Quicker for one arbitrator to make decisions compared to three arbitrators.**
3. **Provides an advantage when compared with other rules.**
4. **Three arbitrators by default is too expensive, time consuming and unnecessary in many more cases than in which three arbitrators can objectively be justified.**

Cons

5. **There will be difficulty in changing existing market /industry perception where SCMA is known for having three arbitrators.**
6. **Change will affect existing contracts incorporating an SCMA arbitration clause in the form which provides for the form of the rules current at the commencement of the arbitration to apply. At time of agreement, parties may have agreed to SCMA arbitration in the expectation that there would be three arbitrators.**
7. **Runs contrary to perception that a Tribunal of three persons is more likely to arrive at the correct decision (especially since there is presently no right of appeal for international arbitration in Singapore).**
8. **Creates inconsistency with the BIMCO SCMA Model Clause which provides for three arbitrators (noting that amending the BIMCO Model Clause may be challenging but also noting that the BIMCO Clause has three arbitrators but with one in case of default of appointment.**
9. **Less opportunity for developing experience of new arbitrators unless there is more recourse to SCMA arbitration.**
10. **Issue of costs/efficiency will be adequately addressed by raising limit for small claims.**

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 Response, the Chairman shall appoint the sole Arbitrator upon the application of any of the parties. The Chairman is not bound to appoint any candidate proposed by the parties. Where either party has made an application under Rules 4.2 or 5.2 to invoke the Small Claims Procedure, the Chairman in appointing the sole Arbitrator shall consult the Secretariat and ensure that the availability of the sole Arbitrator to be appointed allows the arbitral proceedings to be conducted in accordance with the Small Claims Procedure.

6.3. Subject to Rule 7, if 3 Arbitrators are to be appointed:

a. each party shall appoint 1 Arbitrator, and the 2 Arbitrators thus appointed shall appoint the third Arbitrator. If a party fails to appoint an Arbitrator and give notice that it has done so within 14 days of the receipt of an Appointment Request from the other party, the latter may, without the requirement of further prior notice to the former, appoint its Arbitrator as sole Arbitrator and shall advise the former accordingly. The Award of the sole Arbitrator shall be binding on both parties as if he or she had been appointment by agreement;

b. the 2 Arbitrators appointed pursuant to [Rule 6.3.a] may at any time thereafter appoint a third Arbitrator so long as they do so before any substantive hearing or forthwith if they cannot agree on any matter relating to the arbitration, and if the 2 said Arbitrators do not appoint a third Arbitrator within 14 days of one calling upon the other to do so, the Chairman shall on application of either Arbitrator or of a party appoint the third Arbitrator;

COMMENTARY ON RULES 6.2 AND 6.3:

In R.6.2 and R.6.3, the Committee had the following deliberations:

Pros

(1) **Cheaper and quicker for arbitration to proceed with 1 arbitrator in cases where the claim is undefended.**

(2) **Brings the SCMA Rules in line with the SCMA BIMCO Arbitration clause.**

Cons

(3) **IAA does not have equivalent of s 17 of English Arbitration Act 1996. The IAA (and Model law) provides for appointment by an appointing authority.**

(4) **At present, SCMA Model Clause does not spell out the appointment procedure. SCMA Model clause may need to be amended to spell out the appointment procedure as it involves changing the number of arbitrators from three to one.**

(5) **Change will affect existing contracts incorporating SCMA Model arbitration clause. At time of agreement, parties may have agreed to SCMA arbitration in the expectation that there would be three arbitrators even if the claim is not defended.**

(6) **Less opportunity for developing arbitrators.**

(7) **Less income for SCMA - no more appointment fees in undefended cases.**

(8) **Reliance on this type of appointment provision in the possible Rule 6.3 a. (especially without the same statutory foundation as exists in an English seated arbitration) to found the validity of a Tribunal's appointment and jurisdiction, may be challenged in some enforcement jurisdictions.**

While there is no equivalent or similar provision under the IAA or the Model Law, members of the committee have been informed by representatives of parties operating in the maritime sphere that this was a very effective means of driving a case to a quick result because it brings all the advantages of a sole arbitrator in a case where the respondent has no defence and is merely intent on putting off the proceedings. It was suggested that this amendment encourages a timely response from Respondents to appoint an arbitrator and would assist in managing the costs of the tribunal. The SCMA Chairman may hear and determine a challenge to such appointments.

6.4 The Chairman is not bound to appoint any of the candidates proposed by the parties or the tribunal. If the parties have agreed on any special qualifications required of the arbitrator to be appointed, the parties or the tribunal shall declare such qualifications to the Chairman at the time of application.

6.5 An appointment service fee of S$1,500 is payable to the Chamber before release of the appointment letter. The parties are jointly and severally liable for payment of the appointment service fee. If full payment is not received at the time of release of the appointment letter, the party applying for the appointment shall make the full payment of S$1,500 and seek recovery through their claims from the other party.

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

6.7. The parties shall be jointly and severally liable for all fees of and expenses incurred by arbitrators in discharging their duties when appointed in accordance with these Rules, apart from the appointment fee payable, under Rule 6.5 above which shall in the first instance be paid in full by each appointing party to the arbitrator appointed by it; and each party shall pay one half of the appointment fee of the third arbitrator. In default of any other form of agreement between the parties and the arbitrators as to terms of engagement and payment of the Tribunal's fees and expenses, the Tribunal will be deemed to have been appointed on the Terms of Appointment which are referred to at Schedule [X] of these Rules as agreed between the arbitrator/s and the parties or as duly completed by the Tribunal and provided to the parties within 14 days of its constitution.

[The agreement or due completion of the Terms of Appointment and their binding effect between the parties and the arbitrators, is subject always to any right of a party to apply to a Court or other competent authority for a review or assessment or taxation of fees and expenses paid to the Tribunal which may exist under the law of the seat of the arbitration. For the avoidance of doubt, the exercise of such right shall not entitle a party to withhold any payment due to the Arbitrators under the Terms of Appointment but in the event of any reduction or disallowance of fees or expenses paid, the arbitrators shall within 14 days of such review, assessment or taxation, refund any excess paid to the party or parties entitled to receive it.]

COMMENTARY ON RULE 6.7:

The part in square brackets may be put in the Standard Terms of Appointment or remain in the amended Rule. The rationale is to remove the increasingly less used provision for booking fees and replace them completely with agreed cancellation fees in a standard form agreement. Arbitrators will be asked before appointment about their rates and terms of appointment (which commonly include cancellation fees - if arbitrators do charge them – and many do not; especially in cases with short hearings in prospect) and so the high likelihood is that the parties will agree the scheduled standard terms of appointment. If they do not, the terms will stand subject to the option of applying for a review. The provision, whether to apply as a rule or as a standard term of engagement, is drawn broadly using alternative descriptions of an assessment to fit with the right to have arbitrators' fees reviewed that may exist in different seats. This will allow the complete deletion of Rule 29 which is unwieldy and confusing. It will put the onus on arbitrators to be clear and up front about their terms and charges from the outset and it will enable parties to ask a prospective arbitrator for his terms in advance of appointment on the standard "Terms of Appointment". The request for a quote may thus be reduced to asking for the gaps in the SCMA standard form (if adopted) to be filled in by the arbitrator.

6.8. 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, including the following details:

a. Nationality of parties;

b. Counsel (if any);

c. Quantum of claim and/or counterclaim (if any);

d. Substantive law of the agreement or contract that governs the dispute(s); and

e. Seat of the arbitration.

COMMENTARY ON RULE 6.8:

Tribunals applying SCMA Rules often fail to comply with this requirement and many arbitrations proceeding under SCMA Rules by choice of the parties (on occasions without prior express contractual provision that they should apply) go under the SCMA radar and impair the Secretariat's knowledge and ability to develop recourse to SCMA arbitration with parties and in trades and regions where it may (unknown to the Secretariat) gain a foothold. The additional information required from Tribunals under the possible amendment to the Rule is not an unduly onerous imposition and will serve better to impress upon arbitrators the need for the information required and how it may be used to develop and promote arbitration under SCMA Rules.

6.9. 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;

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

c. any challenges raised in respect of the jurisdiction of the Tribunal, which shall be resolved by the Tribunal;

In any of the above circumstances, 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 with differing interests 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. Time for Service of Case Statements

8.1. Within 14 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 14 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 14 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.

COMMENTARY ON RULE 8.3:

These are significant possible amendments to this Rule designed to promote speed and efficiency for users. Instead of a default timespan (often not complied with and further extended) for the procedural course of filing Statements of Case of 90 days, the overall period may be reduced if these changes are adopted by more than half its length to 42 days.

The Committee's belief is that in the vast majority of maritime cases with modern means of communication and transmission of documents, current allowances of time and limits, fashioned in different times and under different conditions, require reconsideration. The fact that unduly long periods are still allowed becomes all the more obvious and unacceptable in cases where there is no defence or the decision turns on a short point of fact or of construction; and the timelines are obviously being exploited by respondents putting off the day of reckoning for as long as possible.

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

RULE 9

9. Contents of Case Statements

9.1. Each case statement shall contain the fullest possible particulars of the party's claim, defence or counterclaim.

9.2. It shall thus:

a. shall state fully the facts and contentions of the law relied upon by the party;

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

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

d. 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 statements referred to in Rules 8 or 11 must be accompanied by all the documents on which that party relies to support its case.

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 shall 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 liability to the Tribunal until all outstanding fees and expenses have been paid in full.

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 a

Final Award or termination order. 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.

13.6 The Tribunal may order that any security provided or paid in accordance with these provisions shall be held by the Chamber under Rule 42 or under such other arrangement as agreed by the parties.

COMMENTARY ON RULE 13.6:

The Committee was concerned to receive and share reports from clients, users and parties in SCMA arbitration not about any deficiency in this rule but in relation to how it is sometimes applied (or not properly applied) by arbitrators in requiring excessive amounts of security at too early a stage in the reference and without providing proper estimates to justify the extent of security - stage by stage in the reference.

There is also a measure of responsibility in parties for failing to inform Tribunals of the fact that for various reasons, they might not wish the Tribunal to embark immediately upon detailed consideration of statements of case or the setting of a procedural course.

For these reasons the Committee seeks the views of consultees on guidance that might be included in Practice Guidance Notes to be issued in conjunction with new version of the Rules for parties, practitioners and arbitrators in relation to this Rule and the requirement of security by a Tribunal for its fees.

The possible addition of a new Rule 13.6 is intended to alert parties to a facility which is not known or forgotten with the result that more expensive means of providing security or deposit holding are undertaken.

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 an 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

Note: Commentaries on Rules 16 – 18 are set out after Rule 18.

16. Challenge to the Arbitrators

16.1. An Arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence, or if the arbitrator does not possess qualifications agreed to by the parties.

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

RULE 16A

16A. Challenge Procedure

16A.1. 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.

16A.2. 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 became known to that party.

16A.3. The Notice of Challenge shall state the reasons for the challenge.

16A.4. While the challenge is pending, the Tribunal may continue the arbitration proceedings and make an Award.

16A.5. 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 a challenge under Rule 16A and the challenged Arbitrator does not withdraw, the party who brought the challenge may refer the matter to the Chairman for decision.

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.

COMMENTARY ON RULES 16 TO 18 (CHALLENGE PROCEDURE):

The questions arising with respect to Rules 16 to 18 concern overlapping issues and are dealt with together.

The starting point for considering the challenge procedure in the Rules and any rights of appeal is the context of such a procedure within the Model Law.

Article 13 of the Model Law provides:

1. **that parties are free to agree to a challenge procedure, subject to item (3) below;**
2. **a default challenge procedure where no procedure has been agreed;**
3. **a limited right to have a challenge application determined by the Singapore High Court following a decision arising out of the agreed or default challenge procedure (as explained below).**

The current Rule 16 sets out a challenge procedure, as follows:

- **Rule 16.1 – 16.3: the grounds on which an arbitrator may be challenged, reflecting those set out in Article 12(2) in the Model Law.**

- **Rules 16.4 – 16.6: a reasoned notice of challenge must be delivered to the tribunal within 14 days of appointment/circumstances of challenge become known.**
- **Rule 16.7: proceedings may continue pending determination of the challenge.**
- **Rule 16.8: the other party may agree to the challenge; the arbitrator may withdraw.**

Rule 17 provides that the Chairman of the SCMA shall decide any challenge and that any such decision "shall not be subject to any appeal".

Rule 18 concerns the "removal of the Tribunal". It provides for such removal in certain circumstances that appear similar to those set out in Article 14 of the Model Law.

In the Committee's view, Rules 16 and 17 could be re-cast into three rules to make clear what the test for challenge is, what is the challenge procedure and how the challenge will be determined. We consider that the current Rule 18 could be deleted as it is otiose and serves to cause confusion (explained below).

We advance as possible desirable amendments the following revised wording (supra). This wording tracks Article 12(2) of the Model Law in terms of the test for a challenge. By stipulating the challenge procedure clearly as a separate rule, it is easier to read this in conjunction with Article 13 of the Model Law and to understand that this is a procedure agreed by the parties pursuant to Article 13(1) therein. The new Rule 17 provides that the decision of the Chairman on the challenge is not subject to appeal, in other words there is no appeal within the mechanics of the SCMA Rules. However, this does not and cannot, override the mandatory provision of Article 13(3) of the Model Law which provides for a limited right for the court to decide a challenge. The right is limited in the sense that it is only available to the challenging party where the challenge has been rejected under the challenge procedure. The mechanism is not an appeal but a de novo application to court for a decision.

The current Rule 18 refers to the removal of an arbitrator. It is a separate process from the challenge procedure. In the committee's view it is not appropriate for arbitration rules to purport to confer on a court the right to determine an application to remove an arbitrator, the grounds on which such an application ought to be determined and who has standing before the court to make arguments. These matters are set out in Article 14 of the Model Law. Further, the rule generates confusion as to how it relates to the challenge procedure. For these reasons, if after consultation the amendments to the Challenge Procedure were favoured, the committee would propose that Rule 18 as it is currently framed be deleted.

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; and

b. determine all disputes arising under or in connection with the transaction or the subject of the reference, no matter whether such dispute arises before or after the reference was commenced, always having regard to the scope of the arbitration agreement and any question of law arising in the arbitration.

COMMENTARY ON RULE 20:

Part of this Rule has been moved to Rule 25 so as to provide in one rule for the conduct of the proceedings, which is framed to strike the right balance between party autonomy in their arbitration proceedings (which is to be distinguished from lawyer autonomy) and the duty of a Tribunal to progress the reference as described in Rule 25.1. See further below in the comments on Rule 25.

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.

COMMENTARY ON RULE 22:

The committee gave careful consideration to Sub-rules 22.1 and 22.3.

The committee considered in relation to Rule 22.1 whether SCMA should move, as SIAC has done, away from having Singapore as the default seat when the parties

agree SCMA Rules and do not otherwise agree the seat. The option to agree a different seat exists under the rules. Singapore connected parties sometimes do agree SCMA Rules but with a London seat. It can cause problems as there are some tensions between the Rules as they presently exist and the arbitration law so chosen. The committee took the view that the SCMA should aim to keep some distinctive features of arbitrating maritime cases in Singapore so that it is best to offer by default, a distinctive, Singaporean, Model Law maritime arbitration (very often with parties from civil law/model law jurisdictions in this region) that can be re-seated if the parties so choose.

Rule 22.3 concerns the venue for hearings and meetings of the arbitration, and provides that Singapore shall be the default. The benefit of such a provision is that it promotes certainty. It avoids the need to determine the venue in every case. The sub-rule does, however, preserve the ability for parties to apply to the tribunal for there to be a different venue(s) in appropriate cases. The tribunal can also direct for the venue to be somewhere other than Singapore in appropriate circumstances. The committee was not aware of an instance where the stipulation of a default venue has given rise to practical difficulty. Perhaps the highest criticism that can be levelled against the sub-rule is that it is not really necessary. Many rules of arbitration and most arbitration agreements do not stipulate the venue for an arbitration. In such circumstances the venue is typically discussed and agreed at an early stage of the proceedings. If there were a pressing reason for the venue to be a place other than Singapore, the sub-rule provides a means of changing it, either through agreement of the parties or by direction of the tribunal.

For these reasons, the committee has not provided any draft amendment to Rule 22 for consultation, but consultees are nonetheless invited to express their views on whether any change is desirable and explain why.

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

[Consider moving this Rule to precede Rule 10]

25. Conduct of the Proceedings

25.1. It is the Tribunal's duty to ensure the just, expeditious, economical and final determination of the dispute.

25.2. The Tribunal shall have the widest discretion in such matters allowed by the law governing the arbitration and, while having regard to any agreement between the parties, shall not be bound by it.

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

a. decide all procedural and evidential matters;

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

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.

25.4 The parties may agree any procedural or evidential matter, including the extension or abbreviation of any time limit provided by these Rules, subject always to the Tribunal's overriding discretion under Rule 25.2.

25.5. 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.

COMMENTARY ON RULE 25:

The possible amendments to this Rule 25 (to be considered with the more demanding/inquiring questionnaire set out in a new draft of Schedule A below) are designed to put out to consultation for possible adoption in SCMA arbitration, the idea that to make maritime arbitration more efficient and more economical for parties, the balance between party autonomy and tribunal control of proceedings, requires some adjustment from the present situation in which party agreement (obviously influenced by lawyers) might trump

a Tribunal's efforts to determine a dispute more speedily and efficiently than if the parties and lawyers are left to their own devices.

It needs to be made clear expressly, that it is not intended to facilitate or promote institution-like control over the processes of maritime arbitration or to fundamentally change the practice and approach of maritime arbitrators; but the members of the committee have encountered frequent lamenting (not from lawyers) but from parties and others funding resolution of their disputes, about delays and cost in maritime arbitration that could have been avoided with more robust direction from tribunals – and it has heard from arbitrators in riposte, pointing to liberties being taken by agreement between parties (or their lawyers) which caused the delay.

Thus, the modified rule for consultation first expressly states the duty of the Tribunal of ensuring justice, expedition and economy (instead of merely conferring the discretion to achieve those objectives). The possible new rule twice (in sub-rules 25.2 and 25.4) highlights the scope for party agreement and the requirement for consideration of such agreement by the Tribunal; but ultimately provides that the Tribunal shall decide what procedure to follow in discharging the duty imposed on it.

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

27.1 Subject to Rule 27.3, any party may be represented by any authorised representative (whether or not that person is a legal practitioner). The Tribunal may require such proof of a representative's authority as it considers appropriate.

27.2 The name and address of each authorised representative shall be notified promptly to the other party or parties and to the Tribunal.

27.3 Any change by a party to its authorised representative(s), after the Tribunal has been constituted, shall be subject to the Tribunal's approval, which may be withheld if the Tribunal is satisfied that there is a substantial risk that such change might prejudice the conduct of the proceedings or the enforceability of any Award.

COMMENTARY ON RULE 27.3:

This possible change is intended to deal with the potential adverse effect of, or deliberate mischief in late changes of representation having the potential, or designed to impede or prejudice the arbitral process; or embarrass the tribunal in its constitution. It reflects similar rules existing elsewhere and/or the generally recognised power and discretion in tribunals to deal with such threats to the integrity of the process.

RULE 28

28. Hearings

28.1. The Tribunal shall decide whether or not there is to be a hearing or the matter is to proceed on documents-only, save that if both/all parties agree [or a party requests that] that a hearing is to take place then a hearing shall be held.

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. The Tribunal is not obliged to consult the parties before fixing a hearing [but they shall be given sufficient advance notice of it taking place]. A hearing may be held in person, via video-conference or in any other manner which the Tribunal deems appropriate.

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.

COMMENTARY ON RULE 28:

This is a small but hugely important possible change to the rules. In its present form, Rule 28 is probably alone responsible for much of the dissatisfaction amongst users and potential users with the way in which SCMA arbitration operates, in the large majority of cases which would be capable of being determined under the SCMA Rules.

The present rule imposes a mandatory obligation upon SCMA Tribunals to hold a hearing (by some means) in every case - absent party agreement to proceed on a documents-only basis. It is frequently exploited by the savvy respondent without any real defence, intent only on delay and often with the objective of thwarting a meritorious claim by an impecunious claimant, which cannot pre-fund the hearing in whatever form it might be arranged.

The tactics of not participating and not agreeing to determination on a documents-only basis in obviously suitable cases, are often deployed in conjunction with a refusal or failure by

such a party to pay its share of the security required by a tribunal, thus imposing the whole of the burden and cost on a claimant which in some cases it simply cannot bear.

The Rule in its current form is an excessive implementation of Article 24.1 of the Model Law which deals with "Hearings and written proceedings" which only requires that a hearing be held at an appropriate stage of the proceedings *"if so requested by a party".*

The possible amendment reflects two approaches in the draft – one where the parties agree upon adopting the Rules, that the Tribunal shall decide, without requiring agreement; and even in the face of a request by either party to hold one; to decide whether to hold a hearing or not. To adopt that approach, which confers complete discretion on the tribunal runs the risk of challenge to the award or upon enforcement in some jurisdictions, on the ground that the Rule and a decision made under it to refuse a party a hearing, offends against a mandatory provision of law.

The second approach is the safe and better bet of requiring a hearing if the parties agree or any one requests that a hearing should to take place (in conjunction with expressly flagging up the economical and convenient means by which the tribunal might direct it should take place). The views of consultees on the possible technical legal objections to the utmost discretion being conferred by rule in relation to holding hearings; and the desirability of being able to achieve determination of cases without a hearing on a documents-only basis; are critical in deciding how the SCMA ought to proceed on this vital issue.

COMMENTARY ON RULE 29:

See detailed commentary set out under Rule 6.7

RULE 30

30. Witnesses

30.1. The Tribunal shall 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 statements sworn under oath or affirmation. If a witness does not attend the hearing to give oral evidence, the Tribunal may place such weight on his or her 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 or her written or oral report, participate in a hearing. At the hearing, the parties may question him or her and 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 law governing the 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:

i. vary or supplement its claims or counterclaims; and

ii. amend any case statement.

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 to provide further information about its case;

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

i. 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; and

j. make such orders or give such directions as it deems fit in so far as they are not inconsistent with the law governing the arbitration.

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

34.1 Save as provided in Rule 34.2 and Rule 34.3, 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. The view of the presiding Arbitrator shall prevail in relation to a decision, order or Award in respect of which there is neither unanimity nor a majority.

34.2. Before the third Arbitrator has been appointed or if the position has become vacant, the 2 Arbitrators appointed pursuant to [Rule 6.3.a], if agreed on any matter, shall have the power to make decisions, orders and Awards in relation thereto.

COMMENTARY ON RULE 34.2:

We raise the possibility of an amendment that allows for 2 arbitrators to proceed until they cannot agree on any matter. In reaching this consensus, the committee considered two conflicting influencing views:

First that if two only are appointed it is not what the parties agreed (but for the rule) and the two may bring the reference to a conclusion on documents alone, because (as it might be perceived) a senior arbitrator could impose his will on the junior Arbitrator and snuff out any flicker of dissent.

Second, there is a perception abroad that the SCMA did not adopt this rule and procedure because it diminishes the number of appointments even though it represents the height of inefficiency to require three arbitrators when the answer is obvious to two (and probably will be written up by only one of them at, potentially, near a third of the potential costs as would now be incurred).

The third and final observation is that the London practice and rule is often adopted in SCMA cases by consent of the parties and the two arbitrators first appointed in any event.

Consultees may reflect in responding on whether the many emails passing between arbitrators on obvious and trivial procedural matters (and time spent and charged for) should be mandatorily avoided, subject to revision if the other arbitrators or parties object to a ruling so made.

Pros

(1) Cheaper and quicker for arbitration to proceed with 1 arbitrator (the presiding arbitrator) making procedural rulings.

Cons

(2) Risk of presiding arbitrator making "wrong" procedural rulings, mitigated by the power of the full Tribunal to revise such rulings although this will incur time and costs.

34.3 Unless otherwise agreed by the parties, the presiding Arbitrator shall make procedural rulings alone, subject to revision by the Tribunal.

COMMENTARY ON RULE 34.3:

The committee considered whether a rule that a presiding arbitrator shall (if he/she considers it appropriate) may make all procedural decisions would be a fair and economical approach but recognised that arbitrators will often themselves agree the most efficient procedure and approach for deciding procedural issues in most cases without the need for any directive rule.

If, contrary to the possible adoption of a rule (supra – by a modified Rule 6.1) a default of three arbitrators is to be retained, consultees may consider a rule that expressly provides that all pre-hearing procedural matters should be decided solely by the third and presiding arbitrator.

The possible amendment by introduction of a new rule 34.3 using the word "shall" would be a step beyond what a tribunal may (and often does) already do by its own approach to efficient management of the proceedings. It also goes beyond the expression of that power and discretion in the SIAC Rules:

SIAC Rules

The wording used in Rule 19.5 of the SIAC Rules is:

"Unless otherwise agreed by the parties, the presiding arbitrator may make procedural rulings alone, subject to revision by the Tribunal."

34.4 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 30 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 the Chamber.

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 Final 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 a Consent Award. The Tribunal is not obliged to give reasons for a Consent 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 Final 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 Consent Award, 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 assessed 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 the Chamber. The fund holding fee is payable on the date of receipt of the funds by the Chamber 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.

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 the Chamber ;

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

42.4. Unless otherwise instructed, the fund holding fee, transaction fee and other disbursements incurred (if any) will be deducted from the fund holding account.

42.5. The Chamber shall be free from any liability with respect to the funds held when acting on the instructions of the Tribunal.

42.6. The Secretariat shall administer the fund holding service in accordance with the Practice Note issued under this Rule.

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

44.1 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.

44.2 The Chamber may, upon the application of a party in respect of a request under Rule 44.1, and with the consent of the Tribunal, issue a certificate certifying the existence and status of the arbitral proceedings. The fee for a certificate under this Rule is S$ 150 and should be paid to the Chamber.

RULE 45

45. Exclusion of Liability

45.1. The Tribunal, the Chairman or the Chamber or 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, Chairman, or the Chamber 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

COMMENTARY ON RULE 46 (SMALL CLAIMS PROCEDURE):

The committee first considered whether the small claims procedure under this rule might be re-named to include the word *"Expedited"* in its title or description for that is what it is designed and intended to be, but has not included that word in the drafting of possible amendments. The committee decided that familiarity with the nomenclature, which is descriptive of the intended use of this expedited procedure, need not be disturbed.

This Consultation will also invite views generally (without possible drafting solutions) on whether the SCMA Rules should provide for a specially designed expedited procedure for maritime cases, having characteristics to be defined (and as now provided for in various institutional rules) and/or for emergency arbitrators; or whether the flexibility of the Rules (especially as they might now be amended to increase a tribunal's powers of direction) will be sufficient to allow tribunals to deal with cases as expeditiously as might ever be required? That is especially having regard to the traditional use by maritime parties of curial relief by way of interim measures in urgent cases arising in the maritime sphere.

The matters to flag up for consultees' particular attention and comment under the draft provided, is the possible grant of a power of the Chairman of the SCMA to direct upon the application of any party, subject to fulfilment of either of the conditions in the draft at 46.1 a. or b, that the Small Claims Procedure shall apply in the determination of the reference.

Consultees views are sought particularly on:

1. **What should be the financial limit of claims dealt with under this procedure?**
2. **Whether further abridgment of timelines (if any) might be provided for under Rule 46.4?**

3. Whether no reasons being given for an Award can still be considered acceptable or desirable if the jurisdiction is to be substantially increased?

Whether and at what amounts the fees of an arbitrator accepting an appointment in such cases and a party's recoverable costs should be fixed. Should there be a scale fees depending on the amounts of claim and/or express liberty to parties and arbitrators to agree fixed fees?

Application

46.1. The Chairman shall have the discretion to apply the Small Claims Procedure set out in this Rule upon the application of any party, provided that:

a. the aggregate amount of the claim and/or counterclaim in dispute is less than US$400,000 (excluding interest and costs) or is unlikely to exceed US$400,000 (excluding interest and costs);

COMMENTARY ON RULE 46.1.1:

There are merits of setting the limit at $400,000. Arbitrations under $150,000 were inefficient as arbitrations costs would very quickly rise to the full value of the dispute. An amount around $300,000 but under $400,000 would be an attractive limit and could become an attractive feature of SCMA arbitration. Corresponding adjustments would have to be made to the flat fee payable to the arbitrator.

The Committee agreed to use the figure of $400,000 for consultation.

b. the parties agree in writing that the claim shall be dealt with under this Rule; or

c. there are exceptional circumstances justifying the application of this procedure.

46.2. In deciding whether to apply this procedure, the Chairman shall have regard to:

a. the nature of the claim;

b. the complexity of the issues;

c. whether the dispute raises any issue of general importance; and

d. any other relevant circumstances.

46.3. The Tribunal shall consist of a sole Arbitrator appointed in accordance with Rule 6, or in accordance with any other agreed procedure, and the appointment of any other Tribunal (if already made) shall cease to have effect.

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.

COMMENTARY ON RULE 46.4:

This sub-rule should be deleted if the time limits in Rule 8 are 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. Brief reasons shall 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$12,000 or, if there is a counterclaim, US$20,000 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$17,500, or if there is a counterclaim, US$25,000 in total for each party's lawyers.

COMMENTARY ON RULE 46.13:

Given that the revised quantum limit represents a 2.67x increase, an uplift in the limits of fees and recoverable costs of 2.5x is suggested for consultation. Consultees are invited to propose different limits or bases to fix or ascertain the fees and recoverable costs.

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)

48.1 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.

48.2 Where a dispute arises from any contract for the sale and/or supply of bunkers, and the claim and counterclaim do not exceed SGD 100,000, the Registrar may upon the application of a party (and if the parties agree, shall) direct that the dispute be resolved under the SBC Terms for the time being in force.

COMMENTARY ON RULE 48.2:

Consultees are invited to consider whether there should be a corresponding power conferred upon the Registrar to direct that a dispute should proceed under the SBC Terms. N. 12.2 of the SBC Terms provide:

> ***"These Terms are designed to provide a simplified, quick and inexpensive procedure for the resolution of disputes arising out of the sale and/or supply of bunkers or where the claim or any counterclaim does not exceed SGD 100,000 or where only a single issue is involved in the dispute. Where the claim or counterclaim exceeds SGD 100,000 or where complex issues are involved, the Registrar may (and if the parties agree, shall) direct that the***

dispute be resolved by full arbitration in accordance with the SCMA Rules for the time being in force."

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 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, Chairman and Registrar 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

In order for the Tribunal to discharge its duty under Rule 25.1 it requires the parties and their representatives to answer the following questions and provide the requested information, applying themselves diligently and co-operatively (where possible and required) to the task of doing so.

The parties or their representatives are required to consult and agree a proposal for the future procedural course of the reference and submit that agreed proposal in the form of suggested directions to the Tribunal for its approval. As far as possible, all procedural issues should be agreed by the parties. If agreement has not been possible, then the parties should each provide their own proposed directions for the Tribunal's consideration and decision.

The parties shall answer the following questions/provide the requested information:

1. **What is the nature of the claim (a brief description will suffice but any unusual feature should be identified and explained)?**
2. **What is the currently estimated quantum of the claim and of any counterclaim?**
3. **Have the parties agreed a list of issues? If not, each party shall define and list the main factual, technical and legal issues requiring determination in the reference.**
4. **Are any of the agreed or party-defined issues suitable for determination as a preliminary issue? If so, by what means of procedure? What savings of time or costs might be achieved upon preliminary determination of such issue/s?**
5. **Is there to be any application for amendment/s to the claim, defence or counterclaim?**
6. **Are there any issues of disclosure that remain to be dealt with and does either party have any intention of making a request for production of any documents to another party?**
7. **Does either party request an oral hearing for the presentation of evidence or for oral argument in the reference or is the Tribunal to determine the issues in the arbitration on a documents-only basis?**
8. **In relation to witness evidence of fact:**
    a. **What witness evidence of fact in statement form is it intended to adduce and from whom?**
    b. **In the case of each witness, what subjects and/or issues will the evidence of the witness cover?**
    c. **By what dates is it proposed such statements should be produced and served?**
    d. **In the event that the Tribunal directs there is to be a hearing, which witnesses will be called to give oral evidence at the hearing?**
    e. **Have the parties considered whether and how factual witness evidence could be restricted, not duplicated and/or the need for it avoided, by agreeing facts or requesting or tendering admissions (a brief report of the consideration given, and any steps taken or to be taken is required)?**
9. **In relation to expert evidence:**
    a. **What expert evidence is needed for the Tribunal to resolve the agreed or defined technical issues (as per the answer to question 3) it is required to determine?**

b. **What technical issues requiring determination might be resolved by the parties' joint instruction of an agreed (or Tribunal appointed) expert?**

c. **What expert evidence does each party otherwise intend to adduce by way of reports and/or oral testimony (if a hearing is ordered) and by when will experts' reports be exchanged?**

d. **By when is it proposed a meeting or meetings between experts (and of which experts together dealing with which issues) should take place and by what means; and by when and how an agenda for such meeting should be prepared and the outcome of the meeting recorded?**

e. **By what means or procedure should expert witnesses give their evidence at the hearing (if one is ordered)? If some form of witness conferencing is agreed or proposed, how and subject to what protocol (if any) is it proposed it be conducted?**

10. As to determination on documents alone or if there is to be a hearing:

a. **What, in either case, is the agreed or proposed timetable for the exchange of written submissions?**

b. **Is it possible to estimate the length of the hearing, if one is ordered to take place?**

c. **When is it proposed such hearing should take place?**

11. As to Costs:

a. **What legal and other costs have been incurred in the reference by the party thus far (each party should provide a breakdown)?**

b. **What are the estimated future legal and other costs likely to be incurred in the reference up to the publication of an Award (the party should again provide a breakdown)?**

12. Does either party consider that it is entitled to security for costs and, if so, in what amount?

13. Mediation:

a. **Does the party consider that the case is suitable for mediation?**

b. **Has mediation been proposed and/or rejected?**

c. **Does the party seek a pause (and if so for how long) in the procedural steps now to be followed, for the possibility of mediation to be explored/undertaken?**

d. **Is the party aware that a Tribunal may be persuaded to have regard to an unreasonable refusal to mediate in good faith in its determination of costs in the reference?**

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, extend 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.**