

THE COUNCIL FOR ESTATE AGENCIES ARBITRATION SUB-SCHEME

SINGAPORE INSTITUTE OF SURVEYORS AND VALUERS (SISV) –THE COUNCIL FOR ESTATE AGENCIES (CEA) ARBITRATION RULES

1. Introduction

1.1. The arbitration process is conducted by the SISV Dispute Resolution Centre It will be governed by the Singapore Institute of Surveyors and Valuers (SISV) Council for Estate Agencies (CEA) Arbitration Rules (The “SISV-CEA Arbitration Rules”) as set out herein and subject to the Estate Agents Act 2010 (No. 25 of 2010) (the “Act”) and the Estate Agents (Dispute Resolution Schemes) Regulations 2011 (the “Regulations”). The SISV-CEA Arbitration Rules are enacted as part of the CEA Mediation-Arbitration Scheme (the “CEA Mediation-Arbitration Scheme”) which is a dispute resolution scheme established under Rule 3 of the Regulations and the Terms of Reference of the CEA Dispute Resolution Scheme .

1.2 Where a matter has been referred for arbitration under the “SISV-CEA Rules, the Parties agree or shall be deemed to have agreed to resolve their disputes under these rules at the commencement of arbitration. Any reference to arbitration shall be in accordance with the provisions of any applicable agreement which has been entered into between a Client and a Licensed Estate Agent (the EA”) on or after 1 January 2011 in the form of estate agency agreement which has been prescribed by the Estate Agents (Estate Agency Work) Regulations 2010

2.Parties

2.2 The Parties to the arbitration shall be:

(i)EA under the Act, which may appoint any authorized representative to make decisions on its behalf in the conduct of arbitration under the SISV-CEA Rules. There shall not be more than two persons at any one time representing an Estate Agent . The Estate Agent must also ensure that the salesperson (who represented the EA under the estate agency agreement under which the dispute arises) also attends the arbitration; and

(ii) Any current, or former clients of an EA (Client) who has entered into an estate agency agreement in the form prescribed by the Estate Agents (Estate Agency Work) Regulations.

“Client” means any person who, retains or otherwise uses the services of, or otherwise engages or employs, an estate agent, whether directly or through a salesperson and who has entered into an estate agency agreement in the form prescribed by the Estate Agents (Estate Agency Work) Regulations.;

2.3 Any Party may present its case or may appoint a legal practitioner to do so on his behalf.

2.4 Any costs incurred by parties in engaging a legal counsel/practitioner shall be fully borne by the parties themselves and such costs shall not be claimable in the arbitration.

3. Commencement of arbitration

3.1 Before arbitration is carried out, there must be an indication that (i) CEA has been informed of the outcome of the attempt to resolve the matter between the parties and (ii) that either the Client has decided not to mediate or the mediation has not resulted in resolving the matter;

3.2 Parties to a dispute seeking arbitration may initiate by sending a request for arbitration to the SISV Dispute Resolution Centre. Such a request should include the nature of the dispute and the names, addresses and contact numbers of the Parties to the dispute, the licence number of the EA and registration number of the salesperson. A request for arbitration shall be submitted together with payment of the prescribed fees (Annex A).

3.3 Arbitration commences on the date when SISV Dispute Resolution Centre receives a request for arbitration (Form A).

3.4 If the Claimant is an Estate Agent, the Claimant shall serve Form A on the Respondent (Client) and on the SISV Dispute Resolution Centre with copy of Form A.

3.5 If the Claimant is a Client, the Claimant shall serve Form A on the Respondent (Estate Agent) at the registered address of the Respondent (Estate Agent). The Client shall send to SISV Dispute Resolution Centre a copy of Form A.

3.6 Where not all the Parties to a dispute have initiated arbitration, the SISV Dispute Resolution Centre will within 7 working days from the date of request contact the remaining Parties to participate in the arbitration. The EA will notify the salesperson to attend the arbitration.

3.7 A sole arbitrator shall be appointed from the SISV Panel of Arbitrators by the Chairman of the SISV Dispute Resolution Centre. The Chairman of the SISV Dispute Resolution Centre shall appoint the arbitrator or arbitrators as soon as practicable.

3.8 Parties will be informed of the appointment by service of Form B within 7 days of receipt of the following:

- (a) Form A; and
- (b) Deposit from the Claimant

The arbitrator may only be challenged if circumstances exist that give rise to justifiable doubts as to his/her impartiality or independence.

3.9 A party may challenge the appointment of the arbitrator by submission of a notice in Form C outlining brief reasons for the challenge.

3.10 When the arbitrator has been challenged by one party, the opposing party may agree to the challenge by submission of Form C within 7 days of receipt of notice of challenge of the arbitrator's appointment. The arbitrator may also, after the challenge, withdraw from his office. In neither case does this imply acceptance of the validity of the grounds for the challenge. Alternatively, if the other party disputes the challenge, he shall by the submission of Form C provide brief reasons for the dispute. In both cases, the procedure shall be used for the appointment of a replacement arbitrator, if applicable.

3.11 If within 7 working days of receipt of the notice of challenge, the other party does not agree to the challenge, and the challenged arbitrator does not withdraw, a decision will be made by the Chairman of the SISV Dispute Resolution Centre. If the Chairman sustains the challenge, replacement arbitrator will be made by the Chairman of the SISV Dispute Resolution Centre.

3.12 A person who has served as a mediator in the dispute shall not be appointed as an arbitrator for the same dispute.

3.13 The parties may agree in writing on documents-only procedure set out in which event the fees for the arbitrator shall be fixed fee based on the sum in dispute (which shall either be the sum claimed in the Request or any Counterclaim, whichever is higher). Such fixed fees shall be for work which includes the writing of the award and the assessment of claim (if any, also by way of a documents-only procedure).

3.14 Where the documents-only procedure is not adopted, the parties shall be required to pay the arbitration fixed fee based on the sum in dispute. (which shall either be the sum claimed in the Request or any Counterclaim, whichever is higher). Such fixed fees shall be for work which includes the hearing and writing of the award.

4.Arbitration Procedure

4.1 The Respondent shall submit to the SISV Dispute Resolution Centre, the Arbitrator/s and the Claimant a defence and counterclaim (if any) in Form D within 14 working days of receipt of Form A.

4.2 The Claimant shall submit to the SISV Dispute Resolution Centre, the Arbitrator/s and the Respondent, a reply and defence to counterclaim (if any) in Form E within 14 days of receipt of Form D.

5.Arbitration Proceedings

General

5.1 Save as otherwise provided in these Rules, the arbitrator shall have the power to adopt whenever possible a simplified or expedited procedure and in any case shall have the widest discretion allowed by law to conduct the arbitration proceedings so as to ensure the just, expeditious, economical and final determination of the dispute. All procedural matters in the arbitration shall, failing agreement between the parties, be determined by directions of the arbitrator which may be set out in correspondence.

5.2 As soon as possible in the arbitration or upon receipt of Form D, the arbitrator shall, in consultation with the parties, determine whether the dispute is to be decided without an oral hearing, in which case, the documents-only procedure set out below shall be adopted.

Documents-only Procedure

5.3 If there is no Counterclaim:

5.3.1 Where the parties have agreed to adopt the documents-only procedure, the Claimant shall send to the Respondent, with copies to the arbitrator and the SISV Dispute Resolution Centre, any further written submissions (the

“Reply”) together with copies of supporting documents within 14 days of receipt of the defence.

- 5.3.2 Within 14 days of receipt of the Claimant’s Reply , the Respondent shall send to the Claimant, with copies to the Arbitrator and the SISV Dispute Centre, its final written submissions (the “Rejoinder”)(if any).

If there is a Counterclaim:

- 5.4.1 Where the parties have agreed to adopt the documents-only procedure, the Claimant shall send to the Respondent, with copies to the Arbitrator and the SISV Dispute Resolution Centre, a Reply and a Defence to the Counterclaim, together with copies of supporting documents within 14 days of receipt of the defence and counterclaim.

- 5.4.2 Within 14 days of receipt of the Claimant’s Reply and Defence to Counterclaim, the Respondent shall send to the Claimant , with copies to the arbitrator and the SISV Dispute Resolution Centre, its Rejoinder and Reply to the Defence to Counterclaim (if any).

5.5The arbitrator may then pose written questions to the parties and/or give notice to the parties of his intention to proceed to his award. The arbitrator may proceed to determine the dispute and make his award unless either party within 3 days requests leave to serve further submissions.

5.6Notwithstanding anything contained herein, in the event the arbitrator determines at any time that a documents-only procedure is not suited or suitable to the fair resolution of the disputes and with the consent of the Parties, he shall be entitled to direct that an oral hearing take place and give such directions as he may in his discretion deem appropriate. In that event, the fees payable to the arbitrator shall be in accordance with the prescribed fees of the SISV-CEA Arbitration Rules (as specified in Annex A herein). Any hearings shall take place not later than 90 days from the commencement of arbitration.

5.7Applications for extensions of any time limits set out in these SISV-CEA Arbitration Rules may be directed to the arbitrator if one has already been appointed. If an arbitrator has not been appointed, such an application should be directed to the SISV Dispute Resolution Centre which shall have discretion to determine whether an extension of time should be granted.

5.8The time periods set out in the SISV-CEA Arbitration Rules shall not be departed from unless the arbitrator decides to extend the time periods after hearing the Parties’ comment on the proposed time extension.

5.9The Arbitrator may request Parties to submit to him and to any other Party to the arbitration any further documents or information as he deems necessary to his decision.

6The Award

6.1The arbitrator shall publish the award within one month, where a documents-only procedure is adopted, from the date when the arbitrator has received all relevant documents and submissions, and he is to issue a notice to that effect or, where there is an oral hearing, from the close of the hearing.

6.3 The Arbitrator shall state the reasons for his/her written award which shall state the date and seat and be signed by the Arbitrator.

6.4 The Arbitrator shall deliver the award to the SISV Dispute Resolution Centre and it shall upon receipt of all fees and disbursements due, serve a copy of the Award on each of the Parties and the Council for Estate Agencies.

7. Confidentiality

7.1 No information relating to the arbitration shall be disclosed by any person without the written consent of each and every party to the arbitration including the Arbitrator.

7.2 All Parties and Arbitrator/s involved in the arbitration shall at all times treat all matters relating to the proceedings and the award as confidential.

7.3 All Parties, the Arbitrator or the SISV Dispute Resolution Centre shall not, without the written consent of all the Parties, disclose to any third Party any matters relating to the proceedings except:

(a) For the purpose of making court application for the enforcement or challenge of the award;

(b) Pursuant to a subpoena issued by a court of competent jurisdiction;

(c) To the Parties' legal advisor/s for the purpose of pursuing a legal right;

(d) To comply with the provisions of the laws of any state binding on the Party making disclosure;

(e) To comply with the request of any regulatory body or authorities as required under the law; and

(f) To submit records of the arbitration matter to the Council for Estate Agencies including but not limited to compiled statistics on settlement rates, outcome of arbitrations, classification of disputes and size of claims .

7.4 Notwithstanding any other provision of the Rules, the Parties by arbitrating under these Rules agree that the SISV Dispute Resolution Centre shall be required and entitled to provide a copy to the Council for Estate Agencies of any award made in the arbitration.

8. Costs and Deposits

8.1 The Parties (being the EA and the Client) shall pay to the SISV Dispute Resolution Centre the prescribed fees in Annex A on the basis of 50:50 ratio . The arbitrator may order the client to pay not more than 50% of the total of the arbitrator's fees and arbitration administration fees and the arbitrator may order the Estate Agent to pay more than 50% of the total of the arbitrator's fees and arbitration administration fees. If the Arbitrator in his Award determines the claim by the Client to be frivolous, vexatious or an abuse of process, the arbitrator may with reasons cause or order by award the Client to bear up to 100% of the Arbitrator's fees and arbitration administration fees.

8.2 Where there is more than one Claimant or one Respondent, each of the Claimant and Respondent shall bear the prescribed fees on a pro-rata basis.

8.3 Payment of deposits in 50:50 ratio by the Parties shall be made by the Claimant when Form A is served on the SISV Dispute Resolution Centre and by the Respondent within 7 working days of the commencement of arbitration.

8.4 If applicable or necessary, top up of the deposits in 50:50 ratio by the Parties which shall not exceed the arbitrator's fees and administration fees in accordance with Annex A shall be payable to the SISV Dispute Resolution Centre by the Parties from time to time to defray the cost of hearing and arbitration expenses.

8.5 The Arbitrator may cease to hear the claims or counter-claims by the non-complying Party if either Party fails to pay its deposits as required under the SISV-CEA Arbitration Rules.

8.6 The costs incurred by Parties in appointing a legal practitioner shall not be considered as part of the costs and expenses of arbitration and shall be borne by the parties themselves. They shall not constitute part of any costs in the Arbitrator's award.

9. Law of the Arbitration

9.1 The seat of the arbitration shall be Singapore

9.2 The law of the arbitration under the SISV-CEA's Arbitration Rules shall be the International Arbitration Act (Cap. 143A) or its modification or re-enactment thereof.

9.3 The language of the arbitration shall be English.

10. Exclusion of Liability

10.1 The SISV Dispute Resolution Centre including its officers, office bearers, employees or agents or any arbitrator shall not be held responsible for any negligence for anything done or omitted to be done in connection with any arbitration conducted under the SISV –CEA Arbitration Rules or any mistakes or errors in law, fact or procedure made in the course of the arbitral proceedings or in the making of the arbitration award.

Schedule of Fees

The arbitration costs for the SISV- CEA Arbitration Rules shall be as follows:

(a) Administration Fee

The administration fee payable to the SISV Dispute Resolution Centre is S\$500.

This fee includes the services provided in respect of the appointment of a sole arbitrator, decisions on challenge of an arbitrator and general administration of the arbitration file.

(b) Arbitrator's Fee for SISV-CEA Documents-Only Arbitration

<u>Disputed Amount*</u>	<u>Arbitrator's Fee</u>
\$1 - \$60,000	\$1,000
\$60,001 - \$80,000	\$3,000
\$80,001 - \$150,000	\$5,000
\$150,001 - \$200,000	\$6,500
Above \$200,000	\$6,500 + [5%] of the amount above \$200,000 subject to a cap of \$23,000

(c) Arbitrator's Fees for SISV-CEA Arbitration with hearings

<u>Disputed Amount</u>	<u>Arbitrator's Fee</u>
\$1 - \$60,000	\$3,500
\$60,001 - \$80,000	\$5,000
\$80,001 - \$150,000	\$7,500
\$150,001 - \$200,000	\$8,500
Above \$200,000	\$8,500 + [5%] of the amount above \$200,000 subject to a cap of \$25,000

*Disputed Amount for this purpose shall be the sum claimed in the Request or any Counterclaim, whichever is higher or, where no specified sum is claimed, the maximum value of the disputed amount of the subject matter shall be \$60,000.

(d) Other charges being the support services for and in connection with the hearing

- (i) Hearing room (SISV Dispute Resolution Centre) at \$50 per hour
- (ii) Transcription services
- (iii) Translation and interpretation services
- (iv) Out-of-pocket expenses