



# **TERMS OF REFERENCE FOR SIDREC APPEALS COMMITTEE**

**Issued: 23 August 2023**  
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### List of Revisions

<b>Revision No.</b>	<b>Revision Date</b>	<b>Effective Date</b>
Revision 1	26 November 2015	1 December 2015
Revision 2	8 March 2017	10 March 2017
Revision 3	23 August 2023	25 August 2023

## **TERMS OF REFERENCE FOR SIDREC APPEALS COMMITTEE ("SIAC")**

### **1.0 Preamble**

- 1.1 SIAC was established to provide an avenue for aggrieved parties to appeal against SIDREC's Award and SIAC's primary responsibility is to decide on such appeal cases.
- 1.2 For the purposes of this document, relevant words shall have the meaning as specified in SIDREC's Terms of Reference.
- 1.3 For avoidance of doubt, SIAC members shall comply with SIAC's Terms of Reference, SIDREC's Terms of Reference and any applicable code of conduct.

### **2.0 Functions of SIAC**

- 2.1 The function of SIAC is to decide on Appeals made by either party to an Eligible Dispute against an Award based on the limited grounds of appeal as specified in SIDREC's Terms of Reference.
- 2.2 In conducting an appeal, SIAC shall only decide on issues raised in the grounds of appeal and not conduct a rehearing of the case.
- 2.3 Notwithstanding paragraph 2.2, where the ground of appeal is a production of new evidence and SIAC determines that there is sufficient evidence to substantiate the ground, SIAC may if it sees fit conduct a rehearing of the case, before arriving at a decision on the Adjudication Award.
- 2.4 SIAC shall provide written grounds for its decision to the Secretariat within the timeframe as stipulated in SIDREC's Term of Reference.

### **3.0 Composition**

- 3.1 SIAC shall consist of five members, who are appointed by SIDREC with prior approval of the Commission for a fixed term of which-

- (i) three shall be independent members, one of whom shall be the Chairman of SIAC;
- (ii) one shall be a senior representative of the Commission ("SC's Representative"); and
- (iii) one shall be an individual with industry knowledge and experience.

3.2 In determining whether to recommend a member for re-appointment, the Commission will consider the member's past attendance at meetings, participation and contribution in SIAC. The Commission will also reassess the blend of qualifications, experience and knowledge represented on SIAC, to ensure that SIAC is able to contribute effectively to the specific needs of SIDREC.

3.3 Collectively, SIAC members appointed should have the appropriate balance of skills, experience, independence and knowledge to enable them to discharge their duties and responsibilities effectively.

#### **4.0 Meetings of SIAC and Quorum**

4.1 Three members of SIAC shall constitute a quorum at any meeting of SIAC, one of whom shall be the SC's Representative and one of whom shall be an independent member.

4.2 Where the Chairman of SIAC is unable to attend a SIAC meeting, the other SIAC members shall elect one, amongst the Committee members attending the meeting, as the alternate chairman to preside over the meeting.

4.3 Meetings of SIAC will be held as often as necessary for the performance of its functions at such time and place as may be determined by the Secretariat.

4.4 A decision of SIAC shall be made on the basis of a simple majority vote of SIAC's members present at SIAC meeting.

4.5 Every SIAC member present shall be entitled to one vote and in the event of a tie in the number of votes cast, the Chairman or the alternate chairman shall have a casting vote. This provision shall apply to any decision of a meeting of SIAC whether the meeting is convened physically or electronically.

4.6 The Chairman of SIAC may at his/her discretion call for a meeting to be convened, either physically or electronically (i.e. via telephone conferencing, video conferencing or any instantaneous communication device that allows SIAC members, as a whole, to participate in the meeting and communicate with each other instantaneously, whether within or outside Malaysia.)

4.7 Minutes shall be made of all meetings of SIAC and such minutes shall be recorded and kept by the Secretariat.

## **5.0 Function of the Secretariat of SIAC**

5.1 SIDREC shall carry out the role as the Secretariat to SIAC.

5.2 In assisting SIAC in carrying out its functions, the Secretariat's duties shall include but not be limited to the following-

- (i) assessment of the eligibility and compliance to the Appeal, as may be determined by SIAC from time to time;
- (ii) to table to SIAC any Appeal for SIAC's review and decision;
- (iii) submit to SIAC, a regular report on a quarterly basis (or at such intervals as may be determined by SIAC), on applications received;
- (iv) submit to SIAC for its decision, any application categorised by the Secretariat as being ineligible, together with the basis for such finding and recommendation;
- (v) obtain any further specific clarification or information from the parties as may be required by SIAC; and

(vi) to provide administrative support to SIAC.

## **6.0 Meeting via circularisation**

6.1 In the event that a meeting cannot be convened, a paper discussing an issue or matter may be circularised to SIAC members, in any form or manner, for SIAC members' consideration and decision.

6.2 Any decision on any matter referred to SIAC members via circularisation shall be valid and effectual as if it had been passed at such meeting of SIAC.

6.3 Any decision made by SIAC via circularisation shall be tabled at the next SIAC meeting for endorsement and ratification.

6.4 SIAC's deliberation on the ineligible cases under paragraph 5.2(iv) may be made via circularisation.

## **7.0 Removal, resignation and vacation of office of any member of SIAC**

7.1 The Commission may, at any time, revoke the appointment of any member of SIAC if the member-

(i) has failed to discharge his/her duties in a proper manner; or

(ii) absents himself/herself from three consecutive meetings of the SIAC without leave of the Chairman of the SIAC and in the case of the Chairman of the SIAC, without leave of the Chairman of the Commission.

7.2 A member may resign from office by giving a written notice of not less than thirty (30) days to the Commission.

7.3 The office of a member of SIAC shall be vacated if the member –

(i) dies;

- (ii) has been convicted under any law for an offence involving fraud, dishonesty or violence whether within or outside Malaysia;
- (iii) becomes a bankrupt; or
- (iv) is of unsound mind or is otherwise incapable of discharging his/her duties.

## **8.0 Members' conflict of interest**

8.1 SIAC members shall at all times act honestly and in the best interest of SIDREC and use reasonable diligence in the discharge of his functions. A member of SIAC shall not make improper use of any information acquired or exercise any improper influence by virtue of his position to gain directly or indirectly an advantage for himself or for any other person. A member of SIAC who has or acquires a direct or indirect interest in relation to any matter under discussion by SIAC shall disclose to SIDREC the existence of his interest and the nature of that interest.

8.2 Such disclosure by a SIAC member shall be recorded in the minutes of the meeting and after the disclosure, the member having an interest in the matter, shall –

- (i) not participate or be present in any deliberation or decision of SIAC on that matter unless the majority of SIAC members present decide there is no conflict or if there is conflict, that such conflict is managed or mitigated; and
- (ii) be disregarded for the purpose of constituting a quorum of the meeting for the deliberation and decision of that matter.