

## RESOLUTION 10/2022

The President of the Chamber of **Conciliation, Mediation and Arbitration CIESP/FIESP** (“Chamber”), in the use of his attributions and powers conferred on section 4 (f) of the Chamber’s Internal Regulation;

Considering the improvement in the sanitary conditions in Brazil and the flexibilization of the sanitary measures imposed by the Government of the State of São Paulo and by the Municipality of São Paulo in the combat against the COVID-19 pandemic;

Considering the current internal rules of operation adopted by CIESP and FIESP;

Considering that, in light of the technological evolution, the electronic and/or virtual practice of procedural acts will be incorporated into the Chamber’s Secretariat (“Secretariat”) routine;

**Resolves** to establish the following measures:

### 1. THE OPERATION OF THE CHAMBER’S SECRETARIAT

1.1 The Secretariat resumes its in-person services and maintains its services through telephone and electronic channels, within business hours, from 8:30 am to 5:30 pm.

1.2. In-Person assistance shall be, preferably, arranged provided a previous schedule along with the Secretariat and will be held in accordance with the current sanitary protocols.

### 2. EXCLUSIVE ELECTRONIC FILING

2.1 For filing purposes, all the submissions and documents shall be sent, by electronic means, to the following email: [cmasp@ciesp.com.br](mailto:cmasp@ciesp.com.br) with a copy to [secgeral.cmasp@ciesp.com.br](mailto:secgeral.cmasp@ciesp.com.br), observing all the respective email addresses that shall be copied in the message, according to the established in the given case.

2.1.1 The use of transfer cloud links or documents in the .ZIP format is recommended, when necessary, due to the volume of data.

2.1.2 The digital archives sent shall be deemed original, under the responsibility of the Sender.

2.1.3 The Secretariat will acknowledge receipt of the electronic message, indicating the received files, for verification purposes and proof of the fulfillment of the scheduled deadlines.

2.2 In case the filing is made under section 2.1, the filing of the hard copies is dismissed.

2.3 New Requests for Arbitration, Mediation or Dispute Board proceedings, including those of urgent nature as the Interim Arbitrator proceeding, shall be presented, exclusively, by electronic means, as provided under this section.

### 3. CHAMBER’S ACTS AND COMMUNICATIONS

3.1 The acts, communications and notifications sent by the Chamber will be, preferably, carried out electronically, except for the communication of the Notification of the Request for Arbitration and other acts for which is necessary the expedition of hard copies; cases in which the copies will be forwarded by mail with a read receipt.

3.1.1 The deadlines shall be counted, in calendar days, as of the following business day of the receipt of the electronic mail or, in the specific case, of the hard copy, exception made to the limited-term determination or if in that other manner has been established in the given case.

3.1.2 It is the Parties' responsibility to verify their respective electronic mail addresses for the monitoring of receipt of the messages and communications related to the proceedings.

3.1.3 The deadlines that expire on a non-business day will be extended to the following business day, except if there is another specific provision in the concrete case.

3.1.4 For the purposes and effects of this Resolution, it shall be deemed a business day, the ones with a practical expedient in the Chamber.

#### **4. VIRTUAL MEETINGS AND HEARINGS**

4.1 Whenever the parties involved choose to hold virtual meetings and hearings, the Secretariat will provide a videoconference platform with all the necessary tools for the adequate conduction of the act.

4.1.1 For the conduction of the virtual meetings or hearings, without prejudice to others to be established, all the Parties involved shall observe the rules and directions present in Annex I of this Resolution.

#### **5. ARBITRAL AWARDS, DECISIONS AND PROCEDURAL ORDERS**

5.1 Every document bearing any decisive content shall be, electronically, sent to the Secretariat, considering its protocol, the date of the sending of the email.

5.1.1 For archiving purposes, the documents referred on section 5.1 must have a hard copy filed in the Secretariat, presenting an original hard copy through the mail with a read receipt or notice of receipt of the Courier, to attention to the Chamber's filing sector on the following address: Av. Paulista, 1313, 8<sup>th</sup> floor, São Paulo-SP, Brazil, ZIP CODE: 01311-923.

5.1.2 In the cases in which the Parties utilize the Secretariat's digital signature platform<sup>1</sup>, the hard copy filing is dismissed.

5.1.3 For the documents digitally signed, with the use of the standard ICP-Brasil digital certificate, the hard copy filing is dismissed, regardless of the platform used by the signatories.

5.2. The documents of decisive content shall be forward, by the Secretariat, to the Parties, exclusively by electronic means, except in the cases in which the communication through email is not possible, a situation in which a hard copy shall be sent by mail with a note of receipt.

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<sup>1</sup> Under the wording of paragraphs 1 and 2 of art. 10 of the MP 2200/2000: "Art. 10. (...) § 1º The declarations present in the electronic documents produced with the utilization of the certification process provided by ICP-Brasil are deemed legitimate regarding the signatory parties, in compliance with article 131 of the Act Nº 3.071/1916 ("1916 Civil Code"). § 2º The orders of this Provisional Measure do not preclude the use of another mean of authorship and integrity proof of digital documents, including those that utilize certificates not provided by ICP-Brasil, ever since that admitted by the Parties as valid or accepted by whom the document shall be opposed." (Unofficial translation performed by the Secretariat team)



CÂMARA DE  
CONCILIAÇÃO,  
MEDIÇÃO E  
ARBITRAGEM  
**CIESP FIESP**

This Resolution comes into effect on April 26<sup>th</sup>, 2022, revoking the Resolutions 1 and 2 of 2020.

**Sydney Sanches**  
Chamber President

## ANNEX I – GUIDE FOR THE CONDUCTION OF VIRTUAL HEARINGS AND MEETINGS

### I – General Information

1. The Ciesp/Fiesp Chamber shall provide the parties involved with a videoconference platform with technology and resources compatible with the needs of the case.
  - 1.1. Other platforms not provided by the Secretariat can be utilized at the Parties’ discretion and/or by determination of the Arbitral Tribunal, remaining under their responsibility all the protocols related to its utilization, availability, and handling of these platforms.
2. The tools most frequently used in hearings and meetings are:
  - 2.1. Audiovisual recording: the platform may record the hearing, whenever determined by the Arbitral Tribunal, and generate a file with the recorded content, that may be shared, by the Secretariat, when requested, with the Parties and the Arbitral Tribunal;
  - 2.2. Opening and closing of microphones: the users can control their microphones. Moreover, the Secretariat possesses general control over the microphones, being allowed to mute any Participant;
  - 2.3. Screening and sharing of Participants’ documents and presentations;
  - 2.4. Private rooms: waiting rooms or breakout rooms;
  - 2.5. Controlled access to the meeting: No invitee may enter before or after the appropriate moment;
  - 2.6. Removal of a Participant: for the removal of a participant that should not be present in whole, or part of the meeting.
  - 2.7. Chat: for the written communication of all the Participants or between specific Participants (private chats).

### II – Preliminary Arrangements

3. Before the designation of the hearing, the Arbitral Tribunal shall consult the Secretariat on the availability of the schedule for the conduction of the hearing on the desired day and time. There shall not be hearing scheduling without previous alignment and availability of the Secretariat.
  - 3.1. The hearings shall be, necessarily, assisted by a Chamber Case Manager.
4. For better organization, the Chamber recommends each party to present, within reasonable time before the hearing, a list of the people (“Participants”) who will take part in the meeting, indicating the Participant’s electronic mail address, number of remote access spots and eventual Participants that will share the same location.
  - 4.1. Any advisors or IT professionals that assist the Participants during the hearing will also be considered Participants and shall be identified accordingly.

4.2. The Parties commit to promptly notify the Arbitral Tribunal, with a copy to the other Parties, regarding any alteration in its Participants list.

5. In advance to the hearing, the Secretariat will be at the Participants' disposal to conduct prior connection tests, allowing the familiarization with the tool, to minimize the possibility of technical flaws during the hearing.

5.1. The Parties commit to, in advance, recommend to the witnesses, representatives and other eventual Participants, to contact the Secretariat for the undertaking of the connection test with the platform.

6. Each Party must guarantee a quality and stable video connection that allows all Participants to properly interact during the hearing. The Participants are responsible to inform, within reasonable advance, any hardware or software incompatibilities, or any other issue that may compromise the safety and privacy of the hearing or of their participation in it.

### III – In the course of the hearing

9. The Secretariat holds control of the virtual room access, and the Participants list remains available through the platform tool.

10. The Secretariat recommends that, at the beginning of the hearing, all Participants must be duly identified with their respective name and position in the arbitral proceeding (arbitrator, counsel, party, witness, advisor, or IT professional, among others), as well declare if they are alone in the room they are present.

11. Each time a Participant joins or leaves the virtual room, a sound warning will be triggered and, in case the person is not authorized to remain in the room, the Secretariat, when notified by the Participants, may remove or relocate the Participant to an individual waiting room, in which no contact with other Participants will be allowed.

12. If requested, the Chamber shall provide stenotype transcription services. The stenotypists will connect to the virtual room and will oversee the hearing.

13. Except in contrary determination of the Arbitral Tribunal, the recording of the virtual hearing shall be made, exclusively, by the Chamber.

14. Eventual technical issues arisen during the hearing may be directed to the Secretariat, by chat, email ([cmasp@ciesp.com.br](mailto:cmasp@ciesp.com.br)) or the Chamber's telephone channels. The Secretariat will



endeavor all the efforts to immediately solve the possible incidents, with the support of the platform and CIESP's technology department, according to the technical issue.

15. A private room shall be created in case the Arbitral Tribunal needs a spare room for its deliberation.

16. To facilitate the communication, the Participants shall utilize the chat, being able to choose between sending a message for all Participants or to a specific one.

16.1. The Participant must observe the addressing option via chat, directing the messages to the desired recipient, to avoid communication mistakes during the hearing. In case the Participant is sharing a document/presentation, via screen share, eventual message exchange may be exposed to the rest of the Participants.

17. During the hearing, the Arbitral Tribunal might request the Participants to exhibit the room (rotation 360°), so it is possible to verify and confirm the people present in the room.

18. The Arbitral Tribunal might, temporarily, suspend the hearing in the scenario of a Participant facing technical or connection problems, power failure, or interruptions related to the connection or the safety and privacy of the connection. In these scenarios, the Participant shall immediately communicate the error through a direct phone call to the Case Manager, responsible for the proceeding, that jointly with the support team may aid to solve the eventual difficulty. In the chance of the impossibility of a solution, the Arbitral Tribunal, at its own discretion, may reschedule the hearing, taking into consideration the Participant's indispensability.

19. All the Participants, including those acting as a party, arbitrator, counsel, witness, expert, and technical assistant, commit themselves to maintain the confidentiality of the hearing, a binding commitment to all Participants, except in the proceedings not subject to confidentiality.

#### IV – After the hearing

20. Concluded the hearing, if solicited by the Parties and authorized by the Arbitral Tribunal, the Secretariat may make available the archive of audiovisual records.

#### V – Best practices

21. The Secretariat point the Participants to:

- 21.1. Perform the connection test, before the meeting, as a way to get to know the tool and verify the stability of its equipment and connection;
- 21.2. Engage in the meeting in a private, adequately illuminated room, with no external interference or third-party access to the content of the hearing, as well to eventual documents and information;
- 21.3. Have access to a good internet connection, adequate power source, and equipment technologically capacitated for the use of virtual videoconference software, including the possibility of alternative connections;
- 21.4. Not connect via public or shared networks, to guarantee data protection;
- 21.5. Maintain the antivirus software duly updated;
- 21.6. Assure that their equipment and internet connection are safe, private and that Participants guarantee data safety and confidentiality;
- 21.7. Maintain the cameras open and positioned, throughout the conduction of the hearing or at the Tribunal's determination, to guarantee a clear framing of the Participants and allow better comprehension and interaction with the rest of the Participants;
- 21.8. Avoid speech overlap and maintain their microphones on mute while waiting for the others Participant's speech;
- 21.9. The Counsels to assure the adequate exhibition of any document to be utilized during the hearing, including with the utilization of image resolution in sufficient size, so that the projected document can be properly read;
- 21.10. Be ready to show the room (360° rotation), in case this measure is determined by the Arbitral Tribunal;
- 21.11. Not utilize any recording instruments during the hearing, except when expressly authorized by the Arbitral Tribunal;
- 21.12. Observe that, in case the Participant is sharing its screen, eventual programs, files, and documents might be exposed to everyone, the reason that is recommended the option of specific document sharing.