

RESOLUTION 13/2022

INSTITUTES THE PORTAL FOR THE ONLINE MANAGEMENT OF THE CASES AND SET RULES ON ITS OPERATION

The President of the Chamber of Conciliation, Mediation and Arbitration Ciesp/Fiesp ("Chamber"), in the use of his attributions and powers conferred on sections 4 f) and h)¹ of the Chamber's Internal Regulation;

Considering the Chamber's intention to modernize the tools for the management of the proceedings and the approval by the Superior Council for the contracting of a digital platform dedicated to the administration of the cases;

Considering the improvement of safety, efficiency, celerity and transparency aggregated by the digitalization of the proceedings' management;

Considering that the Arbitration Rules, the Mediation Rules, and the Dispute Prevention and Resolution Committee Rules ("Dispute Board"), now in force ("Rules"), do not provide dispositions regarding the digital administration of cases and that is necessary to discipline the omission points;

Considering the Superior Council's deliberations and suggestions;

Resolve to issue this resolution to institute and regulate the Portal of online management of proceedings of the Chamber.

I –ELECTRONIC PORTAL

Article 1. The Portal of online case management of the Chamber ("Portal") is a platform for the administration and digital execution of all procedural acts in an arbitral, mediation and dispute board proceeding, hosted on the website <<https://cma.ciesp.com.br>>. The Portal was developed to better serve the fundamental aspects of the proceedings, in accordance with the respective regulations of the Chamber.

¹ "4. The President of the Chamber shall: [...] f) issue supplementary and procedural rules intended to clarify doubts on the adoption of this Regulation and the Rules as regards cases not covered hereby; [...] h) amend the Rules when necessary."

The Portal shall be used to:

- a) Identify all the participants in arbitration, mediation or dispute board proceedings;
- b) File submissions, communications, decisions and other documents;
- c) Consult and visualize all archives that are part of the proceeding (case files);
- d) Monitor the progress of the case, in real-time, with 24 hours access;
- e) Access the financial status of the proceeding.

Article 2. As of September 1st, 2022, the request for initiation of a new proceeding shall be made exclusively through the Chamber's website, on <http://www.camaradearbitragemsp.com.br/en/portal-camara.html>, with the filling of the "Request initiation" form and the attachment of the relevant documents in the appropriate area, including the proof of collection of the costs for initiation, according to the respective Rules of each type of proceedings of the Chamber. Following on, the party will receive, by email, the invitation to access the case files of the proceeding on the Portal.

§ 1 For the proceedings initiated before the date that this Resolution comes into force and that had already signed the Term of Reference, Statement of Mediation or Statement of Formation of the Committee of Dispute Board ("Statements"), the use of the Portal is optional and only will occur in case all involved expressly agree to migrate the proceeding to the digital platform, by an amendment to the Term.

§ 2 For the proceedings initiated before the date that this Resolution comes into force and that had not yet signed the Statements, the involved ones, if they so wish, may implement the rules of this Resolution, and migrate the administration of the proceeding to the Portal, by expressly manifesting it in the Term of Reference, Mediation or Constitution of Committee of Dispute Board.

§ 3^o Specifically for the cases of paragraphs 1 and 2 of this article, the Secretariat of the Chamber will promote the conversion of the proceeding to processing via Portal upon the charge of fee related to the Additional Data Package in force, in accordance with the Terms of use of the Portal and the data volume and necessary storage space, to be discounted from the expenses fund. The Secretariat shall inform the estimated period for the migration.

Article 3. Each proceeding will be hosted in an individual electronic address ("site"), protected in accordance with the most rigorous data safety rules, as well as will be processed independently and privately from the other proceedings that already are registered or that may be registered in the Portal.

Article 4. As a rule, the access to the proceeding's site will be restricted to the parties and their representatives (upon presentation of power of attorney), Arbitrators, Mediators, Board members, members of the Secretariat and the Secretary of the Arbitral Tribunal. As appropriate, experts, third parties, *amicus curiae* and technical assistants may also have access to the platform.

§ 1 The user will have access to the platform through a login and password system, after accepting the Terms of use of the Portal.

§ 2 The login and password data are personal and non-transferable, the user shall be responsible for their safekeeping and secrecy.

§ 3 If the user participates in more than one proceeding registered in the Portal, the login and password data will be the same used to access the Portal and the sites of each case in which the participant is involved.

Article 5. All data entered in the Portal, that may identify an individual (personal data) are subject to the Brazilian Data Protection General Law (Lei 13.709/2018 - LGPD) and the European General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016) and will be treated in accordance with the Privacy Policy available in the platform, which reading is mandatory before its use.

Article 6. Once granted the proceeding's site, all communications between Parties, Arbitrators, Mediators, Board members, Members of the Chamber's Secretariat and/or third parties involved, shall be conducted through the platform, including, but not limited to:

- a) Notifications and communications of the Secretariat of the Chamber;
- b) Submissions and documents of the Parties;
- c) Decisions of the Arbitral Tribunal and Board members;
- d) Communications of the Arbitral Tribunal, Mediators and Board members;
- e) Collection of costs.

Single Paragraph. All communications forwarded by any other means than the Portal shall not be considered valid and, thus, will not be filed to the proceeding, including email or in-person filing, unless in case of unavailability – in accordance with Article 13 – or if there is a different orientation from the Arbitral Tribunal, Mediator, Board members or the Presidency of the Chamber.

Article 7. The notice of all involved regarding the procedural acts of the said proceeding, including decisions, will be made through an automatic notification email by the Portal, which will start the count of the time terms.

§ 1 The notification emails will be sent without attached documents, on behalf of the safety and confidentiality of the proceedings. After being electronically noticed, those involved are responsible for accessing the Portal for the proper monitoring of the proceeding and compliance with deadlines.

§ 2 In case of default of one or more participants, all communications, progress, and documents of the proceeding will be sent by express courier with proof of receipt to the party not registered in the Portal. Until the proceeding's termination, the Chamber will grant the registration in the Portal to the defaulting party.

II – MODIFICATION OF THE ARBITRATION RULES

Article 8. The subitems 9.1, 9.2, and 9.3 of item 9 (Notices, time limits, and filing of documents) of the Chamber Arbitration Rules, in force since 1 August 2013, become effective with the following wording:

“9.1. For the purposes of these Rules, the notices shall be made by electronic mail sent by the Online Case Management Portal of the Chamber (Portal), except for the communication of the notice of initiation of a new proceeding and other acts for which the physical communication is necessary, cases in which the hard copies will be sent by express courier with proof of receipt.

9.1.1. For the cases initiated before the enforcement of the Presidency Resolution 13/2022 and that opt not to migrate to the Portal, the mean of communication shall follow the agreed in the specific case and in items 2.2 and following of the Presidency Resolution 10/2022, updated on 1 September 2022.

9.2. The time limits will be counted, on calendar days, as of the first business day following the receipt of the electronic mail from the Portal or, if it is the case, from the hard copy, except for the provisions with a certain deadline or if otherwise established in the Term of Reference.



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9.2.1. The users are responsible for verifying their respective electronic mails to monitor the receipt of the messages and communications related to the proceedings.

9.2.2. The time limits 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.

9.2.3. It shall be deemed a business day, the ones with a practical expedient in the Chamber.

9.3 The deadlines will be suspended during the period of recess of the Chamber, except the ones that were provided to be fulfilled on a specific date, as well as the urgent matters, for the proceedings of the Interim Arbitrator that have already been initiated or if otherwise provided in the concrete case.

9.3.1 During the period of recess, the Portal will remain active and available for filing by the users, who shall observe the type of filing to be made so all interested parties have immediate acknowledgement of the filed archive.

9.3.2 At the end of the recess, the Chamber will organize the documents in the Portal, if necessary.”

III – MODIFICATION OF DISPUTE BOARD RULES

Article 9. Items 10.1, 10.2, and 10.3 of Article 10 (Communications, time-periods, and submission of documents) of the Dispute Prevention and Resolution Committee Rules, in force since August 6th, 2018, become effective with the following wording:

“10.1. The communications and filing of the Parties’ manifestations and documents shall be made on the Online Case Management Portal of Ciesp/Fiesp Chamber (Portal) and the involved ones will be notified by electronic mail sent to the electronic addresses informed in the Statement of Formation of the Committee.



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10.2. The time-periods will be counted, on calendar days, as of the first business day following the receipt of the electronic mail from the Portal or, if it is the case, from the hard copy, except for the provisions with a certain deadline or if otherwise established in the Statement of Formation of the Committee.

10.2.1 The users are responsible for verifying their respective electronic mails to monitor the receipt of the messages and communications related to the proceedings.

10.2.2 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.

10.2.3 It shall be deemed a business day, the ones with a practical expedient in the Chamber.

10.3 The deadlines will be suspended during the period of recess of the Chamber, except the ones that were provided to be fulfilled on a specific date, as well as the urgent matters, or if otherwise provided in the concrete case.

10.3.1 During the period of recess, the Portal will remain active and available for filing by the users, who shall observe the type of filing to be made so all interested parties have immediate acknowledgement of the filed archive.

10.3.2 At the end of the recess, the Chamber will organize the documents in the Portal, if necessary.”

IV – MODIFICATION OF MEDIATION RULES

Article 10. The Mediation Rules of the Chamber, in force since August 1st, 2013, are added to item 4.A – Communications, Deadlines, and Documents delivery:

“4.A Communications, Deadlines, and Documents delivery



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4.A.1. *The notifications of the mediation proceedings shall be made by electronic mail sent by the Online Case Management Portal of the Ciesp/Fiesp Chamber (Portal) to the electronic addresses informed in the Parties' submissions and/or in the Statement of Mediation.*

4.A.1.1 *The users are responsible for verifying their respective electronic mails to monitor the receipt of the messages and communications related to the proceedings.*

4.A.2 *The filing of submissions and documents by the Parties shall follow, as appropriate, the applicable rules of the Arbitration Rules, in force since August 1st, 2013 and updated on September 1st, 2013.*

4.A.3 *The processing of the proceedings will be suspended during the period of recess of the Chamber, except for urgent matters, or if otherwise provided in the concrete case.*

4.A.3.1 *During the period of recess, the Portal of the Chamber will remain active and available for filing by the users, who shall observe the type of protocol to be made so all interested parties have immediate acknowledgement of the filed archive.*

4.A.3.2 *At the end of the recess, the Chamber will organize the documents in the Portal, if necessary"*

V – MODIFICATION OF CHAMBER'S RESOLUTION 10/2022

Article 11. The item 2 (Exclusive Electronic Filing) of the Resolution of the Presidency of the Chamber 10/2022, becomes effective with the following wording:

"2. Exclusive Electronic Filing

2.1 For the purposes of filing, all submissions and documents shall be submitted to the proceeding's site hosted on the Online Case Management Portal of the Ciesp/Fiesp Chamber (Portal), in accordance with the User's Manual available on the Chamber's



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website, respecting the nature of the communication and the type of deadline to be fulfilled as stated in the concrete case.

2.2 For the cases initiated previously to the validity of the Presidency Resolution 13/2022, that did not migrate to the Portal or did not establish the communications rules for the concrete case, all communications, submissions, and documents shall be electronically sent to the emails cmasp@ciesp.com.br with a copy to 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.

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

2.2.1 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.

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

2.4 In case the filing is made under items 2.1 and 2.2, the filing of the hard copies is dismissed.

2.5 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, through the Chamber's website, with the filling of the form available on <http://www.camaradearbitragemsp.com.br/en/portal-camara.html>."

VI – GENERAL PROVISIONS

Article 12. For purposes of counting time-periods, the official Brazilian time must be used as a reference (GMT -3).

Article 13. In case of unavailability of the Portal, the involved ones must observe the following orientations:

§ 1 Exclusive term of one of the Parties: the party shall communicate the unavailability to the Secretariat of the Chamber by email [cmasp@ciesp.com.br with a copy to secgeral.cmasp@ciesp.com.br], with the subject: “UNAVAILABILITY OF THE PORTAL – CMA [number]”. The others involved in the proceeding shall be copied in this message, in which shall be attached the submission for the deadline compliance, as well contain a link to access the relevant documents, if any. The submission and documents shall be filed in the Portal by the Secretariat, as soon the regular access to the platform is reestablished.

§ 2 Parties’ common term: the parties shall send two emails to the Secretariat of the Chamber [cmasp@ciesp.com.br with a copy to secgeral.cmasp@ciesp.com.br]:

- a) The first one shall have as subject: “UNAVAILABILITY OF THE PORTAL – CMA [number]” – reporting the access problem of the platform and copying all involved in the proceeding;
- b) The second one shall have as subject: “CMA [number] – Submission – Common term”, with the submission as an attachment, as well contain a link to access the relevant documents, if any. The submission and documents shall be filed in the Portal by the Secretariat, as soon the regular access to the platform is reestablished.

§ 3 Filing from the Arbitral Tribunal, Mediator, or member of the Board: the user shall communicate the unavailability to the Secretariat by email [cmasp@ciesp.com.br with a copy to secgeral.cmasp@ciesp.com.br], with the subject: “UNAVAILABILITY OF THE PORTAL – CMA [number]”. If there is a document or communication to be sent to the Parties, the file shall be attached to the email as well shall be clarified, in the message, if the archive can be made available in the consultation to the proceeding folder as soon as the system is reestablished, which will be provided by the Secretariat as soon as possible. In case of urgent decisions and communications, these will be sent to all involved, by the Secretariat via email, with a receipt confirmation request.

§ 4 The Secretariat will verify the occurrence of the reported unavailability in accordance with §§ 1 and 2 and will certify the fact so that the Arbitral Tribunal, the Mediator, or the members of the Board may decide at their own discretion.

§ 5 If the unavailability occurs before the formation of the Arbitral Tribunal, or the nomination of the Mediator or the member of the Board, the Secretary-General of the Chamber will verify the occurrence, proceeding to its certification and deliberation before the Presidency about the reception of the submission.

Article 14. The Manual of the Portal, which details the features and specifications of the platform, is deemed read by all participants.



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Article 15. This Resolution comes into effect on September 1st, 2022.

São Paulo, August 29th, 2022.

Sydney Sanches

President of the Ciesp/Fiesp Chamber