

Law Society

Neutral Evaluation and Determination Scheme Handbook

2018



Law Society Neutral Evaluation and Determination Scheme Handbook 2018

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PART 1

Introduction to The Law Society Neutral Evaluation and Determination Scheme

A. Introduction

There are many disagreements and disputes which are not resolved by mediation or formal proceedings, consequently they remain unresolved for considerable periods of time. These disagreements and disputes fester and cause rancour between the parties and can sometimes sour relationships to the point of unworkability.

The aim of the neutral evaluation and neutral determination processes is to create stable truces and lasting peace by dealing with disagreements and disputes that do not reach formal proceedings.

The advantages of the neutral evaluation and neutral determination processes are that parties are not permanently saddled with the result; they have a subsequent chance of asserting their rights through the formal dispute resolution processes. Moreover, the evaluation or determination is strictly limited to those parties and that dispute.

It remains a possibility that a party who commences litigation or arbitration on the substantive dispute might obtain a stay of a determination pending the resolution of the proceedings. This is an advantage as it preserves parties' rights and the court's or tribunal's discretion in appropriate cases.

B. Special Features of The Law Society Neutral Evaluation and Determination Scheme

The process is one of quick and summary evaluation or temporary determination of disputes by lawyers. It is similar to security of payment regimes around the world. The process begins with

an application by either party for the matter to be evaluated or determined. Following this, a Neutral is appointed. The respondent will be given a chance to respond to the applicant's case. The Neutral will make an evaluation or determination based on the documents before him or her or after a truncated hearing (if the parties request for it). Every single stage of the process is limited by time to avoid any unnecessary prolongation of the matter.

An evaluation is advisory only. A determination is binding until the dispute is finally determined by a competent court or tribunal, following the concept of temporary finality in security of payment regimes.

C. Rules of Neutral Evaluation and Neutral Determination

The Law Society Neutral Evaluation and Determination Scheme is governed by the LawSoc Neutral Evaluation and Determination Rules set out herein at Part 2 of this Handbook (the "Rules"). The Rules are simple and flexible enough to accommodate all types of civil disputes.

D. Neutrals

The President of The Law Society of Singapore will appoint a Neutral from a Panel of Neutrals for The Law Society Neutral Evaluation and Determination Scheme.

E. Cost of Neutral Evaluation/Determination

The fees schedule in Part 6 of this Handbook sets out the fees payable to the Neutral. The Law Society of Singapore may review the fees schedule from time to time and will update the fees schedule on its website as soon as it is reasonably practicable.

F. The Law Society as Facilitator

The Law Society of Singapore will, if requested by the parties, arrange for facilities for the conduct of the neutral evaluation or neutral determination. Part 7 of this Handbook sets out the costs charged by The Law Society of Singapore for providing administrative

support and for arranging facilities. The Law Society of Singapore may review these costs from time to time and will update the costs on its website as soon as it is reasonably practicable.

G. Conclusion

Neutral evaluation and determination are available for all types of civil disputes. For further information on The Law Society Neutral Evaluation and Determination Scheme, please visit The Law Society of Singapore's website at www.lawsociety.org.sg

PART 2

The LawSoc Neutral Evaluation and Determination Rules

Rule 1: Agreement for Evaluation or Determination

1.1 Where the parties to a dispute have agreed in writing to refer the dispute to The Law Society of Singapore for neutral evaluation or neutral determination under The Law Society Neutral Evaluation and Determination Scheme, the parties shall be deemed to have agreed that such neutral evaluation or neutral determination shall be conducted in accordance with the Lawsoc Neutral Evaluation and Determination Rules (the “Rules”).

1.2 In these Rules:

“*Agreement*” means a written agreement about any matter other than a Neutral Proceeding Agreement.

“*Applicant*” means a party who makes an Application.

“*Application*” means an application to The Law Society of Singapore for neutral evaluation or neutral determination under the Rules.

“*Costs*” means the fees and expenses payable to the Neutral and the administrative charges payable to The Law Society of Singapore under these Rules.

“*Costs Decision*” means a decision on Costs made by the Neutral under these Rules.

“*Determination*” means a decision of a Neutral on an Application, where the Application is for a neutral determination of a dispute by a Neutral under the Rules.

“*Dispute*” means any matter stated in a Neutral Proceeding Agreement to be referred for neutral evaluation or neutral determination under the Rules.

“*Evaluation*” means an opinion of a Neutral on an Application, where the Application is for a neutral evaluation of a dispute by a Neutral under the Rules.

“*Law Society*” means The Law Society of Singapore.

“*Neutral*” means a person appointed by the President to conduct a Neutral Proceeding.

“*Neutral Proceeding*” means the neutral evaluation or neutral determination of a dispute by a Neutral under the Rules.

“*Neutral Proceeding Agreement*” means an agreement in writing that a dispute shall be referred for neutral evaluation or neutral determination.

“*Notice*” means a notice under Rule 4 of a party’s intention to make an Application.

“*President*” means the President of The Law Society.

“*Respondent*” means a party who is the respondent to an Application.

Rule 2: Service of Documents

- 2.1 For the purposes of these Rules, Notices, statements, submissions or other documents used in a Neutral Proceeding may be served on a party by delivering the same to the party personally or by email to the party or by leaving the document at his habitual residence, place of business or mailing address, in which case the document is deemed to have been served on the date of such delivery or email or leaving (as the case may be); or, if none of these can be ascertained after making reasonable inquiry, then documents may be served by leaving them at the party’s last-known residence or place of

business, in which case the document is deemed to have been served on the date the party has notice of it. Delivery of documents to The Law Society or its officers shall also be in accordance with this Rule.

Rule 3: Time

- 3.1 For the purposes of calculating a period of time prescribed by these Rules, the period shall begin to run on the day following the day when a Notice, statement, submission or any other document is received or when the act prescribed takes place. Saturdays, Sundays and public holidays occurring during the running of the period of time are included in calculating the period. If the last day of the period is a Saturday, Sunday or public holiday, the period is extended until the immediate day that is not a Saturday, Sunday or public holiday.

Rule 4: Notice of Intention to make Application

- 4.1 Prior to making an Application, the Applicant must give Notice to every Respondent of the intention to make an Application. The Notice must:
- (a) State whether the Applicant intends to make Application for a neutral evaluation or a neutral determination;
 - (b) Where the Dispute arises out of an Agreement, identify that Agreement;
 - (c) Identify the Neutral Proceeding Agreement;
 - (d) Contain a brief description of the Dispute and the relief that the Applicant seeks;
 - (e) Be given at least fourteen (14) days but not more than three (3) months before the Application is made; and
 - (f) Be given again if more than three (3) months have passed after Notice was given and no Application has been made.

Rule 5: Application for Neutral Proceeding

- 5.1 An Applicant may apply for Neutral Proceeding leading to an Evaluation or a Determination of a Dispute as agreed in a Neutral Proceeding Agreement.

- 5.2 To make an Application, the Applicant shall deliver an Application to the Respondent. A copy of the Application shall be delivered to the main premises of The Law Society (39 South Bridge Road, Singapore 058673) and be marked for the attention of the President.
- 5.3 A person may not make an Application in relation to a Dispute if:
- (a) A previous Application has already been made for a neutral evaluation or a neutral determination of that Dispute, unless:
 - (i) The previous Application was withdrawn pursuant to Rule 6 before an Evaluation or Determination was delivered;
 - (ii) The Dispute to which the present Application relates was declined to be dealt with under Rule 8.2 in the previous Application; or
 - (iii) The previous Application was dismissed under Rule 13;
 - (b) Proceedings for final determination of that Dispute have commenced or been completed before an arbitrator or a court or other body of competent jurisdiction; or
 - (c) Mediation under any rules or procedures is underway in relation to that Dispute, unless the Application is for a neutral evaluation only and the parties agree in writing that such Application may be made whilst that mediation is still underway.

Rule 6: Withdrawing an Application

- 6.1 Without prejudice to Rule 18.2 and Rule 19.2, an Applicant may, without the consent of any person, withdraw an Application at any time before the Neutral gives an Evaluation or a Determination.

Rule 7: Contents of Application

- 7.1 The Application shall contain all facts and matters on which the Applicant relies, including:
- (a) The names and email addresses of the parties to the Dispute;
 - (b) Whether the Applicant applies for a neutral evaluation or neutral determination;
 - (c) A statement of the facts and particulars supporting the Applicant's claim;

- (d) Copies of all documents relied upon, including the Agreement giving rise to the Dispute (if any) and the Neutral Proceeding Agreement;
- (e) The contentions of fact and law supporting the Applicant's position;
- (f) All items of relief and remedy sought by the Applicant;
- (g) All quantifiable items of claim with accompanying calculations and breakdown (where applicable); and
- (h) A statement that the Dispute is not the subject of existing or concluded proceedings before an arbitrator or a court or other body of competent jurisdiction.

Rule 8: Validity of Application

- 8.1 Subject to Rule 8.2, an Application shall not be invalid on the ground that it includes a Dispute which was not included in a Notice.
- 8.2 A Neutral may decline to conduct a Neutral Proceeding in respect of a Dispute which was not included in a Notice if the Neutral is satisfied that the Dispute is not fairly related to a Dispute which was included in such a Notice.

Rule 9: Delivery of Application to The Law Society

- 9.1 The copy of the Application delivered to The Law Society shall be accompanied by payment of such sum as may from time to time be prescribed by The Law Society as the fee for making an Application. An Application not accompanied by the fee shall not be taken to have been made until the fee is paid.

Rule 10: Appointment of Neutral

- 10.1 Any Neutral Proceeding conducted under these Rules shall be conducted by the Neutral appointed by the President from the Panel of Neutrals established by The Law Society. If the Parties notify the President in writing that they have agreed on a named person listed

in the Panel of Neutrals to act as Neutral, the President shall appoint that person as the Neutral to conduct the Neutral Proceeding, unless that person declines such appointment. The President shall notify the parties and the Neutral of the appointment within seven (7) days after receipt of the Application and provide the Neutral with a copy of the Application.

- 10.2 Unless the parties agree, a person shall not act as Neutral if he or she knows of any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence.
- 10.3 If a party objects to the appointment of a Neutral, the Neutral may decide that objection and, if he or she thinks fit, continue with the Neutral Proceeding, provided always that the President shall have the power to withdraw the appointment of the Neutral on the basis of the said objection. If the President withdraws the appointment of a Neutral or if a Neutral for any reason withdraws from the appointment, the President shall appoint a different Neutral within seven (7) days from the date of such withdrawal.
- 10.4 The time for the parties to deliver documents under these Rules will not be affected by the late appointment of a Neutral. If no Neutral is appointed at the time a party must deliver a document, the party shall deliver the document to The Law Society at the time required for delivery and The Law Society shall deliver the document to the Neutral upon his or her appointment.

Rule 11: Response

- 11.1 Within fourteen (14) days after the receipt of the Application, the Respondent shall deliver to the Neutral, the Applicant and The Law Society a comprehensive Response to the Application signed by or on behalf of the Respondent.
- 11.2 If a Neutral has not been appointed when the Response is delivered, the Respondent shall deliver a copy of the Response to The Law Society at the time of delivering it to the Applicant.

- 11.3 Without limiting its comprehensive nature, the Response shall contain the following information:
- (a) An admission or denial of the Applicant's claim;
 - (b) A statement of the facts and particulars supporting the Respondent's position in defending the claim;
 - (c) Copies of all documents relied upon; and
 - (d) The contentions of fact and law supporting the Respondent's position.

Rule 12: Limited Submissions

- 12.1 Unless otherwise provided in these Rules, the parties do not have a right to make submissions other than in the Application and Response.

Rule 13: Dismissal of Application

- 13.1 A Neutral may dismiss an Application without making an Evaluation or a Determination of its merits if the Neutral is satisfied that the time prescribed by Rule 16 for the giving of the Evaluation or the Determination or any extension thereof is insufficient to fairly make an Evaluation or a Determination because of the complexity of the matter or for any other reason. Any such dismissal must be made before the expiry of the time prescribed by Rule 16 for the giving of the Evaluation or the Determination or, if such time has been extended under Rule 16, before the expiry of such extended time. In the event of such dismissal, the Neutral shall not be entitled to any fees or expenses.

Rule 14: Procedure in the Neutral Proceeding

- 14.1 In conducting the Neutral Proceeding, the Neutral:
- (a) May act informally in such manner as he or she considers appropriate, save that at all times the Neutral shall comply with the rules of natural justice;
 - (b) Shall, if possible, act on the basis of the documents delivered by the parties without a hearing;

- (c) Is not required to apply the rules of evidence of any applicable law and may inform himself or herself in any way he or she considers appropriate;
- (d) May request a party to make further written submissions or to provide information or documents, and may set a deadline for doing so;
- (e) May request the parties to attend a conference with the Neutral in person, by telephone, internet or any other means;
- (f) May, with the consent of the parties, conduct simultaneously the Neutral Proceeding in respect of two or more Applications between the parties;
- (g) May, with the consent of all the parties concerned, conduct the Neutral Proceeding in respect of the Application simultaneously with the Neutral Proceeding in respect of another Application;
- (h) Subject to these Rules, the Neutral shall make an Evaluation or a Determination notwithstanding that a party has failed to make a submission or provide information or documents within time or to comply with any request of the Neutral under these Rules; and
- (i) Shall make an Evaluation or a Determination of the Dispute on the balance of probabilities whether or not all parties participate in the Neutral Proceeding.

Rule 15: Content of Evaluation or Determination

15.1 An Evaluation or a Determination must:

- (a) Be in writing;
- (b) Give reasons for the opinion or decision;
- (c) Be signed by the Neutral and state the date on which it was given;
- (d) If a Determination, state any amount (and any interest thereon) to be paid, by whom it is to be paid and the date by which it must be paid;
- (e) If the Dispute relates to the interpretation of any provision of an agreement, state the correct interpretation of that provision;
- (f) If a Determination, state any security to be returned, by whom and to whom it is to be returned and the date on or before which it must be returned;
- (g) State which Dispute has not been decided under Rule 8.2, if any; and

- (h) Be given to the parties in any way which reaches them on or before the due date for giving the Evaluation or Determination, through any form of electronic communications or any other appropriate means.

Rule 16: Date for Giving Evaluation or Determination

- 16.1 The Neutral will give the Evaluation or Determination to the parties within fourteen (14) days after the date of the Neutral's receipt of the Response or the date for giving the Response, whichever is earlier.
- 16.2 The time for giving the Evaluation or Determination may be extended by agreement of the parties or, failing such agreement, by the President at the request of the Neutral. The parties shall not have a right to be heard by the President in deciding whether or not to extend the date.
- 16.3 If a Neutral does not give the Evaluation or Determination within the time limit or extended in accordance with these Rules, a party may request the President to appoint another Neutral to make an Evaluation or Determination in the stead of the first Neutral and the President will so appoint. In such an event, the first Neutral shall not be entitled to any fees or expenses.
- 16.4 Upon appointment of the other Neutral, the appointment of the first Neutral shall terminate, and the President will provide the other Neutral with the materials already delivered by the parties to the first Neutral. The other Neutral shall conduct the Neutral Proceeding on that material and in accordance with these Rules.

Rule 17: Effect of Evaluation or Determination

- 17.1 An Evaluation is the opinion of the Neutral and is not binding on the parties, except for a Costs Decision made therein under Rule 19.
- 17.2 A Determination is binding on the parties until the Dispute is finally determined by an arbitrator or a court or other body of competent jurisdiction.

- 17.3 A Determination is binding on the parties even if other proceedings relating to the Dispute have been commenced but not determined by an arbitrator or a court or other body of competent jurisdiction at the time the Determination is given.
- 17.4 A purported Determination which does not comply with Rule 15 is invalid as a Determination. The parties may:
- (a) Agree that it will stand and take effect as an Evaluation or a Determination notwithstanding its non-compliance, from the date of the purported Determination; or
 - (b) Jointly request the Neutral to correct the Determination so that it complies with Rule 15. If the parties make a request under this Rule, the Neutral shall deliver a valid Determination within seven (7) days after the request at no extra cost; or
 - (c) One of the parties may request the President to appoint a different Neutral to deliver a valid Determination. The President will appoint a different Neutral within seven (7) days of such request (the “Subsequent Neutral”), and the previous Neutral shall not be entitled to any fees or expenses. The Subsequent Neutral will deliver a valid Determination on the material already delivered by the parties to the previous Neutral. The Subsequent Neutral shall conduct the Neutral Proceeding on that material and in accordance with these Rules. The Subsequent Neutral may have regard to any purported Determination but must make a Determination independently.
- 17.5 Where a Determination is of a Dispute arising out of an Agreement, the parties shall take steps to comply with the Determination as if it formed part of that Agreement.
- 17.6 Any amount determined by the Neutral to be payable by a party to another shall be a debt due and payable by that party to the other within thirty (30) days from the date of the Determination.
- 17.7 Any payment made by a party in compliance with a Determination shall be on account of and deducted from any liability of that party finally determined by an arbitrator or a court or other body of competent jurisdiction.

- 17.8 Any payment received by a party under a Determination shall be repaid if an arbitrator or a court or other body of competent jurisdiction finally determines that the receiving party is not entitled to the payment.
- 17.9 An Evaluation or a Determination is not subject to appeal or review by any arbitrator or a court or other body of competent jurisdiction. A party dissatisfied with a Determination may commence applicable proceedings for a final determination of the Dispute. In proceedings before any arbitrator or any court or other body of competent jurisdiction to enforce a Determination, the parties agree that they will raise before such arbitrator or court or body only questions as to whether the Determination had been made in accordance with the Rules and/or the extent to which the Determination has been complied with.
- 17.10 A decision, order, judgment or award made in proceedings to enforce a Determination will not create an issue estoppel or res judicata in relation to the Dispute. No cause of action in the Dispute shall merge in the Determination or in any decision, order, judgment or award made in proceedings to enforce a Determination.
- 17.11 A Neutral cannot amend or cancel an Evaluation or a Determination except with the consent of the parties. However, a Neutral may, on the application of a party or on his or her own initiative (after notifying the parties), correct in the Evaluation or Determination any error in computation, any clerical or typographical error, or other error arising from an accidental slip or omission.
- 17.12 Nothing in these Rules prevents a party from seeking a stay of the Determination from the Neutral pending completion of proceedings before an arbitrator or a court or other body of competent jurisdiction.

Rule 18: Neutral's Fees

- 18.1 The fees of the Neutral shall be in accordance with such rates and fees as may from time to time be set by The Law Society.

- 18.2 Where a party withdraws an Application under Rule 6.1 after a Neutral has been appointed, that party shall be liable to pay the fees and expenses of the Neutral. In any other case, the parties to a Neutral Proceeding are jointly and severally liable to the Neutral for the fees and expenses payable to the Neutral.
- 18.3 A Neutral may at any time require one or more parties to provide a reasonable deposit, or reasonable security, for the fees and expenses payable or anticipated to be payable to the Neutral, or to increase any deposit or security provided.
- 18.4 A Neutral may refuse to give the Evaluation or Determination or a Costs Decision until the Neutral has been paid all of his or her fees and expenses. It is not necessary to obtain an extension of time to deliver the Evaluation or Determination late under this Rule but the Neutral shall advise the parties the reason for the delay. A Determination given after the due date for the Determination by reason only of this Rule will not be invalid because of the delay.
- 18.5 A Neutral may recover his or her fees and expenses from a person liable to pay the same in a court of competent jurisdiction as if they were a debt due to the Neutral.

Rule 19: Parties' Costs

- 19.1 Unless otherwise provided in Rule 19, each party to a Neutral Proceeding shall bear its own costs.
- 19.2 In relation to an Application for an Evaluation, the Costs shall be borne by the parties inter se in equal proportions, and the Neutral shall make a Costs Decision to that effect in the Evaluation.
- 19.3 In relation to an Application for a Determination:
- (a) The Neutral shall in the Determination make a Costs Decision as to the proportion of the Costs that is payable by each party;
 - (b) Save as aforesaid, each party shall bear all other costs incurred in relation to the Neutral Proceeding, without prejudice to that party's right to claim such costs in any other dispute resolution proceeding.

- 19.4 A Costs Decision shall have the same binding effect as a Determination under Rule 17.

Rule 20: Exclusions

- 20.1 Notwithstanding the delivery of documents to The Law Society for its information and the appointment of a Neutral, The Law Society, its officers, employees, agents and committees are not, for the purpose of these Rules, a body administering the Neutral Proceeding and are under no duty or obligation to administer or control the Neutral Proceeding. Parties agree not to hold The Law Society, its officers, employees, agents and committees responsible or liable for anything done or omitted in the discharge or purported discharge of any power, function or duty under these Rules or in connection with any Neutral or Neutral Proceeding under these Rules.
- 20.2 Parties agree not to hold the Neutral, his or her employer, employees and agents responsible or liable for anything done or omitted to be done in the discharge or purported discharge of any power, function or duty under these Rules or in connection with any Neutral Proceeding under these Rules.

PART 3

Model Clauses for Neutral Evaluation and/or Neutral Determination

The following model clauses, which can be found on The Law Society of Singapore's website, may be inserted into your contract.

The model clauses are divided into three groups:

- A. Stand-alone clauses to be used where either neutral evaluation or neutral determination is to be used;
- B. Non-tiered clauses where all of the processes may be used in any order culminating in arbitration; and
- C. Multi-tiered clauses where a defined order of processes must be followed.

A. STAND-ALONE CLAUSES – WHERE ONLY ONE OF THE PROCESSES IS TO BE USED

For Neutral Evaluation Only

1. A party may seek a neutral evaluation of a dispute, disagreement or difference arising out of or in connection with this Contract including any question regarding its existence, validity or termination (the "Dispute") in accordance with The LawSoc Neutral Evaluation and Determination Rules (the "Rules"), at any time:
 - (a) Before the commencement of a neutral determination or arbitration or proceedings in a court or other body of competent jurisdiction; and
 - (b) Before a mediation or after a mediation which does not result in the settlement of the Dispute (but not during the mediation unless the parties agree in writing).

A failure by a party to participate in neutral evaluation under the Rules will be a material breach of this Contract.

2. If the parties agree to a neutral evaluation during a mediation, the parties may agree in writing that the mediator shall be the Neutral for the neutral evaluation, provided that the mediator is a person listed in the Panel of Neutrals established by The Law Society. The mediator may make such directions as are necessary for the conduct of the neutral evaluation during the mediation in consultation with the parties.

For Neutral Determination Only

1. A party may seek a neutral determination of a dispute, disagreement or difference arising out of or in connection with this Contract including any question regarding its existence, validity or termination (the “Dispute”) in accordance with The LawSoc Neutral Evaluation and Determination Rules at any time before the commencement of proceedings to finally determine the Dispute.

B. NON-TIERED CLAUSES – WHERE ALL OF THE PROCESSES MAY BE USED IN ANY ORDER CULMINATING IN ARBITRATION

1. Any dispute, disagreement or difference arising out of or in connection with this Contract, including any question regarding its existence, validity or termination (the “Dispute”) shall be finally determined by arbitration in Singapore in accordance with The LawSoc Arbitration Rules in force at the commencement of the arbitration.
2. At any time before commencement of arbitration of a Dispute (or after if the parties agree in writing), a party may in relation to that Dispute, commence one of the following processes (not in any particular order):
 - (a) Neutral evaluation in accordance with The LawSoc Neutral Evaluation and Determination Rules (the “Rules”) but only before neutral determination in accordance with the Rules has commenced; or
 - (b) Neutral determination in accordance with the Rules; or
 - (c) Mediation in accordance with The Law Society Mediation Rules.

(collectively, the “Processes”)

3. (a) A Dispute may be the subject of all of the Processes once but not at the same time, except that a Dispute shall not be the subject of both a neutral evaluation and a neutral determination.
- (b) Arbitration of a Dispute may be commenced at any time other than between the commencement and termination of mediation of that Dispute.
- (c) A failure by a party to participate in the Processes will constitute a material breach of the agreement between the parties giving rise to the Dispute.
- (d) A reference to the rules of one of the Processes is a reference to the rules in force at the time of commencement.

C. MULTI-TIERED CLAUSES – WHERE A DEFINED ORDER OF PROCESSES MUST BE FOLLOWED

1. Any dispute, disagreement or difference arising out of or in connection with this Contract, including any question regarding its existence, validity or termination (the “Dispute”), shall be finally determined in accordance with this Part.
2. If a Dispute arises, either party may give a Dispute Notice to the other party stating details of the Dispute and that the Dispute will be referred to mediation or neutral evaluation or neutral determination within fourteen (14) days if it is not resolved by negotiation between the parties.
3. If a Dispute is not resolved within fourteen (14) days of a Dispute Notice being given, a party may, in relation to that Dispute, commence one of the following processes:
 - (a) Neutral evaluation or neutral determination in accordance with The LawSoc Neutral Evaluation and Determination Rules, save that Rule 4 therein shall not apply; or
 - (b) Mediation of the Dispute in accordance with The Law Society Mediation Rules.

(collectively, the “Processes”)

If a Dispute is not resolved by one of the Processes engaged under Clause 3, any other Processes listed in Clause 3 may be engaged in relation to that Dispute (provided that a Dispute shall not be the subject of both a neutral evaluation and a neutral determination).

4. If a Dispute is not resolved by any of the Processes listed under Clause 3 (subject to the proviso in Clause 3), the Dispute shall be finally determined by arbitration in Singapore in accordance with The LawSoc Arbitration Rules in force at the commencement of the arbitration. The commencement of arbitration shall not operate to terminate a neutral determination that has not been concluded.

AGREEMENT FOR NEUTRAL EVALUATION OR NEUTRAL DETERMINATION

DATED:

BETWEEN: *[name and address of first party]*

AND: *[name and address of second party]*

[Add further parties as necessary]

(collectively, the “Parties”)

1. The Parties agree that the Dispute described below be submitted to neutral evaluation/neutral determination* in accordance with The LawSoc Neutral Evaluation and Determination Rules.
2. The Parties agree not to commence legal proceedings or arbitration in relation to the Dispute until the earlier of the expiry of this agreement or the delivery of an Evaluation/a Determination* under those Rules.
3. The Parties represent that they have had adequate opportunity to seek legal advice relating to the execution of this agreement.
4. This agreement shall be valid for a period of *[insert period]* from its inception.

Dispute: The Dispute is *[describe the dispute in detail]*.

SIGNED by *[insert name of first party]*: _____

SIGNED by *[insert name of second party]*: _____

* Delete where applicable.

IN THE MATTER OF A NEUTRAL EVALUATION/DETERMINATION*

BETWEEN

[Name and address of first party]

AND

*[Name and address of second party]**[Add further parties as necessary]*

APPLICATION FOR NEUTRAL EVALUATION/DETERMINATION* DATED _____

I, _____, Passport/NRIC No. _____
do hereby accept my appointment as Neutral and declare that:

1. I can and will serve impartially. I am independent of each of the parties and have no direct or indirect financial or personal interest in the outcome of this neutral evaluation/neutral determination*.
2. I will observe The Law Society of Singapore's Code of Conduct for Neutrals.
3. I disclose the following facts, which might give rise to justifiable doubts as to my impartiality or independence, although I believe that I will not be influenced by them in the performance of my duties as Neutral.

[Outline facts or attach separate sheet as necessary.]

Date:

Signature:

cc: Representation and Law Reform Department
The Law Society of Singapore
39 South Bridge Road
Singapore 058673

* Delete where applicable.

Neutral's Fees

1. Subject to Paragraphs 2 and 3 of this Part, the Neutral shall charge an hourly rate of S\$250 per hour for work done in a Neutral Proceeding.
2. The Neutral's Fees (inclusive of Goods and Services Tax, where applicable) shall be capped at the following amounts:

Sum in Dispute (Total Claim(s) and Counterclaim(s), inclusive of GST)	Maximum amount of Neutral's Fees (inclusive of GST)
Up to S\$60,000	S\$4,000
Above S\$60,000 and up to S\$250,000	S\$8,000
Above S\$250,000	S\$15,000

3. For avoidance of doubt, the Neutral's Fees prescribed in Paragraphs 1 and 2 of this Part do not include expenses reasonably incurred for the conduct of the Neutral Proceeding, including disbursements for photocopying, telephone calls, facsimile transmissions and incidentals which shall be reimbursed at reasonable rates.
4. For avoidance of doubt, the Neutral's Fees prescribed in Paragraphs 1 and 2 of this Part shall apply to any Neutral Proceeding conducted under the LawSoc Neutral Evaluation and Determination Rules.

PART 7

Administrative Charges of The Law Society

No.	Item	Charges (inclusive of GST)
1	<p>Non-Refundable Administration Fee</p> <p>(payable upon delivery of Application for Neutral Proceeding)</p>	\$100
2	<p>Non-Refundable Fee for Appointment of a Neutral</p> <p>(payable upon delivery of Application for Neutral Proceeding)</p>	\$200
3	<p>Meeting Room Rental Charges</p> <p>One 4-hour session (between the hours of 9am and 5pm) With refreshments (beverages and two snacks)</p> <p>For every subsequent hour thereafter</p> <p>Cancellation Charges:</p> <p>Less than a month's notice</p> <p>At any time during the neutral evaluation or neutral determination hearing</p>	<p>\$200</p> <p>\$60 per hour</p> <p>20% of the total room rental charges payable</p> <p>30% of the total room rental charges payable for the remaining rental period which is not used</p>

4	Photocopying Charges	\$0.20 per copy \$0.40 per copy for colour copy
5	Multi-Media Projector Rental Charges	\$100 per day (up to a maximum of 8 hours)
6	Interpreter Fees	Interpreter's fee + Administrative charge of \$20
7	Charges for Typing and Secretarial Services	\$50 per hour

* Administrative charges are subject to change without notice by The Law Society of Singapore. For the latest administrative charges, please refer to The Law Society's website at www.lawsociety.org.sg

PART 8

Code of Conduct for Neutrals

A. Introduction

1. This Code of Conduct provides guidelines for the observance of the high ethical standards expected of members of The Law Society of Singapore who act as Neutrals. It applies to neutral evaluation and neutral determination conducted under the LawSoc Neutral Evaluation and Determination Rules (the “Rules”).
2. The Code is drafted and should be read in the spirit of preserving the fairness and integrity of the neutral evaluation and neutral determination process. It does not relieve a Neutral from any of his or her duties under the applicable curial law or the Rules.

B. Acceptance of Appointment

3. A Neutral shall accept an appointment only if fully satisfied that he or she is:
 - (a) Independent of each of the parties and can serve impartially;
 - (b) Competent to serve as Neutral and determine the matter in dispute; and
 - (c) Able to give the neutral evaluation or neutral determination the time and attention which the parties are reasonably entitled to expect.

C. Fairness and Impartiality

4. A Neutral has an overriding and continuing duty to act fairly and impartially throughout all stages of the neutral evaluation or neutral determination process.

5. When approached for a possible appointment, the Neutral shall make reasonable enquiries to satisfy himself or herself on the identities of the parties, their representatives and the subject matter of the dispute.
6. A Neutral has an ongoing duty to disclose:
 - (a) Any interest or relationship, whether business, professional or personal, with any party, representative of the party or potential witness, that might give rise to a reasonable perception of partiality or bias;
 - (b) The extent of any prior knowledge he may have of the dispute; and
 - (c) Any other circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence.
7. A Neutral shall not permit outside pressure, fear of criticism or any form of self-interest to affect his or her decision. He or she shall not, after his or her appointment and while serving as a Neutral, enter into any relationship or acquire any interest, gift or benefit that might give rise to justifiable doubts as to his or her impartiality or independence. This prohibition extends to a reasonable period after the rendering of an Evaluation or a Determination, to avoid circumstances that might reasonably create the impression that the Evaluation or Determination was influenced by an anticipated relationship or benefit.

D. Conduct of Proceedings

8. A Neutral shall proceed diligently with the neutral evaluation or neutral determination in a fair and efficient manner. The parties shall be treated with equality and each party shall be allowed a reasonable opportunity to present his or her case. At the same time, the Neutral shall be mindful of the need to prevent delaying tactics, abuse or disruption of the neutral evaluation or neutral determination process.
9. In communications, a Neutral shall avoid impropriety or the appearance of impropriety. There shall be no private communications between the Neutral and one party, his representative or

witness, regarding substantive issues. Unless otherwise agreed, communications shall be in writing, save for communications at hearings or meetings.

E. Confidentiality

10. A Neutral is in a relationship of trust and confidence with the parties and shall not, at any time, use confidential information acquired during the neutral evaluation or neutral determination proceedings to gain personal advantage or advantage for others, or to adversely affect the interest of another.
11. The Neutral shall keep confidential all matters relating to the neutral evaluation or neutral determination and opinion and/or decision, save where disclosure is permitted by law or agreement of the parties.

F. Evaluation and Determination

12. A Neutral shall carefully deliberate and decide all issues submitted for neutral evaluation or neutral determination, and render his or her Evaluation or Determination in a timely fashion.

G. Fees and Expenses

13. A Neutral's fee and expenses must be reasonable taking into account all the circumstances of the case. A Neutral shall disclose and explain the basis of his or her fees and expenses to the parties.

H. Publicity

14. A Neutral may publicise his or her expertise and experience but shall not actively solicit appointment as Neutral. A Neutral who is an advocate and solicitor shall continue to uphold his or her professional obligations set out in the Legal Profession Act and its applicable subsidiary legislation in force for the time being.

PART 9

Panel of Neutrals

Under The LawSoc Neutral Evaluation and Determination Rules, the President of The Law Society will appoint the Neutral from the Panel of Neutrals (the “Panel”). The members of this Panel are experienced lawyers who have satisfied the criteria set out by The Law Society.

The Neutrals on the Panel may be viewed on The Law Society of Singapore’s website.

PART 10

Frequently Asked Questions

Q1 What is the difference between neutral evaluation and neutral determination under The Law Society Neutral Evaluation and Determination Scheme and going to court to resolve my dispute?

A. Neutral evaluation and neutral determination are private processes where parties agree to refer their disputes to a Neutral whose role will be to provide a summary evaluation of the dispute or temporary determination for the matter. These processes are generally speedier and less costly than litigation and arbitration, and they allow parties to have a temporary resolution to their dispute before the dispute is ultimately determined by an arbitrator or a court or other body of competent jurisdiction.

Q2 What type of disputes are suitable for neutral evaluation and neutral determination under The Law Society Neutral Evaluation and Determination Scheme?

A. All types of civil disputes are suitable.

Q3 Can I refer my dispute to The Law Society Neutral Evaluation and Determination Scheme if there is no clause providing for neutral evaluation or neutral determination in my contract?

A. If all parties are agreeable to have their dispute evaluated or determined under the LawSoc Neutral Evaluation and Determination Rules, the parties can sign the Agreement for Neutral Evaluation or Neutral Determination found in this Handbook. An Applicant may then apply for a neutral evaluation or neutral determination of a dispute as agreed in the Agreement.

Q4 Is there any monetary limit to a dispute before The Law Society Neutral Evaluation and Determination Scheme can apply?

A. No. There is no monetary limit.

Q5 What are the advantages of using The Law Society Neutral Evaluation and Determination Scheme?

A. The scheme allows for quick resolution of disputes between parties, thus saving costs. In addition, The Law Society of Singapore can provide facilities for the conduct of the neutral evaluation and neutral determination, subject to availability. The administrative charges of The Law Society of Singapore are set out in the fees schedule in Part 7 of this Handbook.

Q6 What must I do to commence neutral evaluation or neutral determination under The Law Society Neutral Evaluation and Determination Scheme?

A. To commence a Neutral Proceeding, the Applicant must deliver an Application in accordance with Rule 5 of the LawSoc Neutral Evaluation and Determination Rules to the Respondent. A copy of the Application together with a non-refundable administration fee (as set out in the fees schedule in Part 7 of this Handbook) shall be delivered to the main premises of The Law Society of Singapore (39 South Bridge Road, Singapore 058673) and be marked for the attention of the President. For more information, please refer to Rule 5 of the LawSoc Neutral Evaluation and Determination Rules.

Q7 Is there a Panel of Neutrals for The Law Society Neutral Evaluation and Determination Scheme?

A. Yes, there is a Panel of Neutrals comprising experienced legal practitioners practising in various areas of law. The Law Society of Singapore will provide the list of Neutrals on its website at www.lawsociety.org.sg

Q8 Are parties restricted to Neutrals from the Panel of Neutrals?

A. Yes, parties can only choose their Neutrals from the Panel of Neutrals.

Q9 Is the decision by the Neutral binding on the parties?

A. An evaluation is advisory only. A determination or a Costs Decision, on the other hand, is binding until the dispute is ultimately determined by an arbitrator or a court or other body of competent jurisdiction.

Q10 How much will it cost to seek a neutral evaluation or neutral determination under The Law Society Neutral Evaluation and Determination Scheme?

A. The Law Society of Singapore prescribes the Neutral's fees. Part 6 of this Handbook sets out the current fees payable. The Law Society of Singapore may from time to time revise the fees and this will be set out on its website at www.lawsociety.org.sg

Q11 Approximately how long will the Neutral take to deliver an Evaluation or Determination under The Law Society Neutral Evaluation and Determination Scheme?

A. Rule 16.1 of the Lawsoc Neutral Evaluation and Determination Rules provides that the Neutral will give the Evaluation or Determination to the parties within fourteen (14) days after the date of the Neutral's receipt of the Response or the date for giving the Response, whichever is earlier. However, depending on the complexity of the matter, more time may be required by the Neutral to consider adequately the legal issues and provide his or her Evaluation or Determination.

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