

IN THE ASIAN INTERNATIONAL ARBITRATION CENTRE  
AT KUALA LUMPUR, MALAYSIA

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THE 20TH LAWASIA INTERNATIONAL MOOT COMPETITION 2025

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**CALYX DREAMBOT INCORPORATED**

(CLAIMANT)

V

**RIVUS MICROELECTRONICS GROUP**

(RESPONDENT)

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**MEMORIAL FOR RESPONDENT**

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## **STATEMENT OF JURISDICTION**

Calyx Dreambot Incorporated (“CDI” or “Claimant”) and Rivus Microelectronics Group (“RMG” or “Respondent”) hereby submit this dispute, arising from alleged breaches under the Joint-Venture Agreement (“JVA”), to the Asian International Arbitration Centre (“AIAC”). This submission is made pursuant to the AIAC Rules 2023 and Clause 11 of the JVA, as agreed by the parties in the Statement of Agreed Facts, including any Corrections and Clarifications.

The parties have accepted the jurisdiction of this Tribunal under Clause 11 of the JVA and agree that the Tribunal's decision shall be final and binding. Accordingly, the Tribunal is requested to adjudicate the dispute in accordance with the AIAC Rules 2023, the UNIDROIT Principles of International Commercial Contracts (2016) and, with respect to issues not covered by such Principles, by generally accepted principles of international commercial law as agreed in the JVA by both parties.

## **QUESTIONS PRESENTED**

- I. Whether RMG is entitled to invoke sovereign immunity;
- II. Whether CDI's initiation of arbitration was premature;
- III. Whether RMG breached the JVA in relation to the alleged labour practices; and
- IV. Whether CDI's termination of the JVA was lawful.

## **STATEMENT OF FACTS**

### **PARTIES**

The Claimant, Calyx Dreambot Incorporated, CDI, is a multinational corporation in the semiconductor industry, specialising in the design, manufacture, and sale of microchips. CDI entered into a Joint Venture Agreement (“JVA”) with RMG to develop semiconductor manufacturing facilities and expand production capacity for international markets.

The Respondent, Rivus Microelectronics Group, RMG, is a state-owned company incorporated in Aurion. It undertakes various commercial ventures, including technology and manufacturing projects. Under the JVA, RMG collaborated with CDI on the semiconductor project.

### **THE MISE EN SCÈNE**

Global chip realignment and Seratious–Veridia tensions drove investment to Aurion. Aurion prioritised rapid industrialisation to secure supply-chain share.

### **THE AVANT-GARDE**

President Davul Ho promoted Aurion as stable for FDI and facilitated introductions between Aurion entities and Veridian firms, including CDI.

RMG—a national champion in semiconductors—partnered with CDI to deliver a flagship facility serving urgent global demand.

## **THE AURION-VERIDIA BIT**

The October 2022 BIT provided the legal backdrop for long-term investment and encouraged expedited approvals to meet market needs.

## **THE JOINT VENTURE**

December 2022, RMG and CDI executed the JVA; ASI incorporated 3 January 2023 as the JV vehicle.

At CDI's insistence, the project adopted an ambitious 15-month completion target; JPMT was formed to co-manage delivery.

To address CDI's 20 September 2023 directive to reduce costs and accelerate hiring, RMG proposed several agencies; CDI approved BWS. 2 October 2023, ASI engaged BWS to supply and manage 1,200 workers, with ASI retaining oversight via collaboration and audit clauses.

## **THE OPERATIONS**

Construction and workforce mobilisation were completed on the accelerated timeline; production began 20 May 2024 and quickly scaled to meet Seratious clients' demand.

## **THE UNEARTHING OF WORKFORCE ABUSE**

13 September 2024, an anonymous report (later traced by IIC to a Seratious IP) alleged labour abuses.

The IIC (including Aurion's human-rights commission) investigated and on 30 September 2024 found issues (crowding, overtime pressures, passport retention by BWS, audit gaps) but no definitive modern-slavery finding; it recommended tighter monitoring and documentation.

## **REGULATORY MEASURES**

To preserve market access and address Seratiuous' warnings, the Ministry suspended ASI's licence 2–23 October 2024 pending a revised audit, which was then shared with Seratiuous to maintain trade confidence.

Following further review of actual timesheets obtained during supervision, the Ministry found ~10,000 excess overtime hours not reflected in ASI's revised report and on 16 December 2024 imposed a USD 500 million statutory fine on ASI for compliance failures.

ASI remained the regulated employer; BWS was ASI's chosen contractor under a contract approved by CDI, with ASI obligated to ensure accurate audits.

## **TERMINATION AND ARBITRATION**

On 24 December 2024, CDI unilaterally terminated the JVA and on 28 December 2024 demanded that RMG bear the Ministry's fine.

RMG rejected liability, noting CDI's cost-pressure directives, approval of BWS, and ASI's retained compliance role.

6 January 2025, CDI commenced arbitration seeking USD 742.5 million. RMG raised preliminary objections that (i) it is entitled to sovereign immunity as a state-linked entity, and (ii) the arbitration is premature under the JVA's multi-tier dispute resolution framework.

On the merits, RMG contends CDI's acceleration and cost-minimisation demands materially contributed to compliance lapses and that the Ministry's measures were regulatory acts taken in the public interest.

## **SUMMARY OF PLEADINGS**

### **I**

RMG is entitled to invoke sovereign immunity in arbitration and they enjoy immunity by signing the New York Convention. Alternatively, arbitration is not the proper forum as the matter can only be tried in the criminal courts of Aurion.

### **II**

CDI's initiation of arbitration was premature. The dispute resolution clauses, Clause 10.1 and Clause 10.2 are both applicable in today's proceedings. As CDI have not fulfilled Clauses 10.1 and 10.2, this tribunal lacks jurisdiction.

### **III**

RMG did not breach the JVA in relation to the alleged labour practices, as this responsibility was delegated to the third-party labour agency BWS. RMG cannot be held liable for the breach.

### **IV**

CDI's termination of the JVA was unlawful as RMG's actions did not amount to a fundamental non-performance.

## PLEADINGS

### I. RMG IS ENTITLED TO INVOKE SOVEREIGN IMMUNITY.

#### A. RMG can invoke immunity in arbitration.

*Article 32(1) of the Malaysian Federal Constitution* states that “The Yang di-Pertuan Agong shall not be liable to any proceedings whatsoever in any court except in the Special Court established under Part XV.” Similarly, state organs like RMG under the direct control of the executive enjoy immunity from foreign courts and tribunals unless proceedings are commenced in the special courts of Aurion.

This is because sovereign immunity is rooted in the maxim *par in parem non habet imperium* — one sovereign cannot sit in judgment over another.<sup>1</sup> A sovereign entity like RMG cannot thus be subjected to external adjudication. Any attempt to pierce this immunity would violate RMG’s sovereignty and the principle of non-interference in domestic affairs. Accordingly, RMG cannot be subjected to arbitral proceedings and enjoys complete protection from liability.

#### B. RMG enjoys immunity by signing the New York Convention (hereinafter described as “NY Convention”).

In *CC/Devas et al. v. The Republic of India*,<sup>2</sup> the High Court has held that a state enjoys immunity by ratifying the NY Convention.

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<sup>1</sup> W. Houli, Sovereign immunity: Chinese views and practices. *Journal of Chinese Law*, 1 (1987), p. 22.

<sup>2</sup> [2025] EWHC 964 (Comm).

Aurion is a signatory of the NY Convention.<sup>3</sup> Hence, RMG still retains its right to state immunity.

**C. Alternatively, arbitration is not preferred because it relates to bribery.**

Referring to Exhibit 11 of the Moot Problem, Mr Suvan offered to waive the fine imposed on RMG. This amounts to bribery, which is a crime. Hence, the tribunal does not have jurisdiction to decide on this matter. Instead, this matter can only be tried by the criminal court of Aurion.

**II. CDI'S INITIATION OF ARBITRATION WAS PREMATURE.**

**A. Clause 10.1 and 10.2 is applicable.**

The drafting of the JVA shows that Clause 10 is a general dispute resolution clause, not a clause confined only to Clause 5.3 or Clause 6.3. Clause 10.1 and 10.2 is drafted with broad language: "Parties agree to regulate their own affairs and resolve any dispute arising from or connected to this Agreement..." for the former and "Any proceedings, claims, or suits in relation to any dispute or controversy, arising out of or in connection with this Agreement" for the latter. These clauses were meant to plainly encompass all disputes arising out of the JVA.

Hence, to argue that Clause 10 applies only when cross-referenced in Clauses 5.3 and 6.3 ignores its plain wording. *Article 31(1) of the Vienna Convention on the Law of Treaties*, which Aurion has signed,<sup>4</sup> states that a clause must be interpreted in good faith in accordance with the ordinary meaning.<sup>5</sup> Hence, this tribunal should interpret Clause 10 in good faith and in light of its commercial purpose and context.<sup>6</sup> Clauses 5.3 and 6.3 do not limit its scope. Clause 10, as drafted

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<sup>3</sup> Additional Moot Clarification [2].

<sup>4</sup> Moot Problem Exhibit 2.

<sup>5</sup> Vienna Convention on the Law of Treaties, 1969, 1155 UNTS 331, art 31(1).

<sup>6</sup> *Investors Compensation Scheme Ltd v West Bromwich Building Society* [1997] UKHL 28.

by the parties to encompass all disputes, is still the general mechanism for dispute resolution under the JVA. Therefore, both clauses are applicable and must be complied with by the Claimants before they can initiate arbitration proceedings.

**B. CDI has not fulfilled Clause 10.1.**

A reading of Clause 10.1 shows there are 3 elements to fulfil it: first, CDI must send a written notice to RMG; second, both parties must appoint their respective representatives; and third, CDI must negotiate with RMG within 14 days after sending the written notice.

Presently, CDI merely sent WhatsApp messages on 11 October 2025,<sup>7</sup> which is too informal to constitute a written notice. Furthermore, no negotiations occurred as CDI failed to specify the particulars of the dispute, venue of negotiation, its representatives, and its current position. Hence, Clause 10.1 has not been fulfilled and this tribunal lacks jurisdiction.

**C. Clause 10.2 has not been fulfilled by CDI.**

Clause 10.2 requires CDI to obtain consent of the Minister in charge of economic policy, foreign investments and trade of Aurion before commencing arbitration.

CDI cannot claim the Minister's consent has been indirectly obtained because the President of Aurion facilitated the JVA between both parties. The President is not the officer named in Clause 10.2. The Clause explicitly names the "Minister in charge of economic policy, foreign investments and trade of Aurion", not the President. CDI must obtain consent directly from the Minister as stipulated in the JVA they have agreed to.

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<sup>7</sup> Exhibit 11.

Additionally, Mr Suvan's willingness to waive the fine is not a formal act of consent for the same reason. It does not involve the authority of the stipulated Minister and does not follow the procedure set out in Clause 10.2 of the JVA.

Hence, CDI has not complied with Clause 10.2 of the JVA and this tribunal therefore lacks jurisdiction.

### **III. RMG DID NOT BREACH THE JVA IN RELATION TO THE ALLEGED LABOUR PRACTICES.**

RMG cannot be held liable for the breaches of labour standards as they had delegated this responsibility to the third party labour agency, BWS already. This is by virtue of the Service Agreement between ASI and BWS, which provides BWS with full control over the management of workers.<sup>8</sup>

The Service Agreement is also a clear indication of CDI's consent for RMG to delegate its responsibilities as the decision to hire BWS was unanimous and such decision was partially done by representatives of CDI.

As this contractual obligation was clearly delegated to a third party, that third party should be held liable for the damage and should pay damages accordingly as per The Unidroit Principles Of International Commercial Contracts: An Overview Of Their Utility And The Role They Have Played In Reforming Domestic Contract Law Around The World.<sup>9</sup>

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<sup>8</sup> Moot Problem Paragraph [38].

<sup>9</sup> Christine M. Whited, 'The Unidroit Principles Of International Commercial Contracts: An Overview Of Their Utility And The Role They Have Played In Reforming Domestic Contract Law Around The World' (2011) 18 ILSA Journal of International & Comparative Law 168.

Thus, RMG did not breach their obligations under the JVA which regards the alleged labour practices.

#### **IV. CDI'S TERMINATION OF THE JVA WAS UNLAWFUL.**

Assuming that there is a breach by RMG, RMG's breach is not fundamental, hence CDI cannot lawfully terminate the JVA.

According to Clause 8.1 of the JVA, CDI may terminate this Agreement in the event of a fundamental non-performance or breach of this Agreement.<sup>10</sup>

There are 2 elements for fundamental breach as per *Heirs to the Sultanate of Sulu v Malaysia*.<sup>11</sup> First, whether the claimant was substantially deprived by the respondent's breach; and second, whether the claimant cannot rely on the respondent in light of the breach.

##### **A. CDI was not substantially deprived by the respondent's breach.**

The license suspension was only temporary and has now been lifted. The factory is already back to normal operations.<sup>12</sup> If CDI had not terminated the JVA, production would have continued, allowing ASI to recover profits lost from the delayed delivery of key supply contracts and cover the fines imposed.

This recovery is realistic because CDI is the largest semiconductor company in Veridia, while RMG is a government-backed state entity with full state support.<sup>13</sup> Together, their strong

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<sup>10</sup> Exhibit 4, Clause 8.1.

<sup>11</sup> Paris Court of Cassation, 28 February 2022.

<sup>12</sup> Moot Problem Paragraph [50].

<sup>13</sup> Moot Problem Paragraph [14] & [27].

market position and resources would have ensured the project's success and profitability despite the earlier setback caused by the temporary suspension.

**B. CDI can rely on the respondent in light of the breach.**

Previously, RMG fulfilled all its obligations with due diligence. For instance, RMG expedited all the administrative processes such as obtaining governmental approvals and securing land for the project, allowing the joint venture to kick start promptly.<sup>14</sup>

Bearing the application of these factors in mind, it is clear that RMG's actions do not amount to a fundamental non-performance. Thus, CDI's termination of the JVA was unlawful.

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<sup>14</sup> Moot Problem Paragraph [30] & [40].

## **PRAYER FOR RELIEF**

The Respondent respectfully requests this Tribunal to hold the following:

### **I**

RMG is entitled to invoke sovereign immunity.

### **II**

CDI's initiation of arbitration was premature.

### **III**

RMG did not breach the JVA in relation to the alleged labour practices.

### **IV**

CDI's termination of the JVA was unlawful.

*Respectfully Submitted,*

*Counsels for Respondent*