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# Domestic Arbitration Rules



香港國際仲裁中心  
Hong Kong International  
Arbitration Centre

**DOMESTIC  
ARBITRATION RULES**

**HONG KONG INTERNATIONAL  
ARBITRATION CENTRE  
DOMESTIC ARBITRATION RULES**

Adopted to take effect from 1 November 2014

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*In developing the Domestic Arbitration Rules, HKIAC drew on the expertise of its many advisers. It also consulted a variety of other published rules. HKIAC acknowledges all of the assistance it has received in formulating the Rules and thanks the many people and organisations which have helped to produce them.*

## **INTRODUCTION**

These Domestic Arbitration Rules (2014), which amended and replaced the Domestic Arbitration Rules (2012), have been adopted by the Council of the Hong Kong International Arbitration Centre (HKIAC) for use by parties seeking to use a set of formal and convenient procedures for ad hoc arbitration in Hong Kong. The Rules provide that the wishes of the parties regarding procedure will be respected as far as possible, but they also seek to ensure that the Arbitrator will have sufficient powers to direct the proceedings if the parties cannot agree on procedure or will not co-operate.

The adoption of these Rules shall not necessarily mean that any part of Schedule 2 to the Hong Kong Arbitration Ordinance (which includes what were previously known as the "domestic" provisions of the previous Arbitration Ordinance) applies to any arbitration under these Rules. Whether they do will depend on the provisions of the applicable arbitration agreement.

Where the parties wish to have a more structured arbitration, parties are advised to refer to the HKIAC Administered Arbitration Rules (2013).

These Rules should not be used where the parties wish the seat of arbitration to be outside of Hong Kong.

In accordance with the Preamble to these Rules, Paragraph 1, arbitrations commenced after the commencement date of these Rules relating to existing contracts which refer to arbitration under the Domestic Arbitration Rules will be resolved under the HKIAC Domestic Arbitration Rules (2014).

### **Hong Kong International Arbitration Centre**

HKIAC was established in 1985 to assist disputing parties to solve their disputes by arbitration and by conciliation, adjudication and mediation. HKIAC is a non-profit making company limited by guarantee. It was established by a group of leading business and professional people in Hong Kong to be the focus in Asia for dispute resolution. It has been generously funded by the business community and by the Hong Kong Government but it is totally independent of both.

## SUGGESTED CLAUSES

1. Parties to a contract who wish to have any future disputes referred to arbitration under the Domestic Arbitration Rules of the Hong Kong International Arbitration Centre (HKIAC) may insert in the contract an arbitration clause in the following form:

“Any dispute, controversy, difference or claim arising out of or relating to this contract, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration pursuant to the HKIAC Domestic Arbitration Rules in force when the Notice of Arbitration is submitted.”

\* The law of this arbitration clause shall be ... (*Hong Kong law*).

The seat of arbitration shall be ... (*Hong Kong*).

\*\* The number of arbitrators shall be ... (*one or three*).  
The arbitration proceedings shall be conducted in ... (*insert language*).”

Notes:

- \* The law of the arbitration clause generally governs the existence, scope, validity, interpretation, performance, breach, termination and enforceability of the arbitration clause. It does not replace the law governing the substantive contract.
- \*\* Optional

2. Parties to an existing dispute who wish to refer it to arbitration under the Domestic Arbitration Rules of the Hong Kong International Arbitration Centre (HKIAC) may agree to do so in the following terms:

“We, the undersigned, agree to refer to arbitration administered by the Hong Kong International Arbitration Centre (HKIAC) under the HKIAC Domestic Arbitration Rules any dispute, controversy, difference or claim (including any dispute regarding non-contractual obligations) arising out of or relating to:

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(Brief description of contract under which disputes, controversies, differences or claims have arisen or may arise.)

\* The law of this arbitration agreement shall be ... (*Hong Kong law*).

The seat of arbitration shall be ... (*Hong Kong*).

\*\* The number of arbitrators shall be ... (*one or three*).  
The arbitration proceedings shall be conducted in ... (*insert language*).

Signed: \_\_\_\_\_ (Claimant)

Signed: \_\_\_\_\_ (Respondent)

Date: \_\_\_\_\_ ”

#### Notes:

\* The law of the arbitration agreement generally governs the existence, scope, validity, interpretation, performance, breach, termination and enforceability of the arbitration agreement. It does not replace the law governing the substantive contract.

#### \*\* Optional

Whether parties are drafting an agreement to arbitrate future disputes or an existing dispute, they should consider whether specifically to adopt any or all of the provisions of sections 2 to 7 of Schedule 2 of the Arbitration Ordinance (Cap. 609 of the laws of Hong Kong) in their arbitration clause (see section 99 of the Ordinance).<sup>1</sup> If any such adoption is required the arbitration agreement should make express provision for this, although careful consideration must be given as to whether there will be an automatic opt in to Schedule 2 pursuant to section 100 or section 101 of the Ordinance under the subject arbitration agreement.

An express opt-in to all the provisions of Schedule can be achieved with the following clause, to be included in addition to the above arbitration agreement:

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<sup>1</sup> The full text of the Arbitration Ordinance can be found at <http://www.hkiac.org/url/ao/>.

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"It is agreed that all of the provisions in Schedule 2 to the Arbitration Ordinance (Cap. 609) apply to any arbitration hereunder."

Alternatively an express opt-in to some, but not all, of the provisions of Schedule 2 can be achieved with the following:

"It is agreed that the following provisions of Schedule 2 to the Arbitration Ordinance (Cap. 609) apply to any arbitration hereunder:

- (a) section 1;\*
- (b) section 2;\*
- (c) section 3;\*
- (d) sections 4 and 7;\*
- (e) sections 5, 6 and 7." \*

\* Include or exclude as appropriate.

Where there will be an automatic opt in to Schedule 2 pursuant to section 100 or section 101 of the Ordinance under the subject arbitration agreement but the parties do not wish any of the provisions of schedule 2 to apply, the following clause will achieve this:

"It is agreed that none of the provisions in Schedule 2 to the Arbitration Ordinance (Cap. 609) apply to any arbitration hereunder."

# HONG KONG INTERNATIONAL ARBITRATION CENTRE DOMESTIC ARBITRATION RULES

Adopted to take effect from 1 November 2014

## PREAMBLE

Where any agreement, submission or reference provides for arbitration under the Domestic Arbitration Rules of the Hong Kong International Arbitration Centre (the Rules), the parties shall be taken to have agreed that the arbitration shall be conducted in accordance with the following Rules, or such amended Rules as the Hong Kong International Arbitration Centre (HKIAC) may have adopted to take effect before the commencement of the arbitration. The Rules are subject to such modifications as the parties may agree in writing at any time.

References in these Rules to "the Ordinance" are to the Arbitration Ordinance (Cap. 609 of the laws of Hong Kong).

The adoption of the HKIAC Domestic Arbitration Rules (2014) in an arbitration agreement shall not, by itself, have the effect of (1) providing that arbitration under that agreement is a domestic arbitration for the purposes of section 100 of the Ordinance; or (2) providing that an express provision of Schedule 2 of the Ordinance applies or does not apply.

These Rules should be construed in accordance with the provisions of the Ordinance.

Due to their importance for the conduct of arbitrations under the Ordinance, a number of provisions of the Ordinance have been incorporated in whole or in part into these Rules. Where this has been done, reference is made to the relevant provisions of the Ordinance in the footnotes appended or in the Rules themselves. Particular attention is drawn to the following sections:

- (a) Section 10 Receipt of written communications (Article 4.4 of the Rules)
- (b) Section 11 Waiver of right to object (Article 21 of the Rules)
- (c) Section 18 Disclosure of information relating to arbitral proceedings and awards prohibited (Article 20.1 of the Rules)

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- (d) Section 25 Grounds for challenge (Article 3.3 of the Rules)
  - (e) Section 26 Challenge procedure (Article 3.3 of the Rules)
  - (f) Section 28 Appointment of substitute arbitrator (Article 3.3 of the Rules)
  - (g) Section 34 Competence of arbitral tribunal to rule on its jurisdiction (Article 11 of the Rules)
  - (h) Section 35 Power of arbitral tribunal to order interim measures (Article 12 of the Rules)
  - (i) Sections 35 to 42 Provisions applicable to interim measures and preliminary orders (Article 12 of the Rules)
  - (j) Section 46 Equal treatment of parties (Article 5.1 of the Rules)
  - (k) Section 47 Determination of rules of procedure (Article 5.2 of the Rules)
  - (l) Section 52 Hearings and written proceedings (Article 8.1 of the Rules)
  - (m) Section 53 Default of a party (Article 13 of the Rules)
  - (n) Section 54 Expert appointed by arbitral tribunal (Article 10 of the Rules)
  - (o) Section 56 General powers exercisable by arbitral tribunal (Article 13 of the Rules)
  - (p) Section 69 Correction and interpretation of award; additional award (Article 18 of the Rules)
  - (q) Section 74 & 75 Arbitral tribunal may award costs of arbitral proceedings (Article 19 of the Rules)

## **Article 1 Commencement of Arbitration**

- 1.1 Any party wishing to commence an arbitration under these Rules (the Claimant) shall send to the other party (the Respondent) a written notice requiring the Respondent to appoint or concur in appointing the Arbitrator (Notice of Arbitration) which shall include, or be accompanied by:

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- (a) the names and addresses (and telephone and fax numbers and email addresses as appropriate) of the parties to the dispute and, where the Claimant chooses to be represented by a Representative (under Article 7) and wishes to have communications sent to its Representative, the Representative's name and address (and telephone and fax numbers and email address);
  - (b) reference to the contractual documents or other legal instruments in which the arbitration clause is contained or under which the arbitration arises;
  - (c) a copy of any separate arbitration agreement which is invoked;
  - (d) a brief statement describing the nature and circumstances of the dispute, and specifying in outline the relief claimed;
  - (e) a proposal that either HKIAC appoints the Arbitrator,\* or a list of up to three names from which the Respondent may choose an Arbitrator.

\* *HKIAC may be asked either to make a direct appointment or may be asked to use the list system of appointment, as described in Appendix 1 attached.*

- 1.2 The appointment of the Arbitrator shall not be hindered by any controversy with respect to the sufficiency of the Notice of Arbitration, which shall be finally resolved by the Arbitrator.
- 1.3 The arbitration shall be deemed to commence on the date of receipt by the Respondent of the Notice of Arbitration.
- 1.4 A copy of the Notice of Arbitration shall be sent to the Secretary-General of HKIAC (the Secretary-General) at the same time that it is sent to the Respondent.
- 1.5 For the purpose of facilitating the choice of the Arbitrator, within 28 days of receipt of the Notice of Arbitration, the Respondent shall, to the extent possible, send to the Claimant a Response containing:

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- (a) confirmation or denial of his willingness to arbitrate and, if denial, the grounds relied upon as to why the matter should not be arbitrated or the Arbitrator does not have jurisdiction;
  - (b) confirmation or denial of all or part of the claims;
  - (c) a brief statement of the nature and circumstances of any envisaged counterclaims;
  - (d) a response either agreeing to any proposals contained in the Notice of Arbitration, as called for under Article 1.1(e), or a list of up to three names from which the Claimant may choose an Arbitrator; and
  - (e) details of its Representative, including the Representative's name and address (and telephone and fax numbers and email address), if appropriate.
- 1.6 The appointment of the Arbitrator shall not be hindered by any controversy with respect to the Respondent's failure to communicate a Response to the Notice of Arbitration or an incomplete or late Response to the Notice of Arbitration, which shall be finally resolved by the Arbitrator.
- 1.7 A copy of the Response shall be sent to the Secretary-General at the same time that it is sent to the Claimant.
- 1.8 Failure to send a Response shall neither preclude the Respondent from denying the claim nor from setting out a counterclaim in its Statement of Defence.

## **Article 2 Appointing Authority**

2.1 HKIAC shall be the Appointing Authority.\*

\* *HKIAC will require payment of an appointment fee for the use of its services as Appointing Authority as set out in its Fee Schedule applicable to these Rules at the time of the application for appointment. The Fee Schedule will be published on the HKIAC website.*

2.2 Any application to the Appointing Authority to act in accordance with these Rules shall be accompanied by:

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- (a) copies of the Notice of Arbitration and Response and any other related correspondence;
  - (b) confirmation in writing that a copy of the application has been sent to or received by the other party;
  - (c) particulars of any method or criteria for selection of the Arbitrator agreed by the other party.

### **Article 3 Appointment of Arbitrator**

- 3.1 There shall be a sole Arbitrator unless the arbitration agreement provides otherwise.
- 3.2 The Arbitrator may be appointed by agreement of the parties. Failing such agreement within 42 days of the commencement date of the arbitration in accordance with Articles 1.1 and 1.3, the Arbitrator shall upon the application of either party be appointed by HKIAC.
- 3.3 The Arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. A party may challenge the Arbitrator appointed by him only for reasons of which he becomes aware after the appointment has been made.<sup>2</sup>

### **Article 4 Communication between Parties and the Arbitrator**

- 4.1 Where the Arbitrator sends any communication to one party, he shall send a copy to the other party at the same time.
- 4.2 Where a party sends any communication (including Statements and documents under Article 6 and Article 9) to the Arbitrator, it shall be copied to the other party and be indicated to the Arbitrator to have been so copied at the same time.

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<sup>2</sup> Based on section 25(2) of the Ordinance. See also sections 26 and 28 of the Ordinance.

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- 4.3 The addresses of the parties for the purpose of all communications arising under the Rules shall be those set out in the Notice of Arbitration, or as either party may at any time notify the Arbitrator and the other party.
- 4.4 Subject to Rule 4.3 above, for the purpose of arbitration under these Rules, unless the contrary is proved, any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means which provides a record of the attempt to deliver it. The communication is deemed to have been received on the day it is so delivered. Any written communication sent by any other means by which information can be recorded and transmitted to the addressee (including facsimiles and emails) shall be deemed to be received on the same day as transmitted, if there is a record of receipt of the communication by the addressee.<sup>3</sup>
- 4.5 Where the parties have agreed to the appointment of an arbitration administrator, the functions of the arbitration administrator may be performed by the Secretary-General of the HKIAC or by such person as may be designated by the Secretary-General. Where the Secretary-General or his designate is so appointed, all communications and notices between a party and the Arbitrator in the course of the arbitration (except at meetings and hearings) will be addressed through the Secretary-General or his designate. If the Secretary-General is unable to designate a person to perform the functions of arbitration administrator, the Council of HKIAC may do so.

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<sup>3</sup> Based on section 10 of the Ordinance.

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## **Article 5 Conduct of the Proceedings**

- 5.1 The parties must be treated with equality. The Arbitrator is required to be independent, and to act fairly and impartially as between the parties, giving them a reasonable opportunity to present their cases and to deal with the cases of their opponents.<sup>4</sup>
- 5.2 The Arbitrator shall have the power to adopt wherever possible a simplified or expedited procedure and in any case shall have the widest discretion allowed by law to conduct the proceedings so as to ensure the just, expeditious, economical, and final determination of the dispute.<sup>5</sup>
- 5.3 The Arbitrator should, and shall, if requested by any party, hold a preliminary meeting with the parties as soon as possible after accepting his appointment.

## **Article 6 Submission of Parties' Written Statements and Documents**

- 6.1 In default of agreement between the parties or determination of the Arbitrator the written stage of the proceedings shall be as set out in this Article (and in accordance with Article 4).
- 6.2 Within 28 days of receipt by the Claimant of notification of the Arbitrator's acceptance of the appointment, the Claimant shall send to the Arbitrator a Statement of Claim setting out a full description in narrative form of the nature and circumstances of the dispute specifying all factual matters and, if necessary for the proper understanding of the claim, a summary of any contentions of law relied upon and the relief claimed.

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<sup>4</sup> Based on section 46(2) and section 46(3)(a) and (b) of the Ordinance (in part).

<sup>5</sup> See also section 47 of the Ordinance.

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- 6.3 Within 35 days of receipt of the Statement of Claim, the Respondent shall send to the Arbitrator a Statement of Defence setting out a full description in narrative form of the factual matters and contentions of law in the Statement of Claim which he admits or denies, on what grounds, and specifying any other factual matters and, if necessary for the proper understanding of the defence, a summary of any contentions of law relied upon. Counterclaims, if any, shall be submitted with the Statement of Defence in the same manner as claims set out in the Statement of Claim.
- 6.4 Within 21 days of receipt of the Statement of Defence the Claimant may send to the Arbitrator a Statement of Reply which, where there are Counterclaims, shall include a Defence to Counterclaims.
- 6.5 If the Statement of Reply contains a Defence to Counterclaims, the Respondent may within a further 21 days send to the Arbitrator a Statement of Reply regarding Counterclaims.
- 6.6 All Statements referred to in this Article shall be accompanied by copies (or, if they are especially voluminous and by leave of the Arbitrator, lists) of all essential documents on which the party concerned relies and which have not previously been submitted by any party, and (where appropriate) by any relevant samples.
- 6.7 The Arbitrator may, at any stage of the proceedings, if so requested by a party or at the Arbitrator's own discretion, order the parties to produce any additional documents he may specify.
- 6.8 As soon as practicable following completion of the submission of the Statements specified in this Article, the Arbitrator shall proceed to resolve the disputes between the parties in accordance with the provisions of these Rules.

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## **Article 7 Representation**

- 7.1 A party may conduct his case in person or be represented throughout or in part by lawyers or other advisers or representatives of his choice (Representative). A party shall notify the Arbitrator, HKIAC and the other parties of any change of Representative and his address (and telephone, fax number and email address) as soon as practicable after any such change.
- 7.2 At any time, the Arbitrator may require from any party proof of authority granted to his Representative in such form as the Arbitrator may determine.

## **Article 8 Hearings**

- 8.1 Subject to any contrary agreement by the parties, the Arbitrator shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the Arbitrator shall hold such hearings at any appropriate stage of the proceedings, if so requested by a party.<sup>6</sup>
- 8.2 Where the parties have agreed that a documents-only arbitration procedure shall be adopted, the parties shall not be entitled to a hearing and the testimony of any witness shall be presented in written form. If the Arbitrator feels unable to make an award on the basis of the documents submitted, he shall be entitled to require further evidence or submissions whether oral or in writing.
- 8.3 The Arbitrator shall fix the date, time and place of meetings and hearings in the arbitration, and shall give the parties reasonable notice thereof.
- 8.4 The Arbitrator may in advance of meetings and hearings provide the parties with a list of matters or questions to which he wishes them to give special consideration.

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<sup>6</sup> Based on section 52 of the Ordinance.

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- 8.5 The Arbitrator may order opening and closing statements to be in writing and shall fix the periods of time for communicating such statements and the replies that may be necessary.
- 8.6 The Arbitrator may also order a transcript of any hearing or part of any hearing.
- 8.7 All meetings and hearings shall be in private unless the parties agree otherwise.

## **Article 9 Witnesses**

- 9.1 The Arbitrator may at any time require any party to give notice of the identity of witnesses he intends to call to give evidence. The Arbitrator may also require the exchange of witness statements, affidavit evidence and of expert reports.
- 9.2 The Arbitrator has discretion to allow, limit, or refuse to allow the appearance of witnesses, whether witnesses of fact or expert witnesses.
- 9.3 The Arbitrator may order that such witness statements or affidavit evidence shall stand as evidence-in-chief. A witness may be required by the Arbitrator to testify under oath or affirmation in accordance with the Ordinance as applicable. The Arbitrator may put questions to any witness at any stage of the examination.
- 9.4 Subject to Article 9.2, any party may request that such a witness should attend for oral examination at a hearing. If the witness fails to attend, the Arbitrator may place such weight on the written testimony as he thinks fit, or may exclude it altogether.

## **Article 10 Experts and Assessors Appointed by the Arbitrator**

The Arbitrator may appoint one or more experts and/or assessors in accordance with section 54 of the Ordinance.

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## **Article 11 Jurisdiction of the Arbitrator**

- 11.1 The Arbitrator may rule on his own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the Arbitrator that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.<sup>7</sup>
- 11.2 A plea that the Arbitrator does not have jurisdiction shall be raised not later than the submission of the Statement of Defence. A party is not precluded from raising such a plea by the fact that he has participated in the appointment of the Arbitrator. A plea that the Arbitrator is exceeding the scope of his authority shall be raised as soon as the matter alleged to be beyond the scope of his authority is raised during the arbitral proceedings. The Arbitrator may, in either case, admit a later plea if he considers the delay justified. Any plea raised in accordance with this Article shall be dealt with in accordance with section 34 of the Ordinance.<sup>8</sup>

## **Article 12 Interim Measures**

Unless otherwise agreed by the parties, the Arbitrator may, at the request of a party, grant interim measures.<sup>9</sup> The power of the Arbitrator to grant interim measures shall be exercised in accordance with sections 35 to 42 of the Ordinance.

## **Article 13 General and Additional Powers of the Arbitrator**

Unless otherwise agreed by the parties, when conducting arbitral proceedings, the Arbitrator may make any order in accordance with section 56 of the Ordinance<sup>10</sup> and, in addition, any order:

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<sup>7</sup> Based on section 34(1) of the Ordinance.

<sup>8</sup> Based on section 34(1) of the Ordinance.

<sup>9</sup> Based on section 34(1) of the Ordinance.

<sup>10</sup> See section 56(1)(a), (b), (c) and (d) of the Ordinance.

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- (a) allowing any party, upon such terms (as to costs and otherwise) as the Arbitrator shall determine, to amend any document submitted under Article 6 and Article 9;
  - (b) extending or abbreviating any time limits provided by the Rules or by his directions;
  - (c) rectifying any term of any contract or arbitration agreement of any mistake which he determines to be common to the parties or for any other purpose as could be ordered by the Court if the dispute had been the subject of civil proceedings in the Court; or
  - (d) by which the Arbitrator decides to proceed in the arbitration and make an award(s) notwithstanding the total or partial failure or refusal of any party to comply with these Rules or with the Arbitrator's written directions, or to exercise its right to present its case, but only after giving that party written notice that he intends to do so.<sup>11</sup>

## **Article 14 Place of Arbitration**

The place of the arbitration shall be Hong Kong.

## **Article 15 Language**

- 15.1 The language of the arbitration shall be English and all written communications and statements, and all hearings and meetings shall be conducted in the English language unless the parties and the Arbitrator otherwise agree.
- 15.2 The Arbitrator may order that any documents, including written statements which are produced in the course of the arbitration in their original language, shall be accompanied by a translation into the language of the arbitration, such translation to be certified by a translator approved by the Arbitrator if not agreed.

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<sup>11</sup> See section 53 of the Ordinance.

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- 15.3 Unless the Arbitrator otherwise orders, witnesses shall be entitled to give their evidence in the language of their choice and the Arbitrator may order the translation of that evidence and any related witness statements into the language of the arbitration by a suitably qualified person.

## **Article 16 Deposits and Security**

The Arbitrator may direct the parties, in such proportions as he deems just, to make one or more deposits to secure the Arbitrator's fees and expenses. Such deposits shall be made to and held by the Arbitrator, or HKIAC or some other person or body to the order of the Arbitrator, as the Arbitrator may direct, and may be drawn from as required by the Arbitrator. Interest on sums deposited, if any, shall be accumulated to the deposits.

## **Article 17 The Award**

- 17.1 The Arbitrator shall make his award in writing and, unless all the parties agree otherwise, shall state the reasons upon which the award is based. The award shall be dated and signed by the Arbitrator and shall state that Hong Kong is the place of arbitration. The award shall be deemed to be made in Hong Kong.
- 17.2 The Arbitrator shall notify the parties as soon as the award is ready for collection but shall not be obliged to deliver the award unless his fees and expenses have been paid.
- 17.3 The Arbitrator may make interim awards including separate awards on different issues at different times.
- 17.4 If, before the award is made, the parties agree on a settlement of the dispute, the Arbitrator shall either issue an order for termination of the reference to arbitration or, if requested by both parties and accepted by the Arbitrator, record the settlement in the form of a consent award. The Arbitrator shall then be discharged and the reference to arbitration concluded, subject to payment by the parties of all outstanding fees and expenses of the Arbitrator.

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- 17.5 Unless the parties otherwise agree, the Arbitrator shall provide a copy of the award (including any interim or consent award) to the Secretary-General.

## **Article 18 Interpretation of Awards, Correction of Awards and Additional Awards**

The arbitral tribunal may correct or interpret an award or issue an additional award in accordance with section 69 of the Ordinance.

## **Article 19 Costs**

- 19.1 The Arbitrator may award costs of the arbitral proceedings in accordance with sections 74 and 75 of the Ordinance.
- 19.2 The parties will be jointly and severally liable to the Arbitrator for payment of all the Arbitrator's fees and expenses until they have been paid in full. If the Arbitrator has determined that all or any of his fees and expenses shall be paid by any party other than a party which has already paid them to the Arbitrator, the latter party shall have the right to recover the appropriate amount from the former.
- 19.3 If the Arbitration is abandoned, suspended or concluded, by agreement or otherwise, before the final award is made, the parties shall be jointly and severally liable to pay to the Arbitrator his fees and expenses including the charges of any arbitration administrator, assessor, transcriber or translator as determined by him.

## **Article 20 Disclosure of Information**

- 20.1 Subject to the provisions of section 18 of the Ordinance and these Rules, no information relating to the arbitration shall be disclosed by any person without the written consent of each and every party to the arbitration.

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20.2 Neither the Arbitrator nor HKIAC shall be under any obligation to make any statement to any person about any matter concerning the arbitration, and no party shall seek to make the Arbitrator or HKIAC a witness in any legal proceedings arising out of the arbitration.

## **Article 21 Waiver of Right to Object**

A party who knows that any provision of the Ordinance or these Rules from which the parties may derogate or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his objection to such non-compliance without undue delay or, if a time-limit is provided therefore, within such period of time, shall be deemed to have waived his right to object.<sup>12</sup>

## **Article 22 Destruction of Documents**

HKIAC may destroy all documents served on it pursuant to the Rules after the expiry of a period of two years after the date of the last correspondence received by HKIAC relating to the arbitration.

## **Article 23 Interpretation and General Clauses Ordinance**

The Interpretation and General Clauses Ordinance (or any statutory modification or re-enactment thereof for the time being in force) shall apply to these Rules.

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<sup>12</sup> See section 11 of the Ordinance.

## **APPENDIX 1 – HKIAC List System for the Appointment of Arbitrators**

Where a party proposes to the other party under Article 1.1(e) of the HKIAC Domestic Arbitration Rules (2014) that the list system of appointment of arbitrators be used and the other party concurs the following procedure will apply:

1. Particulars of any method or criteria for selection of the Arbitrator agreed by the parties shall forthwith be sent to HKIAC by the Claimant together with written confirmation that both parties have agreed to adopt the HKIAC list system for the appointment of arbitrators.
2. Each party shall, within 14 days of agreeing to adopt the HKIAC list system, send to HKIAC:
  - (a) the names and curriculum vitae of two persons;
  - (b) either of whom they would be prepared to accept as Arbitrator;
  - (c) who comply with any agreed criteria for selection; and
  - (d) who have indicated that they are prepared to accept appointment.

The names so submitted are not to be disclosed by the party sending them to the other party. Each party shall notify the other that they have complied with this procedure.

3. The HKIAC will vet the persons proposed by the parties to confirm that they comply with the agreed criteria for selection and may request any further information required for this purpose from the parties and the persons proposed.
4. If the 2 lists of persons proposed by the parties contain one or more common names HKIAC shall in their absolute discretion appoint as Arbitrator one of the persons whose name appears on both lists.

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5. In the event that there are no common names HKIAC shall, within 7 days of receipt of the last list of names, prepare a list of 6 names including any names provided by the parties. The persons whose names are added by HKIAC will comply with any agreed criteria for selection and will have indicated that they are prepared to accept appointment.
  6. HKIAC shall then send the list of 6 names to the parties without reference to the source of such names.
  7. The parties shall within 7 days of receipt of the list of 6 names return the same to HKIAC in order of preference.
  8. On receipt of the parties' list of 6 names HKIAC shall allot 6 points to any name which appears at the top of any list and one less point for each succeeding position. HKIAC shall appoint as Arbitrator the person who receives the most points. In the event of a tie in the number of points HKIAC shall, in their absolute discretion, appoint as Arbitrator any one of the persons who has tied with the highest number of points.
  9. If a party shall fail to submit 2 names or to place them in order of preference HKIAC shall in their absolute discretion appoint the Arbitrator and shall not be precluded from appointing as Arbitrator one of the persons named by a party.
  10. In the event that there are more than 2 parties to an arbitration the above procedures shall be adapted accordingly.
  11. For the avoidance of doubt nothing contained in this procedure shall prevent the parties from making an appointment by consent in which case they shall immediately inform HKIAC.



For further information relating to dispute resolution in Hong Kong,  
please contact:

The Secretary-General

Hong Kong International Arbitration Centre

38/F, Two Exchange Square, 8 Connaught Place, Central, Hong Kong

Tel: +852 2525 2381 Fax: +852 2524 2171

E-mail: [adr@hkiac.org](mailto:adr@hkiac.org) Webpage: <http://www.hkiac.org>

