



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

# 机构仲裁规则

ADMINISTERED  
ARBITRATION RULES

ADMINISTERED  
ARBITRATION RULES

# HONG KONG INTERNATIONAL ARBITRATION CENTRE ADMINISTERED ARBITRATION RULES

## Introduction

These Rules have been adopted by the Council of the Hong Kong International Arbitration Centre (HKIAC) for use by parties who seek the formality and convenience of an administered arbitration.

## Application

These Rules may be adopted in an arbitration agreement or by an agreement in writing at any time before or after a dispute has arisen. These Rules may be adopted for use in both domestic and international arbitral proceedings. Provisions regarding the scope of application of these Rules are set out in Article 1.

## Effectiveness

These Rules have been adopted to take effect from 1 September 2008, in accordance with the provisions of Article 1 of the Rules.

## Suggested Clauses

1. The following model clause may be adopted by the parties to a contract who wish to have any future disputes referred to arbitration in accordance with these Rules:

“Any dispute, controversy or claim arising out of or relating to this contract, including the validity, invalidity, breach or termination thereof, shall be settled by arbitration in Hong Kong under the Hong Kong International Arbitration Centre Administered Arbitration Rules in force when the Notice of Arbitration is submitted in accordance with these Rules.

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

\* Optional

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2. Parties to an existing dispute in which neither an arbitration clause nor a previous agreement with respect to arbitration exists, who wish to refer such dispute to arbitration under the Rules, may agree to do so in the following terms:

“We, the undersigned, agree to refer to arbitration in Hong Kong under the Hong Kong International Arbitration Centre Administered Arbitration Rules all disputes or differences arising out of or in connection with:

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

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

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

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

Date: \_\_\_\_\_”

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# **Section I. GENERAL RULES**

## **Article 1 - Scope of Application**

- 1.1 These Rules shall govern arbitrations where an agreement to arbitrate (whether entered into before or after a dispute has arisen) either: (a) provides for these Rules to apply; or (b) subject to Articles 1.2, 1.3 and 1.4 below, provides for arbitration “administered by the HKIAC” or words to the same effect.
- 1.2 Nothing in these Rules shall prevent parties to a dispute or arbitration agreement from naming the HKIAC as appointing authority, or from requesting certain administrative services from the HKIAC, without subjecting the arbitration to the provisions contained in these Rules. For the avoidance of doubt, these Rules shall not govern arbitrations where an agreement to arbitrate provides for arbitration under other rules adopted by the HKIAC from time to time.
- 1.3 These Rules supersede the HKIAC Procedures for the Administration of International Arbitration adopted with effect from 31<sup>st</sup> March 2005 (the “Procedures”) save to the extent that the parties have agreed to adopt the Procedures in an agreement made prior to 1<sup>st</sup> September 2008. Where an agreement to arbitrate made after these Rules have come into effect provides for arbitration under the UNCITRAL Rules administered by the HKIAC, the HKIAC shall be the appointing authority and the HKIAC Secretariat shall invite the parties in such a case to agree to the application of these Rules.
- 1.4 These Rules shall come into force on 1st September 2008 and, unless the parties have agreed otherwise, shall apply to all arbitrations falling within Article 1.1 in which the Notice of Arbitration is submitted on or after that date.

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## **Article 2 - Notices and Calculation of Periods of Time**

- 2.1 Any notice or other written communication pursuant to these Rules shall be deemed to be received by a party or arbitrator or by the HKIAC if:
- (a) delivered by hand, registered post or courier service to
    - (i) the address of the addressee or its representative as notified in writing in the arbitration proceedings; or
    - (ii) in the absence of (i), to the address specified in any applicable agreement between the relevant parties; or
    - (iii) in the absence of (i) or (ii), to any address which the addressee holds out to the world at the time of such delivery; or
    - (iv) in the absence of (i), (ii) or (iii), to any last known address of the addressee; or
  - (b) transmitted by facsimile, e-mail or any other means of telecommunication that provides a record of its transmission and the time and date thereof to:
    - (i) the facsimile number or email address (or equivalent) of that person or its representative as notified in the arbitration proceedings; or
    - (ii) in the absence of (i), to the facsimile number or email address or equivalent specified in any applicable agreement between the relevant parties; or
    - (iii) in the absence of (i) and (ii), to any facsimile number or email address which the addressee holds out to the world at the time of such transmission.



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- 2.2 Any such notice or written communication shall be deemed to be received on the date when it is delivered pursuant to paragraph (a) above or transmitted pursuant to paragraph (b) above. For this purpose, the date shall be determined according to the local time at the place of receipt.
- 2.3 For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. If the last day of such period is an official holiday or a non-business day at the place of receipt, the period shall be extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time shall be included in calculating the period.
- 2.4 If the circumstances so justify, the HKIAC Secretariat may extend the time limits provided for in these Rules, as well as any time limits that it has set.

### **Article 3 - Interpretation of Rules**

- 3.1 The arbitral tribunal shall interpret the Rules insofar as they relate to its powers and duties hereunder. The HKIAC Council shall interpret all other provisions of these Rules.
- 3.2 References in the Rules to the “HKIAC Council” are to the Council of the HKIAC or the sub-committee or other body specially designated by it to perform the functions referred to herein.
- 3.3 References in the Rules to the “HKIAC Secretariat” are to the Secretary General of the HKIAC for the time being and other executive staff members of the Secretariat of the HKIAC.

## **Section II. COMMENCEMENT OF THE ARBITRATION**

### **Article 4 - Notice of Arbitration**

- 4.1 The party initiating recourse to arbitration (hereinafter called the “Claimant” or, where applicable, “Claimants”) shall submit a Notice of Arbitration to the HKIAC Secretariat at the following address, facsimile number or email address:

The HKIAC Secretariat  
Hong Kong International Arbitration Centre  
38<sup>th</sup> Floor, Two Exchange Square  
8 Connaught Place  
Hong Kong Special Administrative Region  
People’s Republic of China

Facsimile: +852 2524 2171

Email: adr@hkiac.org

- 4.2 Arbitral proceedings shall be deemed to commence on the date on which the Notice of Arbitration is received by the HKIAC Secretariat. For the avoidance of doubt, this date shall be calculated in accordance with the provisions of Articles 2.1 and 2.2.
- 4.3 The Notice of Arbitration shall, if provided by a method specified in Article 2.1(a), be submitted in as many copies as there are other parties (hereinafter called the “Respondent” or, where applicable, “Respondents”), together with an additional copy for each arbitrator and one copy for the HKIAC Secretariat. It shall include the following:
- (a) a demand that the dispute be referred to arbitration;
  - (b) the names and (in so far as known) the addresses, telephone and fax numbers, and email addresses of the parties and of their counsel;
  - (c) a copy of the arbitration agreement that is invoked;
  - (d) a reference to the contract or other legal instrument(s) out of or in relation to which the dispute arises;

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- (e) a description of the general nature of the claim and an indication of the amount involved, if any;
  - (f) the relief or remedy sought;
  - (g) a proposal as to the number of arbitrators (i.e. one or three), if the parties have not previously agreed thereon.
- 4.4 The Notice of Arbitration shall be accompanied by payment, by cheque or transfer to the account of the HKIAC, of the Registration Fee as required by the Schedule of Fees and Costs of Arbitration attached hereto in force on the date when the Notice of Arbitration is submitted.
- 4.5 The Notice of Arbitration shall be submitted in the language of the arbitration as agreed by the parties. If no agreement has been reached between the parties, the Notice of Arbitration shall be submitted in either English or Chinese.
- 4.6 The Notice of Arbitration may also include:
- (a) the Claimant's proposals for the appointment of a sole arbitrator referred to in Article 7;
  - (b) the Claimant's designation of an arbitrator, for the purpose of constituting a three-member arbitral tribunal referred to in Article 8;
  - (c) the Statement of Claim referred to in Article 17.
- 4.7 If the Notice of Arbitration is incomplete or if the copies or attachments are not submitted in the required number, or if the Registration Fee is not paid, the HKIAC Secretariat may request the Claimant to remedy the defect within an appropriate period of time. The HKIAC Secretariat may also request within such time limit a translation of the Notice of Arbitration if it is not submitted in the language of the arbitration agreed by the parties or, if no agreement has been reached, in either English or Chinese. If the Claimant complies with such directions within the applicable time limit, the Notice of Arbitration shall be deemed to have been validly filed on the date when the initial version was received by the HKIAC Secretariat.

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- 4.8 The HKIAC Secretariat shall provide without delay a copy of the Notice of Arbitration and of any exhibits included therewith to the Respondent.

## **Article 5 - Answer to the Notice of Arbitration**

- 5.1 Within 30 days from receipt of the Notice of Arbitration, the Respondent shall submit to the HKIAC Secretariat an Answer to the Notice of Arbitration. This Answer to the Notice of Arbitration shall, if provided by a method specified in Article 2.1(a), be submitted in as many copies as there are other parties, together with an additional copy for each arbitrator and one copy for the HKIAC Secretariat, and shall, to the extent possible, include the following:
- (a) the name, address, telephone and fax numbers, and email address of the Respondent and of its counsel (if different from the description contained in the Notice of Arbitration);
  - (b) any plea that an arbitral tribunal constituted under these Rules lacks jurisdiction;
  - (c) the Respondent's comments on the particulars set forth in the Notice of Arbitration, pursuant to Article 4.3(e);
  - (d) the Respondent's answer to the relief or remedy sought in the Notice of Arbitration, pursuant to Article 4.3(f);
  - (e) the Respondent's proposal as to the number of arbitrators (i.e. one or three), if the parties have not previously agreed thereon.
- 5.2 The Answer to the Notice of Arbitration shall be submitted in the language of the arbitration as agreed by the parties. If no agreement has been reached between the parties, the Answer to the Notice of Arbitration shall be submitted in either English or Chinese.

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- 5.3 The Answer to the Notice of Arbitration may also include:
- (a) the Respondent's proposals for the appointment of a sole arbitrator referred to in Article 7;
  - (b) the Respondent's designation of an arbitrator for the purpose of constituting a three-member arbitral tribunal referred to in Article 8;
  - (c) if the Notice of Arbitration contained the Statement of Claim referred to in Article 17, the Statement of Defence referred to in Article 18.
- 5.4 Any counterclaim or set-off defence shall to the extent possible be raised with the Respondent's Answer to the Notice of Arbitration, which should include in relation to any such counterclaim or set-off defence:
- (a) a reference to the contract or other legal instrument(s) out of or in relation to which it arises;
  - (b) a description of the general nature of the counterclaim and/or set-off defence and an indication of the amount involved, if any;
  - (c) the relief or remedy sought.
- 5.5 If no counterclaim or set-off defence is raised with the Respondent's Answer to the Notice of Arbitration, or if there is no indication of the amount of the counterclaim or set-off defence, the HKIAC Secretariat shall only rely upon the information provided by the Claimant pursuant to Article 4.3(e) in order to determine whether the provisions of Article 38.1 (Expedited Procedure) shall be applicable.
- 5.6 The HKIAC Secretariat shall provide without delay a copy of the Answer to the Notice of Arbitration and of any exhibits included therewith to the Claimant.

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- 5.7 Once the Registration Fee has been paid and all arbitrators have been confirmed, the HKIAC Secretariat shall transmit without delay the file to the sole arbitrator or to the arbitral tribunal.
- 5.8 The parties may be represented or assisted by persons of their choice. The names, addresses, telephone and fax numbers, and email addresses of such persons shall be communicated in writing to the other party and the HKIAC Secretariat.

## **Section III. ARBITRATORS AND THE ARBITRAL TRIBUNAL**

### **Article 6 - Number of Arbitrators**

- 6.1 If the parties have not agreed upon the number of arbitrators, the HKIAC Council shall at the request of a party decide whether the case shall be referred to a sole arbitrator or to a three-member arbitral tribunal, taking into account the factors set out in Rule 9 of the “Arbitration (Appointment of Arbitrators and Umpires) Rules” made under the Hong Kong Arbitration Ordinance. These include:
- (a) the amount in dispute;
  - (b) the complexity of the claim;
  - (c) the nationalities of the parties;
  - (d) any relevant customs of the trade, business or profession involved in the said dispute;
  - (e) the availability of appropriate arbitrators; and
  - (f) the urgency of the case.
- 6.2 Before deciding on the number of arbitrators to be appointed, the HKIAC Council shall allow the other party or parties to the arbitration to serve on the HKIAC Secretariat brief written responses in support of their contention as to the number of arbitrators appropriate for their dispute. Where no such reasons are served on the HKIAC Secretariat within 14 days of the day on which a request for responses has been made by the HKIAC Secretariat, the HKIAC Council may proceed with the decision.
- 6.3 Where a case is handled under an Expedited Procedure in accordance with Article 38, the provisions of Article 38.1(b) and (c) shall apply.

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## **Article 7 - Appointment of a Sole Arbitrator**

- 7.1 Unless the parties have agreed otherwise and subject to Articles 11.1 and 11.2:
- (a) where the parties have agreed that the dispute shall be referred to a sole arbitrator, they shall jointly designate the sole arbitrator within 30 days from the later of (i) the date when the Notice of Arbitration was received by the Respondent(s) and (ii) the date the parties agreed that the dispute should be referred to a sole arbitrator;
  - (b) where the parties have not agreed upon the number of arbitrators but the HKIAC Council has decided that the dispute shall be referred to a sole arbitrator, the parties shall jointly designate the sole arbitrator within 30 days from the date when the HKIAC Council's decision was received by the last of them.
- 7.2 If the parties fail to designate the sole arbitrator within the applicable time limit, the HKIAC Council shall appoint the sole arbitrator.

## **Article 8 - Appointment of Arbitral Tribunal**

- 8.1 Where a dispute between two parties is referred to a three-member arbitral tribunal, the tribunal shall be constituted as follows unless the parties have agreed otherwise:
- (a) each party shall designate one arbitrator. If a party fails to designate an arbitrator within 30 days after it receives notification of the other party's appointment of an arbitrator or within the time limit set by the parties' agreement, the HKIAC Council shall appoint the second arbitrator;
  - (b) the two arbitrators so appointed shall designate a third arbitrator who shall act as the presiding arbitrator of the arbitral tribunal. Failing such designation within 30 days from the confirmation of the second arbitrator or within the time limit set by the parties' agreement, the HKIAC Council shall appoint the presiding arbitrator;
  - (c) subject always to Articles 11.1 and 11.2.



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8.2 Where a dispute between more than one Claimant or more than one Respondent is referred to a three-member arbitral tribunal, the tribunal shall be constituted as follows unless the parties have agreed otherwise:

- (a) the HKIAC Secretariat shall set an initial 30 day time limit for the Claimant or group of Claimants to designate an arbitrator and set a subsequent 30 day time limit for the Respondent or group of Respondents to designate an arbitrator;
- (b) if the parties have designated arbitrators in accordance with Article 8.2(a), the procedure in Article 8.1(b) shall apply to the designation of the presiding arbitrator;
- (c) where one or more parties or groups of parties fail to designate an arbitrator in multiparty proceedings within the time period set by the HKIAC Secretariat, the HKIAC Council shall appoint the arbitrator in question and the presiding arbitrator. Prior to doing so, the HKIAC Secretariat shall give any party or group of parties which has duly appointed an arbitrator the opportunity within a specified time to elect in writing whether to withdraw such appointment and allow the HKIAC Council to appoint all three arbitrators. Failing such election within the specified time, the appointment shall be deemed not to have been withdrawn;
- (d) subject always to Articles 11.1 and 11.2.

## **Article 9 - Consultation on Arbitrators with Appointment Advisory Board**

9.1 Before making a final decision on the appointment of an arbitrator, or on the number of arbitrators that are appropriate for any particular dispute, the HKIAC Council shall consult with at least three available members of the Appointment Advisory Board. The HKIAC Council shall consider their advice but is not bound by it. The content of any such consultation process is private and shall not be disclosed to the parties.

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## **Article 10 - Confirmation of Arbitrators**

- 10.1 All designations of a sole arbitrator or of the arbitrators composing a three-member arbitral tribunal, made by the parties or the arbitrators, are subject to confirmation by the HKIAC Council, upon which the appointments shall become effective. The HKIAC Council has no obligation to give reasons when it does not confirm an arbitrator.

## **Article 11 - Independence, Nationality and Challenge and Removal of Arbitrators**

- 11.1 All arbitrators appointed under these Rules shall be and remain at all times impartial and independent of the parties.
- 11.2 Where the parties to an arbitration under these Rules are of different nationalities, a sole arbitrator and the chairman of a three-member arbitral tribunal shall not have the same nationality as any party unless specifically agreed otherwise by all parties in writing.
- 11.3 A prospective arbitrator shall disclose without delay to those who approach him in connection with his possible appointment any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, once designated, shall disclose without delay such circumstances to the parties unless they have already been informed by him of these circumstances.
- 11.4 Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence. A party may challenge the arbitrator designated by it only for reasons which it became aware or ought reasonably to have become aware after designation was made.
- 11.5 A party who intends to challenge an arbitrator shall send notice of his challenge within 15 days after the appointment of the challenged arbitrator has been notified to the challenging party or within 15 days after that party became aware or ought reasonably to have become aware of the circumstances mentioned in Articles 11.3 and 11.4.

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- 11.6 The challenge shall be notified to the HKIAC Secretariat, all other parties, the arbitrator who is challenged and the other members of the arbitral tribunal. The notification shall be in writing and shall state the reasons for the challenge.
- 11.7 If the arbitrator being challenged does not withdraw, the HKIAC Council shall decide on the challenge. The challenge shall be dealt with in accordance with the Hong Kong International Arbitration Centre Challenge Rules.

## **Article 12 - Replacement of an Arbitrator**

- 12.1 Unless all parties otherwise agree and subject always to any applicable mandatory law, if an arbitrator designated by a party dies or becomes unable to perform his/her functions due to any reasons beyond his/her control, the HKIAC Secretariat shall set a time limit for the party having designated that arbitrator to designate a replacement arbitrator. This rule also applies if an arbitrator has been successfully challenged, has been otherwise removed, has resigned or is not confirmed by the HKIAC Council pursuant to Article 10.1.
- 12.2 If the party concerned fails to designate a replacement arbitrator within the applicable time limit, the HKIAC Council shall appoint a replacement arbitrator.

## **Article 13 - Consequences of the Replacement of an Arbitrator**

- 13.1 If an arbitrator is replaced, the proceedings shall resume at the stage where the arbitrator who was replaced ceased to perform his/her functions, unless the arbitral tribunal decides otherwise.

## **Section IV. ARBITRAL PROCEEDINGS**

### **Article 14 - General Provisions**

- 14.1 The arbitral tribunal shall adopt suitable procedures for the conduct of the arbitration, in order to avoid unnecessary delay or expenses, provided that such procedures ensure equal treatment of the parties and afford the parties a reasonable opportunity to be heard and to present their case.
- 14.2 At any stage of the proceedings, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument in relation to the merits of the dispute, if it so determines or if either party so requests.
- 14.3 At an early stage of the arbitral proceedings and in consultation with the parties, the arbitral tribunal shall prepare a provisional timetable for the arbitral proceedings, which shall be provided to the parties and, for information, to the HKIAC Secretariat.
- 14.4 All documents or information supplied to the arbitral tribunal by one party shall at the same time be communicated by that party to the other party.
- 14.5 The arbitral tribunal may, after consulting with the parties, appoint a secretary. Article 11 of these Rules shall apply by analogy to the secretary.
- 14.6 The arbitral tribunal shall have the power to allow, upon the application of a party, one or more third persons to be joined in the arbitration as a party, provided that such third person or persons and the applicant party have consented to such joinder in writing.
- 14.7 The parties shall do everything necessary to ensure the fair and efficient conduct of the proceedings.

### **Article 15 - Seat of the Arbitration**

- 15.1 The seat of all arbitrations conducted under these Rules shall be the Hong Kong Special Administrative Region of the People's Republic of China, unless the parties have expressly agreed otherwise.

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- 15.2 Without prejudice to the determination of the seat of the arbitration, the arbitral tribunal may hear witnesses, oral argument and hold meetings for consultation among its members at any place it deems appropriate, having regard to the circumstances of the arbitration.
- 15.3 The arbitral tribunal may meet at any place it deems appropriate for the inspection of goods, other property or documents. The parties shall be given sufficient notice to enable them to be present at such inspection.
- 15.4 The award shall be deemed to have been made at the seat of the arbitration.

## **Article 16 - Language**

- 16.1 Subject to agreement by the parties, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. This determination shall apply to the Statement of Claim, the Statement of Defence, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.
- 16.2 The arbitral tribunal may order that any documents annexed to the Statement of Claim or Statement of Defence, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages of the arbitration agreed upon by the parties or determined by the arbitral tribunal.

## **Article 17 - Statement of Claim**

- 17.1 Unless the Statement of Claim was contained in the Notice of Arbitration (or the Claimant elects to treat the Notice of Arbitration as the Statement of Claim), within a period of time to be determined by the arbitral tribunal, the Claimant shall communicate its Statement of Claim in writing to the Respondent and to each of the arbitrators. A copy of the contract, and of the arbitration agreement if not contained in the contract, shall be annexed thereto.

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- 17.2 The Statement of Claim shall include the following particulars:
- (a) the names and addresses of the parties;
  - (b) a statement of the facts supporting the claim;
  - (c) the points at issue;
  - (d) the relief or remedy sought.
- 17.3 The Claimant shall annex to its Statement of Claim the documents on which it relies.

## **Article 18 - Statement of Defence**

- 18.1 Within a period of time to be determined by the arbitral tribunal and unless the Statement of Defence was contained in the Answer to the Notice of Arbitration, the Respondent shall communicate its Statement of Defence in writing to the Claimant and to each of the arbitrators.
- 18.2 The Statement of Defence shall reply to the particulars (b), (c) and (d) of the Statement of Claim (Article 17.2). If the Respondent has raised an objection to the jurisdiction or to the proper constitution of the arbitral tribunal, the Statement of Defence shall contain the factual and legal basis of such objection. The Respondent shall annex to its Statement of Defence the documents on which it relies for its defence.
- 18.3 Where there is a counterclaim or a claim relied on for the purpose of a set-off, the Statement of Defence shall include the following particulars:
- (a) a statement of the facts supporting the claim;
  - (b) the points at issue;
  - (c) the relief or remedy sought.

## **Article 19 - Amendments to the Claim or Defence**

- 19.1 During the course of the arbitral proceedings either party may amend or supplement its claim or defence unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim may not be amended in such a manner that the amended claim falls outside the scope of the arbitration clause or separate arbitration agreement.

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- 19.2 The HKIAC may adjust its Administrative Fees and the Arbitrators' Fees (where appropriate) if a party amends its claims, counterclaims or defences.

## **Article 20 - Jurisdiction of the Arbitral Tribunal**

- 20.1 The arbitral tribunal shall have the power to rule on objections that it has no jurisdiction, including any objections with respect to the existence or validity of the arbitration clause or of the separate arbitration agreement.
- 20.2 The arbitral tribunal shall have the power to determine the existence or the validity of the contract of which an arbitration clause forms a part. For the purposes of Article 20, an arbitration clause which forms part of a contract and which provides for arbitration under these Rules shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not necessarily entail the invalidity of the arbitration clause.
- 20.3 A plea that the arbitral tribunal does not have jurisdiction shall be raised if possible in the Answer to the Notice of Arbitration, but shall in no event be raised later than in the Statement of Defence referred to in Article 18, or, with respect to a counterclaim, in the reply to the counterclaim.

## **Article 21 - Further Written Statements**

- 21.1 The arbitral tribunal shall decide which further written statements, if any, in addition to the Statement of Claim and the Statement of Defence, shall be required from the parties or may be presented by them and shall set the periods of time for communicating such statements.

## **Article 22 - Periods of Time**

- 22.1 The periods of time set by the arbitral tribunal for the communication of written statements (including the Statement of Claim and Statement of Defence) should not exceed 45 days. However, the arbitral tribunal may extend the time limits if it concludes that an extension is justified.

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## **Article 23 - Evidence and Hearings**

- 23.1 Each party shall have the burden of proving the facts relied on to support its claim or defence.
- 23.2 The arbitral tribunal may, if it considers it appropriate, require a party to deliver to the tribunal and to the other party, within such a period of time as the arbitral tribunal shall decide, a summary of the documents and other evidence which that party intends to present in support of the facts in issue set out in its Statement of Claim or Statement of Defence.
- 23.3 At any time during the arbitral proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time as the tribunal shall determine. The arbitral tribunal shall have the right to admit or exclude any document, witness evidence or other evidence.
- 23.4 In the event of an oral hearing, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof.
- 23.5 Any person may be a witness or an expert witness. If witnesses or expert witnesses are to be heard, each party shall communicate to the arbitral tribunal and to the other party the names and addresses of the witnesses or expert witnesses it intends to present, and the subject upon and the languages in which such witnesses or expert witnesses will give their testimony, within such time as shall be agreed or as shall be specified by the arbitral tribunal.
- 23.6 The arbitral tribunal may make directions for the translation of oral statements made at a hearing and for a record of the hearing if it deems that either is necessary under the circumstances of the case.
- 23.7 Hearings shall be held in private unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses or expert witnesses during the testimony of other witnesses or expert witnesses. The arbitral tribunal is free to determine the manner in which witnesses or expert witnesses are examined.



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- 23.8 Evidence of witnesses or expert witnesses may also be presented in the form of written statements or reports signed by them.
- 23.9 A party, its officers, employees, legal advisors or counsel may interview witnesses, potential witnesses or expert witnesses.
- 23.10 The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of any matter presented by a party, including as to whether or not to apply strict rules of evidence.

## **Article 24 - Interim Measures of Protection**

- 24.1 At the request of either party, the arbitral tribunal may order any interim measures it deems necessary or appropriate.
- 24.2 Such interim measures may be established in the form of an interim award. The arbitral tribunal shall be entitled to order the provision of appropriate security by a party seeking an interim measure.
- 24.3 A request for interim measures addressed by any party to a court of competent jurisdiction shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.
- 24.4 The arbitral tribunal shall have discretion to apportion the costs relating to a request for interim measures in an order, an interim award or in the final award.

## **Article 25 - Tribunal-Appointed Experts**

- 25.1 To assist it in the assessment of evidence, the arbitral tribunal, after consulting with the parties, may appoint one or more experts. The arbitral tribunal may meet privately with any duly appointed expert. Such expert shall report to the arbitral tribunal, in writing, on specific issues to be determined by the tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.

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- 25.2 The parties shall give the expert any relevant information or produce for his inspection any relevant documents or goods that he may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the arbitral tribunal for decision.
- 25.3 Upon receipt of the expert's report, the arbitral tribunal shall send a copy of the report to the parties who shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his report.
- 25.4 At the request of either party the expert, after delivery of the report, shall attend a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing either party may present expert witnesses in order to testify on the points at issue. The provisions of Articles 23.4 to 23.10 shall be applicable to such proceedings.
- 25.5 The provisions of Article 11 shall apply by analogy to any expert appointed by the arbitral tribunal.

## **Article 26 - Default**

- 26.1 If, within the period of time set by the arbitral tribunal, the Claimant has failed to communicate its Statement of Claim without showing sufficient cause for such failure, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings unless a Respondent has brought a counterclaim and wishes the arbitration to continue, in which case the tribunal may proceed with the arbitration. If, within the period of time set by the arbitral tribunal, the Respondent has failed to communicate its Statement of Defence without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.
- 26.2 If one of the parties, duly notified under these Rules, fails to present its case in accordance with these Rules including as directed by the arbitral tribunal, without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration and make award(s) accordingly.

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## **Article 27 - Closure of Proceedings**

- 27.1 When it is satisfied that the parties have had a reasonable opportunity to present their cases, the arbitral tribunal shall declare the proceedings closed. Thereafter, no further submission or argument may be made, or evidence produced, unless the tribunal reopens the proceedings in accordance with Article 27.2.
- 27.2 The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the proceedings at any time before the award is made.

## **Article 28 - Waiver of Rules**

- 28.1 A party who knows or ought reasonably to know that any provision of, or requirement arising under, these Rules (including the agreement to arbitrate) has not been complied with and yet proceeds with the arbitration without promptly stating its objection to such non-compliance, shall be deemed to have waived its right to object.

## **Section V. THE AWARD**

### **Article 29 - Decisions**

- 29.1 When there are three arbitrators, any award or other decision of the arbitral tribunal shall be made by a majority of the arbitrators. If there is no majority, the award shall be made by the presiding arbitrator alone.
- 29.2 With the prior authorisation of the arbitral tribunal, the presiding arbitrator may decide questions of procedure on his own.

### **Article 30 - Form and Effect of the Award**

- 30.1 In addition to making a final award, the arbitral tribunal shall be entitled to make interim, interlocutory, or partial awards. If appropriate, the arbitral tribunal may also award costs in awards that are not final.
- 30.2 Awards shall be made in writing and shall be final and binding on the parties. The parties undertake to carry out any award without delay.
- 30.3 An award shall state the reasons upon which it is based.
- 30.4 An award shall be signed by the arbitrators and it shall contain the date on which and the place where the award was made. Where there are three arbitrators and one or two of them fail(s) to sign, the award shall state the reason for the absence of the signature(s).
- 30.5 An award shall be affixed with the seal of the HKIAC.
- 30.6 Publication of awards is governed by Article 39.3.
- 30.7 Subject to any lien to which the arbitrators may be entitled, originals of the award signed by the arbitrators and affixed with the seal of the HKIAC shall be communicated to the parties and to the HKIAC Secretariat by the arbitral tribunal. The HKIAC Secretariat shall retain a copy of the award.

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## **Article 31 - Applicable Law, Amiable Compositeur**

- 31.1 The arbitral tribunal shall decide the case in accordance with the rules of law agreed upon by the parties or, in the absence of a choice of law, by applying the rules of law with which the dispute has the closest connection.
- 31.2 The arbitral tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the parties have expressly authorised the arbitral tribunal to do so.
- 31.3 In all cases, the arbitral tribunal shall decide the case in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

## **Article 32 - Settlement or Other Grounds for Termination**

- 32.1 If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.
- 32.2 If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the arbitral tribunal shall issue an order for the termination of the proceedings. The arbitral tribunal shall issue such an order unless a party raises justifiable objection, having been given a reasonable opportunity to comment upon the proposed course of action.
- 32.3 Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the arbitral tribunal to the parties and to the HKIAC Secretariat. Where an arbitral award on agreed terms is made, the provisions of Articles 30.2 and 30.4 to 30.7, shall apply.

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## **Article 33 - Interpretation of the Award**

- 33.1 Within 30 days after the receipt of the award, either party, with notice to the other party, may request that the arbitral tribunal give an interpretation of the award. The arbitral tribunal may set a time limit, normally not exceeding 30 days, for the other party to comment on such request.
- 33.2 Any interpretation considered appropriate by the arbitral tribunal shall be given in writing within 45 days after the earlier of: (a) receipt of the other party's comments on the request for interpretation; or (b) expiry of the time limit set by the tribunal pursuant to Article 33.1 for the other party to provide such comments. The interpretation shall form part of the award and the provisions of Articles 30.2 to 30.7, shall apply.

## **Article 34 - Correction of the Award**

- 34.1 Within 30 days after the receipt of the award, either party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The arbitral tribunal may set a time limit, normally not exceeding 30 days, for the other party to comment on such request.
- 34.2 The tribunal shall make any corrections it considers appropriate within 45 days after the earlier of: (a) the receipt of the other party's comments on the request for correction; or (b) the expiry of the time limit set by the tribunal pursuant to Article 34.1 for the other party to provide such comments.
- 34.3 The arbitral tribunal may within 30 days after the communication of the award make such corrections on its own initiative.
- 34.4 Such corrections shall be in writing, and the provisions of Articles 30.2 to 30.7, shall apply.

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## **Article 35 - Additional Award**

- 35.1 Within 30 days after the receipt of the award, either party, with notice to the other party, may request the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. The arbitral tribunal may set a time limit, normally not exceeding 30 days, for the other party to comment on such request.
- 35.2 If the arbitral tribunal considers the request for an additional award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within 60 days after the receipt of the request.
- 35.3 When an additional award is made, the provisions of Articles 30.2 to 30.7, shall apply.

## **Article 36 - Fees and Costs**

- 36.1 The arbitral tribunal shall determine the costs of arbitration in its award. The term “costs” includes only:
- (a) the fees of the arbitral tribunal to be determined in accordance with Articles 36.2 and 36.3;
  - (b) the travel and other expenses incurred by the arbitrators;
  - (c) the costs of expert advice and of other assistance required by the arbitral tribunal;
  - (d) the travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;
  - (e) the costs for legal representation and assistance if such costs were claimed during the arbitral proceedings, and only to the extent that the arbitral tribunal determines that the amount of such costs is reasonable;
  - (f) the Registration Fee and Administrative Fees payable to the HKIAC in accordance with the Schedule of Fees and Costs of Arbitration attached hereto.

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36.2 The fees of the arbitral tribunal shall be determined, at the option of the parties, either (a) in conformity with Section 3 of the Schedule of Fees and Costs of Arbitration attached hereto, or (b) in accordance with the fee arrangements agreed between the appointing party or parties and the arbitrator so appointed (and, in the case of the third arbitrator in a three-member tribunal, between the parties and such third arbitrator). The method for determining the fees of the arbitral tribunal shall be notified to the HKIAC Secretariat within 30 days from the date of the Notice of Arbitration. Where the parties fail to agree on the method for determining the fees of the arbitral tribunal by such date, then the fees shall be determined in accordance with the fee arrangements agreed between the appointing party or parties and the arbitrator so appointed.

36.3 Where the fees of the arbitral tribunal are determined in conformity with the Schedule of Fees and Costs of Arbitration attached hereto, such fees shall be fixed by the HKIAC Council in accordance with the Schedule and the following rules:

- (a) the fees of the arbitral tribunal shall be reasonable in amount, taking into account the amount in dispute, the complexity of the subject-matter, the time spent by the arbitrators and any other relevant circumstances of the case, including, but not limited to, the discontinuation of the arbitral proceedings in case of settlement or other reasons. In the event of such discontinuation, the fees of the arbitral tribunal may be less than the minimum amount provided for in the Schedule of Fees and Costs of the Arbitration;
- (b) in general, the Chairman shall receive 40% and each co-arbitrator 30% of the total fees, unless the arbitral tribunal otherwise agrees.



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- 36.4 Except as provided in Article 36.5, the costs of arbitration shall in principle be borne by the unsuccessful party. However, the arbitral tribunal may apportion all or part of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.
- 36.5 With respect to the costs of legal representation and assistance referred to in Article 36.1(e), the arbitral tribunal, taking into account the circumstances of the case, shall be free to determine which party shall bear such costs or may apportion such costs between the parties if it determines that apportionment is reasonable.
- 36.6 When the arbitral tribunal issues an order for the termination of the arbitral proceedings or makes an award on agreed terms, it or the HKIAC shall determine the costs of arbitration referred to in Article 36.1 and Article 36.2, in the text of that order or award.
- 36.7 No additional fees may be charged by an arbitral tribunal for interpretation or correction or completion of its award under Articles 33 to 35.

## **Article 37 - Deposits for Costs**

- 37.1 On the establishment of the arbitral tribunal, the HKIAC Secretariat shall request each party to deposit with the HKIAC an equal amount as an advance for the costs referred to in Article 36.1, paragraphs (a), (b), (c) and (f). The HKIAC Secretariat shall provide a copy of such request to the arbitral tribunal.
- 37.2 Where a Respondent submits a counterclaim, or it otherwise appears appropriate in the circumstances, the HKIAC Secretariat may establish separate deposits.
- 37.3 During the course of the arbitral proceedings the HKIAC Secretariat may request the parties to make supplementary deposits with the HKIAC. The HKIAC Secretariat shall provide a copy of such request to the arbitral tribunal.

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- 37.4 If the required deposits are not paid in full to the HKIAC within 30 days after the receipt of the request, the HKIAC Secretariat shall so inform the parties in order that one or another of them may make the required payment. If such payment is not made, the arbitral tribunal may order the suspension or termination of the arbitral proceedings or continue with the proceedings on such basis as the tribunal sees fit.
- 37.5 In its final award, the arbitral tribunal shall render an accounting to the parties of the deposits received by the HKIAC Secretariat. Any unexpended balance shall be returned to the parties by the HKIAC Secretariat.
- 37.6 Other provisions regarding fees and costs of the arbitration are set out in the Schedule of Fees and Costs of Arbitration which is attached hereto and forms an integral part of these Rules.

## **Section VI. OTHER PROVISIONS**

### **Article 38 - Expedited Procedure**

38.1 Unless the parties agree otherwise or the HKIAC Secretariat decides otherwise taking into account all relevant circumstances, the following provisions shall apply to all cases in which the amount in dispute representing the aggregate of the claim and the counterclaim (or any set-off defence) does not exceed USD 250,000 (Two Hundred Fifty Thousand United States Dollars):

- (a) the arbitral proceedings shall be conducted in accordance with the Expedited Procedure set forth in Article 38.2;
- (b) the case shall be referred to a sole arbitrator, unless the arbitration agreement provides for a three-member arbitral tribunal;
- (c) if the arbitration agreement provides for a three-member arbitral tribunal, the HKIAC Secretariat shall invite the parties to agree to refer the case to a sole arbitrator. If the parties do not agree to refer the case to a sole arbitrator, the fees of the three arbitrators shall be determined in accordance with the Schedule of Fees and Costs of Arbitration attached hereto.

38.2 If the provisions of Article 38.1 are applicable, the arbitral proceedings shall be conducted in accordance with an Expedited Procedure based upon the foregoing provisions of these Rules, subject to the following changes:

- (a) the HKIAC Secretariat may shorten the time limits for the appointment of arbitrators under Articles 7.1, 7.2 and 8.2;
- (b) after the submission of the Answer to the Notice of Arbitration, the parties shall in principle be entitled to submit one Statement of Claim and one Statement of Defence (and Counterclaim) and, where applicable, one Statement of Defence in reply to the Counterclaim;

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- (c) the arbitral tribunal shall decide the dispute on the basis of documentary evidence only, unless it decides that it is necessary to hold one or more hearings;
  - (d) the award shall be made within six months from the date when the HKIAC Secretariat transmitted the file to the arbitral tribunal. In exceptional circumstances, the HKIAC Secretariat may extend this time limit;
  - (e) the arbitral tribunal shall state the reasons upon which the award is based in summary form, unless the parties have agreed that no reasons are to be given.

## **Article 39 - Confidentiality**

- 39.1 Unless the parties expressly agree in writing to the contrary, the parties undertake to keep confidential all matters and documents relating to the arbitral proceedings, including the existence of the proceedings as well as all correspondence, written statements, evidence, awards and orders not otherwise in the public domain, save and to the extent that a disclosure may be required of a party by a legal or regulatory duty, to protect or pursue a legal right or to enforce or challenge an award in legal proceedings before a judicial authority. This undertaking also applies to the arbitrators, the tribunal-appointed experts, the secretary of the arbitral tribunal and the HKIAC Secretariat and Council.
- 39.2 The deliberations of the arbitral tribunal are confidential.
- 39.3 An award may be published, whether in its entirety or in the form of excerpts or a summary, only under the following conditions:
- (a) a request for publication is addressed to the HKIAC Secretariat;
  - (b) all references to the parties' names are deleted; and
  - (c) no party objects to such publication within the time limit fixed for that purpose by the HKIAC Secretariat. In the case of an objection, the award shall not be published.

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## **Article 40 - Exclusion of Liability**

- 40.1 None of the HKIAC, the HKIAC Council, the HKIAC Secretariat or their staff, arbitrators, tribunal-appointed experts or the secretary of the arbitral tribunal shall be liable for any act or omission in connection with an arbitration conducted under these Rules, save where the act was done or omitted to be done dishonestly.
- 40.2 After the award has been made and the possibilities of correction, interpretation and additional awards referred to in Article 33 to Article 35 have lapsed or been exhausted, neither the HKIAC (including the HKIAC Council, the HKIAC Secretariat or any of their staff) nor the arbitrators, the tribunal-appointed experts or the secretary of the arbitral tribunal shall be under an obligation to make statements to any person about any matter concerning the arbitration, nor shall a party seek to make any of these persons a witness in any legal or other proceedings arising out of the arbitration.

# **SCHEDULE OF FEES AND COSTS OF ARBITRATION**

**(All amounts are in United States Dollars,  
hereinafter “USD”)**

**(Effective 1<sup>st</sup> September 2008)**

## **1. Registration Fee**

- 1.1 When submitting a Notice of Arbitration, the Claimant shall pay a Registration Fee of USD 1,000.
- 1.2 If the Claimant fails to pay the Registration Fee, the HKIAC shall not proceed with the arbitration.
- 1.3 The Registration Fee is not refundable.
- 1.4 The above provisions shall also apply to any counterclaim.

## **2. The HKIAC’s Administrative Fee**

- 2.1 The HKIAC’s Administrative Fee shall be charged in accordance with the following table:

### **ADMINISTRATIVE FEE**

<b>Sum in dispute (in USD)</b>		<b>Administrative fee (*)</b>		
up to	50,000		USD1,500	
from	50,001	to	100,000	0.70%
from	100,001	to	500,000	0.60%
from	500,001	to	1,000,000	0.40%
from	1,000,001	to	2,000,000	0.20%
from	2,000,001	to	5,000,000	0.12%
from	5,000,001	to	10,000,000	0.06%
from	10,000,001	to	50,000,000	0.03%
over	50,000,001			USD26,850

(\*) *The table under Section 4.1 below indicates the resulting administrative fee payable in USD after the appropriate calculations have been made.*

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### 3. The Arbitrators' Fees

3.1 Where both parties agree to the application of this Schedule to the determination of the Arbitrators' Fees, Arbitrators' Fees shall be charged in accordance with the following table:

#### **ARBITRATORS' FEES (PER ARBITRATOR)**

Sum in dispute (in USD)		Fees (**)	
		Minimum	Maximum
up to	50,000	USD2,000	14.00%
from	50,001 to	100,000	2.50% 10.00%
from	100,001 to	500,000	1.00% 5.00%
from	500,001 to	1,000,000	0.70% 2.60%
from	1,000,001 to	2,000,000	0.40% 1.40%
from	2,000,001 to	5,000,000	0.25% 0.70%
from	5,000,001 to	10,000,000	0.075% 0.40%
from	10,000,001 to	50,000,000	0.05% 0.20%
from	50,000,001 to	80,000,000	0.025% 0.14%
from	80,000,001 to	100,000,000	0.012% 0.12%
over	100,000,000	0.01%	0.06%

(\*\*) *The table under Section 4.1 below indicates the resulting range of fees payable per arbitrator after the appropriate calculations have been made.*

3.2 The arbitrators' fees shall cover the activities of the arbitral tribunal from the time the file is transmitted to the tribunal until the last award.

### 4. Computation of Fees

4.1 The administrative fees and arbitrators' fees payable shall be calculated in accordance with the following charts and fixed by the HKIAC Council. The fees payable for each successive range in this chart are added together.

## COMPUTATION OF FEES

SUM IN DISPUTE (in USD)	A. ADMINISTRATIVE FEES(*) (in USD)	B. ARBITRATOR'S FEES (**) (PER ARBITRATOR) (in USD)	Minimum	Maximum
up to 50,000	1,500		2,000	14.00% of amount in dispute
from 50,001 to 100,000	1,500 + 0.70% of amt. over 50,000	50,000	2,000 + 2.50% of amt. over 50,000	7,000 + 10.00% of amt. over 50,000
from 100,001 to 500,000	1,850 + 0.60% of amt. over 100,000	100,000	3,250 + 1.00% of amt. over 100,000	12,000 + 5.00% of amt. over 100,000
from 500,001 to 1,000,000	4,250 + 0.40% of amt. over 500,000	500,000	7,250 + 0.70% of amt. over 500,000	32,000 + 2.60% of amt. over 500,000
from 1,000,001 to 2,000,000	6,250 + 0.20% of amt. over 1,000,000	1,000,000	10,750 + 0.40% of amt. over 1,000,000	45,000 + 1.40% of amt. over 1,000,000
from 2,000,001 to 5,000,000	8,250 + 0.12% of amt. over 2,000,000	2,000,000	14,750 + 0.25% of amt. over 2,000,000	59,000 + 0.70% of amt. over 2,000,000
from 5,000,001 to 10,000,000	11,850 + 0.06% of amt. over 5,000,000	5,000,000	22,250 + 0.075% of amt. over 5,000,000	80,000 + 0.40% of amt. over 5,000,000
from 10,000,001 to 50,000,000	14,850 + 0.03% of amt. over 10,000,000	10,000,000	26,000 + 0.05% of amt. over 10,000,000	100,000 + 0.20% of amt. over 10,000,000
from 50,000,001 to 80,000,000	26,850		46,000 + 0.025% of amt. over 50,000,000	180,000 + 0.14% of amt. over 50,000,000
from 80,000,001 to 100,000,000	26,850		53,500 + 0.012% of amt. over 80,000,000	222,000 + 0.12% of amt. over 80,000,000
over 100,000,000	26,850		55,900 + 0.01% of amt. over 100,000,000	246,000 + 0.06% of amt. over 100,000,000

(\*\*)(\*\*) See preceding page



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- 4.2 The HKIAC's Administrative Fees and the Arbitrators' Fees may exceed the amounts set out in the scale above where in the opinion of the HKIAC Council there are exceptional circumstances which shall include and not be limited to the parties conducting the arbitration in a manner not reasonably contemplated by the arbitral tribunal at the time of appointment.
- 4.3 Claims and counterclaims are added for the determination of the amount in dispute. The same rule applies to set-off defences, unless the arbitral tribunal, after consulting with the parties, concludes that such set-off claims will not require significant additional work.
- 4.4 Interest claims shall not be taken into account for the calculation of the amount in dispute. However, when the interest claims exceed the amounts claimed in principal, the interest claims alone shall be considered in calculating the amount in dispute.
- 4.5 Currencies other than the United States Dollars shall be converted into United States Dollars at the average rate of exchange between the date when the Notice of Arbitration is received by the HKIAC Secretariat and the date when the final award is made. For the purpose of determining the Registration Fee under Section 1 herein, the rate of exchange shall be that of the date when the Notice of Arbitration is received by the HKIAC Secretariat.
- 4.6 If the amount in dispute is not quantified, the HKIAC's Administrative Fees and the Arbitrators' Fees shall be fixed by the HKIAC Council, taking into account all relevant circumstances.

## **5. Arbitrators' expenses**

The expenses of the arbitrators shall relate to the actual disbursements for the arbitration, such as reasonable expenses relating to: travel (business class airfare, unless special arrangements have been agreed), accommodation, meals (if in home city, only meals among arbitrators are taken into account), taxi, communications costs, and any other costs related to the conduct of the proceedings (such as rental of

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hearing rooms, court reporting services, interpreters, etc.). The HKIAC may issue general guidelines to the arbitrators for the accounting of their expenses. The expenses of the arbitrators shall be invoiced and paid separately and are not included in the Arbitrators' Fees under Section 3 above.

## **6. Interest earned on deposits made by the parties**

The HKIAC shall place the deposits made by the parties in interest bearing deposit account(s) at reputable licensed Hong Kong deposit-taking institution(s). In selecting the account(s), the HKIAC shall also have due regard to the possible need to make the deposited funds available immediately. Any interest earned shall be included in the final computation of the costs of the arbitration in favour of the party or parties having made the deposit or deposits so invested.

## **7. Interim Payments**

The HKIAC may direct that interim payments shall be made from time to time out of funds held on deposit to cover the HKIAC's Administrative Fees and the Arbitrators' Fees and Expenses.

## **8. Parties Jointly and Severally Liable**

The parties shall be jointly and severally liable to the arbitral tribunal and the HKIAC for the costs of the arbitration.

## **9. Lien on Award**

The HKIAC and the arbitral tribunal shall have a lien over any awards issued by a tribunal to secure the payment of the costs referred to in Article 36.1, paragraphs (a), (b), (c) and (f), and may accordingly refuse to release any such awards to the parties until all such costs have been paid in full.

## **ACKNOWLEDGEMENTS**

The HKIAC expresses its thanks to the following organisations and individuals for their advice and guidance in the preparation of these Rules: Mr. Peter Caldwell; Ms. Teresa Y.W. Cheng S.C.; Mr. Matthew Gearing; Ms. Sally Harpole; Mr. Graeme Johnston; Mr. Neil Kaplan C.B.E., Q.C.; Dr. Pierre Karrer; Mr. Jing Liu; Mr. Michael Moser; Mr. Robin Peard; Professor Michael Pryles; Ms. Kathryn Sanger; Mr. Christopher To; Dr. Markus Wirth; Mr. Philip Yang; the Department of Justice; the Hong Kong Bar Association; the Hong Kong Computer Society; the Hong Kong Construction Association; the Hong Kong Federation of Electrical and Mechanical Contractors Ltd.; the Hong Kong Federation of Insurers; the Hong Kong Institute of Arbitrators; the Hong Kong Institute of Architects; the Hong Kong Maritime Law Association; the Hong Kong Shipowners Association; the Law Society of Hong Kong and the Swiss Arbitration Association (ASA).

### **Disclaimer**

English is the original drafting language of these Rules. In the event of any discrepancy or inconsistency between the English version and the Rules in any other language, the English version will prevail.

# 机构仲裁规则

# 香港国际仲裁中心 机构仲裁规则

## 引言

本规则已为香港国际仲裁中心(以下简称“仲裁中心”)理事会采纳,供属意机构仲裁的规范和便利的当事人使用。

## 适用

本规则可在仲裁条款中或争议发生之前或之后订立的书面协议中约定适用。本规则对本地仲裁和国际仲裁都可适用。本规则的适用范围见本规则第1条。

## 生效

依本规则第1条的规定,本规则自2008年9月1日起生效。

## 示范条款

1. 希望依本规则仲裁解决未来争议的当事人,可在合同中预定仲裁条款如下:

“凡因本合同所引起的或与之相关的任何争议、纠纷或索赔,包括违约、合同的效力或终止,均应根据提交仲裁通知时有效的《香港国际仲裁中心机构仲裁规则》,在香港仲裁解决。

\*仲裁员人数为〔 〕名(一名或三名)。仲裁语言为〔 〕(*选择语言*)。”

\*可约定可不约定。

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2. 若争议已发生，而当事人间既无仲裁条款，也未事先订立仲裁协议，当事人希望依本规则仲裁解决争议的，可约定如下：

“以下签字各方，同意将因〔 〕(简单描述引起或可能引起争议的合同)所引起的或与之相关的任何争议或纠纷，按《香港国际仲裁中心机构仲裁规则》，在香港仲裁解决。

\* 仲裁员人数为〔 〕名(一名或三名)。仲裁语言为〔 〕(选择语言)。

签署：\_\_\_\_\_ (申请人)

签署：\_\_\_\_\_ (被申请人)

日期：\_\_\_\_\_ ”

\*可约定可不约定。

# 香港国际仲裁中心机构仲裁规则

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## 第一节 总则

### 第1条 适用范围

- 1.1 仲裁协议（无论在争议发生之前或之后签订）若规定适用本规则，则本规则适用；若规定“由仲裁中心管理的”仲裁，或有含义相同的表述，则以下述第1.2、1.3和1.4款为前提，本规则适用。
- 1.2 本规则并不妨碍争议或仲裁协议的当事人选择仲裁中心为指定机构，或请求仲裁中心提供某些管理服务，但不选择适用本规则。为避免疑问，仲裁协议选择按仲裁中心不时采纳的其他规则仲裁的，本规则不适用。
- 1.3 本规则取代仲裁中心2005年3月31日起生效的《香港国际仲裁中心国际仲裁管理程序》（下称“《管理程序》”），除非当事人在2008年9月1日前已协议选择适用《管理程序》。在本规则生效后，若仲裁协议约定仲裁适用《联合国国际贸易法委员会仲裁规则》并由仲裁中心管理，则仲裁中心应为指定机构，而仲裁中心秘书处将建议当事人适用本规则。
- 1.4 本规则于2008年9月1日起生效。除非当事人另有约定，将适用于第1.1款下在此日期或之后提交仲裁通知的所有仲裁。

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## 第2条 通知和时间的计算

2.1 依本规则发出的任何通知和其他书面通讯，在下述情况下，视为送达当事人、仲裁员或仲裁中心：

- (1) 专人、挂号邮寄或专递送交至：
  - (a) 在仲裁程序中书面通知的收件人或其代表的地址；或
  - (b) 若没有上述(a)项，相关当事人之间适用的任何协议中列明的地址；或
  - (c) 若没有上述(a)和(b)项，在送交时收件人对外使用的任何地址；或
  - (d) 若没有上述(a)、(b)和(c)项，收件人任何一个最后为人所知的地址。
- (2) 通过传真、电子邮件或其他能提供传送记录和传送日期及时间的电子通讯方式，传送至：
  - (a) 在仲裁程序中书面通知的收件人或其代表的传真号码或电子邮件地址（或等同物）；或
  - (b) 若没有上述(a)项，相关当事人之间适用的任何协议中列明的传真号码或电子邮件地址（或等同物）；或
  - (c) 若没有上述(a)和(b)项，在传送时收件人对外使用的任何传真号码或电子邮件地址。

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- 2.2 任何这类通知或书面通讯，应视为在按上述(1)款送交或按上述(2)款传送之日收到。为此目的，日期应按收件地的当地时间确定。
- 2.3 本规则中的期限，应自收到通知、通告、通讯或建议之日的次日起算。若期限的最后一日是收件地的法定假日或非营业日，则应顺延至其后的第一个营业日。计算期限时，期限内的法定假日或非营业日均应计算在内。
- 2.4 在适当情况下，仲裁中心秘书处可延长本规则规定的或仲裁中心秘书处设定的期限。

### **第3条 规则的解释**

- 3.1 本规则中涉及仲裁员权力和义务的内容由仲裁庭解释。其他规定由仲裁中心理事会解释。
- 3.2 本规则中的“仲裁中心理事会”指仲裁中心理事会或由其指定的履行本规则下的职责的下属委员会或其他组织。
- 3.3 本规则中的“仲裁中心秘书处”指现任仲裁中心秘书长和仲裁中心秘书处其他行政成员。

## 第二节 开始仲裁

### 第4条 仲裁通知

- 4.1 提请仲裁的一方(下称“申请人”)应按下列地址、传真号码或电子邮件地址,向仲裁中心秘书处提交仲裁通知:

中华人民共和国香港特别行政区  
香港中环交易广场第二座38楼  
香港国际仲裁中心秘书处

传真: +852 2524 2171

电子邮件: adr@hkciac.org

- 4.2 仲裁程序应视为自仲裁中心秘书处收到仲裁通知之日开始。为避免疑问,此日期应按第2.1和2.2款的规定确定。

- 4.3 若按第2.1(1)款规定的方式提交仲裁通知,应按他方当事人(下称“被申请人”)人数提交足够份数,外加仲裁员各一份,仲裁中心秘书处一份。仲裁通知应包括下列各项:

- (1) 将争议提交仲裁的要求;
- (2) 当事各方及其律师的名称、姓名及(所知道的)地址、电话和传真号码及电子邮件地址;
- (3) 援引的仲裁协议;
- (4) 引起争议或与争议有关的合同或其他法律文件;

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(5) 对仲裁请求的基本性质的描述及仲裁请求所涉金额(如有的话);

(6) 寻求的救济或补救;

(7) 若当事人事先未约定仲裁员人数, 建议的仲裁员人数(即一名或三名)。

4.4 与提交仲裁通知同时, 应以支票或转账方式, 向仲裁中心缴付在提交仲裁通知之日有效的本规则所附的《仲裁收费和费用表》所规定的受理费。

4.5 仲裁通知应使用当事人约定的仲裁语言。若无约定, 应使用英文或中文。

4.6 仲裁通知也可包括:

(1) 申请人有关指定第7条所述的独任仲裁员的建议;

(2) 为组成第8条所述的三人仲裁庭, 申请人指定的一名仲裁员;

(3) 第17条所述的仲裁申请书。

4.7 若仲裁通知不完整, 或份数或附件份数不够, 或未缴付受理费, 仲裁中心秘书处可要求申请人在适当的期限内补正这些缺陷。若仲裁通知使用的不是当事人约定的仲裁语言, 或在当事人无约定时, 使用的不是英文或中文, 仲裁中心秘书处也可要求申请人在此期限内提交译本。若申请人在适用的期限内满足了上述要求, 仲裁通知应视为在仲裁中心秘书处最初收到仲裁通知之日已有效提交。

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4.8 仲裁中心秘书处应立即向被申请人发送仲裁通知及其附件一份。

## **第5条 对仲裁通知的答复**

5.1 收到仲裁通知后30日内，被申请人应向仲裁中心秘书处提交对仲裁通知的答复。若按第2.1 (1) 款规定的方式提交对仲裁通知的答复，应按他方当事人人数提交足够份数，外加仲裁员各一份，仲裁中心秘书处一份。对仲裁通知的答复应尽可能包括下列各项：

- (1) 被申请人及其律师的名称、姓名、地址、电话和传真号码及电子邮件地址（若与仲裁通知所述的不同）；
- (2) 对依本规则组成的仲裁庭的管辖权的任何抗辩；
- (3) 被申请人对仲裁通知中按第4.3 (5) 款所列细项的意见；
- (4) 被申请人对仲裁通知中按第4.3 (6) 款所列的救济或补救的答复；
- (5) 若当事人事先未约定仲裁员人数，被申请人建议的仲裁员人数（即一名或三名）

5.2 对仲裁通知的答复应使用当事人约定的仲裁语言。若无约定，应使用英文或中文。

- 
- 5.3 对仲裁通知的答复也可包括：
- (1) 被申请人有关指定第7条所述的独任仲裁员的建议；
  - (2) 为组成第8条所述的三人仲裁庭，被申请人指定的一名仲裁员；
  - (3) 若仲裁通知包含了第17条所述的仲裁申请书，第18条所述的答辩书。
- 5.4 被申请人的任何反诉或抵销答辩应尽可能随对仲裁通知的答复一并提出，其内容应包括：
- (1) 说明引起反诉或抵销答辩或与反诉或抵销答辩有关的合同或其他法律文件；
  - (2) 反诉或抵销答辩的基本性质及所涉金额（如有的话）；
  - (3) 寻求的救济或补救。
- 5.5 若被申请人未随对仲裁通知的答复提出反诉或抵销答辩，或虽提出了，但未说明所涉金额，仲裁中心秘书处将仅根据申请人依第4.3(5)款提供的信息，决定是否适用第38.1款规定的简易程序。
- 5.6 仲裁中心秘书处应立即向申请人发送对仲裁通知的答复及其附件一份。

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- 5.7 一俟受理费已付且所有仲裁员已确认，仲裁中心秘书处应立即将案件移交独任仲裁员或仲裁庭。
- 5.8 当事人可自主选择代理或助理，并以书面形式将其姓名、地址、电话和传真号码及电子邮件地址通知他方和仲裁中心秘书处。



## 第三节 仲裁员和仲裁庭

### 第6条 仲裁员人数

6.1 若当事人未约定仲裁员人数，应一方请求，仲裁中心理事会将决定案件应提交独任仲裁员还是三人仲裁庭。在做决定时，仲裁中心理事会应考虑根据《香港仲裁条例》制定的《仲裁（仲裁员及公断人的委任）规则》第9条所列的各项因素，包括：

- (1) 争议金额；
- (2) 请求的复杂程度；
- (3) 当事人的国籍；
- (4) 争议所涉行业、业务或专业的相关惯例；
- (5) 有多少合适的仲裁员可供选择；及
- (6) 案件是否急迫。

6.2 在决定仲裁员人数前，仲裁中心理事会应允许仲裁的其他各方向仲裁中心秘书处提交简短书面意见，提出他们认为恰当的人数和理由。若仲裁中心秘书处在其发出征求意见的通知后14日内未收悉任何意见，仲裁中心理事会将作出决定。

6.3 案件若适用第38条规定的简易程序，第38.1(2)和(3)两款适用。

### 第7条 独任仲裁员的指定

7.1 除非当事人另有约定，在满足第11.1和11.2两款规定的前提下，以下两款适用：

- 
- (1) 若当事人约定将争议提交独任仲裁员，当事人应在被申请人收到仲裁通知之日或当事人约定将争议提交独任仲裁员之日（以迟者为准）起30日内，共同指定独任仲裁员；
  - (2) 若当事人未约定仲裁员人数，而仲裁中心理事会决定争议应提交独任仲裁员，当事人应在最后一方收到仲裁中心理事会的决定之日起30日内，共同指定独任仲裁员。

7.2 若当事人未在适用的期限内指定独任仲裁员，则由仲裁中心理事会指定。

## **第8条 仲裁庭的组成**

8.1 若争议提交三人仲裁庭，除非当事人另有约定，仲裁庭应按下述方式组成：

- (1) 各方各指定一名仲裁员。若一方未能在收到另一方指定仲裁员的通知之日起30日内或当事人约定的期限内指定，则由仲裁中心理事会指定第二名仲裁员。
- (2) 按上述方式指定的两名仲裁员应指定第三名仲裁员出任仲裁庭的首席仲裁员。若未能在第二名仲裁员确认后30日内或当事人约定的期限内指定，则由仲裁中心理事会指定首席仲裁员。
- (3) 在任何情况下，都必须满足第11.1和11.2两款的规定。

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8.2 若争议涉及一名以上申请人或一名以上被申请人，并应提交三人仲裁庭，除非当事人另有约定，仲裁庭应按下述方式组成：

(1) 仲裁中心理事会应先设定一个30日期限，要求申请人或共同申请人指定一名仲裁员，随后再设定一个30日期限，要求被申请人或共同被申请人指定一名仲裁员；

(2) 若当事人已按第8.2(1)款指定了仲裁员，第8.1(2)款规定的程序适用于指定首席仲裁员；

(3) 若在多名当事人程序中，一方或多方或共同当事人未能在仲裁中心秘书处设定的期限内指定仲裁员，则由仲裁中心理事会指定未能指定的仲裁员和首席仲裁员。在指定之前，仲裁中心秘书处应请任何已适当指定仲裁员的一方或共同当事人，在设定的期限内书面选择是否撤回其指定并允许仲裁中心理事会指定全部三名仲裁员。未在设定的期限内选择，视为未撤回指定。

(4) 在任何情况下，都必须满足第11.1和11.2两款的规定。

## **第9条 就仲裁员事宜咨询委任咨询委员会**

9.1 在最终指定仲裁员或就任何特定争议决定恰当的仲裁员人数前，仲裁中心理事会应咨询至少三位委任咨询委员会成员。仲裁中心理

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事会应考虑他们的意见，但不受其约束。咨询程序的内容是秘密的，不向当事人披露。

## **第10条 仲裁员的确认**

10.1 所有指定的独任仲裁员或三人仲裁庭的成员，或由当事人指定，或由仲裁员指定，均须由仲裁中心理事会确认。指定经确认才生效。若不确认某位仲裁员，仲裁中心理事会无义务说明理由。

## **第11条 仲裁员的独立、国籍、质疑和免职**

11.1 依本规则指定的所有仲裁员，均应始终保持公正及独立于当事人。

11.2 依本规则仲裁时，若当事人国籍不同，独任仲裁员或首席仲裁员不得由与任何一名当事人的国籍相同的人士担任，除非当事人另有书面约定。

11.3 待选仲裁员应立即向因其可能被指定而与其接洽者披露可能会对其公正和独立产生合理怀疑的情况。一旦被指定，仲裁员应立即向当事各方披露此情况，除非此前他已告知当事各方。

11.4 只要存在对其公正或独立的合理怀疑，任何仲裁员都可被质疑。质疑其指定的仲裁员，指定一方只能基于在指定之后才获悉或理应获悉的理由。

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- 11.5 拟质疑仲裁员的一方，应在收到指定被质疑的仲裁员的通知后15日内，或在其获悉或理应获悉第11.3和11.4两款所述的情况后15日内，发出通知。
- 11.6 质疑仲裁员，应通知仲裁中心秘书处、所有其他当事人、被质疑的仲裁员及仲裁庭其他成员。通知应是书面的，并应说明质疑的理由。
- 11.7 若被质疑的仲裁员不自行回避，则由仲裁中心理事会决定质疑能否成立。质疑应按《香港国际仲裁中心质疑规则》处理。

## **第12条 仲裁员的替换**

- 12.1 除非当事人另有约定，在始终满足任何适用的强制性法律规定的前提下，若一方指定的仲裁员死亡或因任何其无法控制的原因而无法履行职责，仲裁中心秘书处应设定一个期限，由指定此仲裁员的一方指定一名替换仲裁员。若质疑仲裁员成功，或仲裁员因其它原因被免职、辞职、或未被仲裁中心理事会依第10.1款确认，本款同样适用。
- 12.2 若相关一方未能在适用的期限内指定替换仲裁员，则由仲裁中心理事会指定。

## **第13条 替换仲裁员的后果**

- 13.1 若仲裁员被替换，仲裁程序应自被替换的仲裁员停止履行职责的阶段起继续，除非仲裁庭另有决定。

## 第四节 仲裁程序

### 第14条 总则

- 14.1 仲裁庭应采用适当的程序仲裁，以避免不必要的延误和费用。但程序须保证平等对待各方，并使各方均有合理机会陈述其主张。
- 14.2 在仲裁程序的任何阶段，若仲裁庭决定开庭审理，或任何一方请求开庭审理，则仲裁庭应开庭审理，以便就争议实体问题，由证人（包括专家证人）作证，或进行口头辩论。
- 14.3 在仲裁程序的开始阶段，经商议当事人，仲裁庭应为仲裁程序制备一份暂行时间表，提供给当事人，并提供给仲裁中心秘书处供其了解。
- 14.4 一方当事人向仲裁庭提供任何文件和信息，应同时提供给另一方。
- 14.5 经商议当事人，仲裁庭可指定一名秘书。本规则第11条参照适用于此秘书。
- 14.6 经当事一方请求，仲裁庭有权追加一名或多名第三人为仲裁当事人，前提是第三人和请求一方均书面同意追加。
- 14.7 当事各方应为所须为，以确保仲裁公平而有效率。

### 第15条 仲裁地

- 15.1 除非当事人另有明确约定，依本规则仲裁的，仲裁地为中华人民共和国香港特别行政区。

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- 15.2 仲裁庭可参酌案件情况，在其认为合适的任何地点听取证人证言或口头辩论，或进行仲裁庭内部讨论，而不致影响仲裁地的确定。
- 15.3 仲裁庭可在其认为适当的任何地点集合，以检查货物、其他财产或文件。仲裁庭应提前足够时间通知当事人，以便其到场。
- 15.4 仲裁裁决应视为在仲裁地作出。

## **第16条 语言**

- 16.1 除当事人已有约定外，仲裁庭应在其组成后迅速决定仲裁程序中应使用的一种或几种语言。此决定适用于仲裁申请书、答辩书和任何进一步书面陈述；如需开庭审理，同样适用于开庭审理使用的语言。
- 16.2 仲裁庭可指令，若仲裁申请书或答辩书所附的任何文件和在仲裁程序中提交的任何补充文件或证据是原文，应同时提交当事人约定的或仲裁庭决定的一种或几种仲裁语言的译本。

## **第17条 仲裁申请书**

- 17.1 除非仲裁申请书载于仲裁通知内（或申请人选择视仲裁通知为仲裁申请书），申请人应在仲裁庭设定的期限内，将仲裁申请书送交被申请人和每位仲裁员。合同副本一份及仲裁协议副本一份（若仲裁协议不在合同中），应同时附上。

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17.2 仲裁申请书应包括下列各项：

- (1) 当事各方的名称和地址；
- (2) 对仲裁请求所依据的事实的陈述；
- (3) 争议事项；
- (4) 寻求的救济或补救。

17.3 申请人应将其所依据的文件附在仲裁申请书后。

## **第18条 答辩书**

18.1 除非答辩书载于对仲裁通知的答复内，被申请人应在仲裁庭设定的期限内，将答辩书送交申请人和每位仲裁员。

18.2 答辩书应答复仲裁申请书中的第(2)、(3)和(4)项(第17.2款)。若被申请人就仲裁庭的管辖权或其组成提出异议，答辩书应包含提出异议的事实和法律依据。被申请人应将其答辩所依据的文件附在答辩书后。

18.3 若提出反诉或据以主张抵销的请求，答辩书应包括下列各项：

- (1) 对请求所依据的事实的陈述；
- (2) 争议事项；
- (3) 寻求的救济或补救。

## **第19条 对请求或答辩的修改**

19.1 在仲裁程序中，任何一方当事人均可修改或补充其请求或答辩，除非仲裁庭认为会造成延迟、对另一方不公平或导致任何其他情况，而不宜修改。但修改后的请求不得超出仲裁条款或单独的仲裁协议的范围。



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19.2 若一方当事人修改其请求、反诉或答辩，如合适，仲裁中心秘书处可调整其管理费和仲裁员收费。

## **第20条 仲裁庭的管辖权**

20.1 仲裁庭有权决定对其管辖权的异议，包括就仲裁条款或单独的仲裁协议是否存在或是否有效提出的任何异议。

20.2 仲裁庭有权决定包含仲裁条款的合同是否存在或是否有效。就本第20条而言，合同中约定依本规则仲裁的仲裁条款，应视为独立于合同其他条款。仲裁庭认定合同无效，并不必然导致仲裁条款无效。

20.3 对仲裁庭管辖权的异议，如可能，应在对仲裁通知的答复中提出，但最迟应在第18条所述的答辩书中提出。就反诉而言，应在对反诉的答复中提出。

## **第21条 进一步书面陈述**

21.1 除仲裁申请书和答辩书外，若还应要求或允许当事人提交进一步书面陈述，则应由仲裁庭作出决定，并设定交换这类陈述的期限。

## **第22条 期限**

22.1 仲裁庭设定的交换书面陈述（包括仲裁申请书和答辩书）的期限不得超过45日。但仲裁庭认为恰当时，可予延长。

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## 第23条 证据和审理

- 23.1 当事人对其请求或答辩所依据的事实，负举证责任。
- 23.2 如认为适当，仲裁庭可要求一方当事人在仲裁庭设定的期限内，向仲裁庭和另一方提交一份概要，概括其为证明其仲裁申请书或答辩书中所争议的事实而拟提交的文件和其他证据。
- 23.3 在仲裁程序中，仲裁庭可随时要求当事人在仲裁庭设定的期限内提交文件、证物或其他证据。仲裁庭有权接受或拒绝接受任何文件、证人证言或其他证据。
- 23.4 如需开庭审理，仲裁庭应提前足够的时间通知当事人开庭审理的日期、时间和地点。
- 23.5 任何人都可作证人或专家证人。如有证人或专家证人出庭，当事人应在约定的或仲裁庭确定的期限内，通知仲裁庭和他方拟出庭的证人或专家证人的姓名、地址、作证的事项和所用的语言。
- 23.6 如认为案件需要，仲裁庭可为开庭审理中的口头陈述指令翻译，或指令庭审记录。
- 23.7 除当事人另有约定外，审理不公开进行。在证人或专家证人作证时，仲裁庭可要求其他一位或多位证人或专家证人退出。仲裁庭可自由决定讯问证人或专家证人的方式。

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23.8 证人或专家证人也可以以签署书面陈述或报告的形式作证。

23.9 一方当事人或其管理人员、雇员、律师或顾问访问证人、潜在证人或专家证人，并无不当。

23.10 仲裁庭应决定当事人提交的任何材料能否接受、是否相关、是否重要及其证明力，包括决定是否适用严格的证据规则。

## **第24条 临时保护措施**

24.1 经任何一方当事人请求，仲裁庭可指令其认为必要或适当的临时措施。

24.2 仲裁庭可以以临时裁决的形式，指令临时措施。仲裁庭有权指令请求临时措施的一方提供适当的担保。

24.3 任何一方向具管辖权的法院请求临时措施，不得视为与仲裁协议相抵触或放弃仲裁协议。

24.4 仲裁庭有权在指令、临时或终局裁决中裁量分配与请求临时措施相关的费用。

## **第25条 仲裁庭指定的专家**

25.1 为协助其审定证据，经商议当事人，仲裁庭可以指定一名或数名专家。仲裁庭可私下会见任何适当地指定的专家。专家应就仲裁庭所需决定的特定问题，向仲裁庭提出书面报告。仲裁庭应将其制备的专家任务书送交当事各方。

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- 25.2 当事各方应向专家提供其所要求的任何有关信息，或提供其所要求的任何有关文件或物品供其检验。当事人与专家就所要求的信息或文件或物品是否相关发生争议，应交仲裁庭裁定。
- 25.3 收到专家报告后，仲裁庭应将副本发送当事各方，并给当事各方针对报告提出书面意见的机会。当事人有权查验专家在报告中所依据的任何文件。
- 25.4 在提交报告后，经任何一方当事人请求，专家应出庭，接受当事人当场讯问。任何一方当事人均可指派专家证人出庭，就争议事项作证。第23.4至23.10款的规定适用于此程序。
- 25.5 第11条的规定参照适用于仲裁庭指定的专家。

## **第26条 缺席**

- 26.1 若申请人在仲裁庭设定的期限内未提交仲裁申请书，又没有给出充足的理由，仲裁庭应发出终止仲裁程序的指令。但是，若被申请人已提出反诉并希望继续仲裁，仲裁庭可继续仲裁。若被申请人在仲裁庭设定的期限内未提交答辩，又没有给出充足的理由，仲裁庭可继续仲裁。
- 26.2 若一方当事人在经依本规则适当通知后，没有按本规则（包括仲裁庭的指示）陈述意见，又没有给出充足的理由，仲裁庭可继续仲裁，并相应作出裁决。

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## **第27条 审理终结**

- 27.1 若仲裁庭确信当事人已有合理机会陈述意见，则应宣布审理终结。此后，不得再提交任何意见、辩论或证据，除非仲裁庭依第27.2款重新开始审理。
- 27.2 若认为因特殊情况而有必要，仲裁庭可在作出裁决前的任何时候，主动或依一方当事人请求，重新开始审理。

## **第28条 弃权**

- 28.1 当事人知道或理应知道未按本规则（包括仲裁协议）的规定或其引发的要求行事，但仍继续参与仲裁而不立即提出异议的，视为已放弃提出异议的权利。

## 第五节 裁 决

### 第29条 决定

- 29.1 若是三人仲裁庭，仲裁庭的任何裁决或其他决定应按多数仲裁员的意见作出。若没有多数意见，按首席仲裁员一人的意见作出。
- 29.2 经仲裁庭事先授权，首席仲裁员可独自决定程序问题。

### 第30条 裁决的形式和效力

- 30.1 除终局裁决外，仲裁庭有权作出临时裁决、中间裁决或部分裁决。如合适，仲裁庭可在非终局的裁决中裁定费用。
- 30.2 裁决应是书面的，终局的，对当事各方有约束力。当事各方有义务立即履行。
- 30.3 裁决应说明其所依据的理由。
- 30.4 裁决应由仲裁员签署，并载明作出裁决的日期和地点。若是三人仲裁庭，而其中一名或两名仲裁员未签署，裁决应说明未签署的理由。
- 30.5 裁决应加盖仲裁中心印章。
- 30.6 公开裁决适用第39.3款的规定。
- 30.7 除仲裁庭有权留置裁决的情况外，仲裁庭应由仲裁员签署并加盖仲裁中心印章的裁决原件送交当事人和仲裁中心秘书处。仲裁中心秘书处应保存裁决一份。

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## **第31条 适用法律、友好公断人**

- 31.1 仲裁庭应根据当事人选择的法律裁决争议。若当事人未选择，适用与争议联系最密切的法律。
- 31.2 只有经当事人明确授权，仲裁庭才能以友好公断人身份或依公允善良原则裁决争议。
- 31.3 在任何情况下，仲裁庭均应按合同条款裁决争议，并应考虑交易所适用的商业惯例。

## **第32条 因和解或其他原因终止仲裁**

- 32.1 若当事人在裁决作出前和解了结争议，仲裁庭应发出指令终止仲裁程序；或者，经双方当事人请求和仲裁庭认可，根据和解内容作出和解裁决。对这类裁决，仲裁庭无须说明理由。
- 32.2 若在裁决作出前，因上述第1款以外的任何原因，不再需要或不再可能继续仲裁，仲裁庭应发出终止仲裁程序的指令。当事人应有合理的机会就建议的步骤发表意见，除非其提出合理的反对意见，仲裁庭应发出此项指令。
- 32.3 仲裁庭应将由仲裁员签署的终止仲裁程序的指令或和解裁决送交当事人和仲裁中心秘书处。和解裁决适用第30.2款和第30.4至30.7款的规定。

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### **第33条 裁决的解释**

- 33.1 在收到裁决后30日内，经通知另一方，任何一方当事人均可要求仲裁庭对裁决作出解释。仲裁庭可设定期限，一般不超过30日，要求另一方提出意见。
- 33.2 仲裁庭应在收到另一方提出的意见后或其依第33.1款为另一方提出意见而设定的期限期满后（以较早者为准）的45日内，以书面形式作出其认为适当的解释。解释构成裁决的一部分，适用第30.2至30.7款的规定。

### **第34条 裁决的更正**

- 34.1 在收到裁决后30日内，经通知另一方，任何一方当事人均可要求仲裁庭更正裁决中的任何计算错误、笔误或排印错误或类似错误。仲裁庭可设定期限，一般不超过30日，要求另一方提出意见。
- 34.2 仲裁庭应在收到另一方提出的意见后或其依第34.1款为另一方提出意见而设定的期限期满后（以较早者为准）的45日内，作出其认为适当的更正。
- 34.3 仲裁庭可在发送裁决后30日内主动更正裁决。
- 34.4 更正裁决应用书面形式，适用第30.2至30.7款的规定。



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## 第35条 补充裁决

35.1 在收到裁决后30日内，经通知另一方，任何一方当事人均可要求仲裁庭补充裁决仲裁程序中提出了而裁决中遗漏的请求。仲裁庭可设定期限，一般不超过30日，要求另一方提出意见。

35.2 若仲裁庭认为补充裁决的要求合理，而且无须进一步审理或证据即可裁决遗漏的请求，则应在收到要求后60日内作出补充裁决。

35.3 补充裁决适用第30.2至30.7款的规定。

## 第36条 收费和费用

36.1 仲裁庭应在裁决中决定仲裁费用。“费用”一词仅包括：

- (1) 按第36.2和36.3款确定的仲裁庭的收费；
- (2) 仲裁员的差旅费和其他开支；
- (3) 仲裁庭要求的专家意见和其他协助产生的费用；
- (4) 证人的差旅费和其他开支，以仲裁庭核准者为限；
- (5) 法律代理和协助的费用，若在仲裁程序中有所请求，并仅以仲裁庭认定为合理的金额为限；
- (6) 应按本规则所附《仲裁收费和费用表》缴付仲裁中心的受理费和管理费。

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36.2 仲裁庭的收费，可(1)按本规则所附的《仲裁收费和费用表》的第3条确定，或(2)按由指定一方当事人和被指定的仲裁员(就三人仲裁庭中的第三名仲裁员而言，由各方当事人和第三名仲裁员)商定的收费办法确定，由当事人选择。确定仲裁庭收费的方法，应在仲裁通知日期起30日内通知仲裁中心秘书处。若当事人未能在此期限内商定确定仲裁庭收费的方法，则应按指定一方当事人和被指定的仲裁员商定的收费办法收费。

36.3 若仲裁庭的收费按本规则所附的《仲裁收费和费用表》确定，则由中心理事会按此表和下述规则核定：

(1) 仲裁庭的收费金额应合理，应考虑到争议金额的大小、标的的复杂程度、仲裁员花费的时间和案件的其他有关情况，包括但不限于：仲裁程序因和解或其他原因终止。若仲裁程序如此终止，仲裁庭的收费可低于《仲裁收费和费用表》规定的最低金额。

(2) 一般而言，首席仲裁员应收取仲裁庭收费总额的40%，另两位仲裁员各30%，除非仲裁庭另有决定。

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- 36.4 除第36.5款规定的情况外，仲裁费用原则上应由败诉一方负担。但是，在参酌案件情况后，若仲裁庭认为合理，也可以裁定由当事各方分担仲裁费用的全部或部分。
- 36.5 第36.1 (5)款所述的法律代理和协助费用，应由仲裁庭参酌案件情况，自行裁定由哪一方负担；或者，如其认为合理，裁定由当事各方分担。
- 36.6 若是仲裁庭发出终止仲裁程序的指令或作出和解裁决，则应由仲裁庭或仲裁中心在指令或裁决中裁定第36.1和36.2款所述的仲裁费用。
- 36.7 仲裁庭不得因按第33至35条解释、更正或补充裁决而另行收费。

### **第37条 费用预付**

- 37.1 仲裁庭组成后，仲裁中心秘书处应要求当事各方向仲裁中心缴付相等的金额，作为第36.1(1)、(2)、(3)和(6)各款所述费用的预付款。仲裁中心秘书处应向仲裁庭提供此要求的副本。
- 37.2 若被申请人提出了反诉，或存在其他宜分设预付款账户的情形，仲裁中心秘书处可分设预付款账户。
- 37.3 在仲裁过程中，仲裁中心秘书处可要求当事人追缴费用预付款。仲裁中心秘书处应向仲裁庭提供此要求的副本。

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- 37.4 若要求的费用预付款未能在收到要求后30日内缴足，仲裁中心秘书处应通知当事各方，以便由任何一方缴付。若仍未缴付，仲裁庭可指令中止或终止仲裁程序，或按其认为恰当的形式继续仲裁。
- 37.5 仲裁庭应在终局裁决中向当事人提供仲裁中心秘书处收到的费用预付款的账目。任何未动用的余额应由仲裁中心秘书处退还当事人。
- 37.6 有关仲裁收费和费用的其他规定载于本规则所附的《仲裁收费和费用表》中，构成本规则的一部分。

## 第六节 其他规定

### 第38条 简易程序

38.1 除非当事人另有约定，或仲裁中心秘书处在参酌所有相关情况后有决定，所有仲裁请求和反诉（或任何抵销答辩）的总额不超过250,000美元的案件，应适用下列规定：

- (1) 应按第38.2款规定的简易程序仲裁；
- (2) 案件应提交独任仲裁员，除非仲裁协议规定了三人仲裁庭。
- (3) 若仲裁协议规定了三人仲裁庭，仲裁中心秘书处将建议当事人将案件提交独任仲裁员。若当事人不同意将案件提交独任仲裁员，三位仲裁员的收费应按本规则所附的《仲裁收费和费用表》确定。

38.2 若第38.1款适用，应按简易程序仲裁。简易程序适用本规则上述各项规定，及下述变更：

- (1) 仲裁中心秘书处可缩短第7.1、7.2和8.2款规定的指定仲裁员的期限；
- (2) 在对仲裁通知的答复提交之后，当事人原则上只能提交一次仲裁申请书和一次答辩书（和反诉书）及（如适用）一次对反诉的答辩书。

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- (3) 仲裁庭应仅依据书面文件裁决争议，除非其认为有必要进行一次或多次开庭审理。
  - (4) 裁决应在仲裁中心秘书处将案件移交仲裁庭后6个月内作出。特殊情况下，仲裁中心秘书处可延长此期限。
  - (5) 仲裁庭应简要说明裁决所依据的理由，除非当事人同意不需说明理由。

### **第39条 保密**

39.1 除非当事人有相反明确书面约定，当事人有义务就仲裁程序的所有事项和文件保密，包括进行仲裁这一事实，以及所有尚未为公众所知的通讯往来、书面陈述、证据、裁决和指令。但若当事一方依法律或监管法规有义务披露，或为保护或主张其合法权利而需要披露，或在为强制执行或质疑裁决而向司法机构提起的法律程序中需要披露，则可披露，但也仅限于此。此义务同样约束仲裁员、仲裁庭指定的专家、仲裁庭的秘书和仲裁中心秘书处及仲裁中心理事会。

39.2 仲裁庭的合议应保密。

39.3 裁决只有在下述情况下才能公开，不论是全文，还是节录或概要：

- (1) 向仲裁中心秘书处提出了公开裁决的要求；
- (2) 当事人名称全被隐去；及

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- (3) 当事人未在仲裁中心秘书处设定的期限内表示反对。若当事人反对，裁决不得公开。

## **第40条 免责**

- 40.1 仲裁中心、仲裁中心理事会、仲裁中心秘书处或其工作人员、仲裁员、仲裁员指定的专家或仲裁庭的秘书，均不就依本规则进行的仲裁中的任何作为或不作为承担任何责任，不诚实的作为或不作为除外。
- 40.2 裁决一旦作出，且依第33至35条更正、解释或补充裁决或者已过期，或者已全部完成，仲裁中心（包括仲裁中心理事会、仲裁中心秘书处或其任何工作人员）、仲裁员、仲裁庭指定的专家或仲裁庭的秘书，均无义务向任何人，就仲裁的任何事项，作任何说明。当事人也不得要求任何上述人士在因仲裁引起的任何法律或其他程序中作证人。

# 仲裁收费和费用表

(所有金额均系美元)  
(2008年9月1日起生效)

## 1. 受理费

- 1.1 提交仲裁通知的同时，申请人应缴付受理费1,000美金。
- 1.2 若申请人未能缴付受理费，仲裁中心不会继续仲裁程序。
- 1.3 受理费不予退还。
- 1.4 上述各规定同样适用于反诉。

## 2. 仲裁中心的管理费

- 2.1 仲裁中心的管理费按以下标准计算：

管理费			
争议金额(美元)			管理费 (*)
50,000	以下		USD1,500
50,001	至	100,000	0.70%
100,001	至	500,000	0.60%
500,001	至	1,000,000	0.40%
1,000,001	至	2,000,000	0.20%
2,000,001	至	5,000,000	0.12%
5,000,001	至	10,000,000	0.06%
10,000,001	至	50,000,000	0.03%
50,000,001	以上		USD26,850

(\*) 第4.1条下的表格显示准确计算的管理费美元金额。



### 3. 仲裁员的收费

3.1 若当事人同意适用本表以确定仲裁员的收费，仲裁员的收费应按以下标准计算：

#### 仲裁员收费表（每位仲裁员）

争议金额（美元）	收费（**）	
	最低	最高
50,000 以下	USD2,000	14.00%
50,001 至 100,000	2.50%	10.00%
100,001 至 500,000	1.00%	5.00%
500,001 至 1,000,000	0.70%	2.60%
1,000,001 至 2,000,000	0.40%	1.40%
2,000,001 至 5,000,000	0.25%	0.70%
5,000,001 至 10,000,000	0.075%	0.40%
10,000,001 至 50,000,000	0.05%	0.20%
50,000,001 至 80,000,000	0.025%	0.14%
80,000,001 至 100,000,000	0.012%	0.12%
100,000,000 以上	0.01%	0.06%

（\*\*）第4.1条下的表格显示准确计算的仲裁员收费范围。

3.2 仲裁员的收费覆盖自案件移交给仲裁庭起至最后裁决止仲裁庭的全部活动。

### 4. 管理费和仲裁员收费的计算

4.1 应付的管理费和仲裁员的收费应按下表计算，并由仲裁中心理事会核定。计算时，争议金额相继各幅度计算得出的金额应当累进计算。

## 仲裁费用表

争议金额(美元)	A. 管理费(*)		B. 仲裁员的收费(**) (每位仲裁员)	
	(美元)	(美元)	(美元)	(美元)
	最低		最高	
50,000 以下	1,500		2,000	争议金额的14.00%
50,001 至	100,000	1,500 元+争议金额50,000元以上部分的0.70%	2,000 元+争议金额50,000元以上部分的2.50%	7,000 元+争议金额50,000元以上部分的10.00%
100,001 至	500,000	1,850 元+争议金额100,000元以上部分的0.60%	3,250 元+争议金额100,000元以上部分的1.00%	12,000 元+争议金额100,000元以上部分的5.00%
500,001 至	1,000,000	4,250 元+争议金额500,000元以上部分的0.40%	7,250 元+争议金额500,000元以上部分的0.70%	32,000 元+争议金额500,000元以上部分的2.60%
1,000,001 至	2,000,000	6,250 元+争议金额1,000,000元以上部分的0.20%	10,750 元+争议金额1,000,000元以上部分的0.40%	45,000 元+争议金额1,000,000元以上部分的1.40%
2,000,001 至	5,000,000	8,250 元+争议金额2,000,000元以上部分的0.12%	14,750 元+争议金额2,000,000元以上部分的0.25%	59,000 元+争议金额2,000,000元以上部分的0.70%
5,000,001 至	10,000,000	11,850 元+争议金额5,000,000元以上部分的0.06%	22,250 元+争议金额5,000,000元以上部分的0.075%	80,000 元+争议金额5,000,000元以上部分的0.40%
10,000,001 至	50,000,000	14,850 元+争议金额10,000,000元以上部分的0.03%	26,000 元+争议金额10,000,000元以上部分的0.05%	100,000 元+争议金额10,000,000元以上部分的0.20%
50,000,001 至	80,000,000	26,850	46,000 元+争议金额50,000,000元以上部分的0.025%	180,000 元+争议金额50,000,000元以上部分的0.14%
80,000,001 至	100,000,000	26,850	53,500 元+ 争议金额80,000,000元以上部分的0.012%	222,000 元+争议金额80,000,000元以上部分的0.12%
100,000,000 以上	26,850	26,850	55,900 元+ 争议金额100,000,000元以上部分的0.01%	246,000 元+争议金额100,000,000元以上部分的0.06%

(\*\*)(\*\*) 见前页

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- 4.2 若仲裁中心理事会认为存在特殊情况，仲裁中心的管理费和仲裁员的收费可高于本表所列的金额。特殊情况包括但不限于：当事人在仲裁中的做法超出了仲裁庭在其组成时的合理预期。
- 4.3 在确定争议金额时，仲裁请求和反诉请求的金额应合并计算。抵销答辩同样，除非仲裁庭经商议当事人后认定抵销请求不会引致大量额外工作。
- 4.4 计算争议金额时，不应考虑利息请求。但是，若利息请求金额超出本金请求，应单按利息请求计算争议金额。
- 4.5 美元以外的其他币种，应按仲裁中心秘书处收到仲裁通知之日与最终裁决作出之日的平均汇率，折算成美元。折算第1条规定的受理费，应取仲裁中心秘书处收到仲裁通知之日的汇率。
- 4.6 若争议金额不能确定，仲裁中心的管理费和仲裁员的收费应由仲裁中心理事会参酌所有相关情况确定。

## 5. 仲裁员的开支

仲裁员的开支应是为仲裁实际发生的支出，如涉及下列各项的合理开支：差旅（商务舱机票，除非另有约定）、住宿、餐饮（如在本地，只算仲裁员聚餐）、出租车、通讯费用和任何其他与仲裁相关的费用（例如租借庭审室、庭审记录、翻译等）。仲裁中心可向仲裁员提供开支账目原则指引。仲

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裁判员的开支应单独开具发票，单独支付，不算入第3条规定的仲裁员的收费。

## **6. 当事人预付款产生的利息**

仲裁中心应将当事人缴付的预付款存入信誉良好的香港存款机构的计息存款账户。在选择账户时，仲裁中心应考虑到可能需要随时从预付款账户提款。在最终计算仲裁费用时，利息收入应划归缴付预付款一方。

## **7. 中期支付**

仲裁中心可不时指令从预付款中支付仲裁中心的管理费、仲裁员的收费和开支。

## **8. 当事人的连带责任**

当事人应就仲裁费用向仲裁庭和仲裁中心承担连带责任。

## **9. 留置裁决**

仲裁中心和仲裁庭有权留置仲裁庭作出的裁决，以确保当事人缴付第36.1条第(1)(2)(3)和(6)款所述的费用。因此，在前述费用全额缴清之前，可拒绝向当事人发送裁决。

## 鸣 谢

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