

South China International Arbitration Center (HK) Arbitration Rules



2022

**SOUTH CHINA INTERNATIONAL
ARBITRATION CENTER (HONG KONG)**

**South China International
Arbitration Center (HK)
Arbitration Rules**

SCIA^{HK}

South China International Arbitration Center (HK) Arbitration Rules ("Rules")

As approved by the Board of South China International Arbitration Center (HK), an arbitral institution established in Hong Kong Special Administrative Region, China, these Rules shall be effective as from 1 May 2022.

These Rules are based upon the UNCITRAL Arbitration Rules (2013 edition) and take into account the UNCITRAL Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the UNCITRAL Arbitration Rules (as revised in 2010) (2013 edition) as well as the recent developments in modern international arbitral rules. Changes to the UNCITRAL Arbitration Rules (2013 edition) are identified in Appendix 5 (Notes to these Rules).

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Section I - Introductory Rules

Scope of Application

Article 1

1. Where parties have agreed that disputes between them in respect of a defined legal relationship, whether contractual or not, shall be referred to arbitration under these Rules or to arbitration at or by the South China International Arbitration Center (HK) (the “SCIAHK”), then such disputes shall be settled in accordance with these Rules subject to such modification as the parties may agree. These Rules include Appendixes 1-4.

2. By agreeing to arbitration in accordance with these Rules, the Parties accept that the arbitration shall be administered by the SCIAHK. The SCIAHK has the power to interpret all provisions of these Rules. The arbitral tribunal is entrusted to interpret these Rules insofar as they relate to its powers and duties hereunder.

3. These Rules shall govern the arbitration except that where any of these Rules is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

4. For investor-State arbitration initiated pursuant to a treaty providing for the protection of investments or investors or an investor-State contract to the similar effect by which the SCIAHK is conferred with jurisdiction, these Rules shall apply in conjunction with the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (the “Rules on Transparency”), subject to article 1 of the Rules on Transparency.

5. These Rules are effective as of 1 May 2022.

Notice and Calculation of Periods of Time

Article 2

1. A notice, including a notification, communication or proposal, may be transmitted by any means of communication that provides or allows for a record of its transmission.

2. If an address has been designated by a party specifically

for this purpose or authorized by the arbitral tribunal, any notice shall be delivered to that party at that address, and if so delivered shall be deemed to have been received. Delivery by electronic means such as facsimile or e-mail may only be made to an address so designated or authorized.

3. In the absence of such designation or authorization, a notice is:

(a) Received if it is physically delivered to the addressee; or

(b) Deemed to have been received if it is delivered at the place of business, habitual residence or mailing address of the addressee.

4. If, after reasonable efforts, delivery cannot be effected in accordance with paragraphs 2 or 3, a notice 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 that provides a record of delivery or of attempted delivery.

5. A notice shall be deemed to have been received on the day it is delivered in accordance with paragraphs 2, 3 or 4, or attempted to be delivered in accordance with paragraph 4. A notice transmitted by electronic means is deemed to have been received on the day it is sent, except that a notice of arbitration so transmitted is only deemed to have been received on the day when it reaches the addressee's electronic address.

6. For the purpose of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

Notice of Arbitration

Article 3

1. The party or parties initiating recourse to arbitration (hereinafter called the "claimant") shall submit to the SCIAHK a notice of arbitration and communicate such notice to the other party or parties (hereinafter called the "respondent").

2. All documents transmitted pursuant to articles 3 and 4 of these Rules shall be served on the SCIAHK at the time of such transmission to the other party or parties or immediately thereafter.

3. Arbitral proceedings shall be deemed to commence on the date on which the notice of arbitration is received by the SCIAHK.

4. The notice of arbitration shall include the following:

(a) A demand that the dispute be referred to arbitration;

(b) The names and contact details of the parties;

(c) Identification of the arbitration agreement that is invoked;

(d) Identification of any contract or other legal instrument out of or in relation to which the dispute arises or, in the absence of such contract or instrument, a brief description of the relevant relationship;

(e) A brief description 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, language and seat of arbitration, if the parties have not previously agreed thereon.

5. The notice of arbitration may also include:

(a) A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;

(b) Notification of the appointment of an arbitrator referred to in article 9 or 10.

6. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the sufficiency of the notice of arbitration, which shall be finally resolved by the arbitral tribunal.

Response to the Notice of Arbitration

Article 4

1. Within 30 days of the receipt of the notice of arbitration, the respondent shall communicate to the claimant a response to the notice of arbitration, which shall include:

(a) The name and contact details of each respondent;

(b) A response to the information set forth in the notice of arbitration, pursuant to article 3, paragraphs 4 (c) to (g).

2. The response to the notice of arbitration may also include:

(a) Any plea that an arbitral tribunal to be constituted under these Rules lacks jurisdiction;

(b) A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;

(c) Notification of the appointment of an arbitrator referred to in article 9 or 10;

(d) A brief description of counterclaims or claims for the purpose of a set-off, if any, including where relevant, an indication of the amounts involved, and the relief or remedy sought;

(e) A notice of arbitration in accordance with article 3 in case the respondent formulates a claim against a party to the arbitration agreement other than the claimant.

3. The constitution of the arbitral tribunal 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 arbitral tribunal.

Representation and Assistance

Article 5

Each party may be represented or assisted by persons chosen by it. The names and addresses of such persons must be communicated to all parties and to the arbitral tribunal. Such communication must specify whether the appointment is being

made for purposes of representation or assistance. Where a person is to act as a representative of a party, the arbitral tribunal, on its own initiative or at the request of any party, may at any time require proof of authority granted to the representative in such a form as the arbitral tribunal may determine.

Appointing Authority

Article 6

1. Where the parties have agreed on these Rules, the functions of the appointing authority under the UNCITRAL Arbitration Rules are fulfilled by the SCIAHK.
2. In exercising its functions under these Rules, the appointing authority may require from any party and the arbitrators the information it deems necessary and shall give the parties and, where appropriate, the arbitrators, an opportunity to present their views in any manner it considers appropriate. All such communications to and from the appointing authority shall also be provided by the sender to all other parties.
3. When the appointing authority is requested to appoint an arbitrator pursuant to articles 8, 9, 10 or 14, the party making the request shall send to the appointing authority copies of the notice of arbitration and, if it exists, any response to the notice of arbitration.
4. The appointing authority shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and shall take into account the advisability of appointing an arbitrator of a nationality other than the nationalities of the parties.

Section II - Composition of the Arbitral Tribunal

Number of Arbitrators

Article 7

1. If the parties have not previously agreed on the number of arbitrators, and if within 30 days after the receipt by the respondent of the notice of arbitration the parties have not agreed that there shall be only one arbitrator, three arbitrators shall be appointed.
2. Notwithstanding paragraph 1, if no other parties have responded to a party's proposal to appoint a sole arbitrator within the time limit provided for in paragraph 1 and the party or parties concerned have failed to appoint a second arbitrator in accordance with article 9 or 10, the appointing authority may, at the request of a party, appoint a sole arbitrator pursuant to the procedure provided for in article 8, paragraph 2, if it determines that, in view of the circumstances of the case, this is more appropriate.
3. Where the arbitration is conducted in form of an Expedited Procedure in accordance with article 23A, the provisions of article 23A, paragraph 2 (a) and (b) shall apply.

Appointment of Arbitrators (Articles 8 to 10A)

Article 8

1. If the parties have agreed that a sole arbitrator is to be appointed and if within 30 days after receipt by all other parties of a proposal for the appointment of a sole arbitrator, or such other period as may be set by the appointing authority, the parties have not reached agreement thereon, a sole arbitrator shall, at the request of a party, be appointed by the appointing authority.
2. The appointing authority shall appoint the sole arbitrator as promptly as possible. In making the appointment, the appointing authority shall use the following list-procedure, unless the parties agree that the list-procedure should not be used or unless the appointing authority determines in its discretion that the use of

the list-procedure is not appropriate for the case:

(a) The appointing authority shall communicate to each of the parties an identical list containing at least three names;

(b) Within 15 days after the receipt of this list, each party may return the list to the appointing authority after having deleted the name or names to which it objects and numbered the remaining names on the list in the order of its preference;

(c) After the expiration of the above period of time the appointing authority shall appoint the sole arbitrator from among the names approved on the lists returned to it and in accordance with the order of preference indicated by the parties;

(d) If for any reason the appointment cannot be made according to this procedure, the appointing authority may exercise its discretion in appointing the sole arbitrator.

Article 9

1. If three arbitrators are to be appointed, each party shall appoint one arbitrator. The two arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator of the arbitral tribunal.

2. If within 30 days after the receipt of a party's notification of the appointment of an arbitrator, or such other period as may be set by the appointing authority, the other party has not notified the first party of the arbitrator it has appointed, the first party may request the appointing authority to appoint the second arbitrator.

3. If within 30 days after the appointment of the second arbitrator, or such other period as may be set by the appointing authority, the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the appointing authority in the same way as a sole arbitrator would be appointed under article 8.

Article 10

1. For the purposes of article 9, paragraph 1, where three arbitrators are to be appointed and there are multiple parties as claimant or as respondent, unless the parties have agreed to another method of appointment of arbitrators, the multiple parties jointly, whether as claimant or as respondent, shall appoint an arbitrator.

2. If the parties have agreed that the arbitral tribunal is to be composed of a number of arbitrators other than one or three, the arbitrators shall be appointed according to the method agreed upon by the parties.

3. In the event of any failure to constitute the arbitral tribunal under these Rules or the arbitral tribunal constituted in accordance with the parties' agreed method fails to reach a majority decision, the appointing authority shall, at the request of any party, constitute the arbitral tribunal and, in doing so, may revoke any appointment already made and appoint or reappoint each of the arbitrators and designate one of them as the presiding arbitrator.

Article 10A

The parties may either appoint arbitrator(s) from the panel of arbitrators as stated on the SCIAHK's website on the date on which the appointment is made, or appoint arbitrator(s) outside the panel. All appointments of any arbitrator, whether made by the parties or the arbitrators, are subject to confirmation by the SCIAHK, upon which the appointments shall become effective.

Disclosures by and Challenge of Arbitrators (Articles 11 to 13)

Article 11

When a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. An arbitrator, from the time of his or her appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties and the other arbitrators unless they have already been informed by him or her of these circumstances.

Article 12

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence or if the arbitrator does not possess the qualifications agreed to by the parties in their arbitration agreement.

2. A party may challenge the arbitrator appointed by it only

for reasons of which it becomes aware after the appointment has been made.

3. In the event that an arbitrator fails to act or in the event of the de jure or de facto impossibility of his or her performing his or her functions, the procedure in respect of the challenge of an arbitrator as provided in article 13 shall apply.

Article 13

1. A party that intends to challenge an arbitrator shall send notice of its challenge within 15 days after it has been notified of the appointment of the challenged arbitrator, or within 15 days after the circumstances mentioned in articles 11 and 12 became known to that party.

2. The notice of challenge shall be communicated to all other parties, to the arbitrator who is challenged and to the other arbitrators. The notice of challenge shall state the reasons for the challenge.

3. When an arbitrator has been challenged by a party, all parties may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his or her office. In neither case does this imply acceptance of the validity of the grounds for the challenge.

4. If, within 15 days from the date of the notice of challenge, all parties do not agree to the challenge or the challenged arbitrator does not withdraw, the party making the challenge may elect to pursue it. In that case, within 30 days from the date of the notice of challenge, it shall seek a decision on the challenge by the appointing authority.

5. Unless the parties agree otherwise, the appointing authority may give reasons for the decision on the challenge.

Replacement of an Arbitrator

Article 14

1. Subject to paragraph 2, in any event where an arbitrator has to be replaced during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in articles 8 to 11 that was applicable to the appointment or choice of the arbitrator being replaced. This procedure shall apply even if during the process of appointing

the arbitrator to be replaced, a party had failed to exercise its right to appoint or to participate in the appointment.

2. If, at the request of a party, the appointing authority determines that, in view of the exceptional circumstances of the case, it would be justified for a party to be deprived of its right to appoint a substitute arbitrator, the appointing authority may, after giving an opportunity to the parties and the remaining arbitrators to express their views:

(a) appoint the substitute arbitrator; or

(b) after the closure of the hearings, authorize the other arbitrators to proceed with the arbitration and make any decision or award.

Repetition of Hearings in the Event of the Replacement of an Arbitrator

Article 15

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

Exclusion of Liability

Article 16

Save for intentional wrongdoing, the parties waive, to the fullest extent permitted under the applicable law, any claim against the SCIAHK, its staff, the arbitrators, the appointing authority and any person appointed by the arbitral tribunal based on any act or omission in connection with the arbitration.

Section III - Arbitral Proceedings

General Provisions

Article 17

1. Subject to these Rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at an appropriate stage of the proceedings each party is given a reasonable opportunity of presenting its case. The arbitral tribunal, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the parties' dispute.
2. As soon as practicable after and within 30 days of its constitution, and after inviting the parties to express their views, the arbitral tribunal shall establish the provisional timetable of the arbitration. The arbitral tribunal may, at any time, after inviting the parties to express their views, extend or abridge any period of time prescribed under these Rules, except those to which discretion to adjust rests with the SCIAHK, or agreed by the parties.
3. If at an appropriate stage of the proceedings any party so requests, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.
4. All communications to the arbitral tribunal by one party shall be communicated by that party to all other parties at the same time and all communications between the arbitral tribunal and any party shall also be sent to the SCIAHK, except as otherwise permitted by the arbitral tribunal.
5. The arbitral tribunal may, at the request of any party, allow one or more third persons to be joined in the arbitration as a party provided such person is a party to the arbitration agreement, unless the arbitral tribunal finds, after giving all parties, including the person or persons to be joined, the opportunity to be heard, that joinder should not be permitted because of prejudice to any of those parties. If the tribunal has not yet

been formed, the decision shall be made by the SCIAHK. If the SCIAHK grants a joinder, the parties shall appoint the arbitral tribunal in accordance with articles 8 to 10 and the time-limit mentioned therein shall be calculated from the date when the decision to grant the joinder is served. The arbitral tribunal may make a single award or several awards in respect of all parties so involved in the arbitration.

6. Upon the request of one or more parties, the SCIAHK may consolidate two or more arbitrations conducted under these Rules into a single arbitration provided all parties to all of the arbitrations consent to the consolidation. Such consolidation is without prejudice to any decisions of the arbitral tribunal pursuant to article 17, paragraphs 5, 7 or 8. Any consolidation of arbitrations shall be into the arbitration that was first commenced, unless the parties have agreed otherwise.

7. The arbitral tribunal may, after consultation with the parties, conduct two or more arbitrations under these Rules at the same time, or one immediately after another, or suspend any of those arbitrations until after the determination of any other of them, where:

(a) the same arbitral tribunal is constituted in each arbitration; and

(b) a common question of law or fact arises in all the arbitrations.

Such concurrent proceedings may include the holding of concurrent oral hearings.

8. Claims arising out of or in connection with more than one contract may be made in a single arbitration, provided that:

(a) a common question of law or fact arises under each arbitration agreement giving rise to the arbitration;

(b) the rights to relief claimed are in respect of, or arise out of, the same transaction or a series of related transactions; and

(c) the arbitration agreements under which those claims are made are compatible.

Application of Information Technology

Article 17A

Unless otherwise agreed by the parties, the SCIAHK or the arbitral tribunal may decide to conduct all or part of the arbitration by virtue of information technology, including but not limited to the followings:

(a) Any communication, including any document transmitted, among the parties, the SCIAHK and arbitral tribunal pursuant to these Rules may be made by electronic means;

(b) Any oral hearing may take place virtually by conference call, videoconference or using other communications technology; or

(c) Any examination of witness, documents, exhibits or other evidence may take place virtually by using information technology.

Seat of Arbitration

Article 18

1. If the parties have not previously agreed on the seat of arbitration, the seat of arbitration shall be Hong Kong. However, the arbitral tribunal, having regard to the circumstances of the case, may determine that another seat is more appropriate. The award shall be deemed to have been made at the seat of arbitration.

2. The arbitral tribunal may meet at any location it considers appropriate for deliberations. Unless otherwise agreed by the parties, the arbitral tribunal may also meet at any location it considers appropriate for any other purpose, including hearings.

Language

Article 19

1. The arbitration shall be conducted in the language of the arbitration. Where the parties have not previously agreed on such language, any party shall communicate in English or Chinese prior to any determination of language by the arbitral tribunal in accordance with paragraph 2.

2. Subject to an 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.

3. 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 agreed upon by the parties or determined by the arbitral tribunal.

Statement of Claim

Article 20

1. The claimant shall communicate its statement of claim in writing to the respondent and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The claimant may elect to treat its notice of arbitration referred to in article 3 as a statement of claim, provided that the notice of arbitration also complies with the requirements of paragraphs 2 to 4 of this article.

2. The statement of claim shall include the following particulars:

- (a) The names and contact details of the parties;
- (b) A statement of the facts supporting the claim;
- (c) The points at issue;
- (d) The relief or remedy sought;
- (e) The legal grounds or arguments supporting the claim.

3. A copy of any contract or other legal instrument out of or in relation to which the dispute arises and of the arbitration agreement shall be annexed to the statement of claim.

4. The statement of claim should, as far as possible, be accompanied by all documents and other evidence relied upon by the claimant, or contain references to them.

Statement of Defence

Article 21

1. The respondent shall communicate its statement of defence in writing to the claimant and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The respondent may elect to treat its response to the notice of arbitration referred to in article 4 as a statement of defence, provided that the response to the notice of arbitration also complies with the requirements of paragraph 2 of this article.

2. The statement of defence shall reply to the particulars (b) to (e) of the statement of claim (article 20, paragraph 2). The statement of defence should, as far as possible, be accompanied by all documents and other evidence relied upon by the respondent, or contain references to them.

3. In its statement of defence, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counterclaim or rely on a claim for the purpose of a set-off provided that the arbitral tribunal has jurisdiction over it.

4. The provisions of article 20, paragraphs 2 to 4, shall apply to a counterclaim, a claim under article 4, paragraph 2 (e), and a claim relied on for the purpose of a set-off.

Amendments to the Claim or Defence

Article 22

During the course of the arbitral proceedings, a party may amend or supplement its claim or defence, including a counterclaim or a claim for the purpose of a set-off, unless the arbitral tribunal considers it inappropriate to allow such amendment or supplement having regard to the delay in making it or prejudice to other parties or any other circumstances. However, a claim or defence, including a counterclaim or a claim for the purpose of a set-off, may not be amended or supplemented in such a manner that the amended or supplemented claim or defence falls outside the jurisdiction of the arbitral tribunal.

Pleas as to the Jurisdiction of the Arbitral Tribunal

Article 23

1. The arbitral tribunal shall have the power to rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause that forms part of a contract 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 shall not entail automatically the invalidity of the arbitration clause.

2. A plea that the arbitral tribunal does not have jurisdiction shall be raised no later than in the statement of defence or, with respect to a counterclaim or a claim for the purpose of a set-off, in the reply to the counterclaim or to the claim for the purpose of a set-off. A party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

3. The arbitral tribunal may rule on a plea referred to in paragraph 2 either as a preliminary question or in an award on the merits. The arbitral tribunal may continue the arbitral proceedings and make an award, notwithstanding any pending challenge to its jurisdiction before a court.

Expedited Procedure

Article 23A

1. Prior to the formation of the arbitral tribunal, a party may apply to the SCIAHK in writing for the arbitration to be conducted in form of an Expedited Procedure in accordance with article 23A, paragraph 2, if:

(a) the amount in dispute representing the aggregate of any claim or counterclaim (or any set-off defence or cross-claim) does not exceed the amount set by the SCIAHK, as stated on its website on the date on which the notice of arbitration is submitted; or

(b) the parties so agree.

2. When the SCIAHK, after consulting the parties, grants an application made pursuant to article 23A, paragraph 1, the arbitral proceedings shall be conducted under an Expedited Procedure in accordance with these Rules, subject to the following changes:

(a) the case shall be referred to a sole arbitrator, unless the arbitration agreement provides for three arbitrators;

(b) if the arbitration agreement provides for three arbitrators, the SCIAHK shall invite the parties to agree to refer the case to a sole arbitrator. If the Parties do not agree, the case shall be referred to three arbitrators;

(c) the SCIAHK may shorten the time limits provided for in these Rules, as well as any time limits that it has set;

(d) the arbitral tribunal shall decide the dispute on the basis of documentary evidence only, unless it decides that it is appropriate to hold one or more oral hearings;

(e) the award shall be made within six months from the date when the arbitral tribunal is constituted. The SCIAHK may extend this time limit in exceptional cases; and

(f) the arbitral tribunal may state the reasons upon which the award is based in summary form, unless the parties have agreed otherwise.

3. Upon the request of a party and after consulting the parties and any confirmed or appointed arbitrators, the SCIAHK may, having regard to any new circumstances that have arisen, decide that the Expedited Procedure shall no longer apply to the arbitration. Unless the SCIAHK considers that it is appropriate to revoke the confirmation or appointment of any arbitrator, the arbitral tribunal shall remain in place.

Summary Dismissal of Claims and Defences

Article 23B

1. A party may apply to the arbitral tribunal for the summary dismissal of one or more claims or defences, including a counterclaim, a claim for the purpose of set-off or any point of law or fact supporting such claims or defences, on the basis

that they are manifestly without merit, or manifestly outside the jurisdiction of the arbitral tribunal (“Summary Dismissal”).

2. A request for Summary Dismissal shall be made as promptly as possible after the relevant claim, defence or point of law or fact is raised, unless the tribunal directs otherwise.

3. The application for Summary Dismissal shall state in detail the facts and legal basis supporting the request. The party applying for Summary Dismissal shall, at the same time as it submits the application to the arbitral tribunal, send a copy of the application to all other parties and the SCIAHK, and shall notify the tribunal that it has done so, specifying the mode of service employed and the date of service.

4. The tribunal shall rule on the request for Summary Dismissal as promptly as practicable, within 30 days from the date of filing the request, after giving all other parties an opportunity to comment on the request.

5. A decision by the arbitral tribunal that a claim or defence, or any point of fact or law, is not manifestly without merit shall not preclude a party from raising an objection that the tribunal does not have jurisdiction under article 23 or to include such grounds in its claims or defences raised in the course of the arbitral proceedings under articles 20 to 22.

6. The arbitral tribunal may continue the arbitral proceedings as it considers appropriate notwithstanding any pending request under this article.

Further Written Statements

Article 24

The arbitral tribunal shall decide which further written statements, 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 fix the periods of time for communicating such statements.

Periods of Time

Article 25

The periods of time fixed by the arbitral tribunal for the

communication of written statements (including the statement of claim and statement of defence) should not exceed 30 days. However, the arbitral tribunal may extend the time limits if it concludes that an extension is justified.

Interim Measures

Article 26

1. The arbitral tribunal may, at the request of a party, grant interim measures.

2. An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to:

(a) Maintain or restore the status quo pending determination of the dispute;

(b) Take action that would prevent, or refrain from taking action that is likely to cause, (i) current or imminent harm or (ii) prejudice to the arbitral process itself;

(c) Provide a means of preserving assets out of which a subsequent award may be satisfied; or

(d) Preserve evidence that may be relevant and material to the resolution of the dispute.

3. The party requesting an interim measure under paragraphs 2 (a) to (c) shall satisfy the arbitral tribunal that:

(a) Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and

(b) There is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.

4. With regard to a request for an interim measure under paragraph 2 (d), the requirements in paragraphs 3 (a) and (b) shall apply only to the extent the arbitral tribunal considers

appropriate.

5. The arbitral tribunal may modify, suspend or terminate an interim measure it has granted, upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative.

6. The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.

7. The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which the interim measure was requested or granted.

8. The party requesting an interim measure may be liable for any costs and damages caused by the measure to any party if the arbitral tribunal later determines that, in the circumstances then prevailing, the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.

9. A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

10. A party that needs urgent interim measures that cannot wait for the constitution of an arbitral tribunal may apply for urgent interim or conservatory relief pursuant to the procedures set out in Appendix 1 ("Emergency Arbitrator Procedure").

Security for Costs

Article 26A

The arbitral tribunal has the power to order a party to provide security for the costs of the arbitration.

Evidence

Article 27

1. Each party shall have the burden of proving the facts relied on to support its claim or defence.

2. Witnesses, including expert witnesses, who are presented

by the parties to testify to the arbitral tribunal on any issue of fact or expertise may be any individual, notwithstanding that the individual is a party to the arbitration or in any way related to a party. Unless otherwise directed by the arbitral tribunal, statements by witnesses, including expert witnesses, may be presented in writing and signed by them.

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 arbitral tribunal shall determine.

4. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered, including whether to apply strict rules of evidence.

Hearings

Article 28

1. In the event of an oral hearing, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof.

2. Witnesses, including expert witnesses, may be heard under the conditions and examined in the manner set by the arbitral tribunal.

3. Hearings shall be held in camera unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses, including expert witnesses, during the testimony of such other witnesses, except that a witness, including an expert witness, who is a party to the arbitration shall not, in principle, be asked to retire.

4. The arbitral tribunal may direct that witnesses, including expert witnesses, be examined through means of telecommunication that do not require their physical presence at the hearing (such as videoconference).

Experts Appointed by the Arbitral Tribunal

Article 29

1. After consultation with the parties, the arbitral tribunal may appoint one or more independent experts to report to it,

in writing, on specific issues to be determined by the arbitral tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.

2. The expert shall, in principle before accepting appointment, submit to the arbitral tribunal and to the parties a description of his or her qualifications and a statement of his or her impartiality and independence. Within the time ordered by the arbitral tribunal, the parties shall inform the arbitral tribunal whether they have any objections as to the expert's qualifications, impartiality or independence. The arbitral tribunal shall decide promptly whether to accept any such objections. After an expert's appointment, a party may object to the expert's qualifications, impartiality or independence only if the objection is for reasons of which the party becomes aware after the appointment has been made. The arbitral tribunal shall decide promptly what, if any, action to take.

3. The parties shall give the expert any relevant information or produce for his or her inspection any relevant documents or goods that he or she 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.

4. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties, which 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 or her report.

5. At the request of any party, the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing, any party may present expert witnesses in order to testify on the points at issue. The provisions of article 28 shall be applicable to such proceedings.

Default

Article 30

1. If, within the period of time fixed by these Rules or the arbitral tribunal, without showing sufficient cause:

(a) The claimant has failed to communicate its statement of claim, the arbitral tribunal shall issue an order for the termination

of the arbitral proceedings, unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so;

(b) The respondent has failed to communicate its response to the notice of arbitration or its statement of defence, the arbitral tribunal shall order that the proceedings continue, without treating such failure in itself as an admission of the claimant's allegations; the provisions of this subparagraph also apply to a claimant's failure to submit a defence to a counterclaim or to a claim for the purpose of a set-off.

2. If a party, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.

3. If a party, duly invited by the arbitral tribunal to produce documents, exhibits or other evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the award on the evidence before it.

Mediation

Article 30A

1. The parties may apply to mediator(s) as provided in their agreement, or the SCIAHK or other mediation institutions recognised by the SCIAHK for mediation.

2. Where the parties desire to mediate, the arbitral tribunal may stay the arbitration proceedings and conduct mediation. If the parties agree that the arbitrator(s) conduct the mediation, the arbitrator(s) who have conducted the mediation can continue to serve on the arbitral tribunal in the subsequent arbitration proceedings, unless otherwise agreed by the parties or provided by the applicable laws.

3. The mediator(s) may mediate in a manner it considers appropriate. With the consent of each party, the mediation may be conducted by all or some members of the arbitral tribunal.

4. Where either party requests for the joinder of an additional party in the mediation proceedings and the other parties and the said additional party so agree, the mediator(s) may notify the said additional party to join the mediation.

5. During the mediation, the mediator(s) shall terminate the mediation if either party so requests or if the mediator(s) deems that further mediation would be futile.

6. Where mediation results in a settlement, the parties may withdraw their claims or counterclaims, or may request the arbitral tribunal to render an arbitral award pursuant to article 36, paragraphs 1 and 3.

7. Where mediation fails, acceptance or opposition, expressed in any statement, view, opinion, proposal or proposition, by either party or by the arbitral tribunal in mediation, cannot be invoked by either party as grounds for supporting any claims, defences or counterclaims in the subsequent arbitration proceedings, judicial proceedings, or any other proceedings.

8. Where mediation fails and confidential information is obtained by any member of the arbitral tribunal from a party during the mediation proceedings conducted by the arbitral tribunal as mediator, such information should be, before the arbitration proceedings resume, disclosed to all other parties as much as the arbitral tribunal considers that information is material to the arbitration proceedings, unless the applicable laws require no such disclosure.

Closure of Proceedings

Article 31

1. The arbitral tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the proceedings closed.

2. The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own initiative or upon application of a party, to reopen the proceedings at any time before the award is made.

3. Once the proceedings are declared closed, the arbitral tribunal shall inform the parties and the SCIAHK of the anticipated date by which an award will be rendered. The date of rendering the award shall be no later than three months from the date when the arbitral tribunal declares the proceedings closed. The time limit may be extended by agreement of the parties or, in appropriate circumstances, by the SCIAHK.

4. Paragraph 3 of this article shall not apply to any arbitration conducted pursuant to the Expedited Procedure under article 23A.

Waiver of Right to Object

Article 32

A failure by any party to object promptly to any non-compliance with these Rules or with any requirement of the arbitration agreement shall be deemed to be a waiver of the right of such party to make such an objection, unless such party can show that, under the circumstances, its failure to object was justified.

Section IV - The Award

Decisions

Article 33

1. When there is more than one arbitrator, 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.
2. In the case of questions of procedure, when there is no majority or when the arbitral tribunal so authorizes, the presiding arbitrator may decide alone, subject to revision, if any, by the arbitral tribunal. With the prior agreement of all members of the arbitral tribunal, the presiding arbitrator may make procedural rulings alone.

Form and Effect of the Award

Article 34

1. The arbitral tribunal may make separate awards on different issues at different times.
2. All awards shall be made in writing and shall be final and binding on the parties. The parties shall carry out all awards without delay.
3. The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
4. An award shall be signed by the arbitrators and it shall contain the date on which the award was made and indicate the seat of arbitration. Where there is more than one arbitrator and any of them fails to sign, the award shall state the reason for the absence of the signature.
5. An award may be made public with the consent of all parties or where and to the extent disclosure is required of a party by legal duty, to protect or pursue a legal right or in relation to legal proceedings before a court or other competent authority.

6. The arbitral tribunal shall send originals of the award signed by the arbitrators to the SCIAHK which shall affix its seal to the award and, subject to any lien, communicate it to the parties.

Applicable Law, Amiable Compositeur

Article 35

1. The arbitral tribunal shall apply the rules of law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the arbitral tribunal shall apply the law which it determines to be appropriate.
2. The arbitral tribunal shall decide as amiable compositeur or ex aequo et bono only if the parties have expressly authorized the arbitral tribunal to do so.
3. In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract, if any, and shall take into account any usage of trade applicable to the transaction.

Settlement or Other Grounds for Termination

Article 36

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 the parties and accepted by the arbitral 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.
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 inform the parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so.
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 SCIAHK which shall communicate the order for termination

or the award on agreed terms to the parties. Where an arbitral award on agreed terms is made, the provisions of article 34, paragraphs 2, 4, 5 and 6, shall apply.

Interpretation of the Award

Article 37

1. Within 30 days after the receipt of the award, a party, with notice to the other parties, may request that the arbitral tribunal give an interpretation of the award.
2. The interpretation shall be given in writing within 45 days after the receipt of the request. The interpretation shall form part of the award and the provisions of article 34, paragraphs 2 to 6, shall apply.

Correction of the Award

Article 38

1. Within 30 days after the receipt of the award, a party, with notice to the other parties, may request the arbitral tribunal to correct in the award any error in computation, any clerical or typographical error, or any error or omission of a similar nature. If the arbitral tribunal considers that the request is justified, it shall make the correction within 45 days of receipt of the request.
2. The arbitral tribunal may within 30 days after the communication of the award make such corrections on its own initiative.
3. Such corrections shall be in writing and shall form part of the award. The provisions of article 34, paragraphs 2 to 6, shall apply.

Additional Award

Article 39

1. Within 30 days after the receipt of the termination order or the award, a party, with notice to the other parties, may request the arbitral tribunal to make an award or an additional award as to claims presented in the arbitral proceedings but not decided by the arbitral tribunal.

2. If the arbitral tribunal considers the request for an award or additional award to be justified, it shall render or complete its award within 60 days after the receipt of the request. The arbitral tribunal may extend, if necessary, the period of time within which it shall make the award.

3. When such an award or additional award is made, the provisions of article 34, paragraphs 2 to 6, shall apply.

Optional Appellate Arbitration Procedure

Article 39A

1. Unless prohibited by the laws of the seat of arbitration, where the parties have agreed on the optional appellate arbitration procedure, as set out in Appendix 2 (“Optional Appellate Arbitration Procedure”), in respect of an award rendered by the arbitral tribunal under Section IV of these Rules, their agreement shall prevail.

2. All parties to the arbitration must agree to the Optional Appellate Arbitration Procedure in writing for it to be effective.

3. The Optional Appellate Arbitration Procedure shall not apply to:

(a) the Expedited Procedure under article 23A of these Rules; and

(b) an application made under the opt-in provisions listed in Schedule 2 of the Hong Kong Arbitration Ordinance where Sections 5 and 6 allow an appeal against arbitral award on questions of law.

4. The Optional Appellate Arbitration Procedure shall be conducted in accordance with Appendix 2 of these Rules.

Definition of Costs

Article 40

1. The arbitral tribunal shall fix the costs of arbitration in the final award and, if it deems appropriate, in another decision.

2. The term “costs” includes only:

(a) The fees of the arbitral tribunal to be stated separately as to each arbitrator and to be fixed by the tribunal itself in accordance with article 41;

(b) The reasonable travel and other expenses incurred by the arbitrators;

(c) The reasonable costs of expert advice and of other assistance required by the arbitral tribunal, including fees and expenses of any tribunal secretary;

(d) The reasonable travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;

(e) The legal and other costs incurred by the parties in relation to the arbitration to the extent that the arbitral tribunal determines that the amount of such costs is reasonable; and

(f) the Registration Fee and Administrative Fees due to the SCIAHK in accordance with Appendix 3, and any expenses payable to the SCIAHK.

3. In relation to interpretation, correction or completion of any award under articles 37 to 39, the arbitral tribunal may charge the costs referred to in paragraphs 2 (b) to (f), but no additional fees.

Fees and Expenses of Arbitrators

Article 41

1. The fees and expenses of the arbitrators 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.

2. Appendix 4 sets out two methods for determining the arbitral tribunal's fees and expenses, one based on the schedule of fees considering the amount in dispute, the other according to an hourly rate. The parties shall agree on the applicable method within 30 days of the submission of the notice of arbitration. If the parties fail to agree, the fees and expenses of the arbitral tribunal shall be determined on the basis of the amount in dispute method in accordance with article 1 of Appendix 4.

Allocation of Costs

Article 42

1. The costs of the arbitration shall in principle be borne by the unsuccessful party or parties. However, the arbitral tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.
2. The arbitral tribunal shall in the final award or, if it deems appropriate, in any other award, determine any amount that a party may have to pay to another party as a result of the decision on allocation of costs.

Deposit of Costs

Article 43

1. After the arbitration has commenced in accordance with article 3, paragraph 3, the SCIAHK may request the parties to deposit an equal amount as an advance for the costs referred to in article 40, paragraphs 2 (a) to (c), and (f).
2. Where counterclaims have been submitted by the Respondent, the SCIAHK may fix separate advance deposits on costs and each of the parties shall pay the advance deposit corresponding to its claims.
3. During the course of the arbitral proceedings the arbitral tribunal may request supplementary deposits from the parties.
4. If the required deposits are not paid in full within 30 days after the receipt of the request, the SCIAHK or the arbitral tribunal shall so inform the parties in order that one or more of them may make the required payment. If such payment is not made, the SCIAHK or the arbitral tribunal may order the suspension or termination of the arbitral proceedings.
5. After a termination order or final award has been made, the SCIAHK or the arbitral tribunal shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

Confidentiality

Article 43A

1. Unless otherwise agreed by the parties, all parties and party representatives, arbitrators, experts, witnesses, secretaries of the arbitral tribunal and the SCIAHK shall keep confidential all information relating to the arbitration under the arbitration agreement(s) or an award or other decision made in the arbitration, including the existence of the proceedings, the pleadings, evidence and other materials produced in the proceedings, except for any matter that is otherwise in the public domain.

2. Article 43A, paragraph 1, does not prevent the publication, disclosure or communication of information referred to in article 43A, paragraph 1, by a party:

(a) under the circumstances mentioned in article 34, paragraph 5, for the award;

(b) to a professional or any other adviser of any of the parties, including any actual or potential witness or expert;

(c) to any party and confirmed or appointed arbitrator for the purposes of any written communications on a request for joinder under article 17, paragraph 5, or a request for consolidation under article 17, paragraph 6; or

(d) to a person for the purposes of having or seeking third party funding or insurance for the arbitration from that person.

3. The deliberations of the arbitral tribunal are confidential.

Disclosure of Third Party Funding or Insurance

Article 43B

If an agreement or arrangement is made for third party funding or insurance, the funded or insured party shall notify in writing all other parties, the arbitral tribunal and the SCIAHK of this fact as soon as possible and provide the name of the third party funder or insurer. Any changes to this information shall also be disclosed as soon as possible.

Appendix 1: Emergency Arbitrator Procedure

Application

Article 1

1. In accordance with article 26, paragraph 10 of these Rules, a party requiring Emergency Relief may, concurrent with or following the filing of a notice of arbitration but prior to the constitution of the arbitral tribunal, submit an application ("Application") for the appointment of an emergency arbitrator ("Emergency Arbitrator") to the SCIAHK.

2. The Application shall be submitted in accordance with any of the means specified in article 2 of these Rules. The Application shall include the following information:

(a) the names and (in so far as known) the addresses, telephone and facsimile numbers, and email addresses of the parties to the Application and of their representatives;

(b) a description of the circumstances giving rise to the Application and of the underlying dispute referred to arbitration;

(c) a statement of the Emergency Relief sought;

(d) the reasons why the applicant needs the Emergency Relief on an urgent basis that cannot await the constitution of an arbitral tribunal;

(e) the reasons why the applicant is entitled to such Emergency Relief;

(f) any relevant agreement(s) and, in particular, the arbitration agreement(s);

(g) comments on the language, the seat of the Emergency Relief proceedings, and the applicable law;

(h) confirmation of payment of the amount referred to in article 2, paragraphs 2 and 3, of this Appendix (the "Application Deposit");

(i) the existence of any funding agreement and the identity of any third party funder pursuant to article 43B; and

(j) confirmation that copies of the Application including any supporting documentation have been or are being served simultaneously on all other parties to the arbitration by one or more means of service to be identified in such confirmation.

3. The Application may contain such other documents or information as the applicant considers appropriate or as may contribute to the efficient examination of the Application.

4. Two copies of the Application shall be provided, one copy for the Emergency Arbitrator and one copy for the SCIAHK.

Appointment of Emergency Arbitrator and Deposit

Article 2

1. If the SCIAHK determines that it should accept the Application, the SCIAHK shall seek to appoint an Emergency Arbitrator within 24 hours after receipt of both the Application and the Application Deposit.

2. The Application Deposit is the amount stated on the SCIAHK's website on the date the Application is submitted. The Application Deposit consists of SCIAHK's administrative expenses and the Emergency Arbitrator's fees and expenses.
[HKD 161,000]

3. The SCIAHK may, at any time during the Emergency Relief proceedings, decide to increase the Emergency Arbitrator's fees or the administrative expenses, taking into account, inter alia, the nature of the case and the nature and amount of work performed by the Emergency Arbitrator and the SCIAHK.

4. If the party which submitted the Application fails to pay the increased fees and/or expenses within the time limit fixed by the SCIAHK, the Application shall be dismissed.

5. Once the Emergency Arbitrator has been appointed, the SCIAHK shall notify the parties to the Application and shall transmit the file to the Emergency Arbitrator. Thereafter, the parties shall submit all written communications directly to the Emergency Arbitrator with a copy to the other parties and the SCIAHK. A copy of any written communications from the Emergency Arbitrator to the parties shall also be copied to the SCIAHK.

Challenge and Replacement of Emergency Arbitrator

Article 3

1. Articles 11 to 13 of these Rules shall apply to the Emergency Arbitrator, except that the time limits set out in article 13, paragraphs 1 and 4, are shortened to three days.

2. Where an Emergency Arbitrator dies, has been successfully challenged, as been otherwise removed, or has resigned, the SCIAHK shall seek to appoint a substitute Emergency Arbitrator within 24 hours. If the Emergency Arbitrator is replaced, the Emergency Relief proceedings shall resume at the stage where the Emergency Arbitrator was replaced or ceased to perform his or her functions, unless the substitute Emergency Arbitrator decides otherwise.

Seat of Arbitration

Article 4

If the parties have agreed on the seat of arbitration, such seat shall be the seat of the Emergency Relief proceedings. Where the parties have not agreed on the seat of arbitration, and without prejudice to the arbitral tribunal's determination of the seat of arbitration pursuant to article 18, paragraph 1 of these Rules, the seat of the Emergency Relief proceedings shall be Hong Kong.

Procedure

Article 5

1. Taking into account the urgency inherent in the Emergency Relief proceedings and ensuring that each party has a reasonable opportunity to be heard on the Application, the Emergency Arbitrator may conduct such proceedings in such a manner as the Emergency Arbitrator considers appropriate.

2. The Emergency Arbitrator shall have the power to rule on objections that the Emergency Arbitrator has no jurisdiction, including any objections with respect to the existence, validity or scope of the arbitration clause(s) or of the separate arbitration agreement(s), and shall resolve any disputes over the applicability of this Appendix.

Emergency Decision

Article 6

1. Any decision, order or award of the Emergency Arbitrator on the Application ("Emergency Decision") shall be made within 14 days from the date on which the SCIAHK transmitted the file to the Emergency Arbitrator. This period of time may be extended by agreement of the parties or, in appropriate circumstances, by the SCIAHK.
2. The Emergency Decision may be made even if in the meantime the file has been transmitted to the arbitral tribunal.

Article 7

Any Emergency Decision shall:

- (a) be made in writing;
- (b) state the date when it was made and reasons upon which the Emergency Decision is based, which may be in summary form (including a determination on whether the Application is admissible under these Rules and/or whether the Emergency Arbitrator has jurisdiction to grant the Emergency Relief); and
- (c) be signed by the Emergency Arbitrator.

Costs

Article 8

1. Any Emergency Decision may fix the costs of the Emergency Relief proceedings, subject always to the power of the arbitral tribunal to fix and apportion such costs in accordance with article 40 of these Rules.
2. The costs of the Emergency Relief proceedings include the SCIAHK's administrative expenses, the Emergency Arbitrator's fees and expenses and the reasonable legal and other costs incurred by the parties for the Emergency Relief proceedings.

Effect of Emergency Decision

Article 9

1. Any Emergency Decision shall have the same effect as an interim measure granted pursuant to article 26 of these Rules and shall be binding on the parties when rendered.
2. By agreeing to arbitration under these Rules, the parties undertake to comply with any Emergency Decision without delay.

Provision of Security

Article 10

The Emergency Arbitrator shall be entitled to order the provision of appropriate security by the party seeking Emergency Relief.

Other Provisions

Article 11

Any Emergency Decision may, upon a reasoned request by a party, be modified, suspended or terminated by the Emergency Arbitrator or the arbitral tribunal (once constituted).

Article 12

Any Emergency Decision ceases to be binding:

- (a) if the Emergency Arbitrator or the arbitral tribunal so decides;
- (b) upon the arbitral tribunal rendering a final award, unless the arbitral tribunal expressly decides otherwise;
- (c) upon the termination of the arbitration before the rendering of a final award; or
- (d) if the arbitral tribunal is not constituted within 90 days from the date of the Emergency Decision. This period of time may be extended by agreement of the parties or, in appropriate circumstances, by the SCIAHK.

Article 13

1. Subject to article 6, paragraph 2, of this Appendix, the Emergency Arbitrator shall have no further power to act once the arbitral tribunal is constituted.

2. The Emergency Arbitrator may not act as arbitrator in any arbitration relating to the dispute that gave rise to the Application and in respect of which the Emergency Arbitrator has acted, unless otherwise agreed by the parties to the arbitration.

Article 14

The Emergency Arbitrator Procedures are not intended to prevent any party from seeking urgent interim or conservatory measures from a competent authority at any time.

Appendix 2: Optional Appellate Arbitration Procedure

Basis

Article 1

Where the parties have agreed on the Optional Appellate Arbitration Procedure in accordance with article 39A of these Rules, the following procedure applies.

Application for Appellate Arbitration

Article 2:

1. The appellant shall apply for appellate arbitration within 15 days of its receipt of the award rendered by the arbitral tribunal according to Section IV of these Rules (“Original Award”).
2. The application must be submitted to the SCIAHK and all other parties. It shall include:
 - (a) the arbitration agreement on appellate arbitration between the appellant(s) and the appellee(s);
 - (b) the element(s) of the Original Award that are being appealed;
 - (c) the application for appeal;
 - (d) the facts and grounds on which the request for appeal is based; and
 - (e) a proposal as to one or three members of the appeal panel, if the parties have not previously agreed thereon.
3. The appellant(s) shall attach the supporting evidentiary materials.
4. The appellant(s) may submit any further information with the application as it considers appropriate.
5. The appellant(s) shall pay the appellate arbitration fees and costs in advance within the required time-limit in accordance

with the notice from the SCIAHK.

6. The provisions of these Rules shall apply mutatis mutandis to the fees and costs of the appellate arbitration.

Answer to Appeal

Article 3

1. The other party or parties shall submit to the SCIAHK and all other parties an answer to the application (“Answer to Appeal”) within 15 days of receipt of the application.

2. The Answer to Appeal shall include:

(a) a response to the appellant’s appeal;

(b) any cross-appeal regarding the Original Award; and

(c) a proposal as to one or three members of the appeal panel, if the parties have not previously agreed thereon.

3. The party may submit any further information with the Answer to Appeal as it considers appropriate.

4. If a party refuses or fails to submit an Answer to Appeal within the time limit stated in paragraph 1, the appeal procedure shall proceed notwithstanding such refusal or failure.

Composition of the Appellate Arbitral Tribunal

Article 4

1. Unless otherwise agreed by the parties, the appellate arbitral tribunal shall be composed of three arbitrators, with one serving as the presiding arbitrator.

2. No member of the appellate tribunal shall be selected from the original arbitral tribunal.

3. Taking any proposals for candidates made by the parties into consideration, the SCIAHK shall provide the parties with a list of six candidates for the appellate tribunal.

4. Within 7 days of receipt of the list, each of the parties shall rank the six candidates in order of preference and communicate

their ranking to the SCIAHK, without copying the other parties.

5. The three candidates with the highest cumulative scores shall be appointed as members of the appellate tribunal, with the top one acting as the presiding arbitrator.

6. If two or more candidates have the same cumulative scores, the SCIAHK shall determine as soon as possible which candidate(s) to be appointed as members of the appellate tribunal or the presiding arbitrator.

7. Articles 11 to 14 of these Rules on disclosure, challenge and replacement of arbitrators shall apply to the appellate tribunal.

Procedure

Article 5

Subject to these Rules including this Appendix and any agreement of the parties, the appellate tribunal shall conduct the appellate procedure in the manner it considers appropriate, provided that all parties are treated equally and afforded a reasonable opportunity to be heard.

Effectiveness of the Original Award

Article 6

1. Where an appeal may be filed in accordance with article 39A of these Rules and this Appendix, the Original Award shall not be deemed final and effective before the expiration of the period for filing for appeal.

2. If no party files for appeal or applies to withdraw its filing within the time-limit specified in article 2 of this Appendix, the Original Award shall be deemed final and effective as of the date of expiration of such time-limit.

3. If the appellant applies to withdraw its filing after the time-limit specified in article 2 of this Appendix, the Original Award shall be deemed final and effective as of the date of such withdrawal.

Appellate Award

Article 7

The appellate arbitral tribunal may either affirm or modify the Original Award. The award rendered by the appellate arbitral tribunal shall be the final award and be binding upon the parties, in lieu of the Original Award.

Allocation of Fees and Costs

Article 8

The appellate arbitral tribunal shall have the power to decide the allocation of the original arbitration fees and costs, the appellate arbitration fees and costs, the actual expenses, and the reasonable expenses incurred by the parties based on the results of the appellate arbitration and the specific circumstances of the case.

Security for Costs

Article 9

1. Upon a party's application, the appellate tribunal may order security for costs against the Appellant.
2. Thereafter, if the Appellant fails to pay security for costs as ordered within the time limit granted by the appellate tribunal, the appellate procedure shall be terminated and the Original Award shall be considered final for purposes of seeking judicial enforcement.

Appendix 3: SCIAHK Registration and Administrative Fees

Registration Fee

Article 1

When submitting the notice of arbitration, the claimant shall pay a non-refundable Registration Fee in the amount determined by the SCIAHK, as stated on the website of the SCIAHK on the date of submission of the notice of arbitration.

Administrative Fees

Article 2

1. The Administrative Fees of the SCIAHK shall be fixed as follows:

	Amount in Dispute (in HKD)	Administrative Fees (in HKD)
Up to	500,000	17,900
From to	500,001 1,000,000	17,900 + 1.200% of amt. over 500,000
From to	1,000,001 5,000,000	23,900 + 0.800% of amt. over 1,000,000
From to	5,000,001 10,000,000	55,900 + 0.400% of amt. over 5,000,000
From to	10,000,001 20,000,000	75,900 + 0.250% of amt. over 10,000,000
From to	20,000,001 40,000,000	100,900 + 0.200% of amt. over 20,000,000
From to	40,000,001 80,000,000	140,900 + 0.080% of amt. over 40,000,000
From to	80,000,001 200,000,000	172,900 + 0.052% of amt. over 80,000,000
From to	200,000,001 400,000,000	235,300 + 0.040% of amt. over 200,000,000
Above	400,000,001	315,300

2. In determining the amount in dispute, claims and counterclaims are added and a claim for interest is disregarded, unless the SCIAHK deems this to be appropriate.
3. If the amount in dispute is unclear, or if no monetary claim is specified, the amount of the Administrative Fees shall be determined by the SCIAHK.
4. Amounts in foreign currencies shall be converted into Hong Kong Dollars at the rate prevailing on the date the notice of arbitration was submitted.
5. The SCIAHK may charge for other disbursements reasonably incurred for the purposes of the arbitration in accordance with the relevant provisions of these Rules. Such administrative expenses may include, for example, the cost of oral hearing facilities, interpreters and transcription services.

Advance Payment and Liability

Article 3

1. The Administrative Fees shall be paid in advance upon request by the SCIAHK in accordance with article 43 of these Rules.
2. The parties are jointly and severally liable for the Administrative Fees due to the SCIAHK.

Applicable Law

Article 4

The law governing this Appendix and any non-contractual obligation arising out of or in connection with it shall be the law of Hong Kong.

Appendix 4: Fees and Expenses of Arbitrators

Part I: Arbitral Tribunal Fees based on Amount in Dispute

Basis for Arbitral Tribunal Fees

Article 1

1. The fees of the arbitral tribunal shall be determined by the SCIAHK based upon the following table which refers to the maximum amount that can be paid to one arbitrator. It does not include the expenses of the arbitral tribunal which shall be determined separately.

	Amount in Dispute (HKD)	Arbitrator's Fees (HKD)
Up to	500,000	30,000
From to	500,001 1,000,000	30,000 + 9.600% of amt. over 500,000
From to	1,000,001 5,000,000	78,000 + 4.000% of amt. over 1,000,000
From to	5,000,001 10,000,000	238,000 + 3.200% of amt. over 5,000,000
From to	10,000,001 20,000,000	398,000 + 1.200% of amt. over 10,000,000
From to	20,000,001 40,000,000	518,000 + 0.400% of amt. over 20,000,000
From to	40,000,001 80,000,000	598,000 + 0.300% of amt. over 40,000,000
From to	80,000,001 200,000,000	718,000 + 0.230% of amt. over 80,000,000
From to	200,000,001 400,000,000	994,000 + 0.150% of amt. over 200,000,000
From to	400,000,001 600,000,000	1,294,000 + 0.120% of amt. over 400,000,000
From to	600,000,001 750,000,000	1,534,000 + 0.100% of amt. over 600,000,000
Above	750,000,000	1,684,000 + 0.032% of amt. over 750,000,000 Maximum of 12,400,000

2. While claims and counterclaims are to be added when determining the amount in dispute, interest claims will not be taken into account, unless the SCIAHK deems this to be appropriate.
3. If the amount in dispute is unclear, or if no monetary claim is specified, the fees of the arbitral tribunal shall be determined by the SCIAHK.
4. The amounts stipulated in the table may be increased with the agreement of the parties, or if the SCIAHK deems this to be appropriate in exceptional circumstances.

Part II: Arbitral Tribunal Fees based on Hourly Rate

Basis for Tribunal Fees

Article 2

1. The fees of the arbitral tribunal shall be based on an hourly rate if the Parties so agree in writing.
2. The hourly rate for the presiding arbitrator or for a sole arbitrator shall be based upon the respective agreement with both parties. The hourly rate for the co-arbitrators shall be based upon the individual rate agreed upon with the relevant party.
3. If the hourly rate is not agreed in accordance with article 2, paragraph 2, the SCIAHK shall determine the rate.

Limits for Arbitrator Fees

Article 3

1. An arbitrator's hourly rate shall not exceed the limit stated on the website of the SCIAHK on the date on which the notice of arbitration was submitted.
2. However, the parties may agree to a higher rate, or the SCIAHK may also determine that a higher rate is acceptable in exceptional circumstances.

Part. III. Fees of Emergency Arbitrator and Appellate Arbitration Tribunal

Fees of Emergency Arbitrator

Article 4

1. If a party applies for an Emergency Relief Procedure in accordance with Appendix 1, the fees of the Emergency Arbitrator shall be based upon an hourly rate. The SCIAHK shall determine this rate by reference to the hourly rate proposed by the Emergency Arbitrator, taking the limit mentioned in article 3, paragraph 3 of this Appendix into account, subject to a total fee limit stated on the website of the SCIAHK, unless the parties agree or SCIAHK determines otherwise in exceptional circumstances.

[Total fee limit of the EA: HKD 200,000]

2. As provided for in article 2 of Appendix 1, the SCIAHK may decide to increase this rate in the course of the proceedings.

Fees of Appellate Arbitration Tribunal

Article 5

The fees and expenses of an appellate arbitral tribunal established in accordance with Appendix 2 shall be determined in accordance with parts I, II and IV of this Appendix.

Part IV. Expenses of Arbitrators and Other Common Provisions

The following common provisions apply to this Appendix 4, parts I, II and III.

Expenses of Arbitrators

Article 6

1. Arbitrators are entitled to reimbursement for reasonable expenses incurred for acting in any arbitration mentioned in parts I to III of this Appendix.

2. Such expenses shall not be included when determining the fees of arbitrators under article 1, paragraph 1, or article 2, paragraph 1.

Payment of Arbitrator Fees and Expenses

Article 7

Parties are required to make advance payment of arbitrator fees and expenses in accordance with article 43 of these Rules to the SCIAHK. Upon application by a party, such payment may be made in instalments as determined by the SCIAHK.

Fees and Expenses of Tribunal Secretary

Article 8

Where the arbitral tribunal appoints a secretary, such secretary shall be remunerated at a rate which shall not exceed the rate set by SCIAHK, as stated on the SCIAHK's website on the date the notice of arbitration is submitted. The secretary's fees and expenses shall be charged separately. The arbitral tribunal shall determine the fees and expenses of a secretary under article 40, paragraph 2 (c) of these Rules.

Joint and Several Liability

Article 9

The Parties are jointly and severally liable for the payment of the fees and expenses of any arbitrator.

Lien on the Award

Article 10

1. In order to secure the payment of outstanding fees and expenses, the SCIAHK and the arbitral tribunal shall have a lien on any award rendered by the tribunal.

2. Until full payment of any outstanding amounts, whether jointly or by one or other of the parties in accordance with these Rules, the SCIAHK and the arbitral tribunal may refuse to deliver the award to the parties.

Applicable Law

Article 11

The law governing this Appendix and any non-contractual obligation arising out of or in connection with it shall be the law of Hong Kong.

Appendix 5: Notes to these Rules

These Rules are based on the UNCITRAL Arbitration Rules (as revised in 2010, with new article 1, paragraph 4, as adopted in 2013) with the following modifications:

Article 1,	paras.1 and 4; paras. 2 and 5 (added)
Article 3,	para 1; para.2 (added); para. 5(a); para.5(b) (renumbered)
Article 4,	para. 2(b); (c) to (e) (renumbered)
Article 6,	paras.1 and 2; paras. 3 and 4 (renumbered following the deletion of previous paras. 2 to 4)
Article 7,	para. 3 (added)
Article 8,	para. 1
Article 9,	paras. 2 and 3
Article 10,	para. 3
Article 10A,	(new article added about appointment of arbitrators from or outside panel)
Article 12,	para. 1
Article 13,	para. 5 (added)
Article 17,	paras.2, 4 and 5; paras. 6 to 8 (added)
Article 17A,	(new article added about “Application of Information Technology”)
Article 18,	para. 1
Article 19,	para. 1 (added)
Article 23A,	(new article added about “Expedited Procedure”)
Article 23B,	(new article added about “Summary Dismissal of Claims and Defences”)
Article 25,	(“45 days” changed to “30 days”)
Article 26,	para. 10 (added)
Article 26A,	(new article added about “Security for Costs”)
Article 27,	para. 4
Article 30A,	(new article added about “Mediation”)
Article 31,	paras. 1 and 2 (words “proceedings” are substituted for “hearings” in this article including its heading); paras. 3 and 4 (added)
Article 33,	paras. 1 and 2
Article 34,	para. 6
Article 36,	para. 3
Article 39A,	(new article added about “Optional Appellate Arbitration Procedure”)
Article 40,	para. 2(c) and (f)

Article 41,	para.2; paras. 3 to 6 (deleted)
Article 43,	paras. 1 to 5
Article 43A,	(new article added about “Confidentiality”)
Article 43B,	(new article added about “Disclosure of Third Party funding or Insurance”)

These modifications are made with a view to: (a) adapting to institutional arbitration; (b) ensuring cost efficient arbitration; and (c) facilitating effective dispute resolution. For these purposes, Appendices 1 to 4 are incorporated to cover the following aspects:

Appendix 1,	Emergency Arbitrator Procedure
Appendix 2,	Optional Appellate Arbitration Procedure
Appendix 3,	SCIAHK Registration and Administrative Fees
Appendix 4,	Fees and Expenses of Arbitrators

Up-to-date registration fee, hourly rate limit of arbitrator and tribunal secretary are accessible at the SCIAHK’s official website at www.scia.org.hk

Annex

Model Arbitration Clause for Contracts

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration administered by South China International Arbitration Center (HK) (the “SCIAHK”) in accordance with its arbitration rules.

Note. Parties should consider adding:

- a. The governing law of this arbitration clause shall be ... [Hong Kong law];
- b. The number of arbitrators shall be ... [one or three];
- c. The seat of arbitration shall be ... [city and country; avoid only stating “China” as the seat because “China” includes Hong Kong SAR, Macao SAR and Taiwan];
- d. The language to be used in the arbitral proceedings shall be ...

Possible Waiver Statement

Note. If the parties wish to exclude recourse against the arbitral award that may be available under the applicable law, they may consider adding a provision to that effect as suggested below, considering, however, that the effectiveness and conditions of such an exclusion depend on the applicable law.

- Waiver

The parties hereby waive their right to any form of recourse against an award to any court or other competent authority, insofar as such waiver can validly be made under the applicable law.

Model Statements of Independence Pursuant to Article 11 of these Rules

- No circumstances to disclose

I am impartial and independent of each of the parties and intend to remain so. To the best of my knowledge, there are no circumstances, past or present, likely to give rise to

justifiable doubts as to my impartiality or independence. I shall promptly notify the parties and the other arbitrators of any such circumstances that may subsequently come to my attention during this arbitration.

- Circumstances to disclose

I am impartial and independent of each of the parties and intend to remain so. Attached is a statement made pursuant to article 11 of the SCIAHK Arbitration Rules of (a) my past and present professional, business and other relationships with the parties and (b) any other relevant circumstances. [Include statement.] I confirm that those circumstances do not affect my independence and impartiality. I shall promptly notify the parties and the other arbitrators of any such further relationships or circumstances that may subsequently come to my attention during this arbitration.

Note. Any party may consider requesting from the arbitrator the following addition to the statement of independence:

I confirm, on the basis of the information presently available to me, that I can devote the time necessary to conduct this arbitration diligently, efficiently and in accordance with the time limits in these Rules.

Model Clause for Optional Appellate Arbitration

Procedure

Any dispute arising from or in connection with this contract shall be submitted to the South China International Arbitration Center (HK) (the “SCIAHK”) for arbitration. The parties grant each other the right to appeal to the SCIAHK against the award or awards rendered by the arbitral tribunal. The appellate tribunal renders the final award. The seat of arbitration shall be ... [State the country or jurisdiction where the appellate arbitration is not prohibited]

