

Table of Contents

General Introduction	1
I. The Hong Kong International Arbitration Centre	1
II. HKIAC's Role in China's Belt and Road Initiative	1
III. The 2008, 2013 and 2018 HKIAC Administered Arbitration Rules	2
IV. Model Arbitration Clause	3
Hong Kong International Arbitration Centre Administered Arbitration Rules 2018	5
Section I. General Rules	5
Article 1 – Scope of Application	5
I. Preliminary Remarks	5
II. Agreement on HKIAC Administered Arbitration Pursuant to the 2018 HKIAC Rules....	6
III. HKIAC as the Administering Body Under the 2018 HKIAC Rules	6
IV. HKIAC Administrative Support for Other Arbitrations	8
V. Which Version of the HKIAC Rules Applies?	8
Article 2 – Interpretation of Rules	9
Article 3 – Written Communications and Calculation of Time Limits	11
I. Preliminary Remarks	12
II. Methods of Delivery for Notices and Written Communication	13
III. Address of Notification	13
1. Notice by Hand, Registered Post or Courier, Facsimile or Email	13
2. Upload to a Secured Online Repository	14
IV. Date of Receipt of Written Notification	14
V. Calculation of Time Limits Under the HKIAC Rules	15
VI. Extension of Time Periods Under the HKIAC Rules	15
Section II. Commencement of the Arbitration	17
Article 4 – Notice of Arbitration	17
I. Preliminary Remarks	18
II. The Filing of the Notice of Arbitration	18
III. The Commencement of the Arbitration	19
IV. The Content of a Notice of Arbitration	19
V. Registration Fee	21
VI. Notice of Arbitration as Statement of Claim	21
VII. Incomplete Notice of Arbitration	22
VIII. Time Limits in Cases of Amendment	22
IX. Proof of Receipt	22
Article 5 – Answer to the Notice of Arbitration	23
I. Preliminary Remarks	23
II. Time Limit and Content of the Answer to the Notice of Arbitration	24
III. Answer to the Notice of Arbitration as Statement of Defence	25
IV. Counterclaims and Set-off Defences	25
V. Transmission of the File to the Arbitral Tribunal	25
Section III. The Arbitral Tribunal	27
Article 6 – Number of Arbitrators	27
I. Preliminary Remarks	27
II. Decision of the HKIAC on the Number of Arbitrators	27
III. Expedited Proceedings	28
Article 7 – Appointment of a Sole Arbitrator	29
I. Preliminary Remarks	29
II. Procedure for Appointment of the Sole Arbitrator	29
III. Appointment by the HKIAC	30

Table of Contents

Article 8 – Appointment of Three Arbitrators	30
I. Preliminary Remarks	31
II. Procedure for Appointment of the Three-Member Tribunal	31
1. Appointment of Party Appointed Arbitrators.....	31
2. Appointment of the Presiding Arbitrator.....	32
3. Procedure for Appointment in Multi-Party Situations	32
Article 9 – Confirmation of the Arbitral Tribunal.....	33
I. Preliminary Remarks	34
II. Appointment Procedure	34
III. The HKIAC's Discretion to Confirm an Arbitrator	35
IV. The Confirmation Requirement is Mandatory.....	36
Article 10 – Fees and Expenses of the Arbitral Tribunal	36
I. Preliminary Remarks	37
II. The Parties Choose the Method of Remuneration	38
III. Remuneration on the Basis of Hourly Rates.....	38
IV. Remuneration on the ad valorem Basis	40
V. Further Provisions Regarding Arbitrator's Fees and Reimbursements.....	40
1. Mode of Payment (Paragraph 2 of both Schedules 2 and 3).....	41
2. Tribunal's Travel Expenses and Daily Allowance (Paragraph 3 of both Schedules 2 and 3).....	41
3. Administrative Expenses (Paragraph 4 of both Schedules 2 and 3)	41
4. Other Common Provisions.....	41
Article 11 – Qualifications and Challenge of the Arbitral Tribunal	42
I. Preliminary Remarks	43
II. The Standard of Impartiality and Independence	43
III. The Nationality of an Arbitrator	45
IV. Arbitrators' Duty to Disclose.....	45
V. The Prohibition of ex parte Communications.....	46
VI. Challenge of Arbitrators	48
Article 12 – Replacement of an Arbitrator.....	51
I. The Appointment of a Replacement Arbitrator.....	52
II. The Appointment of a Replacement Arbitrator in Exceptional Circumstances.....	52
III. The Procedure Upon Replacement	53
Section IV. Conduct of Arbitration.....	55
Article 13 – General Provisions.....	55
I. General Provisions	56
II. Determination of Arbitration Proceeding	56
III. Provisional Timetable	60
IV. Written Communications.....	61
V. Tribunal Secretary	62
VI. Fair and Efficient Conduct of the Arbitration.....	65
VII. Legal Representation.....	66
VIII. Change in Legal Representatives.....	66
IX. Alternative Means of Dispute Settlement	67
X. The Spirit of the 2018 HKIAC Rules.....	69
XI. Valid Award.....	69
Article 14 – Seat and Venue of the Arbitration.....	70
I. Seat of Arbitration.....	70
II. Venue of Arbitration	71
Article 15 – Language	72
I. Language.....	72
II. Language of Communications.....	73
III. Tribunal's Determination of the Language of Arbitration Absent Parties' Agreement.....	74
IV. Translations	74
Article 16 – Statement of Claim.....	75
I. Communication of the Statement of Claim	75
II. Contents of the Statement of Claim	76
III. Tribunal May Vary the Requirements as Appropriate.....	76

Table of Contents

Article 17 – Statement of Defence.....	76
I. Communication of the Statement of Defence	77
II. Contents of the Statement of Defence.....	77
III. Arbitral Tribunal May Vary the Requirements as Appropriate	78
Article 18 – Amendments to the Claim or Defence.....	78
I. Amendments to the Claim or Defence	79
II. Adjustment of Fees	79
Article 19 – Jurisdiction of the Arbitral Tribunal	80
I. Jurisdiction of the Arbitral Tribunal.....	80
II. The Principle of Competence-Competence.....	81
III. The Principle of Separability of the Arbitration Agreement.....	82
IV. Jurisdictional Objection.....	82
V. Jurisdictional Objection before the Constitution of the Arbitral Tribunal	83
Article 20 – Further Written Statements.....	84
Article 21 – Time Limits	85
Article 22 – Evidence and Hearings.....	85
I. Burden of Proof.....	86
II. Production and Assessment of Evidence	86
III. Presentation of Evidence during Oral Hearings	87
IV. Confidentiality of Hearings	89
Article 23 – Interim Measures of Protection and Emergency Relief	89
I. Preliminary remarks	90
II. Requirements for an interim measure	91
III. Modification, suspension, or termination of interim measures.....	92
IV. Liability for costs and damages and security in connection with an interim measure.....	93
V. Emergency Relief from an Emergency Arbitrator	93
VI. The enforcement of interim measures and Emergency Decisions.....	95
1. The Enforcement of Interim Measures Granted by an Arbitral Tribunal	95
2. The Enforcement of Emergency Decisions Granted by an Emergency Arbitrator	96
3. The Application for Interim Measures from Mainland Courts in Aid of Hong Kong Arbitrations.....	96
VII. Parallel jurisdictions of the state courts for interim measures	98
Article 24 – Security for Costs.....	98
I. Preliminary remarks	98
II. What are the requirements for a security for costs order?.....	99
III. What are the consequences if the claimant fails to pay security for costs?.....	101
Article 25 – Tribunal-Appointed Experts	101
I. Appointment of Experts by the Arbitral Tribunal	102
II. Information Provided to the Experts.....	103
III. Communication of the Expert Reports	103
IV. Examination of the Experts.....	103
V. Impartiality and Independence of the Experts.....	104
Article 26 – Default.....	104
I. Default.....	104
II. Default of Claimant	104
III. Default of Respondent.....	105
IV. Failure to Present a Case	106
Article 27 – Joinder of Additional Parties	106
I. Joinder.....	108
II. Conditions for Joinder	109
III. Deadline for a Request for Joinder.....	110
IV. Communication of a Request for Joinder.....	110
V. Submissions Regarding Joinders	111
VI. Date of Commencement of Arbitration for the Additional Party.....	112
VII. Waiver of Right to Designate Arbitrator.....	112
VIII. Revocation of Appointment or Confirmation	113
IX. Consequences of Revocation of Appointment	114
X. Adjustment of Administrative or Arbitral Tribunal Fees.....	114

Table of Contents

Article 28 – Consolidation of Arbitrations	114
I. Consolidation	116
II. Conditions for Consolidation	117
III. Request for Consolidation	119
IV. Contents of the Request for Consolidation	119
V. Variation to List of the Contents Required in the Request for Consolidation	120
VI. Comments on the Request for Consolidation	120
VII. Consolidated Proceedings	120
VIII. Act of the Court	121
IX. Revocation and Waiver of Appointment	121
X. Consequences of Revocation of Appointment	122
XI. Adjustment of Administrative or Arbitral Tribunal Fees	123
Article 29 – Single Arbitration under Multiple Contracts	123
Article 30 – Concurrent Proceedings	124
I. Concurrent Proceedings	124
II. Administrative Fees	125
Article 31 – Closure of Proceedings	125
I. Closure of Proceedings	126
II. Anticipated Date of Award	126
III. Exclusion of Expedited Procedure	127
IV. Reopening of Proceedings	127
Article 32 – Waiver	128
I. Waiver of Procedural Objection	128
II. Waiver of Challenge or Resisting Enforcement	129
Section V. Awards, Decisions and Orders of the Arbitral Tribunal	131
Article 33 – Decisions	131
I. Majority Rulings	131
II. Procedural Rulings by the Presiding Arbitrator	131
Article 34 – Costs of the Arbitration	131
I. Definition of Costs	132
II. Costs of Legal Representation and Other Assistance	133
III. Apportionment of Costs	133
IV. Third Party Funding	135
V. Consolidated Proceedings	135
VI. Determination of Costs Following Termination of Proceedings Prior to Issuance of Award	136
Article 35 – Form and Effect of the Award	136
I. Type of Award	137
II. Form and Binding Nature of the Award	137
III. Compliance with an Award	138
IV. Reasoning	138
V. Execution of the Award	139
VI. Transmission of the Award	140
Article 36 – Applicable Law, Amiable Compositeur	140
I. Applicable law	140
II. Amiable compositeur or ex aequo et bono	141
III. Applicable Contractual Terms and Trade Usages	142
Article 37 – Settlement or Other Grounds for Termination	142
I. Settlement of Dispute Pre-Arbitral Tribunal	143
II. Settlement or Unnecessary or Impossible Continuation	143
III. Communication of Termination Order or Consent Award	144
Article 38 – Correction of the Award	144
I. Request for Correction of the Award	145
II. Correction of the Award	145
Article 39 – Interpretation of the Award	146
I. Request for Interpretation of Award	147
II. Giving Interpretations of the Award	147

Table of Contents

Article 40 – Additional Award 148

 I. Request for an Additional Award..... 149

 II. Making an Additional Award..... 149

Article 41 – Deposits for Costs..... 150

 I. Requests for Initial Deposit..... 150

 II. Separate and Supplementary Deposits 152

 III. Failure to Pay 152

 IV. Account of Deposit 153

Section VI. Other Provisions 155

Article 42 – Expedited Procedure 155

 I. Expedited Procedure..... 155

 II. Application for Expedited Procedure 156

 III. Rules of Expedited Procedure..... 157

 IV. From Expedited to Normal Procedure..... 158

Article 43 – Early Determination Procedure..... 159

 I. Early Determination Procedure 159

 II. Scope of the Provision..... 161

 III. Communication of Request for Early Determination..... 162

 IV. Timing of Request for Early Determination 162

 V. Particulars of the Request for Early Determination..... 162

 VI. Decision of Early Determination 163

 VII. Award or Order 163

 VIII. Continuing the Arbitration 163

Article 44 – Disclosure of Third Party Funding of Arbitration..... 164

 I. Third Party Funding..... 164

 II. Disclosure of Third Party Funding 165

 III. Continuing Duty to Disclose 166

Article 45 – Confidentiality 166

 I. Confidentiality..... 167

 II. The Parties’ and Party Representatives’ Duty of Confidentiality..... 168

 III. The Scope of Confidentiality 168

 IV. Exceptions to the Duty of Confidentiality..... 168

 V. Deliberations of the Arbitral Tribunal 169

 VI. Confidentiality of Awards 169

Article 46 – Exclusion of Liability..... 170

 I. General Remarks 170

 II. Exclusion of Liability..... 170

 III. Post-Award Legal Proceedings 171

**SCHEDULE 1
REGISTRATION AND ADMINISTRATIVE FEES**

1. Registration Fee 173

2. HKIAC’s Administrative Fees 173

**SCHEDULE 2
ARBITRAL TRIBUNAL’S FEES, EXPENSES, TERMS AND CONDITIONS**

1. Scope of Application and Interpretation 175

2. Payments to Arbitral Tribunal..... 175

3. Arbitral Tribunal’s Expenses 175

4. Administrative Expenses 175

5. Fees and Expenses Payable to Replaced Arbitrators..... 176

6. Fees and Expenses of Tribunal Secretary 176

7. Lien on Award 176

8. Governing Law 176

9. Arbitral Tribunal’s Fee Rates..... 176

10. Cancellation Fees..... 177

Table of Contents

SCHEDULE 3
ARBITRAL TRIBUNAL’S FEES, EXPENSES, TERMS AND CONDITIONS

1. Scope of Application and Interpretation 179

2. Payments to Arbitral Tribunal 179

3. Arbitral Tribunal’s Expenses 179

4. Administrative Expenses 180

5. Fees and Expenses Payable to Replaced Arbitrators..... 180

6. Determination of Arbitral Tribunal’s Fees..... 180

7. Lien on Award 181

8. Governing Law 181

SCHEDULE 4
EMERGENCY ARBITRATOR PROCEDURES

Effective 1 November 2018..... 183

