

THE HONG KONG INSTITUTE OF ARBITRATORS
SCHEME ARBITRATION PROCEDURE

1. Introduction

These provisions shall be known or cited as The Hong Kong Institute of Arbitrators Scheme Arbitration Procedure ("the HKI Arb Scheme Arbitration Procedure").

2. Commencement of Arbitration and Arbitrator's Fee

- (a) If a dispute has arisen, either party may apply in writing to the President of the Hong Kong Institute of Arbitrators ("HKI Arb"), for the appointment of a sole arbitrator. Such application shall be copied to the other party and shall be accompanied by such necessary copies of documents setting out the dispute, the claim and the arbitration agreement and a remittance in favour of HKI Arb for the appointment fee as per paragraph 7.
- (b) The arbitrator's fee is for arbitration under the document only procedure as set out in paragraph 4 and includes the writing of the award and the assessment of costs (if any) also by way of the document only procedure. In other cases where the document only procedure as set out in paragraph 4 is not adopted, the parties shall be required to pay such arbitrator's fees, which, if not agreed between the parties, shall be reasonable having regard to all the circumstances.

3. Confidentiality

Subject to paragraph 5(b), no information relating to the arbitration shall be disclosed by any person without the written consent of each and every party to the arbitration including the arbitrator.

4. Procedure

General

- (a) The arbitrator shall have the power to adopt whenever possible a simplified or expedited procedure and in any case shall have the widest discretion allowed by law to conduct the arbitration proceedings so as to ensure the just, expeditious, economical and final determination of the dispute. All procedural matters in the arbitration shall, failing agreement between the parties, be determined by directions of the arbitrator which may be set out in correspondence.
- (b) If it is determined by the arbitrator, or agreed by the parties, that the dispute is

to be decided without oral hearing, the document only procedure set out below is to be adopted.

- (c) The exchange of submissions, etc., shall take place directly between the parties unless the case is being handled by others (e.g. by lawyers or other representatives) on their behalf. Copies of all submissions, comments and documents must be supplied simultaneously to the arbitrator, and copies of all communications with the arbitrator must also be supplied simultaneously to the other party.
- (d) The arbitrator may require the parties to submit to him and to any other party to the arbitration such further documents or information as he considers to be necessary or appropriate to his decision.

Document Only Procedure

- (e) Within 14 days of agreement by the parties to adopt the document only procedure or of the order of the arbitrator, the claimant shall send to the respondent, with copies to the arbitrator, the claimant's written claim submission, together with copies of supporting documents excluding by provision all documents already filed.
- (f) Within 14 days of the service of the claim submission, the respondent shall send to the claimant, with copies to the arbitrator, the respondent's written submission (including that relating to any counterclaim) together with copies of supporting documents.
- (g) If there is no counterclaim, the claimant's final submission in reply to the defence (if any) shall be provided to the respondent and the arbitrator within 7 days after receipt of the respondent's submission and documents.
- (h) If there is a counterclaim:
 - i) The claimant shall send to the respondent, with copies to the arbitrator, submission and any additional documents relative to the counterclaim within 14 days after receipt of the respondent's submission and documents.
 - ii) The respondent's final submission (if any) on the counterclaim shall be provided to the claimant, with copies to the arbitrator, within 7 days after receipt of the claimant's submission and additional documents (if any).
- (i) The arbitrator will then give notice to the parties of his intention to proceed to his award and will so proceed unless either party within 7 days requests leave to serve further submissions.

5. The Award

- (a) The arbitrator will make every effort to publish the award within one month,

where a document only procedure is adopted, from the date when the arbitrator has received all relevant documents and submissions, and has issued a notice to that effect or, where there is an oral hearing, from the close of the hearing.

- (b) In the absence of exceptional circumstances as determined by the arbitrator in his sole discretion, the arbitrator shall forward a copy of his award(s) to HKI Arb for record purposes after its publication.

6. Costs

The Arbitrator shall, unless the parties otherwise agree, determine the liability and quantum for the costs of the arbitration.

7. Scheme Fees

The fees for the HKI Arb Scheme Arbitration Procedure are those fees set out in the attached scheme fee schedule which is subject to revision from time to time by the Council of HKI Arb.

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Scheme Fee Schedule

The fees for the HKI Arb Scheme Arbitration Procedure shall be as follows:-

(a) **Arbitrator's Fee**

<u>Disputed Amount*</u>	<u>Arbitrator's Fee</u>
Up to HK\$50,000	HK\$2,500
Up to HK\$100,000	HK\$5,000
Up to HK\$250,000	HK\$12,500
Up to HK\$500,000	HK\$25,000
Up to HK\$1,000,000	HK\$50,000
Over HK\$1,000,000	HK\$50,000 (plus 5% of the amount over HK\$1,000,000)

(b) **Appointment Fee**

The appointment fee of the Hong Kong Institute of Arbitrators is HK\$1,000.

Effective Date: 15th March 2002

- * Where 'Disputed Amount' for this purpose shall include the highest amount claimed at any time or, where no specified sum (excluding costs) is claimed, the value of the subject matter of the dispute.

HONG KONG INSTITUTE OF ARBITRATORS
SUGGESTED SCHEME ARBITRATION CLAUSE

General Application

"Any dispute or difference arising out of or in connection with this contract, as between any of the parties hereto, including specific performance of this contract, shall be referred to and determined by arbitration in Hong Kong and in accordance with the Hong Kong Institute of Arbitrators Scheme Arbitration Procedure, and any arbitrator appointed under such reference shall also have the same power as the Court of First Instance of the Hong Kong Special Administrative Region to order specific performance of this contract."

Provisional Sale and Purchase Agreements

"Any dispute or difference arising out of or in connection with this contract, as between any of the parties hereto, including specific performance of this contract, save and except those disputes or differences as to the title to the land agreed to be purchased or sold under this contract, shall be referred to and determined by arbitration in Hong Kong and in accordance with the Hong Kong Institute of Arbitrators Scheme Arbitration Procedure, and any arbitrator appointed under such reference shall also have the same power as the Court of First Instance of the Hong Kong Special Administrative Region to order specific performance of this contract."