

**South China International Economic and
Trade Arbitration Commission**

Arbitration Rules

Effective as from December 1, 2012

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South China International Economic and Trade Arbitration Commission Arbitration Rules

CHAPTER I. GENERAL PROVISIONS

Article 1 – Organization and Name

1. South China International Economic and Trade Arbitration Commission (also known as Shenzhen Court of International Arbitration, formerly known as China International Economic and Trade Arbitration Commission South China Sub-commission, China International Economic and Trade Arbitration Commission Shenzhen Sub-commission) is an arbitral institution established in Shenzhen, China for resolving contractual disputes and other disputes over rights and interests in property between natural persons, legal persons and other organizations.
2. Where an arbitration agreement provides for arbitration by the South China International Economic and Trade Arbitration Commission (hereinafter the “SCIA”), or by the Shenzhen Court of International Arbitration, the China International Economic and Trade Arbitration Commission South China Sub-commission or the China International Economic and Trade Arbitration Commission Shenzhen Sub-commission, or where the name of the arbitration institution agreed in the arbitration

agreement can be inferred as the SCIA, it shall be deemed that the parties have agreed to arbitration by the SCIA.

Article 2 – Jurisdiction

The SCIA accepts the following cases:

1. international or foreign-related arbitration cases;
2. arbitration cases related to the Hong Kong Special Administrative Region, the Macao Special Administrative Region and the Taiwan region; and
3. Chinese Mainland arbitration cases.

Article 3 – Scope of Application

1. Unless otherwise agreed, the parties shall be deemed to have agreed to arbitration in accordance with the Rules where they have agreed to arbitration by the SCIA.
2. Where the parties agree to refer their dispute to arbitration under the Rules without providing for the name of the specific arbitration institution, they shall be deemed to have agreed to refer the dispute to arbitration by the SCIA.
3. Where the parties agree to refer their dispute to the SCIA for arbitration but have agreed on the application of other arbitration rules or have agreed on a modification of the Rules, the parties' agreement shall prevail unless such agreement

cannot be implemented or is in conflict with a mandatory provision of the law as it applies to the arbitration proceedings.

Where the parties have agreed on the application of other arbitration rules, the SCIA shall perform the relevant functions of the administrative authority under those arbitration rules.

Where the parties agree to arbitration under the UNCITRAL Arbitration Rules, the SCIA shall be the appointing authority and shall perform other relevant administrative functions in accordance with the provisions of the UNCITRAL Arbitration Rules or the agreement of the parties.

4. The specialized arbitration rules adopted by the SCIA otherwise for a specific business sector shall prevail insofar as their provisions differ from the Rules. As to matters not covered in those specialized arbitration rules for a specific business sector, the relevant provisions in the Rules shall apply.

Article 4 – Place of Arbitration

1. Where the parties have agreed on the place of arbitration, the parties' agreement shall prevail.
2. Where the parties have not agreed on the place of arbitration, the place of arbitration shall be the domicile of the SCIA. The SCIA may also determine the place of arbitration to be a location other than the domicile of the SCIA having regard

to the circumstances of the case.

3. The arbitral award shall be deemed to be made at the place of arbitration.

Article 5 – Notifications and Time Limits

1. All written documents, notices and materials in relation to the arbitration may be delivered in person or sent by mail, fax, or by any other means considered proper by the Secretariat of the SCIA or the arbitral tribunal.
2. Any written pleadings/submissions and all other correspondence submitted by any party, as well as all documents annexed thereto, shall be supplied in a number of copies sufficient to provide one copy for each party, plus one for each arbitrator, and one for the Secretariat of the SCIA.
3. Any arbitration documents, correspondence or materials to a party or its representative(s) shall be deemed to have been properly delivered to the party if delivered to the addressee in person or sent to the addressee's place of business, registration, domicile, habitual residence or other mailing address provided by the addressee or the other party. Where, after reasonable inquiries, none of the aforesaid addresses can be found, arbitration documents, correspondence or materials shall be deemed to have been properly delivered if sent to the addressee's last known place of business, registration, domicile, habitual residence or other mailing address by mail or by any

other means that provides a record of the attempt at delivery.

4. Periods of time specified in or fixed under the Rules shall start to run on the day following the date a notification or communication is deemed to have been made. When the day next following such date is a public holiday, or a non-business day in the country where the notification or communication is deemed to have been made, the period of time shall commence on the first following business day. Public holidays and non-business days within the period concerned are included in the calculation of the period of time. If the last day of the relevant period of time is a public holiday or a non-business day, the period of time shall expire at the end of the first following business day.
5. If a party breaches a time limit because of *force majeure* events or other justifiable reasons, it shall inform the SCIA within a reasonable time period and may apply for an extension of time within 10 days of the removal of the obstacle. The arbitral tribunal shall decide on the request. Where the arbitral tribunal has not yet been formed, such decision shall be made by the Secretary General of the SCIA.

Article 6 – Language of Arbitration

1. Where the parties have agreed on the language of arbitration, their agreement shall prevail. In the

absence of such agreement, the arbitral tribunal shall determine the language or languages of the arbitration, due regard being given to the language of the arbitration agreement or the contract concerned and all other relevant circumstances.

2. If a party or its representative(s) or witness(es) requires interpretation at an oral hearing, the party shall provide or request the tribunal to provide the interpreter.
3. The arbitral tribunal or the Secretariat of the SCIA may, if it considers it necessary, require the parties to submit a corresponding translation of their documents and evidence in the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Article 7 – Confidentiality

1. Hearings shall be confidential. Where all parties request an open hearing, the arbitral tribunal shall make a decision.
2. For the case heard *in camera*, the parties and their representatives, the witnesses, the interpreters, the arbitrators, the experts consulted by the arbitral tribunal, the appraisers appointed by the arbitral tribunal, the staff of the SCIA and other relevant persons shall not disclose to any outsider any substantive or procedural matters relating to the case.

Article 8 – Waiver of Right to Object

A party shall be deemed to have waived its right to object where it knows or should have known that any provision of, or requirement under, the Rules or arbitration agreement has not been complied with and yet participates in or proceeds with the arbitration proceedings without promptly submitting its objection in writing to such non-compliance.

CHAPTER II. ARBITRATION AGREEMENTS AND JURISDICTION

Article 9 – Arbitration Agreements

1. An arbitration agreement means an arbitration clause in a contract or any other form of written agreement concluded between the parties providing for arbitration. An arbitration agreement may be concluded between the parties either before or after the occurrence of the dispute.
2. An arbitration agreement shall be deemed to exist where its existence is asserted by one party and not denied by the other during the exchange of the Request for Arbitration and the Statement of Defence.
3. An arbitration agreement shall be deemed to have concluded where one party undertakes in writing to submit the dispute to the SCIA for arbitration and the other party submits the dispute to the SCIA for arbitration.

Article 10 – Independence of Arbitration Agreements

An arbitration clause contained in a contract or an arbitration agreement attached to a contract shall be treated independent and separate from all other clauses of the contract. The validity of an arbitration agreement shall not be affected by any modification, cancellation, termination, transfer, expiry, invalidity, ineffectiveness, rescission or non-existence of the contract.

Article 11 – Objection to Validity of an Arbitration Agreement

1. An objection to an arbitration agreement and/or jurisdiction over an arbitration case shall be raised in writing before the first oral hearing is held by the arbitral tribunal. Where a case is to be decided on the basis of documents only, such objection shall be raised in writing before the expiry of the time limit for the submission of the first defence. If a party fails to raise such objections, it shall be deemed to have no objection.

The above objection to the validity of the arbitration agreements includes the objection to whether the arbitration agreement exists, whether it is null and void or ceases to have effect, and whether it cannot be implemented.

2. Any objection to the validity of an arbitration agreement raised by the parties may be decided by the SCIA or by the arbitral tribunal authorized by the SCIA with such power. The decisions by

the arbitral tribunal may be made in the form of interlocutory award or in the final award.

3. Where the SCIA is satisfied by *prima facie* evidence that an arbitration agreement providing for arbitration by the SCIA exists, it may make a decision that it has jurisdiction over the arbitration case. Such a decision based on *prima facie* evidence shall not prevent the arbitral tribunal from making a new decision on jurisdiction based on facts and evidence found by the arbitral tribunal during the arbitration proceedings that is inconsistent with the initial decision.

Article 12 – Other Objections to Jurisdiction

Decisions concerning objections to jurisdiction other than those stipulated in Article 11 shall be made by the arbitral tribunal in the form of an interlocutory award or in the final award.

Article 13 – Objections to Jurisdiction not Affecting the Proceedings

The arbitration shall proceed notwithstanding an objection to jurisdiction.

CHAPTER III. REQUEST FOR ARBITRATION, DEFENCE AND COUNTERCLAIM

Article 14 – Commencement of Arbitration

The arbitration proceedings shall commence on the day on which the SCIA receives a Request for Arbitration.

Article 15 – Request for Arbitration

A party applying for arbitration under the Rules shall:

1. Submit a Request for Arbitration in writing signed and/or sealed by the Claimant or its authorized representative(s), which shall, *inter alia*, include:
 - (a) The names and addresses, telephone and fax numbers, and email addresses of the parties and of their representatives;
 - (b) A reference to the arbitration agreement that is relied upon;
 - (c) The statement of claim; and
 - (d) The facts and grounds on which the claim is based.

2. Attach to the Request for Arbitration the relevant evidentiary materials of the facts on which the statement of claim is based.

Article 16 – Multiple Contracts

Claims arising out of or in connection with more than one contract between the Claimant and the Respondent

may be made in a single arbitration.

Article 17 – Acceptance of a Case

1. Upon a written application of a party, the SCIA shall accept a case in accordance with an arbitration agreement concluded between the parties either before or after the occurrence of the dispute.
2. Upon receipt of a Request for Arbitration and its attachments, if the Secretariat of the SCIA finds the formalities required for arbitration application to be complete, it shall send a Notice of Arbitration to the parties together with one copy of each of the Rules and the SCIA’s Panel of Arbitrators, and the Request for Arbitration and its attachments submitted by the Claimant to the Respondent.
3. Where the Secretariat of the SCIA finds the formalities required for the arbitration application to be incomplete, it may request the Claimant to complete them within a specified time period.

Article 18 – Statement of Defence

1. The Respondent shall file a Statement of Defence in writing within thirty (30) days from the date of receipt of the Notice of Arbitration. Where the Respondent applies for an extension of time, if the arbitral tribunal deems any justified reasons exist, the arbitral tribunal shall decide to grant an extension. Where the arbitral tribunal has not yet been formed, the decision on whether to grant the

extension of the time period shall be made by the Secretary General of the SCIA.

2. The Statement of Defence shall be signed and/or sealed by the Respondent or its authorized representative(s), and shall, *inter alia*, include:
 - (a) The names and addresses, telephone and fax numbers, and email addresses of the Respondent and of their representatives;
 - (b) The defence to the Claimant's Request for Arbitration, setting forth the facts and grounds on which the defence is based; and
 - (c) The relevant evidentiary materials on which the defence is based.
3. The arbitral tribunal has the power to decide whether to accept a Statement of Defence submitted after the expiration of the above time limit.
4. Failure by the Respondent to file a Statement of Defence shall not affect the conduct of the arbitration proceedings.

Article 19 – Counterclaim

1. The Respondent shall file a counterclaim, if any, in writing within thirty (30) days from the date of receipt of the Notice of Arbitration. Where the Respondent applies for an extension of time, if the arbitral tribunal deems any justified reasons exist, the arbitral tribunal shall decide to grant an extension. Where the arbitral tribunal has not yet been formed, the decision on whether to grant the

extension of the time period shall be made by the Secretary General of the SCIA.

2. When filing its counterclaim, the Respondent shall specify its counterclaim in the Statement of Counterclaim and state the facts and grounds on which its counterclaim is based with the relevant evidentiary materials attached thereto.
3. Where the formalities required for filing a counterclaim are found to be complete, the Secretariat of the SCIA shall send a Notice of Acceptance of Counterclaim to the parties. The Claimant shall submit its Statement of Defence to the counterclaim in writing within thirty (30) days from the date of receipt of the Notice. If the Claimant has justified reasons to request an extension of the time period, the arbitral tribunal shall decide whether to grant such an extension. Where the arbitral tribunal has not yet been formed, the decision on whether to grant the extension of the time period shall be made by the Secretary General of the SCIA.
4. The arbitral tribunal has the power to decide whether to accept a Statement of Counterclaim and Statement of Defence thereto submitted after the expiration of the above time limit.
5. Failure by the Claimant to file a Statement of Defence to the Respondent's counterclaim shall not affect the proceedings of the arbitration.

Article 20 – Amendment to the Claim, Defence or Counterclaim

Any party may apply to amend its claim, defence or counterclaim in writing during the arbitral proceedings, and that request may be granted unless the arbitral tribunal considers that the amendment will delay the arbitration proceedings, be unfair to the other party or result in other circumstances that may not be appropriate for such amendments.

Article 21 – Advance Payment of Arbitration Fees

A party making claims, counterclaims or amendments thereof shall pay the arbitration fee in advance in accordance with the Schedule of Fees and Costs of Arbitration adopted by the SCIA.

Article 22 – Submission of Documents

1. When submitting the Request for Arbitration, the Statement of Defence, the Statement of Counterclaim, evidentiary documents, and other arbitration documents, the parties shall make their submissions in quintuplicate. Where there are multiple parties, additional copies shall be provided accordingly. Where the arbitral tribunal is composed of a sole arbitrator, the number of copies submitted may be reduced by two.
2. Electronic versions may be submitted simultaneously when submitting the above documents.

Article 23 – Representatives

A party may be represented by its authorized representative(s) including but not limited to the counsel from the Chinese Mainland or from jurisdictions outside the Chinese Mainland, in handling matters relating to the arbitration. In such a case, a Power of Attorney specifying the matters and scope of authorization shall be forwarded to the Secretariat of the SCIA.

CHAPTER IV. INTERIM MEASURES

Article 24 – Preservation

1. Any party may apply for preservation before the commencement of or during the arbitration proceedings if, due to emergency, the applying party's legitimate interests may suffer irreparable damages without immediate preservation, or if the other party's acts or some other circumstances may render the arbitral award impossible or difficult to enforce.
2. If any party applies for preservation during the arbitration proceedings, the SCIA shall submit the application for preservation to a competent court.

Article 25 – Other Interim Measures

At the request of a party, or if the arbitral tribunal considers it necessary, the arbitral tribunal may order any other interim measure it deems appropriate. Any such

measure may take the form of a procedural order or of an interlocutory award. The arbitral tribunal may order the requesting party to furnish appropriate security.

CHAPTER V. ARBITRAL TRIBUNAL

Article 26 – Independence and Impartiality

Every arbitrator must be and remain impartial and independent of the parties involved in the arbitration.

Article 27 – Number of Arbitrators

1. The arbitral tribunal shall be composed of one or three arbitrators.
2. Unless otherwise agreed by the parties or provided by the Rules, an arbitral tribunal shall be composed of three arbitrators.

Article 28 – Appointment of Arbitrator

1. The SCIA establishes a Panel of Arbitrators. The parties shall appoint arbitrators from the Panel of Arbitrators provided by the SCIA.
2. Parties may agree on the means of appointing arbitrators, unless such agreement cannot be implemented or is in conflict with a mandatory provision of the law as it applies to the arbitration proceedings.
3. Parties may agree to appoint arbitrators from outside

the SCIA's Panel of Arbitrators. An arbitrator appointed in accordance with such agreement from outside the SCIA's Panel of Arbitrators may serve as arbitrator of the arbitration in dispute if he/she meets the conditions prescribed by law for arbitrator subject to the confirmation by the Chairman of the SCIA.

4. Where there are multiple Claimants and/or multiple Respondents in arbitration case, the multiple Claimants, jointly, and/or the multiple Respondents, jointly, shall appoint or entrust the Chairman of the SCIA to appoint an arbitrator.

Article 29 – Arbitral Tribunal of Three Arbitrators

1. Unless otherwise agreed by the parties, within fifteen (15) days from the date of receipt of the Notice of Arbitration, the Claimant and the Respondent shall each appoint, or entrust the Chairman of the SCIA to appoint, an arbitrator, failing which the arbitrator shall be appointed by the Chairman of the SCIA.
2. Unless otherwise agreed by the parties, within fifteen (15) days from the date of the Respondent's receipt of the Notice of Arbitration, the parties shall jointly appoint or jointly entrust the Chairman of the SCIA to appoint the presiding arbitrator, failing which the presiding arbitrator shall be appointed by the Chairman of the SCIA.
3. In the alternative the parties may agree that the

presiding arbitrator to be appointed jointly by the two appointed arbitrators. Unless otherwise agreed by the parties, where the two appointed arbitrators fail to appoint the presiding arbitrator within five (5) days from the date of the determination of the second arbitrator, the presiding arbitrator shall be appointed by the Chairman of the SCIA.

4. With the consent of each party, the Chairman of the SCIA may recommend a list of candidates for the presiding arbitrator for the parties to select from.

Article 30 – Arbitral Tribunal of a Sole Arbitrator

Where the arbitral tribunal is composed of a sole arbitrator, the sole arbitrator shall be appointed pursuant to the procedures stipulated in Article 29, paragraphs 2 or 4, of the Rules.

Article 31 – Disclosure

1. A prospective arbitrator shall sign a Declaration, disclosing in writing to the SCIA any facts or circumstances likely to give rise to justifiable doubts as to his/her impartiality or independence.
2. If circumstances that need to be disclosed arise during the arbitration proceedings, the arbitrator shall promptly disclose to the SCIA such circumstances in writing.
3. The Declaration and/or the disclosure of the arbitrator shall be communicated to each party and

other members of the arbitral tribunal if any.

Article 32 – Challenge of Arbitrators

1. A party wishing to challenge the arbitrator on the grounds of the information disclosed by the arbitrator shall forward the challenge in writing within ten (10) days from the date of such receipt. Failing to file a challenge within the above time period, the party may not subsequently challenge the arbitrator on the grounds of the information disclosed by the arbitrator.
2. A party which has justifiable doubts as to the impartiality or independence of an arbitrator may challenge that arbitrator in writing and shall state the facts and reasons on which the challenge is based and provide supporting evidence.
3. The challenge by one party shall be promptly communicated to the other party, the arbitrator being challenged and the other members of the arbitral tribunal if any.
4. Where an arbitrator is challenged by one party and the other party agrees to the challenge, or the arbitrator being challenged voluntarily withdraws from his/her office, such arbitrator shall no longer be a member of the arbitral tribunal. However, in neither case shall it be implied that the reasons for the challenge are sustained.
5. In circumstances other than those specified in the

preceding Paragraph 4, the Chairman of the SCIA shall make a final decision on the challenge.

6. An arbitrator who has been challenged shall continue to serve on the arbitral tribunal until a final decision on the challenge has been made by the Chairman of the SCIA.

Article 33 – Replacement of Arbitrator

1. Where an arbitrator is unable to fulfill his/her functions due to, *inter alia*, being challenged or voluntary withdrawal from his/her office, a substitute arbitrator shall be appointed following the original procedure within the specified period of time.
2. Where an arbitrator is prevented *de jure* or *de facto* from fulfilling his/her functions, or fails to fulfill his/her functions in accordance with the requirements of the Rules, the Chairman of the SCIA shall have the power to replace the arbitrator. The arbitrator may also withdraw from his/her office. In the event that an arbitrator is unable to fulfill his/her functions due to the above reasons, a substitute arbitrator shall be appointed following the original procedure within the specified period of time.
3. After the appointment of substitute arbitrator, the arbitral tribunal shall determine whether and to what extent the previous proceedings in the case shall be repeated.

CHAPTER VI. THE HEARING PROCEEDINGS

Article 34 – Conduct of Hearing

1. Unless otherwise agreed by the parties, the arbitral tribunal shall have the power to decide procedural matters, and examine the case in such a manner as it considers appropriate. Under all circumstances, the arbitral tribunal shall act fairly and shall afford a reasonable opportunity to all parties to make submissions and arguments.
2. The parties may agree to adopt an inquisitorial, adversarial or other approach in the hearing of the case.
3. Where the arbitral tribunal cannot reach consensus over procedural matters, the arbitration proceedings shall be conducted in accordance with the opinion of a majority of the arbitrators. Where the arbitral tribunal cannot reach a majority opinion, the arbitration proceedings shall be conducted in accordance with the presiding arbitrator's opinion.
4. Unless otherwise provided by the Rules or agreed by the parties, the arbitral tribunal shall hold oral hearings when examining the case. However, the arbitral tribunal may examine the case on the basis of documents only if the arbitral tribunal deems that oral hearings are unnecessary and the parties so agree.

5. Unless otherwise agreed by the parties, the arbitral tribunal may, if it considers it necessary, issue procedural orders or question lists, hold pre-hearing conferences, produce terms of reference, and require pre-hearing exchange of evidence or discovery of relevant documents by the parties.

Article 35 – Joinder of Additional Parties and Participation of Third Parties

1. After the commencement of the arbitral proceedings, a party may apply in writing to join an additional party under the same arbitration agreement to the arbitration. The arbitral tribunal shall decide whether to grant such joinder. Where the arbitral tribunal has not yet been formed, such decision shall be made by the Secretary General of the SCIA.
2. With the agreement in writing of each party and each third party, the arbitral tribunal has the power to permit one or more third parties to participate in the arbitration proceedings as Claimant or Respondent. Where the arbitral tribunal has not yet been formed, such decision shall be made by the Secretary General of the SCIA.

Article 36 – Consolidation of Arbitrations

1. With the agreement in writing by all parties, the SCIA may consolidate two or more arbitrations pending under the Rules into a single arbitration decided by one arbitral tribunal.

2. In deciding whether to consolidate the arbitrations in accordance with the preceding Paragraph 1, the SCIA shall consider the relevance between the different arbitrations concerned.
3. Unless otherwise agreed by all the parties, the arbitrations shall be consolidated into the arbitration that commenced first.

Article 37 – Notice of Hearing

1. Where a case is to be examined by way of an oral hearing, the parties shall be notified of the date of the first oral hearing at least twenty (20) days prior to the oral hearing. A party having justified reasons may request a postponement of the oral hearing. However, such request must be communicated in writing to the arbitral tribunal at least ten (10) days prior to the fixed oral hearing date. The arbitral tribunal shall decide whether or not to postpone the oral hearing.
2. Where a party has justified reasons for failure to submit a request for a postponement of the oral hearing within the time period specified in the preceding Paragraph 1, the arbitral tribunal shall decide whether or not to accept the request.
3. A notice of a subsequent oral hearing and a notice of a postponed oral hearing shall not be subject to the time periods specified in the preceding Paragraph 1.

Article 38 – Place of Hearing

1. Unless otherwise agreed by the parties, the place of oral hearings shall be the domicile of the SCIA, or if the arbitral tribunal considers it necessary and with the approval of the Secretary General of the SCIA, at another location.
2. Where the parties have agreed to hold an oral hearing at a place other than the domicile of the SCIA, such agreement shall prevail.

Article 39 – Default

1. If the Claimant fails to appear at an oral hearing without showing sufficient cause, or withdraws from an on-going oral hearing without the permission of the arbitral tribunal, the Claimant shall be deemed to have withdrawn its Request for Arbitration. In such a case, if the Respondent has filed a counterclaim, the arbitral tribunal shall proceed with the hearing of the counterclaim.
2. If the Respondent fails to appear at an oral hearing without showing sufficient cause, or withdraws from an on-going oral hearing without the permission of the arbitral tribunal, the arbitral tribunal shall make a default hearing, and proceed with the arbitration. In such a case, if the Respondent has filed a counterclaim, the Respondent shall be deemed to have withdrawn its counterclaim.

Article 40 – Record of Hearing

1. The arbitral tribunal shall arrange for a written

and/or an audio-visual record to be made of an oral hearing, which shall be available for use and reference by the arbitral tribunal.

2. Arbitrators, parties and/or their representatives, witnesses and/or other persons involved are required to sign to the written record. If the parties or other participants to the arbitration consider that the record has omitted a part of their statement or is incorrect in some respect, they shall have the right to request correction thereof with the approval of the arbitral tribunal.

Article 41 – Evidence

1. Each party shall bear the burden of proving the facts upon which its claims, defences or counterclaims are based.
2. The arbitral tribunal may specify a time period for the parties to produce evidence and the parties shall produce evidence within the specified time period. The arbitral tribunal may refuse to admit any evidence produced after that time period. If a party experiences difficulties in producing evidence within the specified time period, it may apply for an extension before the end of the period. The arbitral tribunal shall decide whether or not to extend the time period.
3. If a party bearing the burden of proof fails to produce evidence within the specified time period, or if the produced evidence is not sufficient to support its claim or counterclaim, it shall bear the

consequences thereof.

4. Where a party applies to produce witness in the oral hearing, it shall notify in its application to the arbitral tribunal the identity information of the witness, the witness statement and language to be used by the witness.
5. As to the law and other professional issues, the parties may engage an expert witness on such relevant issues to provide written submissions and/or testify in the oral hearing.
6. Where the parties have an agreement specifying the applicable evidence rules, their agreement shall prevail, unless the agreement cannot be implemented or is in conflict with a mandatory provision of the law as it applies to the arbitration proceedings.

Article 42 – Examination of Evidence

1. Unless otherwise agreed by the parties, the evidence shall be produced at the hearing and may be examined by the parties.
2. Where a case is to be decided on the basis of documents only, or where the evidentiary materials are to be submitted after the hearing, and the parties agree to examine the evidentiary materials in writing, the parties shall submit their written opinions on the evidentiary materials within the time period specified by the arbitral tribunal.

Article 43 – Investigation by the Arbitral Tribunal

1. Where the arbitral tribunal considers it necessary, or where a party so requests and the arbitral tribunal agrees, the arbitral tribunal may undertake investigations and collect evidence on its own initiative.
2. When investigating and collecting evidence at site, the arbitral tribunal shall notify the parties to be present. In the event that the parties fail to be present after being notified, the investigation and collection of evidence shall proceed without being affected.
3. Information investigated or evidence collected by the arbitral tribunal shall be forwarded to the parties for their comments.

Article 44 – Expert's Report

1. Where the arbitral tribunal considers it necessary, or where a party so requests and the arbitral tribunal agrees, the arbitral tribunal may appoint experts for, *inter alia*, appraisal, audit, evaluation, testing or consultancy to produce expert's report.
2. Copies of the expert's report shall be communicated to the parties for their comments. At the request of either party and with the approval of the arbitral tribunal, the expert shall participate in an oral hearing and give explanations on the report.

Article 45 – Evidence Preservation

1. Any party may apply for evidence preservation before the commencement of or during the arbitration proceedings if the evidence might be destroyed or if it would be difficult to obtain the evidence later afterwards.
2. If any party applies for evidence preservation during the arbitration proceedings, the SCIA shall submit the application for evidence preservation to a competent court.

Article 46 – Suspension of the Arbitration Proceedings

1. Where parties request a suspension of the arbitration proceedings, or under circumstances where such suspension is necessary pursuant to relevant law or provisions of the Rules, the arbitration proceedings may be suspended by the arbitral tribunal. Where the arbitral tribunal has not yet been formed, such decision shall be made by the Secretary General of the SCIA.
2. The arbitration proceedings shall resume as soon as the reason for the suspension no longer exists.

Article 47 – Withdrawal and Dismissal

1. A party may withdraw its claim or counterclaim in its entirety. In the event that the Claimant withdraws its claim in its entirety, the arbitral tribunal shall

proceed with its examination of the counterclaim and render an arbitral award thereon. In the event that the Respondent withdraws its counterclaim in its entirety, the arbitral tribunal shall proceed with the examination of the claim and render an arbitral award thereon.

2. A case shall be dismissed by the arbitral tribunal if the claim and counterclaim have been withdrawn in their entirety. Where a case is to be dismissed prior to the formation of the arbitral tribunal, the Secretary General of the SCIA shall make a decision on the dismissal.

CHAPTER VII. MEDIATION AND SETTLEMENT

Article 48 – Mediation by the Arbitral Tribunal

1. Where the parties wish to mediate, the arbitral tribunal may conduct the mediation. In this case, the parties shall agree on whether the arbitrator(s) participating the mediation shall resign from their office as arbitrator in the subsequent proceedings if the mediation fails. The arbitral tribunal shall have the discretion to decide whether the mediation shall be conducted.
2. The arbitral tribunal may mediate the case in a manner it considers appropriate.

3. During the process of mediation, the arbitral tribunal shall terminate the mediation if either party so requests or if the arbitral tribunal believes that further mediation efforts would be futile.
4. Where a settlement is reached through mediation, the parties may withdraw their claim or counterclaim. The parties may also request the arbitral tribunal to render an arbitral award or a mediation statement in accordance with the terms of the settlement agreement.
5. Where mediation fails, any opinion, view or statement, and any proposal or proposition expressing acceptance or opposition by either party or by the arbitral tribunal in the process of mediation, cannot be invoked by either party as grounds for supporting any claim, defence or counterclaim in the subsequent arbitration proceedings, judicial proceedings, or any other proceedings.

Article 49 – Settlement between the Parties and Mediation by the Mediation Institution

1. The parties may reach a settlement agreement of the dispute by themselves, or apply to the Mediation Centre attached to the SCIA or other mediation institutions for mediation.
2. Where a settlement agreement is reached, the parties may apply to the arbitral tribunal for rendering an arbitral award in accordance with the terms of

the settlement agreement or apply to withdraw the arbitration case. In the event the parties have not commenced arbitration proceedings or the arbitral tribunal has not yet been formed, and the parties apply for rendering an arbitral award in accordance with the terms of the settlement agreement, unless otherwise agreed by the parties, the Chairman of the SCIA shall appoint a sole arbitrator to form the arbitral tribunal and examine the case in the procedures it considers appropriate and render an award in due course. The specific procedures and time limits shall not be subject to other provisions of the Rules.

CHAPTER VIII. ARBITRAL AWARD

Article 50 – Time Limit for the Final Award

1. For cases under Article 2, paragraphs 1 and 2, of the Rules, the arbitral tribunal shall render an arbitral award within six (6) months from the date on which the arbitral tribunal is formed.
2. For cases under Article 2, paragraphs 3, of the Rules, the arbitral tribunal shall render an arbitral award within four (4) months from the date on which the arbitral tribunal is formed.
3. Upon the request of the arbitral tribunal, the Secretary General of the SCIA may extend the time limit if he/she considers it necessary and the reasons for the extension are justified.

4. The following period shall be excluded when calculating the time limit in the preceding Paragraphs.
 - (a) Period of appointing experts for, *inter alia*, appraisal, audit, evaluation, testing, expert consultancy pursuant to Article 44 of the Rules;
 - (b) Any period of mediation pursuant to Article 48 and Article 49 of the Rules;
 - (c) Any suspension period pursuant to relevant provisions of law and the Rules.

Article 51 – Making of the Award

1. The arbitral tribunal shall independently and impartially make an arbitral award based on the facts, in accordance with the law and the principles of fairness and reasonableness, and with reference to international practices.
2. Where the parties have agreed on the law as it applies to the merits of their dispute, the parties' agreement shall prevail. In the absence of such an agreement or where such agreement is in conflict with a mandatory provision of the law of the place of arbitration, the arbitral tribunal shall determine which law is applicable to the merits of the dispute.
3. The arbitral tribunal shall state in the award the claims/counterclaims, the facts of the dispute, the reasons on which the award is based, the decision on the claims/counterclaims, the allocation of the arbitration costs, and the date on which and the

place at which the award is made. The facts of the dispute and the reasons on which the award is based may not be stated in the award if the parties have so agreed, or if the award is made in accordance with the terms of a settlement agreement between the parties. The arbitral tribunal has the power to determine the specific time period for the parties to carry out the award and the liabilities for failure to do so within the specified time period.

4. Where a case is arbitrated by a tribunal composed of three arbitrators, the award shall be made by all three arbitrators or a majority of the arbitrators. A written dissenting opinion shall be kept with the file and may be notified to the parties together with the award. Such dissenting opinion shall not form a part of the award. Where the arbitral tribunal cannot reach a majority opinion, the arbitral award shall be made in accordance with the presiding arbitrator's opinion. The written opinions of the other arbitrators shall be kept with the file and may be notified to the parties together with the award. Such written opinions shall not form a part of the award.
5. The arbitral award shall be signed by arbitrators. An arbitrator who has a dissenting opinion may or may not sign his/her name on the award.
6. The date on which the award is made shall be the date on which the award comes into legal effect.
7. The seal of the SCIA shall be affixed on the arbitral award.

8. The arbitral award is final and binding upon the parties.

Article 52 – Interlocutory Award

Where the arbitral tribunal considers it necessary, or where a party so requests and the arbitral tribunal agrees, the arbitral tribunal may make an interlocutory award on any procedural issues or other related issues before rendering the final award. The making and implementation or non-implementation of an interlocutory award shall not affect the arbitration proceedings, nor shall it prevent the arbitral tribunal from making the final award.

Article 53 – Partial Award

Where the arbitral tribunal considers it necessary, or where a party so requests and the arbitral tribunal agrees, the arbitral tribunal may render a partial award on any part of the claim before rendering the final award. A partial award is final and binding upon the parties.

Article 54 – Scrutiny of the Draft Award

The arbitral tribunal shall submit its draft award to the SCIA for scrutiny before signing the award. The SCIA may suggest modifications as to the form of the award and, without affecting the independence of the tribunal, may also draw its attention to substantive issues.

Article 55 – Correction of the Award

1. Within thirty (30) days from its receipt of the arbitral award, either party may request the arbitral tribunal in writing for a correction of any clerical, typographical or computational errors, or any errors of a similar nature contained in the award. If such an error does exist in the award, the arbitral tribunal shall make a correction in writing within thirty (30) days of receipt of the written request for the correction.
2. The arbitral tribunal may, on its own initiative, make corrections in writing of any clerical, typographical or computational errors, or any errors of a similar nature contained in the award within a reasonable period of time after the award is made.
3. Such correction of award shall form a part of the arbitral award.

Article 56 – Additional Award

1. Either party may, within thirty (30) days from its receipt of the arbitral award, request the arbitral tribunal in writing for an additional award on any claim or counterclaim which was advanced in the arbitration proceedings but was omitted from the award. If such an omission does exist, the arbitral tribunal shall make an additional award within thirty (30) days of receipt of the written request.
2. Where any matter which should have been decided

by the arbitral tribunal was omitted from the arbitral award, the arbitral tribunal may, on its own initiative, make an additional award within a reasonable period of time after the award is made.

3. Such additional award shall form a part of the arbitral award.

CHAPTER IX. SUMMARY PROCEDURE

Article 57 – Application

1. Unless otherwise agreed by the parties, Summary Procedure shall apply to any case where the amount in dispute does not exceed RMB1,000,000 Yuan; or to any case where the amount in dispute exceeds RMB1,000,000 Yuan, yet the parties agree in writing that the Summary Procedure shall apply.
2. Where no monetary claim is specified or the amount in dispute is not clear, the SCIA shall determine whether or not to apply the Summary Procedure after a full consideration of relevant factors, including but not limited to the complexity of the case and the interests involved.

Article 58 – Formation of Arbitral Tribunal

Unless otherwise agreed by the parties, the arbitral tribunal of a sole arbitrator shall be formed in accordance with Article 30 of the Rules to hear a case under the Summary Procedure.

Article 59 – Defence and Counterclaim

1. The Respondent shall submit its Statement of Defence and evidentiary materials within twenty (20) days of receipt of the Notice of Arbitration; counterclaim, if any, shall also be filed with evidentiary materials within the time period.
2. The Claimant shall file its Statement of Defence to the Respondent's counterclaim within twenty (20) days of receipt of the counterclaim.
3. If the arbitral tribunal considers there is justified reason(s), it shall decide to grant an extension of the above time limit. Where the arbitral tribunal has not yet been formed, such decision shall be made by the Secretary General of the SCIA.

Article 60 – Conduct of Hearing

The arbitral tribunal may examine the case in the manner it considers appropriate. The arbitral tribunal may decide whether to examine the case solely on the basis of the written materials and evidence submitted by the parties or to hold an oral hearing.

Article 61 – Oral Hearing

1. For a case examined by way of an oral hearing, after the arbitral tribunal has fixed a date for oral hearing, the parties shall be notified at least ten (10) days prior to the oral hearing. A party having

justified reasons may request a postponement of the oral hearing. However, such request shall be communicated in writing to the arbitral tribunal at least seven (7) days prior to the fixed oral hearing date. The arbitral tribunal shall decide whether or not to postpone the oral hearing.

2. Where a party has justified reasons for failure to submit a request for a postponement of the oral hearing within the time period specified in the preceding Paragraph 1, the arbitral tribunal shall decide whether or not to accept the request.
3. A notice of a subsequent oral hearing, as well as a notice of a postponed oral hearing, shall not be subject to the time limit specified in the preceding Paragraph 1.

Article 62 – Time Limit for the Final Award

1. The arbitral tribunal shall make an arbitral award within three (3) months from the date on which the arbitral tribunal is formed.
2. Upon the request of the arbitral tribunal, the Secretary General of the SCIA may extend the time period if he/she considers it necessary and the reasons for the extension justified.

Article 63 – Change of Procedure

The application of Summary Procedure shall not be affected by any amendment to the claim or by the filing

of a counterclaim. Where the amount in dispute of the amended claim or that of the counterclaim exceeds RMB1,000,000 Yuan, upon one of the parties' request or where the SCIA considers necessary, the Summary Procedure may be changed to the general procedure by the SCIA.

Article 64 – Other Provisions

The relevant provisions in the other Chapters of the Rules shall apply to matters not covered in this Chapter.

CHAPTER X. MISCELLANEOUS

Article 65 – Arbitration Fees and Costs

1. The parties shall pay the arbitration fees and costs in advance to the SCIA according to the applicable provisions in the Schedule of Fees and Costs of Arbitration.
2. Where the parties agree to submit to other arbitration rules, schedule of fees and costs of arbitration stipulated by other arbitration rules may apply. If those other arbitration rules lack such schedule, the Schedule of Fees and Costs of Arbitration adopted by the SCIA may apply.
3. During the course of the arbitral proceedings, where the parties fail to pay in advance the relevant fees and costs as required, the SCIA shall so inform the parties in order that one or another of them

may make the required payment. If such payment is not made, the SCIA may order the suspension of the arbitral proceedings or continue with the proceedings on such basis as it sees fit.

4. The Schedule of Fees and Costs of Arbitration which is attached hereto forms an integral part of the Rules.

Article 66 – Allocation of Fees

1. The arbitral tribunal has the power to determine in the arbitral award the arbitration fees and other expenses to be borne by the parties. Such fees and other expenses include fees and actual expenses payable under Schedule of Fees and Costs of Arbitration, and the reasonable legal fees and other expenses incurred by the parties for conducting the arbitration.
2. The arbitration fees and expenses shall in principle be borne by the losing party. However, the arbitral tribunal may apportion such fees and expenses between the parties in appropriate proportion, taking into account the relevant circumstances of the case.

Article 67 – Interpretation

1. The headings of the articles in the Rules shall not be construed as interpretations of the contents of the provisions contained therein.
2. The Rules shall be interpreted by the SCIA.

3. Unless otherwise stated, other documents issued by the SCIA shall not constitute integral parts of the Rules.

Article 68 – Coming into Force

The Rules shall be effective as from December 1, 2012. For cases administered by the SCIA before the Rules come into force, the Arbitration Rules effective at the time of acceptance shall apply, or where the parties agree, the Rules shall apply.

Schedule of Fees and Costs of Arbitration

Article 1 – Provisions as to Fees and Costs of Arbitration for International and Foreign-related Cases and Arbitration Cases related to the Hong Kong Special Administrative Region, the Macao Special Administrative Region and the Taiwan Region

Arbitration Fee Schedule 1

This fee schedule applies to the arbitration cases accepted under Article 2, paragraphs 1 and 2, of the Arbitration Rules.

| Amount in Dispute (in RMB) | Amount of Fees(in RMB) |
|------------------------------------|--|
| 1,000,000 Yuan or less | 3.5% of the Claimed Amount, minimum 10,000 Yuan |
| 1,000,001 Yuan to 5,000,000 Yuan | 35,000 Yuan plus 2.5% of the amount above 1,000,000 Yuan |
| 5,000,001 Yuan to 10,000,000 Yuan | 135,000 Yuan plus 1.5% of the amount above 5,000,000 Yuan |
| 10,000,001 Yuan to 50,000,000 Yuan | 210,000 Yuan plus 1% of the amount above 10,000,000 Yuan |
| 50,000,001 Yuan or more | 610,000 Yuan plus 0.5% of the amount above 50,000,000 Yuan |

Each case, when being accepted, shall be charged an additional amount of RMB10,000 Yuan as a Registration Fee which includes the expenses for examining the application for arbitration, initiating the arbitration

proceedings, computerizing management, filing the documents and correspondence.

The Amount in dispute referred to in this schedule shall be based on the sum of money claimed by the parties.

Where no monetary claim is specified or the amount in dispute is not clear, the amount of arbitration fee shall be determined by the SCIA in consideration of the specific rights and interests involved in the disputes.

If the arbitration fee is charged in a foreign currency, an amount of the foreign currency equivalent to the corresponding RMB value specified in this schedule shall be paid.

Apart from charging arbitration fee according to the above Schedule, the SCIA may collect other reasonable and actual expenses.

Article 2 – Provisions as to Fees and Costs of Arbitration for Chinese Mainland Arbitration Cases

Arbitration Fee Schedule 2

The schedules, adopted in accordance with the Notice of the General Office of the State Council on the Measures Regarding Arbitration Fees of Arbitration Commissions, apply to the Fees for arbitration cases accepted under Article 2, paragraph 3, of the Arbitration Rules, including Case Acceptance Fee and Case Handling Fee.

1. Case Acceptance Fee Schedule

| Amount in Dispute (in RMB) | Case Acceptance Fee (in RMB) |
|-----------------------------------|--|
| 1,000 Yuan or less | 100 Yuan |
| 1,001 Yuan to 50,000 Yuan | 100 Yuan plus 5% of the amount above 1,000 Yuan |
| 50,001 Yuan to 100,000 Yuan | 2,550 Yuan plus 4% of the amount above 50,000 Yuan |
| 100,001 Yuan to 200,000 Yuan | 4,550 Yuan plus 3% of the amount above 100,000 Yuan |
| 200,001 Yuan to 500,000 Yuan | 7,550 Yuan plus 2% of the amount above 200,000 Yuan |
| 500,001 Yuan to 1,000,000 Yuan | 13,550 Yuan plus 1% of the amount above 500,000 Yuan |
| 1,000,001 Yuan or more | 18,550 Yuan plus 0.5% of the amount above 1,000,000 Yuan |

2. Case Handling Fee Schedule

| Amount in Dispute (in RMB) | Case Handling Fee (in RMB) |
|------------------------------------|---|
| 200,000 or less | 5,000 Yuan |
| 200,001 Yuan to 500,000 Yuan | 5,000 Yuan plus 2% of the amount above 200,000 Yuan |
| 500,001 Yuan to 1,000,000 Yuan | 11,000 Yuan plus 1.5% of the amount above 500,000 Yuan |
| 1,000,001 Yuan to 3,000,000 Yuan | 18,500 Yuan plus 0.5% of the amount above 1,000,000 Yuan |
| 3,000,001 Yuan to 6,000,000 Yuan | 28,500 Yuan plus 0.45% of the amount above 3,000,000 Yuan |
| 6,000,001 Yuan to 10,000,000 Yuan | 42,000 Yuan plus 0.4% of the amount above 6,000,000 Yuan |
| 10,000,001 Yuan to 20,000,000 Yuan | 58,000 Yuan plus 0.3% of the amount above 10,000,000 Yuan |
| 20,000,001 Yuan to 40,000,000 Yuan | 88,000 Yuan plus 0.2% of the amount above 20,000,000 Yuan |
| 40,000,001 Yuan or more | 128,000 Yuan plus 0.15% of the amount above 40,000,000 Yuan |

The Amount in dispute referred to in this schedule shall be based on the sum of money claimed by the parties.

Where no monetary claim is specified or the amount in dispute is not clear, the amount of arbitration fee shall be determined by the SCIA in consideration of the specific rights and interests involved in the disputes.

Apart from charging arbitration fee according to the above Schedules, the SCIA may collect other reasonable and actual expenses.

Article 3 – Provisions as to Advance Payment of Arbitration Fees in Installments

For an arbitration case with large amount of arbitration fees to pay or there exists special circumstances, at the request of the party, the SCIA may decide to allow the party to pay the advance payment of the arbitration fee in installments. Arbitration fees paid in advance by the parties to the SCIA at the stage of arbitration application shall not be less than one-third of the full amount of the arbitration fees; not less than half of the full amount before the constitution of the arbitral tribunal; the full amount shall be paid prior to the hearing. The above fees do not include the Registration Fee provided for in the preceding Article 1.

Article 4 – Provisions as to Arbitration Fees for Applying UNCITRAL Rules

1. Where the parties have agreed to submit to UNCITRAL Rules, and the parties apply to the SCIA for the appointment of arbitrators pursuant to UNCITRAL Rules, they shall pay an arbitrator appointing fee to the SCIA which is 0.1% of the amount in dispute, the minimum of which shall be no less than RMB 20,000 Yuan. The arbitrator appointment fee is non-refundable. For additional service the SCIA will determine Administrative Fees depending on the circumstances.
2. Where the parties have agreed upon the application of UNCITRAL Arbitration Rules and the SCIA to

be the appointing authority, the arbitrator's fees and expenses may be determined in accordance with the fee arrangements agreed between the party or parties and the arbitrator.

**Article 5 – Provisions as to Arbitration Fees for
Applying Other Arbitration Rules**

Where parties have agreed to arbitrate at the SCIA applying other arbitration rules, if those other arbitration rules to be applied lack provisions on arbitration fees and costs, the arbitrator's fees and expenses may be determined in accordance with the fee arrangements agreed between the party or parties and the arbitrator, subject to the following provisions:

- (a) When applying for arbitration, the applicant shall pay a Registration Fee of RMB10, 000 Yuan;
- (b) The Administrative Fee of the SCIA shall be calculated and paid by the party in accordance with the following Schedule:

Administrative Fee Schedule

| Amount in Dispute (in RMB) | Administrative Fee (in RMB) |
|------------------------------------|--|
| 1,000,000 Yuan or less | 1.4% of the Claimed Amount, minimum 4,000 Yuan |
| 1,000,001 Yuan to 5,000,000 Yuan | 14,000 Yuan plus 1% of the amount above 1,000,000 Yuan |
| 5,000,001 Yuan to 10,000,000 Yuan | 54,000 Yuan plus 0.6% of the amount above 5,000,000 Yuan |
| 10,000,001 Yuan to 50,000,000 Yuan | 84,000 Yuan plus 0.4% of the amount above 10,000,000 Yuan |
| 50,000,001 Yuan or more | 244,000 Yuan plus 0.2% of the amount above 50,000,000 Yuan |

Where no monetary claim is specified or the amount in dispute is not clear, the amount of arbitration fee shall be determined by the SCIA in consideration of the specific rights and interests involved in the disputes.

Apart from charging arbitration fee according to the above Schedule, the SCIA may collect other reasonable and actual expenses.

Article 6 – Provisions as to Fees of Arbitrators Determined in accordance with the Fee Arrangements between Parties and Arbitrators

1. The allocation of the fees and expenses of arbitrators determined in accordance with the fee arrangements agreed between the party or parties and the arbitrator shall be decided by arbitral tribunal pursuant to the applicable arbitration rules and the relevant provisions of this Schedule.

2. The fees and expenses of arbitrators determined in accordance with the fee arrangements 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. According to the above circumstances, the SCIA shall have the power to make any necessary adjustment to the fees and expenses of arbitrators, which will be binding upon the arbitral tribunal.

