

Several Provisions on the Development of International Commercial Arbitration in Hainan Free Trade Port

(Adopted at the 11th Session of the Standing Committee of the 7th
People's Congress of Hainan Province on May 29, 2024)

Article 1 The *Several Provisions on the Development of International Commercial Arbitration in Hainan Free Trade Port* (these “Provisions”) are hereby formulated based on the fundamental principles provided by the *Arbitration Law of the Peoples Republic of China* (the “Arbitration Law”) and other applicable laws and regulations, in accordance with the *Hainan Free Trade Port Law of the People's Republic of China*, and in light of the practical needs, to promote the development of international commercial arbitration in Hainan Free Trade Port, enhance the credibility of arbitration, innovate diversified mechanisms for commercial dispute resolution, and build an international commercial arbitration center that serves Hainan Free Trade Port and envisages the Pacific and Indian Ocean areas.

Article 2 The Provincial People's Government shall support and promote the development of arbitration, conduct research and

formulate policies aimed at supporting and facilitating the development of arbitration, as well as coordinate significant issues related to the development of international commercial arbitration.

The judicial administration of the Provincial People's Government shall be responsible for guiding and overseeing the work on arbitration, organizing the preparation of arbitration development plans, strengthening the registration and administration of arbitration institutions in accordance with the law, and optimizing the registration service.

The departments of the Provincial People's Government responsible for, among others, development and reform, natural resources and planning, commerce, finance, human resources and social security, public security, units responsible for, among others, maritime affairs, as well as the people's governments at the city and county levels and their departments, shall, within the scope of their respective duties, collaborate to ensure the successful development of international commercial arbitration.

Article 3 People's governments at or above the county level and their relevant departments, shall increase their support for arbitration institutions and other legal service institutions in terms of planning, funding, land, talent development, and public utilities.

People's governments at or above the county level and their

relevant departments, shall support higher education institutions, research institutes, industry associations, chambers of commerce, and others in their efforts to cultivate arbitration and related professionals, as well as support the development of law firms, notary services, appraisal and evaluation services, foreign law ascertainment services, translation services, stenography services, and others, so as to improve the quality of arbitration services.

People's governments of relevant cities, counties, autonomous counties, and key industrial parks are encouraged to formulate specific measures designed to promote the development of arbitration.

Article 4 The Hainan Free Trade Port Arbitration Industry Association (the "Arbitration Association") is a self-discipline body for arbitration institutions and practitioners operating within Hainan Free Trade Port. Foreign arbitrators engaged by arbitration institutions operating within Hainan Free Trade Port are encouraged to voluntarily apply for membership to the Arbitration Association.

The Arbitration Association, in accordance with its articles of association, shall strengthen the self-discipline of and promote ethical conduct within the arbitration profession, supervise the behavior of its members, regulate the arbitration profession, as well as safeguard the legitimate rights and interests of arbitration institutions and practitioners.

The Arbitration Association are supported to enhance connections with relevant industry associations, chambers of commerce, and economic and trade organizations both domestically and internationally, as well as engage in such activities as training and exchanges, so as to enhance capabilities and expertise of arbitration practitioners.

Article 5 Arbitration institutions duly established in Hainan Free Trade Port and registered with the judicial administration of the Provincial People's Government are recognized as non-profit juridical persons.

Arbitration institutions domiciled in other regions of the People's Republic of China, subject to relevant regulations, are encouraged to establish branches in Hainan Free Trade Port to engage in arbitration activities.

Foreign arbitration institutions, subject to relevant regulations, are encouraged to establish representative offices in Hainan Free Trade Port to engage in relevant foreign-related arbitration business.

Arbitration institutions operating within Hainan Free Trade Port may, subject to relevant regulations, establish representative offices or branches in Hainan Free Trade Port in cooperation with other domestic and foreign arbitration institutions.

Article 6 Arbitration institutions operating within Hainan Free

Trade Port are encouraged to expand their international business presence and promote the specialized development of arbitration in such areas as international trade, intellectual property, scientific and technological innovation, maritime and admiralty, ecological economy, and seed industry.

Arbitration institutions may, by such methods as arbitration, mediation, negotiation promotion, expert assisted decision-making, and other approaches agreed upon or requested by the parties that are reasonably related to and integrated with arbitration, resolve commercial disputes between or among domestic and foreign natural persons, juridical persons, and other organizations.

Article 7 Arbitration institutions operating within Hainan Free Trade Port are encouraged to establish cooperative mechanisms with dispute resolution institutions such as arbitration and/or mediation institutions both domestically and internationally, conduct research on cutting-edge issues, as well as facilitate the sharing of resources such as information, facilities, services, and personnel. Arbitration practitioners are encouraged to participate in, among others, the formulation of relevant international rules and multilateral trade negotiations.

Arbitration institutions operating within Hainan Free Trade Port are encouraged to establish branches outside the territory of the

People's Republic of China, and deepen exchanges and cooperation with judicial authorities and commercial arbitration institutions in those locations, for the purposes of enhancing the reputation and international recognition of arbitration in Hainan Free Trade Port.

Article 8 Arbitration institutions operating within Hainan Free Trade Port are encouraged to engage foreign professionals to serve as members of decision-making bodies, arbitrators, and arbitration secretaries.

Article 9 Arbitration institutions, arbitrators, and arbitration secretaries satisfying the prescribed requirements may, subject to relevant regulations, be eligible for relevant tax preferential policies with respect to income derived from rendering arbitration services within Hainan Free Trade Port.

Arbitration practitioners may, subject to relevant regulations, be eligible for relevant talent support and guarantee policies.

Article 10 Financial institutions are encouraged to facilitate the international arbitration activities of arbitration institutions, arbitrators, and other arbitration practitioners operating within Hainan Free Trade Port by providing expedient and efficient remittance services.

Arbitration institutions and foreign arbitration practitioners satisfying the prescribed requirements may open Hainan Free Trade

Port multi-functional free trade accounts in accordance with the law and thereby avail themselves of convenient financial services.

Article 11 Foreign personnel participating in arbitration activities within Hainan Free Trade Port, including but not limited to arbitration proceedings, meetings, visits, and exchanges, may, upon satisfying the prescribed requirements and subject to relevant regulations, be entitled to expedited procedures for obtaining entry and exit documentation. Foreign nationals who are unable to obtain visas from a diplomatic mission of the People’s Republic of China in a timely manner for such arbitration-related activities may apply for port visas by presenting the notices of arbitration proceedings, invitations to meetings (events), or other materials issued by arbitration institutions operating within Hainan Free Trade Port or the Arbitration Association.

Foreign staff engaged by arbitration institutions may, subject to relevant regulations, apply for work-related residence permits with the maximum permissible validity period. Foreign staff satisfying the prescribed criteria may apply for permanent residency in the People’s Republic of China in accordance with the law.

Article 12 Market entities are encouraged to resort to arbitration for dispute resolution.

Relevant industry organizations, chambers of commerce, and

state-owned enterprises are encouraged to include arbitration as a dispute resolution method in contracts and model contracts. Market entities are encouraged to use arbitration institutions operating within Hainan Free Trade Port or to designate Hainan Free Trade Port as the place of arbitration.

Article 13 Where the parties have agreed to dispute resolution through institutional arbitration within Hainan Free Trade Port, such parties may select arbitrators from the roster of arbitrators recommended by the chosen institution, or select arbitrators who are not included on said roster, provided such arbitrators satisfy the requirements set forth in the Arbitration Law.

Where the parties select arbitrators who are not included on the roster of arbitrators recommended by the arbitration institution, such parties shall disclose the basic information of the arbitrators so selected and obtain confirmation from the arbitration institution.

Article 14 The parties may agree on the place of arbitration, which shall serve as the basis for determining the applicable law of the arbitration proceedings. An arbitral award shall be deemed to have been made at the place of arbitration.

Unless otherwise explicitly agreed upon by the parties, the place of arbitration shall be the place specified in the arbitration rules; in the absence of relevant provisions in the arbitration rules, the arbitral

tribunal shall determine the place of arbitration in accordance with the principle of facilitating efficient dispute resolution; the arbitral tribunal may, based on the connection of the dispute to Hainan Free Trade Port, and the principle of facilitating efficient dispute resolution, determine Hainan Free Trade Port as the place of arbitration.

Article 15 The arbitral tribunal may, with the consent of the parties, decide to conduct the hearing on information network platforms or through other information technologies.

Where arbitration activities are conducted on information network platforms, the arbitration institution or arbitral tribunal shall, at its utmost, safeguard the procedural rights and information security of the parties. Online and offline arbitration activities shall have the same legal effect.

Arbitration institutions operating within Hainan Free Trade Port are encouraged to utilize modern information technologies to enhance online and intelligent arbitration capabilities, furthermore expand the scope of services offered, and promote the coordinated development of online and offline arbitration, provided that such utilization complies with all applicable data security laws and the principle of arbitration confidentiality.

Article 16 Commercial disputes between or among, enterprises

registered in Hainan Free Trade Port, or enterprises registered in Hainan Free Trade Port and enterprises domiciled in foreign countries, the Hong Kong Special Administrative Region, the Macao Special Administrative Region, or Taiwan region, may be submitted to *ad hoc* arbitration conducted within Hainan Free Trade Port.

Where Hainan Free Trade Port is designated as the place of arbitration for commercial disputes between or among enterprises domiciled in foreign countries, the Hong Kong Special Administrative Region, the Macao Special Administrative Region, or Taiwan region, the preceding paragraph may apply.

Article 17 The parties entering into an agreement for *ad hoc* arbitration may, by mutual consent, determine the number of arbitrators to constitute the arbitral tribunal; absent such agreement, the arbitral tribunal may either comprise three (3) arbitrators or one (1) arbitrator.

The parties may designate *ad hoc* arbitrator(s) from the roster of *ad hoc* arbitrators recommended by the Arbitration Association, the roster of arbitrators recommended by the arbitration institution, or other individuals who satisfy the qualifications prescribed by the Arbitration Law.

The parties may agree on the procedure for designating arbitrator(s); in the absence of such agreement or in case of failure of

such agreement on designating arbitrators, the Arbitration Association shall, in consultation with the parties, determine the designation procedure.

Article 18 The parties may agree on the arbitration rules applicable to the *ad hoc* arbitration proceedings, including the adoption of internationally recognized arbitration rules or relevant arbitration rules formulated by industry associations or chambers of commerce.

In the absence of an agreement between the parties on the applicable *ad hoc* arbitration rules, the arbitral tribunal will establish specific procedures for the arbitration or designate the applicable arbitration rules.

The Arbitration Association, drawing upon internationally recognized rules, is encouraged to formulate and publicize *ad hoc* arbitration rules, which the parties may elect to adopt.

Article 19 Where the arbitration rules agreed upon by the parties to an *ad hoc* arbitration or confirmed by the arbitral tribunal specify the form of the arbitral award, the award shall be made in conformity with such arbitration rules.

Unless otherwise specified by the applicable arbitration rules, the arbitral award shall be made in writing and bear the signature(s) of the arbitrator(s). In arbitration proceedings where the arbitral tribunal

comprises more than one (1) arbitrator, the signatures of a majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated. The arbitral award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given.

The award shall state its date and the place of arbitration.

After the award is made, a copy signed by the arbitrators shall be delivered upon each party.

An arbitral award shall be made in accordance with the opinion of the majority of the arbitrators, with dissenting opinions of minority arbitrators recorded in the minutes as appropriate. In the event that the arbitral tribunal is unable to reach a majority opinion, the arbitral award shall be made in accordance with the opinion of the presiding arbitrator.

Article 20 The Arbitration Association and arbitration institutions operating within Hainan Free Trade Port may, based on the agreement of the parties or upon application by the arbitral tribunal, provide such assistance as is deemed necessary, including but not limited to, hearing facilities and assistance in the constitution of the arbitral tribunal.

Article 21 Where the parties have agreed to dispute resolution through arbitration, the arbitration agreement shall specify the chosen

arbitration institution; where the parties have agreed to dispute resolution through *ad hoc* arbitration, the designation of an arbitration institution is not required.

If, in any arbitration proceeding, one party alleges the existence of an arbitration agreement, and not denied by the other party, the existence of an arbitration agreement between the parties shall be deemed admitted.

Article 22 Arbitration institutions may, subject to relevant regulations and referring to prevailing international practices and industry standards, establish fee schedules for arbitration proceedings. Said fee schedules shall be made publicly available to ensure accessibility for the parties.

In the case of *ad hoc* arbitration, the parties may determine the fees to be paid through negotiation with the arbitrator(s), or based on the prevailing rates established by the Arbitration Association or arbitration institutions assisting with *ad hoc* arbitration.

Arbitration institutions are encouraged to explore and develop internationally competitive systems for the remuneration of arbitrators.

Article 23 People's courts shall, in accordance with the law, support and supervise arbitration, as well as optimize the mechanism for judicial review of arbitration.

The establishment of mechanisms to facilitate communication and coordination between people's courts and arbitration institutions shall be supported to enhance the efficiency of judicial review of arbitration.

Article 24 In order to safeguard the conduct of the arbitration proceedings, ascertain the facts of a dispute, or enforce the arbitral award, a party may, either before the application for arbitration or during the arbitral proceedings, apply to people's courts for measures such as property preservation and evidence preservation in accordance with the law.

A party may also, during the arbitral proceedings, apply to the arbitral tribunal for measures such as property preservation and evidence preservation; the arbitral tribunal shall, upon receipt of such an application, submit the application to a competent people's court within Hainan Free Trade Port, accompanied by any relevant opinions the arbitral tribunal deems appropriate in light of the circumstances of the arbitration. The people's court shall, upon review of such application in accordance with the law, make a ruling and enforce it in accordance with the law.

Article 25 Where Hainan Free Trade Port is designated as the place of arbitration, a party to the arbitration or its representative is unable to independently collect necessary evidence due to objective

circumstances, and it is difficult for the arbitral tribunal to investigate and collect such evidence, and the evidence sought is located within Hainan Free Trade Port or must be collected therein, then the competent people's court in Hainan Free Trade Port may, upon application by the arbitration institution or arbitral tribunal, assist in the collection of such evidence.

Article 26 Applications for judicial review of arbitration, including those seeking a declaration regarding the validity of an *ad hoc* arbitration agreement, the granting of preservation measures, and the setting aside or enforcement of an arbitral award, may be filed with the competent people's court in Hainan Free Trade Port.

Article 27 These Provisions shall come into force as of July 1, 2024.