庭外判官

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法律，不應只服務富人。

Penta Arbitration Rules

引言

本規則已為庭外判官（“庭外判官”）採納，供尋求機構仲裁的規範性和便利性的當事人使用。

適用

本規則適用於任何由申索人及答辯人提交以本規則進行仲裁的爭議。仲裁通知一經提交，本規則將以引用方式併入各方的仲裁協議中。

本規則可在仲裁條款中或爭議發生之前或之後訂立的書面協議中約定適用。有關本規則的適用範圍，請參閱本規則第 1 條。

生效

依本規則第 1 條的規定，本規則自 2014 年 8 月 13 日起生效。

示範條款

1. 希望依本規則仲裁解決未來爭議的當事人，可在合同中預定仲裁條款如下：

   “凡因本合同所引起的或與之相關的任何爭議或意見分歧，均應提交庭外判官進行機構仲裁，並按照《五優仲裁規則》解決。本仲裁條款適用的法律為香港法。仲裁地應為香港。仲裁為國際性仲裁，而仲裁協議的相關事項關乎多過一個國家。仲裁員人數為一名。仲裁程序應以中文進行，而裁決應以英文書寫。”

2. 若爭議已發生，而當事人間既無仲裁條款，亦未事先訂立仲裁協議，當事人希望依《五優仲裁規則》通過仲裁解決爭議的，可約定如下：

   “以下簽字各方，同意將因（簡單地描述已出現或可能引起的爭議、糾紛、分歧或索賠的合同）引起的或與之相關的任何爭議、糾紛、分歧或索賠（包括任何有關非合同性義務的爭議），提交由庭外判官，按照《五優仲裁規則》進行機構仲裁。

   本仲裁條款適用的法律為香港法。仲裁地應為香港。仲裁為國際性仲裁，而仲裁協議的相關事項關乎多過一個國家。仲裁員人數為一名。仲裁程序應以中文進行，而裁決應以英文準備。

   簽字: _____ (申請人)

   簽字: _____ (被申請人)

   日期: _____”

第 1 條 — 適用範圍

1.1. 本規則適用於以下仲裁協定（無論在爭議發生之前或之後簽訂）：(a) 規定適用本規則的仲裁協定；(b) 以下述第 1.2 和 1.3 款為前提，規定 “由庭外判官管理的” 或有含義相似的表述的仲裁協議。

1.2. 本規則並不妨礙爭議或仲裁協議的當事人只選擇庭外判官為指定機構，或請求庭外判官提供某些管理服務，而不選擇適用本規則。特此明確：本規則不適用於選擇按照其他規則（包括庭外判官不時採納的其他規則）仲裁的仲裁協議。

1.3. 本規則於 2014 年 8 月 13 日起生效。除非當事人另有約定，本規則適用於符合第 1.1 款的規定且在此日期或其後提交仲裁通知的所有仲裁。

第 2 條 — 通知和期限的計算

2.1 在下述情況下，依本規則發出的任何通知或其他書面通訊，視為已送達當事人、仲裁員或庭外判官：

(a) 專人、掛號郵寄或快遞送交至：

(i) 在仲裁中書面告知的收件人或其代表的地址；或

(ii) 若沒有(i)項所述，相關當事人之間適用的任何協議中列明的位址；或

(iii)若沒有(i)或(ii)項所述，在送交時收件人對外使用的任何位址；或

(iv) 若沒有(i)、(ii)或(iii)項所述，收件人最後為人所知的任何位址；或

(b) 通過傳真、電子郵件或其他能提供傳送記錄（包括傳送日期及時間）的電子通訊方式，傳送至：

(i) 在仲裁中書面告知的收件人或其代表的傳真號碼或電子郵寄地址（或等同的聯繫方式）；或

(ii) 若沒有(i)項所述，相關當事人之間適用的任何協定中列明的傳真號碼或電子郵寄地址（或等同的聯繫方式）；或

(iii) 若沒有(i)和(ii)項所述，在傳送時收件人對外使用的任何傳真號碼或電子郵寄地址（或等同的聯繫方式）。

2.2 任何前款所述通知或書面通訊，應視為在按上述(a)款送交或按上述(b)款傳送之日（以最早者為准）收到。為此，收件日期應按收件地的當地時間確定。若通 知或書面通訊系向多於一個當事人或多於一位仲裁員送交或傳送，則應視為在按上述(a)款送交或按上述(b)款傳送至最後一名收件人時收到。

2.3 本規則中的期限，應自收到或視為收到通知、通告、通訊或建議之日的次日起算。若期限的最後一日是收件地的法定假日或非營業日，則應順延至其後的第一個營業日。期限內的法定假日或非營業日均應計算在期限內。

第 3 條 — 規則的解釋

3.1 庭外判官有權解釋本規則的所有規定。涉及本規則下仲裁員的權力和職責的，仲裁員應予解釋。如仲裁員的解釋與庭外判官的解釋不一致，應以庭外判官的解釋為准。

3.2 庭外判官就按本規則進行的仲裁作出任何決定時無義務說明理由。庭外判官依本規則作出的任何決定都是終局的，且在任何適用法律允許的範圍內不得上訴。

3.3 本規則包括附於其後的所有庭外判官不時修訂的、在仲裁通知提交日有效的附錄。

3.4 庭外判官可不時發佈實務指引，以補充、規範和施行本規則，促進對依本規則進行的仲裁的管理。

第 4 條 — 定義

4.1 “仲裁” 指按照《五優仲裁規則》進行的仲裁程序；

4.2 “仲裁員” 指獲庭外判官委任為仲裁員的人士；

4.3 “裁決” 指仲裁員所作的裁決，裁決為最終決定，對申索人及答辯人都具有約束力；

4.4 “申索” 指針對答辯人提出的申索；

4.5 “申索人“ 指正在向或已向庭外判官遞交仲裁通知書的人士；

4.6 “法院” 指香港特別行政區的法院；

4.7 “聆訊” 指仲裁程序中，由仲裁員所安排日子的仲裁聆訊；

4.8 “香港” 指香港特別行政區；

4.9 “仲裁員名單” 指庭外判官的仲裁員名單；

4.10 “仲裁通知書” 指由申索人向庭外判官及答辯人提交要求展開仲裁程序的書面通知；

4.11 “回應書” 指由答辯人向庭外判官及申索人就仲裁通知書提交的書面回應；

4.12 “反申索的回應書” 指由申索人向庭外判官及答辯人就反申索提交的書面回應；

4.13 “當事人” 指申索人及相關的答辯人；

4.14 “規則” 指本規則載列的條款及／或條件；

4.15 在文意許可的情況下，凡提述男性時，在意義上也包括女性，反之亦然。此外， 在文意許可的情況下， 凡提述單數時， 在意義上也包括複數，反之亦然。

4.16 本規則中的“仲裁地”指 1985 年 6 月 21 日通過並於 2006 年 7 月 7 日修訂的《聯合國國際貿易法委員會國際商事仲裁示範法》第 20.1 條所指的仲裁地。

第 5 條 — 仲裁通知書

5.1 在申索人以書面形式向庭外判官發出仲裁通知書，並夾附所有書面陳詞及相關的證明文件副本後，仲裁即可以進行。提交仲裁通知書時，須備足夠副本，使仲裁員及庭外判官都各有一份。申索人需自行向答辯人送達仲裁通知書。

5.2 仲裁通知書須列明以下事項：

(a) 把爭議提交仲裁的要求；
(b) 當事人的姓名／名稱、地址、電話號碼及電郵地址；
(c) 指明所援引的仲裁協議 (如適用)；
(d) 支持該申索的事實陳述；
(e) 爭論點；
(f) 支持該申索的法律論點；
(g) 申索人將用作佐證，亦與爭論點及仲裁結果有關的文件的副本；
(h) 述明所尋求的濟助或補救；及
(i) 對委任仲裁員及仲裁所用語言的建議 (如案件需要)。

5.3 仲裁員的委任不會因任何爭議， 包括因仲裁通知書有欠完備而受到妨礙; 有關爭議須由仲裁員作最終定奪。申索人須於收到庭外判官要求糾正仲裁通知書裡任何不妥善之處 7 天內，糾正該等不妥善之處。

5.4 仲裁程序於庭外判官接獲仲裁通知書之日即當作展開。

第 6 條 — 回應書

6.1 除非庭外判官另有指明，否則答辯人須在仲裁通知書送達後 14 天內，把回應書、書面陳詞，連同有別於申索人所提供而又擬用作佐證的文件的

副本送交申索人。向庭外判官送交回應書時，須備足夠副本，以使仲裁員和庭外判官都各有一份。

6.2 回應書須列明以下事項：

(a) 答辯人的姓名／名稱、地址、電話號碼及電郵地址；
(b) 任何就仲裁通知書作出的回應；
(c) 支持回應書的事實陳述；
(d) 爭論點；
(e) 支持回應書的法律論點；
(f) 任何反申索、連同支持該反申索的事實陳述、支持該反申索的法律論點及所尋求的濟助或補救；
(g) 答辯人將用作佐證，亦與爭論點及仲裁結果有關的文件的副本；及
(h) 對委任仲裁員及仲裁所用語言的建議 (如案件需要)。

6.3 當庭外判官接獲當事人的仲裁通知書及有關回應書時， 將根據規則第 11 條規定委任一名仲裁員。該名仲裁員須解決任何有關於仲裁時所用語言及／或回應書有欠完備及／或回應書有不足之處所引起的任何糾紛或爭議(如有的話)。

6.4 仲裁員的委任不會因任何爭議，包括答辯人未能提交回應書回應，或所提交的回應書有欠完備或遲交回應而受到妨礙;有關爭議須由仲裁員作最終定奪。答辯人須於收到庭外判官要求糾正回應書回應裡任何不妥善之處 7 天內，糾正該等不妥善之處。

6.5 如果答辯人在沒有充份理由的情況下，在仲裁通知書送達後 14 天內未能向庭外判官提交回應書，仲裁員有權按照已收到的文件去處理案件，並在不進行聆訊的情況下作出裁決(除非仲裁員認為有需要進行聆訊)。

第 7 條 — 反申索的回應書

7.1 除非仲裁員另有指明或當時人各方同意，否則申索人須在回應書送達後 7 天內，把反申索回應書、陳述書，連同有別於仲裁通知書及回應書所提供而又擬用作佐證的文件的副本送交答辯人。向庭外判官送交反申索回應書時，須備足夠副本，以使仲裁員和庭外判官都各有一份。

7.2 反申索回應書須列明以下事項：

(a) 任何就回應書的反申索而作出的回應；
(b) 支持該反申索回應書的事實陳述；
(c) 爭論點；
(d) 支持該反申索回應書的法律論點；及
(e) 申索人將用作佐證，亦與爭論點及仲裁結果有關的文件的副本。

7.3 如果申索人在沒有充份理由的情況下，在反申索回應書送達後 7 天內未能

向庭外判官提交反申索回應書，仲裁員有權按照已收到的文件去處理有關反申索，並在不進行聆訊的情況下就有關反申索作出裁決(除非仲裁員認為有需要進行聆訊)。

第 8 條 — 要求提交文件和資料

8.1 各方當事人都可要求對方提交文件和其他資料。除非庭外判官另有指明，否則所有提交文件和資料的要求，必須在回應書送達之日起計 7 天內，送達另一方當事人及庭外判官。

8.2 仲裁員可以在進行初步審查時考慮，要求提交文件和資料。

第 9 條 — 初步審查

9.1 除非仲裁員另有指明或各方當事人同意，否則仲裁員必須在回應書送達之日起計 14 天內或反申索的回應書送達之日起計 7 天內或作出提交文件和資料的要求之日起計 7 天內（視乎案件而定），進行初步審查，要求各方當事人向仲裁員及另一方當事人提交仲裁員認為會幫助他作出案件的額外文件和資料。除非仲裁員認為有需要進行初步審查會議，否則初步審查將不會以會議形式進行。仲裁員有權決定在初步審查會議（如有）以書面、錄音及／或錄像進行記錄。

9.2 除非仲裁員另有指明或各方當事人同意，否則各方當事人必須在收到初步審查的要求之日起計 14 天內，向另一方當事人提供初步審查要求的資料的陳述及文件的副本。同時，有關當事人亦須備足夠副本，以使仲裁員和庭外判官都各有一份。除非仲裁員另有命令，否則各方當事人在初步審查的提交文件和資料的要求後，不得提文任何其他文件或資料。

第 10 條 — 聆訊

10.1 除非仲裁員另有指明，否則仲裁員須在進行初步審查之日起計 1 個月內訂定聆訊日期。

10.2 即使任何一方當事人未能或拒絕遵守本規則或仲裁員的書面命令或書面指示，仲裁員仍可進行仲裁。此權力對單方之聆訊仍然有效。

10.3 如果按本規則而收到通知後，其中一方當事人在沒有充份理由的情況下未能按本規則(包括仲裁員的命令)作出陳述或出席聆訊，仲裁員有權按照已收到的文件去處理案件，並在不進行聆訊的情況下作出裁決。

10.4 當事人的陳詞（如有）必須最少在聆訊的 7 日前送交另一方當事人。同時，有關當事人亦須備足夠副本，以使仲裁員和庭外判官都各有一份。

10.5 除非仲裁員另有指明，否則當事人必須親身出席聆訊。如收到當事人的申請，仲裁員有絕對酌情權決定聆訊是否只以視像、電話、互聯網上或文件的方式進行。

10.6 除非仲裁員另有指明，否則聆訊將於聆訊之日的上午 10 時至下午 1 時及下午 2 時至下午 5 時期間進行。

10.7 仲裁員有權就聆訊進行書面、錄音及／或錄像的記錄。

10.8 除非仲裁員另有指明，否則聆訊次序如下：

(a) 申索人作出陳詞 (不多於 1 個小時)；
(b) 答辯人作出陳詞 (不多於 1 個小時)；
(c) 仲裁員向當事人作出查問 (不多於 3 個小時)。仲裁員可行使完全酌情權，決定向各方查究所需的時間。
(d) 答辯人作出答覆 (不多於 30 分鐘)；
(e) 申索人作出答覆 (不多於 30 分鐘)。

第 11 條 — 委任仲裁員

11.1 申索人及答辯人可協議從仲裁員名單中委任一名仲裁員。如當事人未能就委任仲裁員有所協議，庭外判官將有完全酌情權去委任一名仲裁員，並向申索人及答辯人發書面通知確認有關的委任。

11.2 庭外判官發出書面確認後，仲裁員的委任便即時生效。

第 12 條 — 仲裁員須披露的事宜

12.1 根據本規則委任的仲裁員， 執行仲裁職務時必須秉持持平及獨立的原則。

12.2 庭外判官在委任仲裁員之前，會把爭議性質及當事人的身分通知準仲裁員。每名準仲裁員都必須盡合理的努力， 以了解是否有任何情況可能妨礙他在仲裁程序中作出客觀公正的決定，如有發現， 就必須向庭外判官披露。有關情況包括：

12.3 仲裁結果涉及任何直接或間接的財政或個人利益；

12.4 準仲裁員與任何一方當事人或他所知悉可能在仲裁程序中提交證人供詞及/ 或專家供詞的人之間， 現時或過往在財政、業務、專業、親屬、社交或其他方面的關係或情況，相當可能會令他難以公正持平地進行仲裁，或有合理可能造成看來不公正或存有偏見的情況；或

12.5 該等關係或情況涉及準仲裁員的家屬或他現時的僱主、合伙人或在業務

上有聯繫的人。

12.6 規則第 12.2 條訂明，仲裁員有責任披露可能妨礙他作出客觀公平的決定的利益、關係或情況。這項披露責任是須持續履行的責任，仲裁員一旦接受委任進行仲裁程序， 則不論在有關程序的任何階段，如因有關程序而產生、記起或得知任何該等利益、關係或情況， 都必須予以披露。

12.7 準仲裁員及／或仲裁員根據規則第 12.2 及 12.3 條向庭外判官披露的資料，庭外判官會通知當事人，除非準仲裁員拒絕接受委任，或仲裁員在知悉有任何利益、關係或情況可能妨礙他在仲裁程序中作出客觀公平的決定後，即自願退出仲裁程序，又或庭外判官把仲裁員撤換，則作別論。

12.8 在不違反規則第 12.2 及 12.3 條規定的情況下，仲裁員須以書面確認， 就他獲委任為合資格爭議的仲裁員一事上， 並沒有任何利益衝突。

第 13 條 — 庭外判官對仲裁員的質疑及撤換

13.1 仲裁員如有利益衝突或存有偏見，庭外判官可應當事人的要求或主動撤換仲裁員。

13.2 如對仲裁員有質疑，不論是聲稱仲裁員存有偏見、難以公正持平或其他原因，都必須以書面向庭外判官陳述有關質疑的具體事實及情況，給予庭外判官判斷。

13.3 要令質疑被接納，質疑仲裁員的一方，必須在收到確認被質疑的仲裁員的通知後 7 日內，或在其獲悉或理應獲悉引起質疑的情況後 7 日內，向庭外判官提交質疑通知。

13.4 庭外判官有絕對酌情權去決定質疑通知的接納性，並在同一時間考慮質疑的可取之處。如根據當事人提出要求時所知的資料，可合理地推斷仲裁員存有偏見，難以公正持平，或其因仲裁結果可獲直接或間接的利益，庭外判官會應當事人的要求，撤換仲裁員。有關利益衝突或存有偏見的情況必須具體明確及可合理地驗證，而非牽強附會或純屬臆測。

13.5 庭外判官在主動撤換仲裁員之前，須先以書面通知當事人。

第 14 條 — 仲裁的進行

14.1 以第 18.1 條為限，一方當事人向仲裁員提供任何檔和資訊時，應同時提供給其他各方和庭外判官。

14.2 經與當事人商議，仲裁員可指定一名秘書或助理仲裁員。秘書或助理仲裁員應始終保持公正及獨立于當事人，並應在獲指定前披露任何可能導

致對其公正性和獨立性產生合理懷疑的情況。在被指定後及整個仲裁過程中，秘書或助理仲裁員應立即向當事人披露這類情況，除非其已告知當事人。

14.3 仲裁員和當事人應為所須為，以確保仲裁公平而有效率。

14.4 對於本規則未明確規定的事項，庭外判官、仲裁員及當事人應按本規則的精神行事。

14.5 仲裁員應盡合理努力確保裁決有效。

14.6 不論情況如何，仲裁員都必須確保對各方當事人一視同仁，給予各方當事人公平機會陳述理據、提出理由和提供證據。

14.7 仲裁員或庭外判官可在仲裁開始後任何時間，要求當事人提供代理人的授權證明。

14.8 除非各方當事人及庭外判官另行同意，各方當事人不得委派法律代表代替其在仲裁中行事。

第 15 條 — 仲裁地

15.1 當事人可約定仲裁地。若未約定，則為香港，除非仲裁員參酌案件情況認定另一地為仲裁地更為合適 。

第 16 條 — 仲裁員解釋本規則的權限

16.1 在仲裁進行中，仲裁員有權解釋和決定本規則所有條文的適用範圍。仲裁員所作的解釋為最終解釋，並對當事人具有約束力。

第 17 條 — 仲裁程序

17.1 仲裁員就爭議進行仲裁和作出裁決時，須以當事人所提交的文件及所提供的證據為依據。仲裁員有權限制各方提交的文件及所提供的證據，亦會決定有關的文件及證據是否與爭論點及仲裁結果有關。仲裁員有權拒絕任何與與爭論點及仲裁結果無關的文件及證據。

17.2 各方當事人須各自為支持己方的申索或回應或反申索(如有)的事實承擔舉證責任。

17.3 仲裁員應決定證據能否接受、是否相關、是否重要及其證明力，包括決定是否適用嚴格的證據規則。

17.4 在仲裁過程中，仲裁員可隨時允許或要求當事人提交仲裁員認為與仲裁相關並對仲裁結果有重要影響的文件或其他證據。仲裁員有權接受或拒絕接受任何文件或其他證據。

17.5 經與當事人商議，仲裁員可以指定一名或數名專家。仲裁員有絕對酌情權要求各方當事人負責仲裁員指名的專家的費用。仲裁員可私下會見其指定的專家。專家應就仲裁員所需決定的特定問題，向仲裁員作出書面報告。當事各方當事人應向專家提供其所要求的任何相關資料，或提供其所要求的任何相關文件、物品或房地產供其檢驗。

17.6 如認為案件需要，仲裁員可命令為聆訊中的口頭陳述提供翻譯和製作聆訊記錄。

17.7 除各方當事人及庭外判官另有同意外，聆訊不公開進行。

17.8 仲裁員可行使完全酌情權，要求任何一方當事人在聆訊中提交更多資料、書面陳述或文件。

17.9 在不損害上述規定的情況下，仲裁員擁有以下權力及／或權限，可在仲裁中：

(a) 作出任何濟助或補救；

(b) 進行仲裁員認為必要或適當的審查；

(c) 命令當事人提供任何財產或物件，以供仲裁員在當事人面前檢查；

(d) 命令任何一方當事人，向仲裁員及另一方當事人提交及提供由他管有、保管或擁有的任何文件或任何種類的文件，以供檢查；除非有關當事人令庭外判官信納：

- 提供資料會違反法院命令；或
- 提供資料會違反對第三方的保密責任， 而即使他盡其合理的努力，也無法取得第三方同意，准予披露所需資料；或
- 提供資料會妨礙警方、監管機構或執法機關正在進行的調查，而即使他盡其合理的努力， 也無法取得同意， 准予披露所需資料；或
- 資料不存在或不再存在，或並非由他合理管有或控制；或
- 資料與爭議無關。

儘管以上所述，本規則內任何條文均不妨礙任何一方當事人享有“不自我指控權”或“法律專業保密權”的權利；

(e) 接納並考慮任何仲裁員認為相關的書面或口頭證據，而無須受證據法規則限制；及／或

(f) 即使任何一方當事人未能或拒絕遵守本規則或仲裁員的書面命令或書面命示，又或未能或拒絕行使陳述理據的權利，仲裁員仍可進行仲裁並作出裁決。

17.10 在仲裁程序的任何階段，如仲裁員察覺並認為把有關合資格爭議的事項交由法院處理更為適當，仲裁員便可終止有關仲裁，並向申索人建議應採取的步驟。

17.11 在得到庭外判官之同意後，仲裁員有權力去延長本規模所定立的期限。

第 18 條 — 當事人與仲裁員之間的通訊

18.1 當事人不得直接與仲裁員通訊。任何一方當事人與仲裁員之間的所有通訊，都必須以仲裁中採用的語言，並以書面方式經由庭外判官進行。任何當事人之間及一方當事人與仲裁員之間的所有通訊的副本， 都必須經由庭外判官向另一方當事人提供該等副本。任何按程序規定向申索人或答辯人發出的書面通訊，均須以申索人或答辯人所表明屬意的方式發出。如沒有指明，則可以傳真發送(須以傳真確認書為證明)，或藉郵遞或速遞服務送交(須預付郵費和認收)，或以電子方式經互聯網傳送(須提供傳送記錄)。

第 19 條 — 裁決

19.1 除非仲裁員獲得庭外判官或當事人同意，仲裁員須在收到最後一份文件或當事人親身出席聆訊日期起計(兩者以日期較後者為準)1 個月內作出裁決。

19.2 除非各方當事人另行同意，否則裁決應以書面形式作出，並對當事人和通過當事人或借當事人名義提出請求者為最終決定及具有約束力。只要可以有效放棄，當事人和如此請求者應視為放棄就裁決的執行和履行要求任何救濟或提出任何異議的權利。

19.3 當事人承諾不遲延地履行仲裁員作出的任何裁決或命令。

19.4 裁決應簡明地說明其所依據的理由，除非各方當事人約定無須說明理由。

19.5 裁決應由仲裁員簽署。裁決應載明作出裁決的日期和依本規則第 15 條而確定的仲裁地。裁決應視為在仲裁地作出。

19.6 任何因仲裁員未能於裁決簽署之爭議將不會阻礙裁決的有效性或可執行性。

19.7 任何因未能符合本規定的時間限制而引起的爭議將不會阻礙裁決的有效

性或可執行性。

19.8 裁決不會因未能按照本規則的規定行事而失去有效性或可執行性。仲裁員可在獲得庭外判官或當事人的要求後 7 日內糾正任何違行為。

19.9 除裁決被留置的情況外，仲裁員應將由仲裁員簽署並加蓋庭外判官印章的裁決正本送交當事人和庭外判官。庭外判官需要取得一份裁決的正本。

第 20 條 — 因和解或其他原因終止仲裁

20.1 若當事人在裁決作出前和解了結爭議，仲裁員應發出終止仲裁的命令；或者，經各方當事人申請和仲裁員認可，根據和解內容作出和解裁決。在這類裁決中，仲裁員無須說明理由。

20.2 若在裁決作出前，因第 20.1 款以外的任何原因，不再需要或不再可能繼續仲裁，仲裁員應發出終止仲裁的命令。當事人應有合理的機會就建議的步驟發表意見。除非當事人提出合理的反對意見，仲裁員應發出此項命令。

20.3 仲裁員應將由仲裁員簽署的終止仲裁的命令或和解裁決的複本送交當事人和庭外判官。若作出的是和解裁決，本規則第 19.2、19.3、19.5、19.6、19.7、19.8 和 19.9 款則適用。

第 21 條 — 更正裁決

21.1 在接獲裁決後 7 天內，任何一方當事人都可向庭外判官及另一方當事人發出書面通知，要求仲裁員更正裁決內任何文書上或排印上的錯誤，或任何類似性質的錯誤。就此作出的更正須以書面通知當事人，並須於收到當事人發出的書面通知 7 天內，將有關更正納入裁決內。

21.2 仲裁員可在接獲更正要求後 1 個月內作出更正，作出其認為適當的更正。但如有需要，仲裁員可延長此期限。

21.3 仲裁員可在裁決作出後 30 日內主動更正裁決。

21.4 若因(a)依第 22 條作出了對裁決任何一點或一部分的解釋；或(b)依第 23 條作出了補充裁決，而有必要更正裁決，仲裁員有權進一步更正裁決。

21.5 更正裁決應用書面形式，適用第 19.2、19.3、19.5、19.6、19.7、19.8 和 19.9 條的規定。

第 22 條 — 裁決的解釋

22.1 在接獲裁決後 7 天內，任何一方當事人都可向庭外判官及另一方當事人發出書面通知，要求仲裁員對裁決作出解釋。另一方當事人可在 7 日內就此要求提出意見。

22.2 仲裁員應在收到解釋裁決的要求後 1 個月內，以書面形式作出其認為適當的解釋。如有需要，仲裁員可延長此期限。

22.3 若因(a)依第 21 條更正了裁決中的錯誤，或(b)依第 23 條作出了補充裁決，而有必要解釋裁決，仲裁員有權進一步解釋裁決。

22.4 依第 22 條作出的解釋構成裁決的一部分，適用第 19.2、19.3、19.5、19.6、19.7、19.8 和 19.9 條的規定。

第 23 條 — 補充裁決

23.1 在收到裁決後 7 日內，經通知另一方及庭外判官，任何一方當事人均可要求仲裁員補充裁決在仲裁程式中已提出而裁決中遺漏的請求。另一方當事人可在 7 日內就此要求提出意見。

23.2 若仲裁員認為補充裁決的要求合理，則應在收到要求後 1 個月內作出補充裁決。如需要，仲裁員可延長此期限。

23.3 若因(a)依第 21 條更正了裁決中的錯誤，或(b) 依第 22 條作出了對裁決任何一點或一部分的解釋，而有必要補充裁決，仲裁員有權進一步補充裁決。

23.4 補充裁決適用第 19.2、19.3、19.5、19.6、19.7、19.8 和 19.9 條的規定。

第 24 條 — 保密

24.1 除非另得各方當事人、仲裁員及庭外判官書面同意或司法程序所合法規定強制公開，否則當事人及仲裁員(不論在司法程序上或各方當事人的正常業務上)不得向各方當事人及其代表、仲裁員、庭外判官及進行仲裁程序所必須的任何人士以外之人士，披露、轉交、交出或以其他方式使用當事人或仲裁員在仲裁過程中取得或披露的任何狀書、陳詞、文件、通訊、意見、提議、建議、要約、承認的事情或其他資料。曾經進行、繼續進行或已結束仲裁一事，則無須視為機密。

24.2 仲裁員的合議應保密。

24.3 除非另得當事人、仲裁員及庭外判官書面同意或法律強制公開，任何人都不得將裁決、決定或判決公開或使其被公開，不論當事人名稱或可辨認的細節全被隱去與否。

第 25 條 —免除法律責任

25.1 庭外判官、其他組織或個人、仲裁員及仲裁員的秘書及助理仲裁員，均不就依本規則進行的仲裁中的任何作為或不作為承擔任何責任， 除非是不誠實的作為或不作為。

25.2 如因根據本規則進行仲裁而招致任何法律責任，而該等責任涉及與此有關連或因此而引起或在任何方面與此有關的作為或不作為，則不論是否涉及疏忽，各方當事人均須共同及個別地免卻和解除庭外判官、其人員和代表及仲裁員及仲裁員的秘書及助理仲裁員該等責任，並對他們作出彌償。不過，如該等責任是因欺詐或不誠實行為而招致者，則作別論。

25.3 裁決一旦作出，且依第 21 至 23 條更正、解釋或補充裁決的期限已過或者已全部完成，庭外判官、仲裁員、仲裁員的秘書或助理仲裁員，均無義務向任何人，就仲裁的任何事項，作任何說明。當事人也不得要求任何上述人士在因仲裁引起的任何法律或其他程式中作證人。

第 26 條 — 上訴

26.1 《仲裁條例》(第 609 章)附表 2 第 2、3、4 、5 、6 及 7 將不適用。

26.2 在不違反規則第 26.1 條規定的情況下，就仲裁作出的裁決，提出上訴、提出將裁決作廢、對裁決提出異議或反對執行裁決，上訴一方同意追討因上訴而招致、引起及／或導致的訟費，金額以港幣 25,000 元為上限。

第 27 條 — 審理終結

27.1 若仲裁員確信當事人已有合理機會陳述其案，仲裁員應宣佈審理終結。此後，不得再提出任何陳述、論證或證據，除非仲裁員依規則第 27.2 條重新開始審理。

27.2 若認為因特殊情況而有必要，仲裁員可在作出裁決前的任何時候，主動或依一方當事人申請，重新開始審理。

第 28 條 — 仲裁費

28.1 除非庭外判官另有同意，否則各方當事人須就仲裁向庭外判官繳交附表所載的仲裁費。

28.2 以第 28.11 條為限，所有仲裁費項為港幣。所有仲裁費用一經繳付將不被退還。

28.3 除非庭外判官另有同意，否則申索人必須在遞交申索書的同時預先支付申索人需分攤的仲裁費以及同等金額的按金。

28.4 答辯人必須在遞交申索書的同時預先支付答辯人要分攤的仲裁費以及同等金額的按金。

28.5 仲裁員作出裁決時有絕對酌情權決定哪一方當事人須支附仲裁費。無須支付仲裁費的另一方當事人將在裁決作出後 14 日內收到各方當事人的按金退款。

28.6 庭外判官可提供場地進行仲裁。如庭外判官可提供的房間已被全數佔用或因其他原因而不能提供，則當事人有可能須承擔進行仲裁所需場地的開支。

28.7 申索及反申索的金額將被合計去計算爭議金額。

28.8 利息索償不被計算在爭議金額內。但若果利息索償的金額多於原本索償金額，利息索償將單獨地被計算為爭議金額。

28.9 若爭議金額不能確定，庭外判官將因應情況決定仲裁費。

28.10 若爭議的當事人多過兩方，庭外判官將因應情況決定仲裁費。

28.11 港幣以外的其他幣種所表示的金額，應按仲裁通知書提交之日或任何新的申索或反申索提交時，以香港上海滙豐銀行公佈的匯率折算成港幣。

28.12 庭外判官將定期檢討及修改其收費結構。

第 29 條 — 本規則涵蓋範圍以外的事宜

29.1 有關本規則涵蓋範圍以外的事宜，仲裁員可採取他認為適當的措施，按須迅速及快捷地解決合的原則處理。

第 30 條 — 棄權

30.1 當事人知道或理應知道未按本規則（包括一個或多個仲裁協議）的規定或其引發的要求行事，但仍繼續仲裁而未立即提出異議的，應視為已放棄提出異議的權利。

本規則用英文擬就。其他語種文本如與英文本不符或不一致，以英文本為准。

附表

1. 爭議金額為港幣$500,000 以下，庭外判官收費(包括庭外判官之行政費及仲裁員之費用)為港幣$50,000(由爭議雙方平均承擔)。

2. 爭議金額相等於或介乎港幣$500,000 及港幣$1,000,000 之間，庭外判官收費(包括庭外判官之行政費及仲裁員之費用)為港幣$80,000(由爭議雙方平均承擔)。

3. 爭議金額超過港幣$1,000,000，庭外判官收費(包括庭外判官之行政費及仲裁員之費用)為港幣$120,000(由爭議雙方平均承擔)。

Introduction

These Rules have been adopted by the Tribunal of Penta Arbitration for use by Parties who seek the formality and convenience of an administered arbitration.

Application

These Rules apply to any dispute between a Claimant and a Respondent that is submitted to Arbitration under these Rules. Upon submission of the Notice of Arbitration, these Rules are incorporated by reference into the Parties' arbitration agreement.

These Rules may be adopted in an arbitration agreement or by an agreement in writing at any time before or after a dispute has arisen. Provisions regarding the scope of application of these Rules are set out in Article 1.

Effectiveness

These Rules have been adopted to take effect from 13th August 2014, in accordance with the provisions of Article 1 of the Rules.

Suggested Clauses

1. The following model clause may be adopted by the Parties to a contract who wish to have any future disputes referred to arbitration in accordance with these Rules:

   "Any dispute or difference arising out of or in connection with this contract shall be referred to and determined by arbitration at the Tribunal of Penta Arbitration and in accordance with the Penta Arbitration Rules. The law of this arbitration clause shall be the laws of Hong Kong. The seat of arbitration should be Hong Kong. The arbitration shall be international and the subject-matter of the arbitration agreement relates to more than one country. The number of arbitrators shall be one. The arbitration proceedings shall be conducted in Chinese and the Award shall be written in English."

2. Parties to an existing dispute in which neither an arbitration clause nor a previous agreement with respect to arbitration exists, who wish to refer such

dispute to arbitration under the Rules, may agree to do so in the following terms:

"We, the undersigned, agree to refer to arbitration administered by the Tribunal of Penta Arbitration under the Penta Arbitration Rules any dispute, controversy, difference or claim (including any dispute regarding non-contractual obligations) arising out of or relating to:

(Brief description of contract under which disputes, controversies, differences or claims have arisen or may arise.)

The law of this arbitration clause shall be the laws of Hong Kong. The seat of arbitration shall be Hong Kong. The number of arbitrators shall be one. The arbitration shall be international and the subject-matter of the arbitration agreement relates to more than one country. The arbitration proceedings shall be conducted in Chinese and the Award shall be written in English."

Signed: _____ (Claimant)

Signed: _____ (Respondent)

Date: _____"

Article 1 – Scope of Application

1.1 These Rules shall govern arbitrations where an arbitration agreement (whether entered into before or after a dispute has arisen) either: (a) provides for these Rules to apply; or (b) subject to Articles 1.2 and 1.3 below, provides for arbitration "administered by the Tribunal of Penta Arbitration" or words to similar effect.

1.2 Nothing in these Rules shall prevent the Parties to a dispute or arbitration agreement from naming the Tribunal of Penta Arbitration as the appointing authority, or from requesting certain administrative services from the Tribunal of Penta Arbitration, without subjecting the arbitration to the provisions contained in these Rules. For the avoidance of doubt, these Rules shall not govern arbitrations where an arbitration agreement provides for arbitration under other rules, including other rules adopted by the Tribunal of Penta Arbitration from time to time.

1.3 These Rules shall come into force on 13th August 2014 and, unless the Parties have agreed otherwise, shall apply to all arbitrations falling within Article 1.1 in relation to which the Notice of Arbitration is submitted on or after that date.

Article 2 – Notices and Calculation of Periods of Time

2.1 Any notice or other written communication pursuant to these Rules shall be deemed to be received by a party or arbitrator or by the Tribunal of Penta Arbitration if: (a) delivered by hand, registered post or courier service to (i) the address of the addressee or its representative as notified in writing in the arbitration; or (ii) in the absence of (i), to the address specified in any applicable agreement between the relevant Parties; or (iii) in the absence of (i) or (ii), to any address which the addressee holds out to the world at the time of such delivery; or (iv) in the absence of (i), (ii) or (iii), to any last known address of the addressee; or (b) transmitted by facsimile, e-mail or any other means of telecommunication that provides a record of its transmission, including the time and date, to: (i) the facsimile number or email address (or equivalent) of that person or its representative as notified in the arbitration; or (ii) in the absence of (i), to the facsimile number or email address (or equivalent) specified in any applicable agreement between the relevant Parties;

or (iii) in the absence of (i) and (ii), to any facsimile number or email address (or equivalent) which the addressee holds out to the world at the time of such transmission.

2.2 Any such notice or written communication shall be deemed to be received on the earliest day when it is delivered pursuant to paragraph (a) above or transmitted pursuant to paragraph (b) above. For this purpose, the date shall be determined according to the local time at the place of receipt. Where such notice or written communication is being delivered or transmitted to more than one party, or more than one arbitrator, such notice or written communication shall be deemed to be received when it is delivered or transmitted pursuant to paragraph (a) or (b) above to the last intended recipient.

2.3 For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received or deemed to be received. If the last day of such period is an official holiday or a non-business day at the place of receipt, the period shall be extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time shall be included in calculating the period.

Article 3 – Interpretation of Rules

3.1 The Tribunal of Penta Arbitration shall have the power to interpret all provisions of these Rules. The Arbitrator shall interpret the Rules insofar as they relate to its powers and duties hereunder. In the event of any inconsistency between such interpretation and any interpretation by the Tribunal of Penta Arbitration, the Tribunal of Penta Arbitration's interpretation shall prevail.

3.2 The Tribunal of Penta Arbitration has no obligation to give reasons for any decision it makes in respect of any arbitration commenced under these Rules. All decisions made by the Tribunal of Penta Arbitration under these Rules are final and, to the extent permitted by any applicable law, not subject to appeal.

3.3 These Rules include all Schedules attached thereto as amended from time to time by the Tribunal of Penta Arbitration, in force on the date on which the Notice of Arbitration is submitted.

3.4 The Tribunal of Penta Arbitration may from time to time issue practice notes to supplement, regulate and implement these Rules for the purpose of facilitating the administration of arbitrations. English is the original language of these Rules. In the event of any discrepancy or inconsistency between the English version and a version in any other language, the English version shall prevail.

Article 4– Definitions

4.1 'Arbitration' means the process of arbitration of a dispute under the Tribunal of Penta Arbitration Rules;

4.2 'Arbitrator' means a person who is appointed by the Tribunal of Penta Arbitration to act as an arbitrator;

4.3 'Award' means an arbitral award rendered by the Arbitrator which is final and binding on the Claimant and the Respondent;

4.4 'Claim' means a claim against a Respondent;

4.5 'Claimant' means a person sending or who has sent a Notice of Arbitration to the Tribunal of Penta Arbitration;

4.6 'Court' means to the courts of the Hong Kong Special Administrative Region;

4.7 'Hearing' means a hearing fixed on a date by the Arbitrator in the process of Arbitration;

4.8 'Hong Kong' means the Hong Kong Special Administrative Region;

4.9 'List of Arbitrators' means the Tribunal of Penta Arbitration's list of arbitrators for arbitration;

4.10 'Notice of Arbitration' means a written notice sent by a Claimant to the Tribunal of Penta Arbitration and the Respondent to request the initiation of Arbitration;

4.11 'Response' means a written response to the Notice of Arbitration sent by the Respondent to the Tribunal of Penta Arbitration and the Claimant;

4.12 'Response to Counterclaim' means a written response to the Counterclaim sent by the Claimant to the Tribunal of Penta Arbitration and the Respondent;

4.13 'Parties' mean a Claimant and the relevant Respondent;

4.14 'Rule' means a term and/or condition set out in these Rules;

4.15 References to the male gender include, where the context admits, the female gender and vice versa and references to the singular number include, where the context admits, the plural number and vice versa.

4.16 References in the Rules to the seat of arbitration shall mean the place of arbitration as referred to in Article 20.1 of the UNCITRAL Model Law on International Commercial Arbitration as adopted on 21st June 1985 and as amended on 7th July 2006.

Article 5 – Notice of Arbitration

5.1 The Arbitration may be commenced by the Claimant giving to the Tribunal of Penta Arbitration a Notice of Arbitration in written form together with all written submissions and copies of all the relevant supporting documents. The Notice of Arbitration shall be filed by the Claimant in a number of copies sufficient to provide one copy each for the Arbitrator and for the Tribunal of Penta Arbitration and shall be sent by the Claimant to the Respondent.

5.2 The Notice of Arbitration shall include the following:

(a) a request that the Dispute be referred to Arbitration;
(b) the names, addresses, telephone numbers and email addresses of the Parties;

(c) identification of the arbitration agreement that is invoked (if any);
(d) a statement of the facts supporting the claim;
(e) the points at issue;
(f) the legal arguments supporting the claim;
(g) copies of the documents on which the Claimant will rely which are directly relevant to the points at issue and the outcome of the Arbitration;
(h) the relief or remedy sought; and
(i) a proposal on the appointment of Arbitrator and the language of Arbitration (as the case may be).

5.3 The appointment of the Arbitrator shall not be hindered by any controversy with respect to the sufficiency of the Notice of Arbitration, which shall be finally resolved by the Arbitrator. The Claimant shall rectify any non-compliance in the Notice of Arbitration upon a request by the Tribunal of Penta Arbitration within 7 days of the receipt of such request.

5.4 The Arbitration shall be deemed to commence on the date on which the Notice of Arbitration is received by the Tribunal of Penta Arbitration.

Article 6 - Response

6.1 Unless otherwise indicated by the Tribunal of Penta Arbitration, the Respondent shall, within 14 days of the service of the Notice of Arbitration, send to the Claimant the Response, their written submissions together with copies of the documents relied on in addition to those already provided by the Claimant. The Response shall be filed with the Tribunal of Penta Arbitration in a number of copies sufficient to provide one copy each for the Arbitrator and the Tribunal of Penta Arbitration.

6.2 The Response shall include:

(a) the names, addresses, telephone numbers and email addresses of the Respondent;
(b) any response to the information set forth in the Notice of Arbitration;
(c) a statement of the facts supporting the Response;
(d) the points at issue;

(e) the legal arguments supporting the Response;

(f) any counterclaim, together with a statement of the facts supporting the counterclaim; the points at issue; the legal arguments supporting the counterclaim; and the relief or remedy sought;

(g) copies of the documents on which the Respondent will rely which are directly relevant to the points at issue and the outcome of the Arbitration; and

(h) a proposal on the appointment of Arbitrator and the language of Arbitration (as the case may be).

6.3 Upon receipt of the Notice of Arbitration and the relevant response from the Parties, a single Arbitrator will be appointed pursuant to Article 11 who shall resolve any dispute or controversy, if any, in connection with the language of the Arbitration and/or the sufficiency of the Notice of Arbitration and/or the relevant response.

6.4 The appointment of the Arbitrator shall not be hindered by any controversy with respect to the Respondent's failure to communicate a Response to the Notice of Arbitration, or an incomplete or late response to the Notice of Arbitration which shall be finally resolved by the Arbitrator. The Respondent shall rectify any non-compliance in the Response upon request by the Tribunal of Penta Arbitration within 7 days of the receipt of such request.

6.5 If, within 14 days of the service of the Notice of Arbitration, the Respondent has failed to file the Response to the Tribunal of Penta Arbitration without showing sufficient cause for such failure, the Tribunal of Penta Arbitration may proceed with the arbitration and make an award on the basis of the evidence before it without a hearing unless the Tribunal of the Penta Arbitration is of the opinion that a hearing is necessary.

Article 7 – Response to Counterclaim

7.1 Unless the Arbitrator decides otherwise or it is agreed by the Parties, the Claimant shall, within 7 days of the service of the Response, send to the Respondent a Response to counterclaim (if any), their written submissions together with copies of the documents relied on in addition to those already provided in the Notice of Arbitration and the Response. The Response to

counterclaim shall be filed with the Tribunal of Penta Arbitration in a number of copies sufficient to provide one copy each for the Arbitrator and the Tribunal of Penta Arbitration.

7.2 The Response to Counterclaim shall include:

(a) any response to the information set forth in the counterclaim of the Response;
(b) a statement of the facts supporting the Response to Counterclaim;
(c) the points at issue;
(d) the legal arguments supporting the Response to Counterclaim;
(e) copies of the documents on which the Claimant will rely which are directly relevant to the points at issue and the outcome of the Arbitration.

7.3 If, within 7 days of the service of the Response, the Claimant has failed to file the Response to Counterclaim to the Tribunal of Penta Arbitration without showing sufficient cause for such failure, the Tribunal of Penta Arbitration may proceed with the arbitration in respect of the counterclaim and make an award in respect of the counterclaim on the basis of the evidence before it without a hearing unless the Tribunal of the Penta Arbitration is of the opinion that a hearing is necessary.

Article 8 – Request for Production of Documents and Information

8.1 The Parties may request documents and other information from each other. Unless otherwise specified by the Tribunal of Penta Arbitration, all requests for the production of documents and other information must be served on the other Party and the Tribunal of Penta Arbitration within 7 days after the service of Response.

8.2 The Arbitrator may consider requesting the documents and other information at the time of making the Preliminary Enquiry.

Article 9 – Preliminary Enquiry

9.1 The Arbitrator shall, unless the Arbitrator decides otherwise or it is agreed by the Parties, within 14 days of the service of the Response or 7 days of the service of the Response to counterclaim or 7 days of the request of the production of documents and information (as the case may be), make a preliminary enquiry to require the Parties to submit to him and to each other such further documents or information as he considers to be necessary for him to make his decision. Unless the Arbitrator is of the opinion that a preliminary meeting is necessary, the preliminary enquiry shall be conducted without a meeting. The Arbitrator shall be entitled to make a written, audio and/or video record of the preliminary meeting (if any).

9.2 The Parties shall, unless the Arbitrator decides otherwise or it is agreed by the Parties, within 14 days of the request under the Preliminary Enquiry, send to the other party a statement of the information together with copies of the documents in the request under the preliminary enquiry. It shall be filed with the Tribunal of Penta Arbitration in a number of copies sufficient to provide one copy each for the Arbitrator and the Tribunal of Penta Arbitration. The Parties shall not produce any additional document after the submission of further documents or information under the Preliminary Enquiry unless the Arbitrator decides otherwise.

Article 10 – Hearing

10.1 The Arbitrator shall, unless the Arbitrator decides otherwise, fix a date for the Hearing within one month after the making of the preliminary enquiry.

10.2 The Arbitrator shall be entitled to proceed with the arbitration notwithstanding the failure or refusal of any party to comply with these Rules or with the Arbitrator's written orders or written directions. Such power shall extend to the Arbitrator to proceed ex-parte.

10.3 If one of the Parties, duly notified under these Rules, fails to present its case or attend the Hearing in accordance with these Rules including as directed by the Arbitrator, without showing sufficient cause for such failure, the Arbitrator may proceed with the arbitration and make an award on the basis of the evidence before it.

10.4 The Parties' submissions (if any) shall be provided to the other Party at least 7 days before the hearing. The submissions shall be filed in a number of copies sufficient to provide one copy each for the Arbitrator and for the Tribunal of Penta Arbitration.

10.5 Unless the Arbitrator decides otherwise, the Hearing shall be conducted in person. The Arbitrator have the sole discretion to decide the Hearing to be conducted by video link, by telephone, online or documents only upon the request of the Party.

10.6 Unless the Arbitrator decides otherwise, the Hearing shall be conducted on the date of the Hearing from 10am to 1pm and from 2pm to 5pm.

10.7 The Arbitrator shall be entitled to make a written, audio and/or video record of the Hearing.

10.8 Unless the Arbitrator decides otherwise, the sequence of the Hearing will be as follows:

(a) The Claimant will make his submission for not more than one hour;
(b) The Respondent will make his submission for not more than one hour thereafter;
(c) The Arbitrator will make enquiries with the Parties for not more than three hours thereafter. The Arbitrator can at his sole discretion set the time for making enquiries with each Party.
(d) The Respondent will make his reply for not more than thirty minutes thereafter;
(e) The Claimant will make his reply for not more than thirty minutes thereafter.

Article 11 – Appointment of Arbitrator

11.1 The Claimant and the Respondent may agree on the appointment of the Arbitrator from the List of Arbitrators. If the Parties fail to agree on the appointment of the Arbitrator, the Tribunal of Penta Arbitration shall have the sole discretion to appoint the Arbitrator and shall confirm in writing to the Parties the appointment of the Arbitrator.

11.2 The appointment of the Arbitrator takes effect upon confirmation in writing by the Tribunal of Penta Arbitration.

Article 12 – Disclosures Required of Arbitrators

12.1 The Arbitrator appointed under these Rules shall be and remain at all times impartial and independent in relation to exercising his duties in the Arbitration.

12.2 Before appointing an Arbitrator, the Tribunal of Penta Arbitration will notify the potential Arbitrator(s) of the nature of the Dispute and the identities of the Parties. Each potential Arbitrator must make a reasonable effort to learn of, and must disclose to the Tribunal of Penta Arbitration, any circumstances which might preclude the potential Arbitrator from rendering an objective and impartial determination in the proceedings, such as:

(a) Any direct or indirect financial or personal interest in the outcome of the Arbitration;
(b) Any existing or past financial, business, professional, family, social, or other relationships or circumstances with any Party, or anyone who the potential Arbitrator is told may be providing a witness statement and/or an expert statement in the Arbitration, that are likely to affect impartiality or might reasonably create the appearance of partiality or bias; or
(c) Any such relationship or circumstances involving members of the potential Arbitrator's family or the potential Arbitrator's current employers, partners, or business associates.

12.3 The obligation under Article 12.2 to disclose interests, relationships, or circumstances that might preclude a potential Arbitrator from rendering an objective and impartial determination is a continuing duty that requires an Arbitrator who accepts appointment to arbitration proceedings to disclose, at any stage of the proceeding, any such interests, relationships, or circumstances that arise, or are recalled or discovered.

12.4 The Tribunal of Penta Arbitration will inform the Parties of any information disclosed to the Tribunal of Penta Arbitration under Articles 12.2 and 12.3 by

the potential Arbitrator and/or the Arbitrator unless the potential Arbitrator declines appointment or voluntarily withdraws from the Arbitration as soon as the Arbitrator learns of any interest, relationship or circumstance that might preclude the Arbitrator from rendering an objective and impartial determination in the proceedings, or the Tribunal of Penta Arbitration removes the Arbitrator.

12.5 Subject to Articles 12.2 and 12.3, the Arbitrator shall confirm in writing that there is no conflict of interest in relation to his appointment as the Arbitrator to the Dispute.

Article 13 – Challenge and Removal of Arbitrator by the Tribunal of Penta Arbitration

13.1 The Tribunal of Penta Arbitration may remove an Arbitrator due to the reason of conflict of interest or bias, either upon the request of a Party or on the Tribunal of Penta Arbitration's own initiative.

13.2 Any challenge of an Arbitrator, whether for an alleged lack of impartiality or independence, or otherwise, shall be made by a Party to the Tribunal of Penta Arbitration of a written statement specifying the facts and circumstances on which the challenge is based and shall be decided by Penta Arbitration.

13.3 For a challenge to be admissible, it must be submitted by a Party either within 7 days from receipt by that Party of the confirmation of the Arbitrator, or within 7 days from the date when the Party making the challenge was informed of the facts and circumstances on which the challenge is based if such date is subsequent to the receipt of such notification.

13.4 The Tribunal of Penta Arbitration will, in its sole discretion, decide on the admissibility and, at the same time, if necessary, on the merits of a challenge and grant a Party's request to remove an Arbitrator if it is reasonable to infer, based on information known at the time of the request, that the Arbitrator is biased, lacks impartiality, or has a direct or indirect interest in the outcome of the Arbitration. The interest or bias must be definite and capable of reasonable demonstration, rather than remote or speculative.

13.5 The Tribunal of Penta Arbitration must first notify the Parties in writing before removing an Arbitrator on its own initiative.

Article 14 – Conduct of Arbitration

14.1 Subject to Article 18.1, all documents or information supplied to the Arbitrator by one Party shall at the same time be communicated by that Party to the other Parties and Penta Arbitration.

14.2 The Arbitrator may, after consulting with the Parties, appoint a secretary. The secretary shall remain at all times impartial and independent of the Parties, and shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence prior to his appointment. A secretary, once appointed and throughout the Arbitration, shall disclose without delay any such circumstances to the Parties unless they have already been informed by him of these circumstances.

14.3 The Arbitrator and the Parties shall do everything necessary to ensure the fair and efficient conduct of the Arbitration.

14.4 In all matters not expressly provided for in these Rules, the Tribunal of Penta Arbitration, the Arbitrator and the Parties shall act in accordance with the spirit of these Rules.

14.5 The Arbitrator shall make every reasonable effort to ensure that an Award is valid.

14.6 In all cases, the Arbitrator shall ensure that the Parties are treated impartially and that each Party is given a fair opportunity to present its case, give its reasons and provide evidence.

14.7 At any time after the commencement of the Arbitration, the Arbitrator or the Tribunal of Penta Arbitration may require written proof of the authority of any representative of the Party.

14.8 Unless otherwise agreed by the Parties and the Tribunal of Penta Tribunal, no legal representatives are allowed to act on behalf of either Party in the

Arbitration.

Article 15 Seat of Arbitration

15.1 The Parties may agree on the seat of arbitration. Where there is no agreement as to the seat, the seat of arbitration shall be Hong Kong, unless the Arbitrator determines, having regard to the circumstances of the case, that another seat is more appropriate.

Article 16 – Jurisdiction of the Arbitrator to Interpret these Rules

16.1 In the conduct of Arbitration proceedings, the Arbitrator shall have the authority to interpret and determine the applicability of all provisions under these Rules. Such interpretations are final and binding upon the Parties.

Article 17 – The Arbitration Process

17.1 The Arbitrator shall conduct and decide the Dispute on the basis of the documents submitted and evidence provided. The Arbitrator shall be entitled to limit the documents to be submitted and evidence to be provided by the Parties and shall decide the relevancy of the documents and evidence to the points at issue and the outcome of the Arbitration. The Arbitrator shall entitle to exclude the documents submitted and evidence provided by the Parties which are not relevant to the points at issue and the outcome of the Arbitration.

17.2 Each party shall have the burden of proving the facts relied on to support its claim or response or counterclaim (if any).

17.3 The Arbitrator shall determine the admissibility, relevance, materiality and weight of the evidence, including whether to apply strict rules of evidence.

17.4 At any time during the Arbitration, the Arbitrator may allow or require a Party to produce documents or other evidence that the Arbitrator determines to be relevant to the case and material to its outcome. The Arbitrator shall have the power to admit or exclude any documents or other evidence.

17.5 The Arbitrator, after consulting with the Parties, may appoint one or more experts. The Parties are to be responsible for paying the fees of the Arbitrator-appointed expert in the sole discretion of the Arbitrator. The Arbitrator may meet privately with any Arbitrator-appointed expert. Such expert shall report to the Arbitrator, in writing, on specific issues to be determined by the Arbitrator. The Parties shall give the expert any relevant information or produce for his inspection any relevant documents, goods or properties that he may require of them.

17.6 The Arbitrator may make directions for the translation of oral statements made at a Hearing and for a record of the Hearing if it deems that either is necessary in the circumstances of the case.

17.7 Hearings shall be held in private unless otherwise consented to by the Tribunal of Penta Arbitration and both Parties.

17.8 The Arbitrator may request in his sole discretion, further information, statements or documents from either of the Parties at the Hearing.

17.9 Without prejudice to the above and with regard to the Arbitration, the Arbitrator shall have the power and/or jurisdiction to:

(a) make any relief or remedy;
(b) conduct such enquiries as may appear to the Arbitrator to be necessary or expedient;
(c) order the Parties to make any property or thing available for inspection, in their presence, by the Arbitrator;
(d) order any Party to produce to the Arbitrator, and to the other Parties for inspection, and to supply copies of any documents or classes of documents in their possession, custody or power, except where the Party satisfies the Tribunal of Penta Arbitration that –t

- to provide the information would breach a Court order;
- to provide the information would breach a duty of confidentiality to a third party and, despite all reasonable endeavours, the third party's consent to the disclosure of the information has not been obtained;

- to provide the information would prejudice an ongoing investigation by the police, the regulators or other law enforcement agencies, and, despite all reasonable endeavours, the consent to the disclosure of the information has not been obtained;
- the information does not exist or no longer exists or is not within the Party's reasonable possession or control; or
- the information is irrelevant to the Dispute.

Notwithstanding the aforesaid, nothing in these Rules shall prejudice any Party's right against self-incrimination or legal professional privilege;

(e) receive and take into account such written or oral evidence as he shall determine to be relevant and shall not be bound by the rules of evidence; and/or

(f) proceed with the Arbitration and make an Award notwithstanding the failure or refusal of any of the Parties to comply with these Rules or with the Arbitrator's written orders or written directions, or to exercise its right to present its case.

17.10 At any stage of the Arbitration, where the Arbitrator is aware and considers that it would be more suitable for the subject matter of the Dispute to be dealt with by a court, the Arbitrator may terminate the Arbitration.

17.11 The Arbitrator shall have the power to extend any of the time limits stipulated in these Rules with the consent of the Tribunal of Penta Arbitration.

17.12 The Arbitrator shall have the power to allow an additional party to be joined to the arbitration provided that, prima facie, the additional party is bound by an arbitration agreement under these Rules giving rise to the arbitration. If the Dispute involves more than two Parties, the Tribunal of Penta Arbitration shall have the power to revise these Rules, taking into account the circumstances of the case.

Article 18 – Communication between the Parties and the Arbitrator

18.1 A Party shall not communicate with the Arbitrator directly. All

communications between any of the Parties and the Arbitrator must be in writing via the Tribunal of Penta Arbitration and shall be in the language of the Arbitration. Copies of all communications between the Parties and between a Party and the Arbitrator must be copied to the other Party via the Tribunal of Penta Arbitration. Any written communication to the Claimant or the Respondent provided for under the procedure shall be made by the preferred means stated by the Claimant or the Respondent respectively, or in the absence of such specification, by facsimile transmission, with a confirmation of transmission; or by postal or courier service, postage pre-paid and return receipt requested; or electronically via the Internet, provided a record of its transmission is available.

Article 19 – Award

19.1 The Arbitrator shall, unless otherwise extended by the Arbitrator with the consent of the Tribunal of Penta Arbitration or the Parties, render an Award within one month of the holding of the Hearing or the receipt of the last document whichever is later.

19.2 Unless otherwise agreed by the Parties, an Award shall be made in writing and shall be final and binding on the Parties and any person claiming through or under any of the Parties. The Parties and any such person shall be deemed to have waived their rights to any form of recourse or defence in respect of enforcement and execution of any Award, insofar as such waiver can validly be made.

19.3 The Parties undertake to comply without delay with any Award or order made by the Arbitrator.

19.4 An Award shall state the concise reasons upon which it is based unless the Parties have agreed that no reasons are to be given.

19.5 An Award shall be signed by the Arbitrator. It shall state the date on which it was made and the seat of arbitration as determined under Article 15 and shall be deemed to have been made at the seat of arbitration.

19.6 The validity or enforceability of the Award shall not be hindered by any

controversy with respect to the Arbitrator's failure to sign the Award.

19.7 The validity or enforceability of the Award shall not be hindered by any controversy with respect to the failure to meet any time limits stipulated in these Rules.

19.8 The validity or enforceability of the Award shall not be hindered by non-compliance of these Rules. The Arbitrator may rectify any non-compliance of these Rules upon request by the Tribunal of Penta Arbitration or the Party within 7 days of the receipt of such request.

19.9 Subject to any lien, originals of the Award signed by the Arbitrator and affixed with the seal of the Tribunal of Penta Arbitration shall be communicated to the Parties and the Tribunal of Penta Arbitration by the Arbitrator. The Tribunal of Penta Arbitration shall be supplied with an original copy of the award.

Article 20 – Settlement or Other Grounds for Termination

20.1 If, before the Award is made, the Parties agree on a settlement of the Dispute, the Arbitrator shall either issue an order for the termination of the arbitration or, if requested by both Parties and accepted by the Arbitrator, record the settlement in the form of an Award on the agreed terms. The Arbitrator is not obliged to give reasons for such an Award.

20.2 If, before the Award is made, the continuation of the Arbitration becomes unnecessary or impossible for any reason not mentioned in Article 20.1, the Arbitrator shall issue an order for the termination of the Arbitration. The Arbitrator shall issue such an order unless a Party raises a justifiable objection, having been given a reasonable opportunity to comment upon the proposed course of action.

20.3 Copies of the order for termination of the Arbitration or of the Award on the agreed terms, signed by the Arbitrator, shall be communicated by the Arbitrator to the Parties and .Penta Arbitration Where an Award on the agreed terms is made, the provisions of Articles 19.2, 19.3, 19.5, 19.6, 19.7, 19.8 and 19.9.

Article 21 – Correction of the Award

21.1 Within 7 days after receipt of the Award, either Party, with notice to the other Party and the Tribunal of Penta Arbitration, may request the Arbitrator to correct any errors in computation, any clerical or typographical errors, or any errors of a similar nature. in the Award The other Party may comment on such request within 7 days.

21.2 The Arbitrator shall make any corrections it considers appropriate within one month after receipt of the request but may extend such period of time if necessary.

21.3 The Arbitrator may within one month after the date of the Award make such corrections on its own initiative.

21.4 The Arbitrator has the power to make any further correction to the Award which is necessitated by or consequential on (a) the interpretation of any point or part of the Award under Article 22; or (b) the issue of any additional award under Article 23.

21.5 Such corrections shall be in writing, and the provisions of Articles 19.2, 19.3, 19.5, 19.6, 19.7, 19.8 and 19.9. shall apply.

Article 22 – Interpretation of the Award

22.1 Within 7 days after receipt of the Award, either Party, with notice to the other Party and the Tribunal of Penta Arbitration, may request that the Arbitrator give an interpretation of the Award. The other Party may comment on such request within 7 days.

22.2 Any interpretation considered appropriate by the Arbitrator shall be given in writing within one month after receipt of the request but the Arbitrator may extend such period of time if necessary.

22.3 The Arbitrator has the power to make any further interpretation of the Award which is necessitated by or consequential on:

(a) the correction of any error in the award under Article 21; or
(b) the issue of any additional award under Article 23.

22.4 Any interpretation made under Article 22shall form part of the award and the provisions of Articles 19.2, 19.3, 19.5, 19.6, 19.7, 19.8 and 19.9 shall apply.

Article 23 – Additional Award

23.1 Within 7 days after receipt of the award, either Party, with notice to the other Party and the Tribunal of Penta Arbitration, may request the Arbitrator to make an additional Award in relation to claims presented in the Arbitration but omitted from the Award. The other Party may comment on such request within 7 days.

23.2 If the Arbitrator considers the request for an additional Award to be justified, it shall make the additional Award within one month after receipt of the request but may extend such period of time if necessary.

23.3 The Arbitrator has the power to make an additional Award which is necessitated by or consequential on:

(a) the correction of any error in the award under Article 21; or
(b) the interpretation of any point or part of the award under Article 22.

23.4 When an additional Award is made, the provisions of Articles 19.2, 19.3, 19.5, 19.6, 19.7, 19.8 and 19.9 shall apply.

Article 24 – Confidentiality

24.1 The Parties and the Arbitrator agree not to disclose, transmit, introduce or otherwise use any pleadings, submissions, documents, communications, opinions, suggestions, proposals, offers, or admissions, or other information obtained or disclosed relating to: (a) the Arbitration under the arbitration agreement(s); or (b) an Award made in the Arbitration, beyond the Parties to the arbitration and their representatives, the Arbitrator, the Tribunal of Penta

Arbitration, and any person necessary to the conduct of the proceedings, except as may be lawfully required whether in judicial proceedings or otherwise in the normal course of business of the Parties unless agreed in writing by the Arbitrator, the Tribunal of Penta Arbitration and the Parties to the Penta Arbitration. The fact that Arbitration has occurred, is continuing, or has concluded shall not be considered confidential.

24.2 The deliberations of the Arbitrator are confidential.

24.3 No person shall publish or otherwise make available to the public any award, decision or ruling even if the same has been edited to delete the identity of the Parties or identifiable details unless agreed in writing by the Arbitrator, the Tribunal of Penta Arbitration and the Parties to the Penta Arbitration

Article 25 – Exclusion of Liability

25.1 Neither the Tribunal of Penta Arbitration nor other body or person specifically designated by it to perform the functions referred to in these Rules, nor other staff members of the Tribunal of Penta Arbitration, the Arbitrator or secretary of the Arbitrator shall be liable for any act or omission in connection with an arbitration conducted under these Rules, save where such act was done or omitted to be done dishonestly.

25.2 The Parties jointly and severally release, discharge and indemnify the Tribunal of Penta Arbitration, its staff members and representatives, the Arbitrator and secretary of the Arbitrator in respect of all liability whatsoever, whether involving negligence or not, from any act or omission in connection with or arising out of or relating in any way to any Arbitration conducted under these Rules, save for the consequences of fraud or dishonesty.

25.3 After the Award has been made and the possibilities of correction, interpretation and additional awards referred to in Articles 21 to 23 have lapsed or been exhausted, neither the Tribunal of Penta Arbitration, the Arbitrator, nor secretary of the Arbitrator shall be under an obligation to make statements to any person about any matter concerning the Arbitration, nor shall a Party seek to make any of these persons a witness in any legal or other proceedings arising out of the Arbitration.

Article 26 – **Appeal**

26.1 Sections 2, 3, 4, 5, 6 and 7 of Schedule 2 of the Arbitration Ordinance (Chapter 609) shall not apply.

26.2 Subject to Article 26.1, in the event of an appeal against the Award, an application to set aside the Award, an application to challenge the Award or an application to object the enforcement of the Award in the Arbitration being brought by a Party, that Party agrees that the recoverable legal costs incurred in, arising out of and/or resulting from such an appeal or application shall be limited to HK$25,000.

Article 27 – **Closure of Proceedings**

27.1 When it is satisfied that the Parties have had a reasonable opportunity to present their case, the Arbitrator shall declare the proceedings closed. Thereafter, no further submission or argument may be made, or evidence produced, unless the Arbitrator reopens the proceedings in accordance with Article 27.2.

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

Article 28 – Arbitration Fees

28.1 Unless otherwise agreed by the Tribunal of Penta Arbitration, the arbitration fees for the Arbitration are paid by the Parties to the Tribunal of Penta Arbitration according to the Schedule.

28.2 All arbitration fees are in Hong Kong dollars, and subject to Article 28.11, are not refundable after payments are made to the Tribunal of Penta Arbitration.

28.3 Unless otherwise agreed by the Tribunal of Penta Arbitration, the Claimant has

to pay in advance his share of contribution towards the arbitration fees and a deposit of the equal amount when the Notice of Arbitration is filed by the Claimant.

28.4 The Respondent has to pay in advance his share of contribution towards the arbitration fees and a deposit of the equal amount when the Response is filed by the Response.

28.5 The Arbitrator shall in his sole discretion decide under the Award which party is to be responsible for paying the arbitration fees. The Party who is decided upon to be not responsible for paying the arbitration fees will be refunded the deposit of both Parties which will be released within 14 days after the Award is made provided that both Parties paid their shares of contribution towards the arbitration fees and the deposits of the equal amount,.

28.6 The Tribunal of Penta Arbitration shall decide and may provide the venue for conducting the Hearing. The Parties may have to bear the cost of the venue for conducting the Hearing if the rooms at the Tribunal of Penta Arbitration are fully occupied or otherwise unavailable.

28.7 Claims and counterclaims are aggregated for the determination of the amount in dispute.

28.8 An interest claim shall not be taken into account in the calculation of the amount in dispute. However, when the interest claim exceeds the amount claimed in principal, the interest claim alone shall be considered in calculating the amount in dispute.

28.9 If the amount in dispute is not quantified, the arbitration fees shall be decided by the Tribunal of Penta Arbitration, taking into account the circumstances of the case.

28.10 If the Dispute involves more than two Parties, the arbitration fees shall be decided by the Tribunal of Penta Arbitration, taking into account the circumstances of the case.

28.11 Amounts in currencies other than Hong Kong Dollars shall be converted into Hong Kong Dollars at the rate of exchange published by HSBC Bank on the

date that the Notice of Arbitration is submitted or at the time when any new claim or counterclaim is filed.

28.12 The Tribunal of Penta Arbitration shall review the fee structure regularly and any changes to the fee structure.

Article 29 – Issues not covered by these Rules

29.1 For matters which are not covered by these Rules, the Arbitrator may adopt such measures as he deems appropriate, consistent with the need for a speedy and efficient resolution of the Dispute.

Article 30 – Waiver

30.1 A Party who knows or ought reasonably to know that any provision of, or requirement arising under these Rules (including the arbitration agreement(s)) has not been complied with and yet proceeds with the Arbitration without promptly stating its objection to such non-compliance, shall be deemed to have waived its right to object.

English is the original drafting language of these Rules.

SCHEDULE

1. For an amount in dispute **below HK$500,000**, the arbitration fees (including the Tribunal of Penta Arbitration's administrative expenses and the arbitrator's fees) are **HK$50,000** (to be equally shared by the two Parties to the Dispute).

2. For an amount in dispute **at or between HK$500,000 and HK$1,000,000,** the arbitration fees (including the Tribunal of Penta Arbitration's administrative expenses and the arbitrator's fees) are **HK$80,000** (to be equally shared by the two Parties to the Dispute).

3. For an amount in dispute **over HK$1,000,000**, the arbitration fees (including the Tribunal of Penta Arbitration's administrative expenses and the arbitrator's fees) are **HK$120,000** (to be equally shared by the two Parties to the Dispute).