

Model Clauses

[hkiac.org/arbitration/model-clauses](https://www.hkiac.org/arbitration/model-clauses)

A well-drafted arbitration clause should be included in any contract.

HKIAC recommends the use of the following model clauses as applicable. Legal advice should nevertheless always be sought on the choice of a suitable clause and the applicable law

- [Arbitration under the HKIAC Administered Arbitration Rules](#)
 - [Arbitration administered by HKIAC under the UNCITRAL Rules](#)
 - [Ad hoc arbitration under the UNCITRAL Rules](#)
 - [Domestic Arbitration under the HKIAC Domestic Arbitration Rules](#)
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Arbitration under the HKIAC Administered Arbitration Rules

Parties to a contract who wish to have any future disputes referred to arbitration under the HKIAC Administered Arbitration Rules may insert in the contract an arbitration clause in the following form:

"Any dispute, controversy, difference or claim arising out of or relating to this contract, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non- contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the Hong Kong International Arbitration Centre (HKIAC) under the HKIAC Administered Arbitration Rules in force when the Notice of Arbitration is submitted.

*The law of this arbitration clause shall be ... (Hong Kong law). **

The seat of arbitration shall be ... (Hong Kong).

*The number of arbitrators shall be ... (one or three). The arbitration proceedings shall be conducted in ... (insert language)." ***

Note:

* Optional. This provision should be included particularly where the law of the substantive contract and the law of the seat are different. The law of the arbitration clause potentially governs matters including the formation, existence, scope, validity, legality, interpretation, termination, effects and enforceability of the arbitration clause and identities of the parties to the arbitration clause. It does not replace the law governing the substantive contract.

** Optional

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 HKIAC Administered Arbitration Rules, may agree to do so in the following terms:

"We, the undersigned, agree to refer to arbitration administered by the Hong Kong International Arbitration Centre (HKIAC) under the HKIAC Administered 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 agreement shall be ... (Hong Kong law). **

The seat of arbitration shall be ... (Hong Kong).

*The number of arbitrators shall be ... (one or three). The arbitration proceedings shall be conducted in ... (insert language). ***

Signed: _____ (Claimant)

Signed: _____ (Respondent)

Date: _____ "

Note:

* Optional. This provision should be included particularly where the law of the substantive contract and the law of the seat are different. The law of the arbitration clause potentially governs matters including the formation, existence, scope, validity, legality, interpretation, termination, effects and enforceability of the arbitration clause and identities of the parties to the arbitration clause. It does not replace the law governing the substantive contract.

** Optional

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Arbitration administered by HKIAC under the UNCITRAL Rules

Parties to a contract who wish to have any future disputes referred to arbitration administered by the HKIAC under the UNCITRAL Rules may insert in the contract an arbitration clause in the following form:

"Any dispute, controversy, difference or claim arising out of or relating to this contract, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the Hong Kong International Arbitration Centre (HKIAC) under the UNCITRAL Arbitration Rules in force when the Notice of Arbitration is submitted, as modified by the HKIAC Procedures for the Administration of Arbitration under the UNCITRAL Arbitration Rules.

*The law of this arbitration clause shall be ... (Hong Kong law). **

The place of arbitration shall be ... (Hong Kong).

*The number of arbitrators shall be ... (one or three). The arbitration proceedings shall be conducted in ... (insert language)." ***

Note:

* Optional. This provision should be included particularly where the law of the substantive contract and the law of the seat are different. The law of the arbitration clause potentially governs matters including the formation, existence, scope, validity, legality, interpretation, termination, effects and enforceability of the arbitration clause and identities of the parties to the arbitration clause. It does not replace the law governing the substantive contract.

** Optional

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Ad hoc arbitration under the UNCITRAL Rules

Parties to a contract who wish to have any future disputes referred to arbitration under the UNCITRAL Rules may insert in the contract an arbitration clause in the following form:

"Any dispute, controversy, difference or claim arising out of or relating to this contract, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration under the UNCITRAL Arbitration Rules in force when the Notice of Arbitration is submitted.

*The law of this arbitration clause shall be ... (Hong Kong law). **

The appointing authority shall be ... (Hong Kong International Arbitration Centre).

The place of arbitration shall be ... (Hong Kong).

*The number of arbitrators shall be ... (one or three). The arbitration proceedings shall be conducted in ... (insert language)." ***

Note:

* Optional. This provision should be included particularly where the law of the substantive contract and the law of the seat are different. The law of the arbitration clause potentially governs matters including the formation, existence, scope, validity, legality, interpretation, termination, effects and enforceability of the arbitration clause and identities of the parties to the arbitration clause. It does not replace the law governing the substantive contract.

** Optional

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Domestic Arbitration under the HKIAC Domestic Arbitration Rules

Parties to a contract who wish to have any future disputes referred to arbitration under the Domestic Arbitration Rules of the HKIAC may insert in the contract an arbitration clause in the following form:

"Any dispute, controversy, difference or claim arising out of or relating to this contract, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration pursuant to the HKIAC Domestic Arbitration Rules in force when the Notice of Arbitration is submitted.

*The law of this arbitration clause shall be ... (Hong Kong law). **

The seat of arbitration shall be ... (Hong Kong).

*The number of arbitrators shall be ... (one or three). The arbitration proceedings shall be conducted in ... (insert language)." ***

Note:

* Optional. This provision should be included particularly where the law of the substantive contract and the law of the seat are different. The law of the arbitration clause potentially governs matters including the formation, existence, scope, validity, legality, interpretation, termination, effects and enforceability of the arbitration clause and identities of the parties to the arbitration clause. It does not replace the law governing the substantive contract.

** Optional

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 HKIAC Domestic Arbitration Rules, may agree to do so in the following terms:

"We, the undersigned, agree to refer to arbitration under the HKIAC Domestic Arbitration Rules in force when the Notice of Arbitration is submitted 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 agreement shall be ... (Hong Kong law). **

The seat of arbitration shall be ... (Hong Kong).

*The number of arbitrators shall be ... (one or three). The arbitration proceedings shall be conducted in ... (insert language). ***

Signed: _____ (Claimant)

Signed: _____ (Respondent)

Date: _____ "

Note:

* Optional. This provision should be included particularly where the law of the substantive contract and the law of the seat are different. The law of the arbitration clause potentially governs matters including the formation, existence, scope, validity, legality, interpretation, termination, effects and enforceability of the arbitration clause and identities of the parties to the arbitration clause. It does not replace the law governing the substantive contract.

** Optional

Whether parties are drafting an agreement to arbitrate future disputes or an existing dispute, they should consider whether specifically to adopt any or all of the provisions of sections 2 to 7 of Schedule 2 of the Hong Kong Arbitration Ordinance (Cap. 609 of the laws of Hong Kong) in their arbitration clause (see section 99 of the Ordinance). If any such adoption is required the arbitration agreement should make express provision for this, although careful consideration must be given as to whether there will be an automatic opt in to Schedule 2 pursuant to section 100 or section 101 of the Ordinance under the subject arbitration agreement.

An express opt-in to all the provisions of Schedule 2 can be achieved with the following clause, to be included in addition to the above arbitration agreement:

"It is agreed that all of the provisions in Schedule 2 to the Arbitration Ordinance (Cap. 609) apply to any arbitration hereunder."

Alternatively an express opt-in to or opt-out of some, but not all, of the provisions of Schedule 2 can be achieved with the following:

"It is agreed that the following provisions of Schedule 2 to the Arbitration Ordinance (Cap. 609) [apply to / do not apply to] any arbitration hereunder:

*(a) section 1;**

*(b) section 2;**

*(c) section 3;**

*(d) sections 4 and 7;**

*(e) sections 5, 6 and 7."**

* Include or exclude as appropriate.

Where there will be an automatic opt in to Schedule 2 pursuant to section 100 or section 101 of the Ordinance under the subject arbitration agreement, but the parties do not wish any of the provisions of Schedule 2 to apply, the following clause will achieve this:

"It is agreed that none of the provisions in Schedule 2 to the Arbitration Ordinance (Cap. 609) apply to any arbitration hereunder."

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