

[Cursory Translation]

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Working Guidelines on the Panel of Guangdong-Hong Kong-Macao Greater Bay Area Arbitrators

Against the background that there are three different jurisdictions (the Mainland, Hong Kong and Macao) in the Guangdong-Hong Kong-Macao Greater Bay Area (hereinafter referred to as the “**GBA**”), and that the models, systems and developments of arbitration vary between the three places, this document sets out the Working Guidelines on the Panel of GBA Arbitrators promulgated by the Guangdong-Hong Kong-Macao Greater Bay Area Legal Departments Joint Conference (hereinafter referred to as the “**Joint Conference**”), for reference and adoption by the legal departments of the three places.

I. Criteria for Nomination

An arbitrator who fulfills the below criteria is eligible to be nominated to be listed on the Panel of GBA Arbitrators:

(1) Upholding the Constitution of the People’s Republic of China, the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, the Basic Law of the Macao Special Administrative Region of the People’s Republic of China;

(2) Possessing good professional ethics with no record of disciplinary action for negative reputation or professional misconduct;

(3) Being included in the list of arbitrators by arbitral institutions in two out of the three places, namely Mainland, Hong Kong and Macao;

(4) Possessing more than 5 years of experience as an arbitrator;

(5) Having served as an arbitrator and drafted awards for at least 5 arbitration cases, of which at least 3 were cross-jurisdictional arbitration cases;

(6) Proficient in Putonghua (or Cantonese) and at least one language other than Chinese.

The Joint Conference may, depending on the actual circumstances of the nominated arbitrator, exercise its discretion to exempt one or more of the requirement(s) among items (3) to (6) above.

The legal departments of the three places may, having regard to their local actual circumstances, impose additional local criteria for nomination in addition to the above-mentioned unified criteria for nomination, and report to the Joint Conference for record.

II. Nomination Procedures for Panel Arbitrators

(1) Arbitral institutions may, in accordance with the criteria for nomination set out in this Working Guidelines and based on their actual circumstances, submit a preliminary list to their respective legal department in writing, together with details including the reasons for nomination and exemption;

(2) The legal departments of the three places shall review the preliminary list and the reasons for nomination and exemption, and form a consolidated review list for endorsement by the Joint Conference;

(3) The Joint Conference shall examine and endorse the consolidated review list, forming the “Panel of GBA Arbitrators” (hereinafter referred to as the “**Panel**”). The Panel will be announced by the respective legal department of the three places on the same day.

III. Use of the Panel

(1) The Panel is of recommendation nature and for the parties’ reference only. The parties may select arbitrators from the Panel if permitted by the arbitration rules applicable to the case;

(2) GBA arbitral institutions may, subject to their internal procedures and regulations, adopt appropriate means of publishing the Panel, and provide the parties with necessary assistance and guidance in the appointment of the Panel Arbitrators;

(3) GBA arbitral institutions shall report usage of the Panel to the respective legal department of the three places every half year.

IV. Training and Exchange of the Panel Arbitrators

Support Panel Arbitrators to actively participate in GBA arbitration professional trainings, seminars and other arbitration-related exchanges and cooperation activities, so as to enhance the knowledge and skills of foreign-related legal talents in GBA.

V. Supervision and removal of Panel Arbitrators

A Panel Arbitrator shall be removed from the Panel if any of the following scenarios occur(s):

(1) Engaging in any act which endangers national security or is harmful to the public interest;

(2) Serious breach of laws or regulations, arbitration rules and professional conduct of arbitrators;

(3) Having been sentenced to a criminal penalty, removal (dismissal) from public office, revocation of professional qualification (professional license), or suspension of practice resulting in the loss of professional qualification due to violation of laws or regulations;

(4) Other circumstances that warrant removal.

The supervision of the Panel Arbitrators shall be based on the principle of “whoever facilitate appointment shall supervise”. If an arbitral institution discovers the above-mentioned scenarios during the appointment of Panel Arbitrators, it should immediately facilitate to cease appointing the Panel Arbitrator concerned and submit a written recommendation to the respective legal department for removal from the Panel within 5 working days. If the arbitral institution who made nomination to the Panel and other arbitral institutions become aware of circumstances that the Panel Arbitrator should be removed from the Panel, it should report to its respective legal department in a timely manner.

In case of scenarios (2), (3) and (4), the removal recommendation will be reviewed by the respective legal department and be subsequently submitted to the Joint Conference for endorsement. In case of scenario (1), the removal decision can be made directly by the respective legal department and the removal decision will be reported to the Joint Conference within 3 working days after the decision is made. After the removal decision is made, the legal departments of the three places, arbitral institutions and the Panel Arbitrator concerned should be notified.

If the Panel Arbitrator concerned objects to the removal, he/ she may, in writing, appeal to the Joint Conference through the respective legal department within 5 working days from the date of receipt of the removal notification. The Joint Conference shall form a review opinion and inform the applicant of the review results accordingly.

VI. Voluntary Withdrawal of Panel Arbitrators from the Panel

Where a Panel Arbitrator voluntarily withdraws from the Panel, he / she should submit an application for withdrawal to the arbitral institution that nominated him/ her to the Panel. The arbitral institution concerned shall, within 10 working days from the date of receipt of the withdrawal application, issue a written document approving the withdrawal to the Panel Arbitrator concerned and report to the Joint Conference through its respective legal department.

VII. Management of the Panel

(1) The Joint Conference shall review and update the Panel on a regular basis, and may make classifications to the Panel based on the professional expertise of the Panel Arbitrators.

(2) The duty legal department of the Joint Conference shall be responsible for the daily management of the Panel of that year, including but not limited to coordinating the three places to examine and review the need to update the Panel, coordinating the three places to publish the Panel on the same day, and notifying and publicizing relevant information of the Panel.

(3) The duty legal department of the Joint Conference is responsible for reporting to the Joint Conference the annual usage of the Panel, and may, in light of the actual circumstances, make proposals to the Joint Conference to revise the criteria for nomination of GBA arbitrators and this Working Guidelines.

VIII. Annex

Definition of the following terms in this Working Guidelines:

(1) Under the “Criteria for Nomination”, “drafted” refers to arbitral awards which are drafted in the capacity of a sole arbitrator or to which one has contributed as a member of the arbitral tribunal; “awards” refers to final awards, and do not include interim awards, interlocutory awards, or partial awards; “cross-jurisdictional arbitration cases” refers to arbitration cases in which the parties and/or the subject matter(s) in dispute involve more than one jurisdiction.

(2) “respective legal department” refers to the legal department where the arbitral institution is domiciled.