

**AGREEMENT****BETWEEN****THE GOVERNMENT OF THE KINGDOM OF BAHRAIN****AND****THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE****ON APPEALS FROM THE BAHRAIN INTERNATIONAL COMMERCIAL COURT**

The Government of the Kingdom of Bahrain and the Government of the Republic of Singapore (individually referred to as a “Party” and collectively as the “Parties”),

DESIRING to enhance judicial cooperation between the Parties;

RECALLING that Article 2 of the Memorandum of Understanding on Cooperation between the Supreme Court of the Republic of Singapore and the Supreme Judicial Council of the Kingdom of Bahrain signed in the Kingdom of Bahrain on 8 May 2023 (the “MOU”) provides that the Republic of Singapore and the Kingdom of Bahrain will enter into a binding international agreement to collaborate on the establishment of the Bahrain International Commercial Court (“BICC”) and, in support of the establishment of the BICC, to provide for the possibility of appeals from judgments of the BICC in certain cases to a body to be established;

FURTHER DESIRING collaboration between the BICC and the Singapore International Commercial Court (“SICC”);

RECOGNISING the principles of mutual respect for equality and the sovereignty of each Party;

FURTHER RECOGNISING that cooperation between the Parties will promote the use of international dispute resolution in cross-border commerce and further promote a transnational system of commercial justice;

HAVING CONSIDERED that the promotion of party autonomy through the effective implementation of this Agreement and enhanced cooperation between the Parties will further the use of international adjudication and the settlement of private law disputes; that enhanced cooperation between the BICC and the SICC will lead to further development of standards for the process of adjudication, including future standards for international commercial dispute resolution;

HAVE AGREED as follows:

PART I

THE BICC

ARTICLE 1

DEFINITIONS

1. For the purposes of this Agreement:
 - a. **disputing party** means a party to a dispute that is before, or proposed to be brought before, the BICC;
 - b. **disputing parties** means the parties to a dispute that is before, or proposed to be brought before, the BICC; and
 - c. **exclusive choice of court agreement** has the same meaning as in Article 3 of the Convention on Choice of Court Agreements done at The Hague on 30 June 2005.

ARTICLE 2

ESTABLISHMENT OF THE BICC

The Kingdom of Bahrain shall, under its law and pursuant to this Agreement:

- a. establish a court, known as the BICC, which shall hear disputes relating to international commercial matters in Bahrain in accordance with this Part; and

- b. provide for an appeal from the BICC to lie to the body designated at Article 5 (Designation of a Body to Hear Appeals from the BICC), in accordance with the provisions of Part II (The Designated Body).

ARTICLE 3

JURISDICTION OF THE BICC

1. Notwithstanding any other ground of jurisdiction of the BICC prescribed by the laws and regulations of the Kingdom of Bahrain, the BICC shall have the jurisdiction to hear and deliver judgment on any dispute that is international and commercial in nature and the dispute is one over which:
 - a. the courts of the Kingdom of Bahrain would have jurisdiction solely by reason that the disputing parties to the case when it was first filed have designated the BICC or the courts of the Kingdom of Bahrain under an exclusive choice of court agreement;
 - b. the courts of the Kingdom of Bahrain would have jurisdiction solely by reason of the defendant's acceptance of the jurisdiction of the BICC or the courts of the Kingdom of Bahrain, which acceptance may be expressed or implied; or
 - c. the courts of the Kingdom of Bahrain have jurisdiction and the disputing parties to the case when it was first filed have designated the BICC under an exclusive choice of court agreement.
2. For the purposes of Paragraph 1,
 - a. a dispute shall be deemed to be international in nature if the location of one of the disputing parties, or the place where substantial part of the obligations of the commercial relationship is being performed, or the location most closely connected with the dispute, is outside the Kingdom of Bahrain; and
 - b. a dispute shall be deemed to be commercial in nature, regardless of whether the dispute is of a contractual or non-contractual nature, if its subject matter concerns:

- (i) relationships of a commercial nature, including any transaction for the supply goods or services or the exchange thereof, distribution agreements, commercial representation or commercial agency, managing rights before others, hiring to purchase, construction of factories, consultation services, engineering works, issuing licenses, investment and financing, banking transactions, insurance franchising agreements, joint ventures, and other forms of industrial or commercial cooperation; or
- (ii) the transportation of commodities or passengers by air, sea, or land.

3. The BICC shall also have jurisdiction to hear and deliver judgment in any dispute relating to the setting aside of an arbitral award of an international arbitration seated in the Kingdom of Bahrain where the disputing parties to the arbitration have designated the BICC as the court of supervisory jurisdiction under an exclusive choice of court agreement.

4. Unless the disputing parties agree otherwise, the proceedings of a dispute referred to in Paragraphs 1 and 3, shall be conducted in the English language and the judgment shall also be delivered in English.

ARTICLE 4

APPLICABLE LAW AND THE POWERS AND FUNCTIONS OF THE BICC

1. The BICC shall be the judge of its own competence.
2. If there is an applicable choice of law agreement between the disputing parties, the BICC shall apply the disputing parties' choice of law as long as it is not contrary to the public policy of the Kingdom of Bahrain.
3. In the absence of an applicable choice of law agreement between the disputing parties or if the law chosen by the disputing parties cannot be applied, the BICC shall apply the applicable law as determined by the conflict of laws law of the Kingdom of Bahrain.
4. In accordance with the laws and regulations of the Kingdom of Bahrain, the BICC shall have the power to prescribe, if it considers the circumstances so require, any interim measures that ought to be taken to preserve the rights of a disputing party.

5. In accordance with the laws and regulations of the Kingdom of Bahrain, should any third party consider that it has a substantial interest of a legal nature which may be affected by a decision of the BICC in the exercise of jurisdiction, it may apply to the BICC to intervene, and it shall be for the BICC to decide on the application.

6. In accordance with the laws and regulations of the Kingdom of Bahrain, any third party may be joined into the dispute by any disputing party, and it shall be for the BICC to decide on the application.

PART II

THE DESIGNATED BODY

ARTICLE 5

DESIGNATION OF A BODY TO HEAR APPEALS FROM THE BICC

The Republic of Singapore shall designate a body of judges (the “**Designated Body**”) drawn from superior court judges of each Party, in particular, judges sitting in the SICC, that shall hear appeals from the BICC in accordance with the provisions of this Part.

ARTICLE 6

APPELLATE JURISDICTION OF THE DESIGNATED BODY ON APPEALS FROM THE BICC

1. Appeals are to lie to the Designated Body from first instance English language judgments of the BICC on the merits issued under Articles 3(1)(a) and (b) and 3(3) of this Agreement. The disputing parties may agree that an appeal shall not lie to the Designated Body.

2. Appeals are to lie to the Designated Body from first instance English language judgments of the BICC on the merits issued under Article 3(1)(c) of this Agreement only with the agreement of all the disputing parties.

ARTICLE 7

RULES OF THE DESIGNATED BODY ON APPEALS FROM THE BICC

1. The procedure in appeals to the Designated Body from the BICC shall, *inter alia*, provide that a coram of the Designated Body in the hearing of an appeal from the BICC shall include a BICC judge drawn from a panel of judges that will be nominated by the Bahrain Supreme Judicial Council and an International Judge of the Republic of Singapore.
2. Without prejudice to the generality of Paragraph 1, the procedural matters that may be provided for and regulated by the law of the Republic of Singapore include rules for all or any of the following purposes:
 - a. regulating the transfer of documents filed at the BICC to the Designated Body;
 - b. regulating the sittings of the Designated Body, the selection of Judges for any purpose, and the period to be observed as a vacation in the Designated Body and the transaction of business during any such vacation;
 - c. regulating matters relating to the costs and the assessment thereof, of proceedings in the Designated Body;
 - d. prescribing forms and fees in respect of proceedings; and
 - e. regulating the means by which particular facts may be proved, and the manner in which any factual, expert or opinion evidence may be adduced.

ARTICLE 8

POWERS AND FUNCTIONS OF THE DESIGNATED BODY ON APPEALS FROM THE BICC

1. Without prejudice to Article 9, the Designated Body shall, in relation to any appeal from the BICC, have all the jurisdiction and powers possessed by the BICC in relation to the case from which the appeal was brought.
2. The Designated Body shall have the power to prescribe, if it considers the circumstances so require, any interim measures that ought to be taken to preserve the rights of a disputing party.

3. Except in so far as the BICC or the Designated Body may otherwise direct, an appeal does not operate as a stay of enforcement of the judgment or order which is on appeal.
4. The Designated Body shall be the judge of its own competence.

ARTICLE 9

JUDGMENTS AND ORDERS OF THE DESIGNATED BODY ON APPEAL FROM THE BICC

1. Judgments and orders of the Designated Body on appeal from the BICC (including orders relating to interim measures) shall be binding and effective as long as it is not contrary to the public policy of the Kingdom of Bahrain and upon reissuance by the BICC.
2. Such judgments and orders shall be deemed under the laws of the Kingdom of Bahrain to be judgments and orders of the courts of the Kingdom of Bahrain.
3. Such judgments and orders shall be binding and effective from the time of their reissuance. They shall be final and shall not be subject to appeal or review by any court or any other entity in the Kingdom of Bahrain or the Republic of Singapore.
4. For greater certainty, this Article does not apply to decisions of the Designated Body on administrative or procedural matters.

ARTICLE 10

IMMUNITIES OF THE JUDGES OF THE DESIGNATED BODY

The Kingdom of Bahrain and the Republic of Singapore shall grant and secure to judges of the Designated Body immunity from all forms of legal process in respect of words spoken or written and all acts done by them in good faith in the discharge or purported discharge of their functions.

PART III**FINANCIAL AND FINAL PROVISIONS****ARTICLE 11****FINANCIAL PROVISIONS**

1. The Parties shall bear their own costs associated with the implementation of this Agreement, including, but not limited to, the costs and expenses associated with the establishment of the BICC and Designated Body, unless otherwise agreed in writing.
2. The Kingdom of Bahrain shall bear the costs associated with the running of the BICC, while the Republic of Singapore shall bear the costs associated with the running of the Designated Body, unless otherwise agreed in writing.

ARTICLE 12**DOMESTIC IMPLEMENTATION**

The Kingdom of Bahrain and the Republic of Singapore shall enact any laws and regulations necessary to comply with and give effect to this Agreement.

ARTICLE 13**MULTILATERAL CONVENTIONS**

The Kingdom of Bahrain shall accede to the Convention on Choice of Court Agreements done at The Hague on 30 June 2005 and the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters done at The Hague on 18 March 1970.

ARTICLE 14**SETTLEMENT OF DISPUTES**

Any dispute between the Parties arising from the interpretation or application of this Agreement shall be settled amicably through consultations between the Parties.

ARTICLE 15**ENTRY INTO FORCE AND AMENDMENTS**

1. This Agreement shall enter into force on the date on which the Governments of the Kingdom of Bahrain and the Republic of Singapore exchange notes notifying each other that their respective constitutional, legislative, and other requirements necessary to give effect to this Agreement have been complied with. The Parties shall cooperate with and consult each other on their respective requirements to give effect to this Agreement and of any proposed amendments to such requirements after the entry into force of this Agreement.
2. This Agreement may be amended at any time in writing by mutual consent of the Parties. Any amendment shall enter into force on such date as mutually determined by the Parties and shall be considered an integral part of this Agreement.

ARTICLE 16**TERMINATION**

1. This Agreement may be terminated:
 - a. by mutual consent of the Parties; or
 - b. by either Party by giving written notice to the other Party at least one year in advance of the effective date of termination.
2. The termination of this Agreement shall not affect the hearing and determination of an appeal from the BICC of cases commenced in the BICC before the effective date of termination.

IN WITNESS WHEREOF, the undersigned, duly authorised by their respective Governments, have signed this Agreement.

DONE at Bahrain and Singapore on this 20th day of March 2024, in two original copies in the English and Arabic languages, both texts being equally authentic. In the case of any dispute, the English language text shall prevail.

**FOR THE GOVERNMENT OF THE
KINGDOM OF BAHRAIN**

**FOR THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE**

**H.E. MR. NAWAF BIN MOHAMED
ALMOUADA
MINISTER OF JUSTICE, ISLAMIC
AFFAIRS AND ENDOWMENTS**

**H.E. MR. K SHANMUGAM
MINISTER FOR HOME AFFAIRS
AND MINISTER FOR LAW**