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Legislative Decree No. (9) of 2024

With respect to the Bahrain International Commercial Court

We, Hamad bin Isa Al Khalifa King of the Kingdom of Bahrain.

Having reviewed the Constitution, particularly Article (38) thereof;

The Civil and Commercial Procedures Law promulgated by Legislative Decree No. (12) of 1971, as amended;

Law No. (13) of 1975 with respect to the Regulation of Pensions and Retirement Benefits for Government Employees, as amended;

The Advocacy Law promulgated by Legislative Decree No. (26) of 1980, as amended;

Legislative Decree No. (4) of 1988 with respect to the approval of the State of Bahrain to the accession, with reservations, to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards,

The Court of Cassation Law promulgated by Legislative Decree No. (8) of 1989, as amended;

Legislative Decree No. (9) of 1996 with respect to the ratification of the 1995 Convention on the Enforcement of Judgments, Rogatory Letters, and Judicial Notices for the Cooperation Council for the Arab States of the Gulf;

The Law of Evidence for Civil and Commercial Matters promulgated by Legislative Decree No. (14) of 1996, as amended;

Legislative Decree No. (41) of 1999 with respect to the ratification of the 1983 Riyadh Arab Convention for Judicial Cooperation;

The Judicial Authority Law promulgated by Legislative Decree No. (42) of 2002, as amended;

Legislative Decree No. (30) of 2009 with respect to the Bahrain Chamber for the Resolution of Economic, Financial, and Investment Disputes, as amended;

The Civil Service Law promulgated by Legislative Decree No. (48) of 2010, as amended;

Law No. (6) of 2015 with respect to Conflict of Laws in Civil and Commercial Matters with a Foreign Element;

The Arbitration Law promulgated by Law No. (9) of 2015;

Legislative Decree No. (8) of 2024 with respect to the ratification and accession to a number of international treaties and agreements related to judicial matters,

Upon the submission from the Prime Minister,

And after the approval of the Council of Ministers,

We, therefore, promulgate the following Law:

Preliminary Chapter

Article (1)

Definitions

In the course of implementing the provisions of this Law, the following terms and expressions shall have the corresponding meaning provided hereunder unless the context requires otherwise:

Kingdom: Kingdom of Bahrain.

Court: Bahrain International Commercial Court.

Dispute Resolution Tribunal: One or more natural persons appointed in accordance with Article (12) of this Law to consider any dispute brought before the Court.

Appellate Tribunal: One or more natural persons appointed in accordance with Article (12) of this Law to consider appeals against judgments and orders issued by the Dispute Resolution Tribunal or its Deputed Member, as the case may be.

Court Council: The Council formed in accordance with Article (5) of this Law.

Court President: The President of the Court appointed in accordance with Article (4) of this Law.

Chief Registrar: The Chief Registrar of the Court appointed in accordance with Article (6)(a)(6) of this Law.

Executive Director: The Executive Director of the Court appointed in accordance with Article (6)(a)(7) of this Law.

Member of the Dispute Resolution Tribunal: A Member of the Dispute Resolution Tribunal appointed in accordance with Article (4) of this Law, who may be a member of either the Dispute Resolution Tribunal or the Appellate Tribunal.

Deputed Member of the Dispute Resolution Tribunal: A Member of the Dispute Resolution Tribunal appointed by a decision of the Court President to carry out the duties set out in Article (19) of this Law.

Regulation: The rules and procedures regulation for the resolution of disputes before the Court, issued in accordance with the provisions of this Law.

Article (2)

Objectives of the Law

This Law seeks to establish the Kingdom as a preferred center for dispute resolution by parties' choice, and to settle disputes in accordance with international best practices in cooperation with reputed and esteemed commercial courts, and to promote the use of international dispute resolution mechanisms in cross-border commerce and promote a transnational system of commercial justice.

Chapter One

Establishment, Organization, and Jurisdiction of the Court

Article (3)

Establishment of the Court and Its Composition

- a- An independent authority for dispute resolution called the "Bahrain International Commercial Court" shall be established, and its name in English shall be (Bahrain International Commercial Court), the abbreviation of which is (BICC). The Court shall have an independent legal personality, and be subject to the administrative supervision and oversight of the Minister concerned with Justice Affairs or the Minister who shall be appointed by a decree. The Court shall exercise its jurisdiction through:
1. The President and the President's Deputy.
 2. The Dispute Resolution Tribunal formed in accordance with Article (12) of this Law.
 3. The Appellate Tribunal formed in accordance with Article (12) of this Law.
 4. The Deputed Member of the Dispute Resolution Tribunal.

5. The Chief Registrar.
- b- The Court shall be governed by the Court Council in accordance with Article (6) of this Law.
 - c- The executive management of the Court shall be headed by the Executive Director in accordance with Article (8) of this Law.

Article (4)

The Court President and the Deputy

- a. The Court shall have a President, a Deputy to the President and members of dispute resolution tribunals appointed by virtue of a decree. The Court President may have more than one Deputy.
- b. The Court President shall supervise the Members of the Dispute Resolution Tribunal and evaluate the quality of its performance. The Deputy shall act as President in the President's absence or in case an impediment has arisen preventing the President from discharging their duties.

Article (5)

Formation of the Court Council

- a. The Court Council shall be composed of the President, the President's Deputy, and all members of dispute resolution tribunals.
- b. The Court Council may form an Executive Council from among its members. The Court Council may assign the Executive Council any duties that it deems appropriate.
- c. The Court Council shall establish an Advisory Panel, which will advise the Court Council to ensure the implementation of best practices in dispute resolution, evaluate the performance of the Court and members of dispute resolution tribunals to ensure quality and efficiency, propose and develop policies that would improve the Court's operations, strengthen cooperation and coordination with similar courts to exchange expertise in the field of dispute resolution, and carry out any other functions entrusted to it by the Court Council.

Article (6)

Duties of the Court Council

- a. The Court Council is responsible for the activities of the Court, developing its operational plan, supervising its implementation, and taking the necessary measures for the performance of its functions and powers. It shall, in particular:
 1. Approve and issue the Court's financial, administrative and technical regulations and issue the relevant decisions, and take any necessary measures for this purpose.
 2. Issue HR regulations, including, amongst other, the procedures and rules of their appointment, promotion, transfer, salaries, rewards, disciplinary actions, work ethics and values, taking into consideration the nature of the Court as an international court.
 3. Approve the Court's annual budget proposal and its audited final account.
 4. Review periodic reports submitted by the Chief Registrar and the Executive Director on the Court's work progress and take the necessary decisions thereto.
 5. Issue the Regulation.
 6. Appoint one or more Chief Registrars for the Court.
 7. Appoint the Executive Director.
 8. Determine the functions and duties of the Chief Registrar and the Executive Director and evaluate their performance.
 9. Approve the annual report on the Court's activities and operations.
 10. Develop the Court's operational plan at the beginning of each year.
 11. Appoint an external auditor to audit the Court's accounts and determine their fee.
- b. The Court Council may assign specific duties to one or more committees established from its members, or to the Court President, or to any member of the Court Council, or to the Chief Registrar, or to the Executive Director.

Article (7)

Meetings of the Court Council

- a. The Court Council shall meet at least four times annually. The Court President shall call for an extraordinary meeting whenever required or upon the written request of at least two members of the Court Council, the Chief Registrar, the Executive Director, or the Court's

external auditor. The extraordinary meetings' notice must be delivered within thirty days from the date of the President's receipt of the written request.

- b. The notification of the meeting shall state its objective and include the meeting agenda.
- c. The Court Council may invite experts or other stakeholders to attend its meetings to seek their counsel, without having any voting rights.
- d. The Court Council shall appoint a secretary whose duties shall include preparation of meeting agendas, recording its minutes, retaining all documents and records of the Court Council, and undertakes any other tasks assigned by the Court Council.
- e. Within a period not exceeding six months from the issuance of this Law, the Court Council shall issue a regulation governing its operations. The regulation shall include all provisions necessary for the fulfillment of the Council's duties, including those related to the conduct of its meetings, the utilization of modern technology for convening its meetings, and the mechanisms and means of decision-making in urgent matters which may arise between meetings.

Article (8)

Executive Director

The Executive Director shall be responsible for the administrative and financial functions of the Court and shall represent the Court in legal proceedings and in dealing with third parties. The Executive Director may appoint lawyers to represent the Court, subject to the approval of the Court Council.

Article (9)

Court Budget

- a. The Court shall have an independent budget prepared in a commercial manner.
- b. The fiscal year of the Court shall commence on January 1st and end on December 31st of each year. Notwithstanding the foregoing, the fiscal year of the Court for the initial year of its operations shall commence on the date of the entry into force of this Law and end on December 31st of the same year.

- c. The Court's annual budget shall be prepared by the Executive Director and presented at least three months prior to the end of the fiscal year to the Court Council for approval. If the budget is not approved by the Court Council prior to the start of the fiscal year, the preceding year's budget shall apply until the new budget is approved.
- d. The Court's revenues shall consist of:
 - 1. The cost prescribed for examining disputes before the Dispute Resolution Tribunal and the Appellate Tribunal.
 - 2. Funds allocated by the State to the Court from the State's general budget.
 - 3. Funds transferred to the Court's budget from the budgets of entities concerned with dispute resolution or for the promotion of the Kingdom of Bahrain as a center for dispute resolution. Such transfer of funds requires the approval of the Ministry of Finance and National Economy.
 - 4. Any other resources accepted by the Court Council, provided they do not conflict with the provisions of this Law.
- e. The Court's budget surplus shall be carried over from one year to the next.

Article (10)

Jurisdiction of the Court

- a. The Court shall have jurisdiction over the following disputes, provided the parties thereto expressly consent to its jurisdiction, notwithstanding any limitations or prohibitions imposed on the competence of ordinary courts:
 - 1. International commercial disputes.

A dispute shall be deemed international in nature if the location of one of the disputing parties, or the place where a 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.

A dispute shall be deemed commercial in nature, regardless of whether the dispute is contractual or non-contractual, if its subject matter relates to relationships of commercial nature, including any transaction for the supply of 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, and the transportation of commodities or passengers by air, sea, or land.

2. Disputes related to any matter concerning arbitration, including matters related to interim measures, the appointment of the arbitration panel, challenge of arbitrators, setting aside of arbitral orders and awards, or the recognition of arbitral orders and awards.
 - b. The Court shall have jurisdiction over a dispute if a case is brought before it and the other party accepts its jurisdiction explicitly or implicitly, provided that the dispute is one of those set out under paragraph (a) of this Article.
 - c. In the cases set out under paragraph (a) of this Article, the agreement between the parties regarding the choice of the Court must be in writing, or by any other means of communication which renders the information accessible so as to be usable for subsequent reference. If the agreement forms part of a contract, it shall be treated as an agreement independent of the other terms of the contract. The validity of the choice of court agreement cannot be contested solely on the grounds that the contract is not valid.
 - d. In the case set out in paragraph (b) of this Article, the other party must expressly demonstrate their consent to the Court's jurisdiction. Such consent may be explicit or implicit.

Chapter Two

Dispute Resolution Procedures before the Court and Appeals against its Judgments and Orders

Article (11)

Rules and Procedures for Dispute Resolution

- a. The Court Council shall issue one or more Regulations setting out the rules, procedures, and time-limits to be observed in disputes within the Court's jurisdiction according to the provisions of this Law. Such regulations include the following:
 - 1- Procedures governing the filing of claims and counterclaims, case management, and preliminary meetings which precede the referral of the matter to the Dispute Resolution Tribunal.
 - 2- Procedures for the referral of disputes to mediation and the recognition of settlement agreements arising from the mediation.
 - 3- Mechanism and conditions for selecting and appointing Members of the Dispute Resolution Tribunal, the Appellate Tribunal, and the Deputed Member of the Dispute Resolution Tribunal, the rules governing the challenge, reasons for resignation and incapacity of such Members, and the rules governing their fees and the conditions of party representation.
 - 4- Rules governing the language used in the Court's proceedings and regulating the translation of documents and papers.
 - 5- Rules governing the payment and deposit of the Court's charges and costs into the Court's treasury.
 - 6- Rules governing the conduct of hearings, the submission of memorandums and evidence, evidentiary procedures, including expert evidence and cross examination of witnesses, attendance and absence, and matters of joinder and intervention.
 - 7- Rules governing the interpretation of judgments, correction of clerical and accounting errors, and omissions of claims.
 - 8- Rules identifying exceptional circumstances permitting evidence, claims and defenses to be presented for the first time before the Dispute Resolution Tribunal.
 - 9- Rules governing the execution of judgments issued according to the provisions of this Law.
 - 10- Other matters necessary to regulate the procedures before the Court.
- b. The Regulations shall prescribe the procedures for appealing judgments and orders which includes the following:

- 1- Conditions for filing an appeal and the required documents to be attached.
 - 2- Conditions for registering the appeal, notices thereto, time-periods for filing submissions.
 - 3- Procedures for hearing the appeal, the requirements for accepting appeals, procedures for stay of execution, procedures concerning multiple appeals, and the time periods for parties to appeal and respond to such appeals.
 - 4- Conditions where appeals or grievances may be filed from non-conclusive judgments and orders issued during the trial, particularly judgments and orders concerning jurisdiction, stay of proceedings, interim and urgent matters.
 - 5- Procedures and time-periods for appeals or grievances, including the authority or authorities responsible for hearing such appeals or grievances.
 - 6- Time-periods for appealing judgments issued by the Dispute Resolution Tribunal on the merits of the case, the time-periods for appealing non-conclusive judgments or orders issued during the proceedings, or the time-periods for grievances thereof.
 - 7- Matters related to presenting new evidence, claims and defenses, and modification of the grounds upon which a claim is made before the Appellate Tribunal.
 - 8- Rules related to the joinder and intervention in the appeal, primary appeal, and supplemental appeal proceedings.
- c. The Regulations shall also prescribe rules and requirements related to conducting dispute proceedings and the location of such hearings, including the rules and requirements for conducting such hearings remotely through electronic means.
- d. The Regulations may prescribe procedures to be adopted in the circumstances a regulatory gap exists, requiring necessary action to ensure justice and resolve the dispute without contravening public order. The Regulations may also prescribe rules and procedures for any other matters set out under this Law for issuance by the Regulations.

Article (12)

Formation of the Dispute Resolution Tribunal and the Appellate Tribunal

The Court President or the President's designee shall form the Dispute Resolution Tribunal to hear disputes brought before the Court and form the Appellate Tribunal in accordance with the appointment and selection mechanism prescribed in the Regulations.

Article (13)

Charges

Charges shall be imposed on applications filed with the court, appeals from final judgments and non-final judgments or orders issued during the proceedings that may be appealed or challenged. The Regulations shall prescribe the instances in which a charge is imposed on these applications, appeals, or requests for grievance, as well as the categories of charges and the collection procedures by a resolution of the President upon the approval of the Court Council.

Article (14)

Applicable Law

The disputing parties may agree on the law applicable to the subject matter of the dispute. If the parties do not agree on the applicable law or if the applicable law is contrary to the public policy of the Kingdom, the Dispute Resolution Tribunal shall determine the law in accordance with the rules of conflict of laws that the Dispute Resolution Tribunal deems applicable to the subject matter of the dispute.

Article (15)

Provisional Execution of Judgments

Judgments issued in accordance with the provisions of this Law shall be deemed to be judgments issued by a competent authority in the Kingdom and shall be immediately enforceable without the need to provide a bond.

The Dispute Resolution Tribunal or the Appellate Tribunal to which the appeal is submitted may, at the request of the concerned parties, order the stay of the provisional execution if there is a risk of severe harm from the execution and if the grounds of appeal suggest the likelihood of the judgment being set aside. The Dispute Resolution Tribunal or Appellate Tribunal, when

ordering the stay of the execution, may require the provision of a bond or any other measure it deems appropriate to safeguard the rights of the party in whose favor the judgment was issued.

Article (16)

General Provisions on Appeals

- a. The parties may agree in writing not to appeal the judgment issued by the Dispute Resolution Tribunal on the merits of the dispute, and that the judgment shall be final and conclusive. In this case, the judgment may only be appealed if there is a nullity in the judgment or in the procedures that affected the judgment.
- b. An appeal against the judgment issued on the merits of the dispute necessarily entails an appeal against all prior non-final judgments and orders issued in the case that cannot be appealed independently unless the respondent explicitly agrees. The appeal transfers the case as it was before the issuance of the appealed judgment on the merits.
- c. Judgments and orders issued during the proceedings that do not conclude the proceedings may not be appealed except in the circumstances specified in the Regulations.
- d. The appeal judgement shall decide on the merits either by rejecting the appeal and upholding the Dispute Resolution Tribunal's judgment, or by accepting the appeal and modifying or overturning the judgment and issuing a substitute judgment on the merits of the dispute. The judgment shall be final and conclusive and not subject to further appeal by any means.

Article (17)

Application of International Agreements on Designating the Competent Judicial Authority for Appeals

- a. Appeals against judgments issued by the Dispute Resolution Tribunal on the merits of the dispute shall be submitted to the competent judicial authority in accordance with an international agreement governing appeals between the Kingdom and another contracting state, if the substantive judgment of the Dispute Resolution Tribunal is issued in English, unless the parties have agreed that the appeal shall be heard by the Appellate Tribunal.

- b. Once the appellate jurisdiction over the claim is established before the competent judicial authority for appeals, all the rules, procedures, and regulations of that authority shall apply to the filed appeal, including rules related to the procedures for appealing judgement and decisions, the conditions for filing an appeal, the documents that must be attached, the conditions for registration of the appeal, notification, procedures and time-periods for responding to it, procedures for considering the appeal and conditions for its acceptance, cases and procedures for suspending execution, procedures related to multiple appeals or the lapse of the appeal period for one of the parties with respect to an appeal filed by another party within the time-period, cases in which it is permissible to the appeal or grievance against judgements and orders issued during the course of the proceedings and which do not conclude the dispute, procedures and time-periods for appeal and grievance.
- c. The agreement between the parties regarding the choice of an appellate tribunal to hear an appeal must be in writing, or by any other means of communication which renders the information accessible so as to be usable for subsequent reference. If the agreement forms part of a contract, it shall be treated as an agreement independent of the other terms of the contract. The validity of the choice of court agreement cannot be contested solely on the grounds that the contract is void or invalid.
- d. In accordance with the international agreement with the contracting state, and the rules concerning the reissuance procedures prescribed in the Regulations, the decision issued by the judicial authority designated by the contracting state in the appeal shall be reissued by the Appellate Tribunal and deemed a final and conclusive judgment issued by the Appellate Tribunal and shall not be subject to further appeal by any means.
- e. The execution of decisions issued during and prior to the conclusion of the appeal proceedings shall be in accordance with the provisions of the international agreement with the contracting state. The Regulations shall prescribe the necessary procedures.

Chapter Three
General Provisions
Article (18)

Representation of Parties before the Court

In applying the provisions of this Law and subject to its regulations:

- a) Non-Bahraini lawyers may represent disputing parties jointly with a Bahraini lawyer licensed to appear before the Court of Cassation in disputes that are conducted in the Arabic language.
- b) Non-Bahraini lawyers may represent disputing parties in disputes conducted in languages other than Arabic.

Article (19)

Deputed Member of the Dispute Resolution Tribunal

A Member or Members of the Dispute Resolution Tribunal shall be appointed by a resolution of the Court President to issue necessary judgments and orders in cases requiring urgent intervention. This includes judgments and orders issued, as the case may be, on jurisdiction, precautionary and interim measures, urgent matters, stay of the case by agreement, striking out the case, abandoning the case, charges and costs, and other matters prescribed in the Regulations, in accordance with the rules and procedures prescribed in the Regulations. Judgments and orders issued by the Deputed Member of the Dispute Resolution Tribunal shall be deemed judgments and orders issued by the Dispute Resolution Tribunal.

Article (20)

Liability for Damages Caused to Others

- a) The Court President, the Court President's Deputy, the Members of the Court Council, the Chief Registrar, the Executive Director, or any court employee shall not be liable for any act or omission that result in damage to others if such act or omission occurred in the course of performing their duties and within the limits of their authority as set out in this Law or the regulations or other decisions issued pursuant thereto, except in cases of bad faith or gross fault.
- b) Members of the Dispute Resolution Tribunal, the Appellate Tribunal, the Deputed Member of the Dispute Resolution Tribunal, or any member of the competent judicial authority for

appeals in the contracting state shall not be liable for any act or omission done in the course of performing their duties, except in cases of bad faith or gross fault. This provision also applies to those delegated by the aforementioned to perform certain tasks related to their assigned duties, without prejudice to the liability of the Member of the Dispute Resolution Tribunal or the Deputed Member of the Dispute Resolution Tribunal if they step down without a justifiable cause or at an inappropriate time.

- c) The Court shall not be liable for any act or omission by Members of the Dispute Resolution Tribunal, the Appellate Tribunal, the Deputed Member of the Dispute Resolution Tribunal, the Court President, the Court President's Deputy, Members of the Court Council, the Chief Registrar, the Executive Director, any court employee, or any other official acting on its behalf or in its name, except in cases of bad faith or gross fault.

Article (21)

The provisions of Law No. (13) of 1975 regarding the Regulation of Pensions and Retirement Gratuities for Government Employees shall apply to the employees of the Court.

Article (22)

Enforcement of the Law

The Prime Minister and the Ministers, shall each, in their respective capacities, be charged with the implementation of this Law which shall come into force on the day following its publication in the Official Gazette.

King of the Kingdom of Bahrain

Hamad bin Isa Al Khalifa

Prime Minister

Salman bin Hamad Al Khalifa

Issued at Riffa Palace:

On: 22 Safar 1446 A.H.

Corresponding to: 27 August 2024