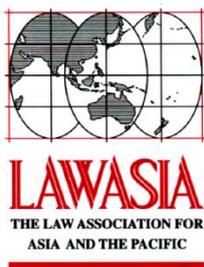




15th LAWASIA International Moot

MOOT PROBLEM 2020



Organiser of the LAWASIA International Moot Competition

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Ling Ling Partnership

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Mike Ling
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ASSOCIATE

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2nd September 2019

ASIAN INTERNATIONAL ARBITRATION CENTRE (AIAC)

Bangunan Sulaiman
Jalan Sultan Hishamuddin
50000 Kuala Lumpur
Malaysia

Attn: Director of the AIAC

Dear Sir,

IN THE MATTER OF AN AIAC ARBITRATION BETWEEN AIRIN MEERAH APPAREL SDN BHD (CLAIMANT) AND NG GARMENT MANUFACTURING (XINJIANG) CO LTD (RESPONDENT)

We write to commence arbitral proceedings pursuant to Rule 2 of the AIAC Arbitration Rules 2018. Please find the attached:

- (i) a copy of the Notice of Arbitration (“**NoA**”) along with the proof of service upon the Respondent on 1st September 2019;
- (ii) a copy of the Clothing Manufacturing and Supply Agreement which contains the arbitration agreement (*cf.* Article 23 of Clothing Manufacturing and Supply Agreement);
- (iii) proof of payment of the non-refundable registration fee amounting to USD795.00.

Thank you.

Should you have further questions, please do not hesitate to contact us.

[*signed*]

MIKE LING

Ling Ling Partnership
Representative of the Claimant

cc. **NG GARMENT MANUFACTURING (XINJIANG) CO LTD**

Wuxi St, Xinshi, Urumqi, Xinjiang, China
Attention: Mr. Towny Ng [towny@nggarment.org.cn]



Ling Ling Partnership

PARTNER

Mike Ling
Sarah Ling

ASSOCIATE

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Email: lingling@llp.com

Website: www.llp.com

1st September 2019

NG GARMENT MANUFACTURING (XINJIANG) CO LTD

Wuxi St, Xinshi, Urumqi, Xinjiang, China

Attention: Mr. Towny Ng [towny@nggarment.org.cn]

Dear Sir,

Kindly be informed that we are representing Airin Meerah Apparel Sdn Bhd, and we are commencing arbitral proceedings against your company pursuant to Article 23 of the Clothing Manufacturing and Supply Agreement under the Asian International Arbitration Centre ("AIAC") Arbitration Rules 2018.

Please find enclosed our Notice of Arbitration dated 1st September 2019, along with its five (5) relevant attachments.

Should you have further questions, please do not hesitate to contact us.

[*signed*]

MIKE LING

Ling Ling Partnership
Representative of the Claimant

cc. AIAC



**IN THE MATTER OF AN AIAC ARBITRATION PURSUANT
TO AIAC ARBITRATION RULES 2018**

BETWEEN:

AIRIN MEERAH APPAREL SDN BHD
(CLAIMANT)

-AND-

NG GARMENT MANUFACTURING (XINJIANG) CO LTD
(RESPONDENT)

NOTICE OF ARBITRATION



Ling Ling Partnership

LING LING PARTNERSHIP

Unit 10-20, Tower 1, Avenue 3, The Horizon
Jalan Kerinchi, Bangsar South, 59200 Kuala Lumpur

1st September 2019

I. INTRODUCTION

1. This NoA, together with the Exhibits numbered CL-1 to CL-5, is submitted on behalf of Airin Meerah Apparel Sdn Bhd (“**Claimant**”) pursuant to Article 23 of the Clothing Manufacturing and Supply Agreement (“**CMSA**”) against Ng Garment Manufacturing (Xinjiang) Co Ltd (“**Respondent**”). The Claimant and Respondent are collectively referred to as the “**Parties.**”
2. Pursuant to Article 3 of the AIAC Arbitration Rules 2018, this NoA contains the following information:
 - (a) A demand that the dispute is to be referred to arbitration (**I**);
 - (b) The names and contact details of the Parties (**II**);
 - (c) Identification of the arbitration agreement that is invoked (**IV**);
 - (d) Identification of the Parties’ contract and a brief description of the claim (**III**);
 - (e) A proposal as to the number of arbitrators and place of arbitration (**IV**);
 - (f) The relief sought (**V**).
3. This dispute primarily concerns, *inter alia*, the failure of the Respondent to manufacture and deliver the goods in accordance with the requirements under the CMSA.

II. THE PARTIES

A. CLAIMANT

4. The Claimant is a leading fashion company based and registered in Malaysia with ten years of experience. The Claimant’s reputation in the industry is well-known all across the region as it owns numerous retail clothing chains in both domestic and international markets. The public easily associates the Claimant’s products with its unique bright red “AM” logo and/or its opulent “Airin Meerah” signature. The Claimant’s leading designer and CEO have also managed to snatch several accolades such as the Emerging Designer of the Year by Jarper’s Bazaar and Business Leader by Fogue. The Claimant’s primary target is the upper segment of the middle market. The Claimant’s most well-known product is its extraordinary dresses.

5. Claimant's contact information is:

AIRIN MEERAH APPAREL SDN BHD
200, Jalan Maarof
Bangsar, 59100 Kuala Lumpur

6. Claimant's representative, to whom all correspondence should be addressed in this arbitration, is:

LING LING PARTNERSHIP
Unit 10-20, Tower 1, Avenue 3, The Horizon
Jalan Kerinchi, Bangsar South, 59200 Kuala Lumpur
Attention: Mr. Mike Ling [mike@ling.com]

B. RESPONDENT

7. The Respondent is accoladed for its accurate precision and high efficiency among other clothing manufacturers in China. The Respondent is also one of the few manufacturers with the capacity to meet the Claimant's requirements, including but not limited to quality, quantity, and tight timelines.

8. Respondent's contact information is as follows:

NG GARMENT MANUFACTURING (XINJIANG) CO LTD
Wuxi St, Xinshi, Urumqi, Xinjiang, China
Attention: Mr. Towny Ng [towny@nggarment.org.cn]

III. **THE PARTIES' CONTRACT AND NATURE OF THE PARTIES' DISPUTE**

A. FACTUAL BACKGROUND

9. By way of the CMSA, the Claimant agreed to purchase, and the Respondent agreed to manufacture 100,000 dresses in various quality, size, and colours ("**Dresses**") (see **CL. EXHIBIT 1** – Clothing Manufacturing and Supply Agreement).
10. The CMSA incorporated Airin Meerah's Standard Terms and Conditions ("**AM STC**") (see **CL. EXHIBIT 2** – Airin Meerah's Standard Terms and Conditions).

The AM STC, *inter alia*, imposes the “*highest responsible, sustainable and ethical standards*” in the manufacturing of clothes and textiles on its business partners. Further background regarding the formation of the CMSA and material information about the AM STC is enclosed (see **CL. EXHIBIT 3** – Witness Statement of Ms. Airin Meerah).

11. The Respondent completed the first manufacturing phase of the Dresses on 1st April 2019 (“**First Consignment**”). Upon receipt of the First Consignment, the Claimant distributed them to its domestic and international retailers and wholesale distributors. Marketing campaigns were also deployed to boost the visibility of the new collection of the Dresses focusing on the sustainable and ethical philosophy of the Claimant.
12. The market’s response to the First Consignment was astounding. The public highly praised the Dresses and demanded continued supply with more varieties. As a result of such a success, the Claimant then received an invitation to showcase some samples from the First Consignment during the prime time of the Nepal Sustainable and Ethical Fashion Week 2019 in September 2019 (“**Nepal S&E Fashion Week**”).
13. On 1st August 2019, the Malaysian Fashion Chronicle, a leading fashion magazine in Malaysia, published an article questioning the Claimant’s commitment to sustainable and ethical fashion (see **CL. EXHIBIT 4 – Malaysian Fashion Chronicle Article**) (“**Article**”). The Article also featured an interview with an anonymous source who was the senior employee of a manufacturing factory that exposed the unequal treatment by the employer. The interviewee described how female employees were demanded to work longer hours than male employees with an unreciprocated salary. The specific name and/or location of the factory was not mentioned. However, several photos included dresses with the Claimant’s well-known logo present at the factory premises. The Article then attempted to exploit these photos to establish that the Claimant was vicariously liable for the unequal treatment of the factory employees. To neutralize the situation, and advised by its public relations department, the Claimant issued an

official statement, affirming its commitment to investigate this incident further and reiterating its philosophy of ethical and sustainable practices in the fashion industry.

14. Although unknown to the public, the Claimant had a strong reason to believe that the scene occurred at the Respondent's premises. This is because the shapes, colours, textures, materials, and the sizes of the dresses featured in the Article match the Dresses as required under the CMSA, in particular, type H, I, J, and K. The technical descriptions of the Dresses are particular, exclusive, and unknown to the other business partners of the Claimant other than the Respondent. The Claimant requested clarifications from the Respondent but only received unfavourable responses. Not only did the Respondent deny any liability, the Respondent challenged the credibility of the interview and denied its obligation to comply with the Claimant's highest responsible, sustainable, and ethical standards. Moreover, the Respondent had the audacity to confirm its adherence to the terms of the CMSA. Subsequently, the Claimant tendered its notice of termination of the CMSA and reserved its right to claim for damages, including but not limited to loss of profits, arising from the Respondent's breach of the CMSA. The Respondent then contested the validity of such termination (see **CL. EXHIBIT 5** – Exchange of Communications RE Dresses).

B. LEGAL BASIS OF CLAIM

15. The Claimant submits that its termination of the CMSA is valid due to the fundamental breach of the CMSA by the Respondent. Article 7.3.1 of the Principles of International Commercial Contracts 2016 ("**UNIDROIT Principles 2016**") gives the aggrieved party the right to terminate the contract when a failure of the non-performing party amounts to a fundamental non-performance. As the AM STC were validly incorporated into the CMSA, the Respondent was required to manufacture and deliver the Dresses in conformity with the "*highest responsible, sustainable and ethical standards*".

16. Moreover, taking into account that valid termination of a contract does not necessarily preclude a claim for damages for non-performance under the UNIDROIT Principles 2016, the Claimant submits that it is entitled to additionally seek loss of profits. The Article severely affected not only the demand for the Dresses and reputation of the Claimant but also the profitability of its entire business. Furthermore, boycotts occurred in almost all of the Claimant's stores in Malaysia. A social media hashtag #IAmNotWearingAM was created and is trending internationally. After the release of the Article, the Claimant generated virtually zero income and continuously expended its financial resources to handle public relations issues. On top of that, the organisers of the Nepal S&E Fashion Week recalled its invitation pending the outcome of the investigation. Therefore, the Claimant had to forego numerous opportunities to generate profits from its day-to-day business transactions. As such, the Claimant's position is that the Respondent must compensate for the damages, including but not limited to loss of profits, resulting from the fundamental breach of the CMSA.
17. Further particulars of the Respondent's fundamental breach of the CMSA, as well as the Claimant's claims, will be elaborated in the Memorandum on behalf of the Claimant. For the avoidance of doubt, the matters set out in this NoA are only intended to outline the general nature of the Claimant's claims solely for the purpose of commencement of arbitral proceedings and do not serve, in any way, to limit the issues, disputes, or claims to be raised by the Claimant in this dispute.

IV. ARBITRAL PROCEEDINGS

A. The Arbitration Clause

18. This arbitration is initiated pursuant to the arbitration agreement found at Article 23 of the CMSA, which is as follows:

“Art. 23 Dispute Resolution

Unless the Parties agree otherwise, all disputes arising from or in connection

with this Agreement shall be settled through arbitration using the facilities and rules at the Asian International Arbitration Centre in Kuala Lumpur, Malaysia.”

B. The Seat of Arbitration

19. Pursuant to Article 23 of the CMSA, the seat of the arbitration is Kuala Lumpur.

C. The Governing Law

20. Pursuant to Article 24 of the CMSA, it is governed by the UNIDROIT Principles 2016:

“Art. 24 Law of the Agreement

This Agreement shall be governed by the UNIDROIT Principles of International Commercial Contracts (2016).”

D. The Arbitral Tribunal

21. The Parties did not agree on the number of arbitrators. Rule 4(3)(a) of the AIAC Arbitration Rules 2018 provides:

“Rule 4 Appointment

[...]

(3) If the Parties fail to determine the number of arbitrators and the Director does not determine the number having regard to the circumstances of the case, the arbitral tribunal shall:

(a) in the case of an international arbitration, consist of three arbitrators

[...]”

As such, the Arbitral Tribunal shall consist of three arbitrators. Pursuant to Rule 4(5)(a) of the AIAC Arbitration Rules 2018, the Claimant hereby nominates the First Arbitrator:

Prof. Dr. A

A Chambers

EkoCheras, No. 693, Batu, 5, Jalan Cheras

56000 Kuala Lumpur

a@achambers.com

Please be informed that if the Respondent fails to nominate the Second Arbitrator within thirty (30) days from the service of this notice upon the Respondent, then the Claimant will request the Director of the AIAC to appoint the Second Arbitrator (*cf.* Rule 4(5)(b) of the AIAC Arbitration Rules 2018).

E. The Registration Fee

22. The proof of remittance for the registration fee in the amount of USD795.00 is attached to the NoA.

V. **RELIEF SOUGHT**

23. As a result, Claimant respectfully requests the Arbitral Tribunal to grant the following prayers for relief:
- (a) to declare that the Respondent fundamentally breached its contractual obligations under the CMSA by delivering non-conforming Dresses;
 - (b) to declare that the Claimant validly terminated the CMSA;
 - (c) to award damages, including but not limited to loss of profits, incurred by the Claimant as a result of the fundamental breach of the CMSA by the Respondent; and
 - (d) to order the Respondent to pay all costs of the arbitration, including the Claimant's representative's fees and expenses.

Respectfully submitted by,

[*signed*]
Sarah Ling
Partner

[*signed*]
Mike Ling
Partner

Ling Ling Partnership
Unit 10-20, Tower 1, Avenue 3, The Horizon
Jalan Kerinchi, Bangsar South, 59200 Kuala Lumpur

Representative of the Claimant

Exhibits to the NoA

Title of the Exhibit	Exhibit number
Clothing Manufacturing and Supply Agreement	CL. EXHIBIT 1
Revised Standard Terms	CL. EXHIBIT 2
Witness Statement of Ms Airin Meerah	CL. EXHIBIT 3
The Malaysia Fashion Chronicle Article	CL. EXHIBIT 4
Exchange of Communications Re Dresses	CL. EXHIBIT 5

CL. EXHIBIT 1

CLOTHING MANUFACTURING AND SUPPLY AGREEMENT

between

AIRIN MEERAH APPAREL SDN BHD, 200, Jalan Maarof, Bangsar 59100 Kuala Lumpur, Malaysia ("**Buyer**")

and

NG GARMENT MANUFACTURING (XINJIANG) CO LTD, Wuxi St, Xinshi, Urumqi, Xinjiang, China ("**Manufacturer**")

*(hereinafter collectively referred to as the "**Parties**")*

PREAMBLE

Whereas the Buyer is one of the leading fashion companies based and registered in Malaysia;

Whereas the Manufacturer is one of the biggest clothing manufacturers in China;

Whereas further agreement(s) will be formed with Gölgör Textiles and Fabrics LLC for the supply of high-quality Mongolian fabrics for the manufacture of the dresses under this agreement.

Art. 1 Subject Matter

The Parties agree that the Manufacturer will manufacture and deliver, and the Buyer will purchase a total of 100,000 dresses ("**Dresses**") of various shapes, colours, textures, materials, and sizes as further specified in Schedule I.

Art. 2 Price

(1) The purchase price of the Dresses is USD20,000,000.00.

(2) The payment schedule is as follows:

(a) an initial payment of USD7,500,000.00 on 1st January 2019;

(b) four (4) semi-annual instalments of USD1,250,000.00 million to be paid upon the delivery of each phase per Schedule II; and

(c) one (1) final payment of USD7,500,000.00 to be paid 100 days after the 4th delivery pursuant to Schedule II.

Art. 3 Delivery

(1) The Parties agree that the Dresses will be delivered in six (6) phases as follows:

- a. Types A – G and 1-unit sample for types H – AB by no later than 1st April 2019;
- b. Types H – K by no later than 1st September 2019;
- c. Types L – N by no later than 1st January 2020;
- d. Types O – R by no later than 1st May 2020;
- e. Types S – U by no later than 1st October 2020; and
- f. Types V – AB by no later than 1st February 2021.

(2) The Dresses are to be delivered to the Buyer's premises according to the terms and arrangements as contained in Schedule II.

[...]

Art. 23 Dispute Resolution

Unless the Parties agree otherwise, all disputes arising from or in connection with this Agreement shall be settled through arbitration using the facilities and rules at the Asian International Arbitration Centre in Kuala Lumpur, Malaysia.

Art. 24 Law of the Agreement

This Agreement shall be governed by the UNIDROIT Principles of International Commercial Contracts (2016).

[...]

Art. 38 Standard Terms and Conditions

This Agreement is subject to the Airin Meerah's Standard Terms and Conditions, available on its official website: <http://www.airinmeerah.dress/>.

Date: 1 December 2018

[signed]

Signed by the Buyer

AIRIN MEERAH

on behalf of Airin Meerah Apparel Sdn
Bhd

[signed]

Signed by the Manufacturer

TOWNY NG

on behalf of the Ng Garment Manufactur-
ing (Xinjiang) Co Ltd

Enclosures:

1. Schedule I – Type, Quality and Design Description of the Dresses
2. Schedule II – Delivery Arrangement of the Dresses

CL. EXHIBIT 2



AIRIN MEERAH'S STANDARD TERMS AND CONDITIONS

(Version 03.12.2018)

Welcome to AIRINMEERAH.dress. This website and domain name are owned and operated by AIRIN MEERAH APPAREL SDN. BHD., a company registered in Malaysia, Registration No. QR1518514 (“**Airin Meerah**”).

Any agreements concluded with Airin Meerah (“**AM Contracts**”) are subject to the following standard terms and conditions (“**AM STC**”).

By entering into the AM Contracts, you agree to all of the AM STC. You should check this page regularly to take notice of any reasonable changes we may make to the AM STC.

PREAMBLE

Airin Meerah is a company committed to the highest responsible, sustainable, and ethical standards at all stages of its work in the fashion industry.

[...]

Section 11. Manufacturing & Supplying

All Manufacturers bound by the AM Contracts shall, under all circumstances, during the manufacturing and/or procurement of the goods directly or indirectly for Airin Meerah, ensure that:

1. Its Suppliers are of first echelon and have a shared belief that ethical and sustainable manufacturing of goods is an essential component of well-structured industrial relations, which will enable businesses to flourish and provide decent work with respect and dignity.
2. The chosen suppliers will comply with the standards agreed with the Manufacturers in order to avoid a breach of Airin Meerah’s underlying company principles.

[...]



CL. EXHIBIT 3

WITNESS STATEMENT OF MS AIRIN MEERAH

AIRIN MEERAH

Born in Kuala Lumpur, 20 June 1975

I, Airin Meerah, of Airin Meerah Apparel Sdn Bhd, 200, Jalan Maarof, Bangsar, 59100 Kuala Lumpur, confirm the following is based on my personal knowledge:

1. On 20th June 2015, which was our 10th anniversary, Airin Meerah Apparel set a new objective for completion. Airin Meerah Apparel always strives to not only be the leading fashion brand in Malaysia and abroad, but also, pushes the fashion industry's boundaries to sustainable and ethical manufacturing. Driven by this ambition, we aim to be admitted as a United Nations Global Compact Company as well as to model our products on fashion runaways that share a similar vision, which includes, but is not limited to, the Nepal S&E Fashion Week.
2. To achieve this goal, we focus on the exceptional quality of our products. On 15th August 2018, our designers and I finally finished the designs for 30 new dress types. The design for each dress contained a technical descriptions to ensure manufacturing was done in a sustainable and ethical manner. We also prepared several prototypes of the dresses.
3. Showcasing our dresses in the Nepal S&E Fashion Week would be a great stepping stone for us. The Nepal S&E Fashion Week is an exclusive platform for selected designers, who manage to demonstrate their unwavering commitment towards ecological integrity and social justice, to showcase their work. To be invited to the Nepal S&E Fashion Week, a designer's products must embody sustainable and ethical values and be supported by the public. To be considered for the Nepal S&E Fashion Week, our products needed to be on the shelves around April or May 2019.
4. Airin Meerah Apparel had a difficult time in its pursuit of the right clothing manufacturer due to the requirement that the manufacturer must have the capacity to, within a short timeframe, manufacture the dresses in their intricate technical requirements and in a considerable quantity. After scanning and looking for a viable manufacturer all around Asia, we were acquainted with Ng Garment Manufacturing (Xinjiang) Co Ltd ("**Ng Garment**"), who confirmed that it had the capacity to meet our elaborate requirements.
5. It was my impression that Ng Garment was excited to cooperate with us. This is further shown by the fact that during the negotiations of the terms of the contract, they did not persistently counter our terms. Rather, their main required condition of the contract was to have Gölgör Textiles and Fabrics LLC as the designated fabrics supplier for the clothing manufacturing. In light of the tight timeframe, we acceded to this condition and requested our legal department to finalise the necessary paperwork.

6. Upon finalization of the contract, our legal department also forwarded a list of questions to be verified with Ng Garment for due diligence purposes. Our legal department raised the question of whether, in light of the sustainability and ethical business ideology that Airin Meerah Apparel aspires to have, it was necessary to require any certification from Ng Garment that it complied with the same. We conveyed this question to them and found no alerting responses at that juncture. Shortly thereafter, along with Gölgör Textiles and Fabrics LLC's involvement as the designated supplier, the Parties reached an agreement on the terms of the CMSA.
7. In order to affirm and formalise our business ideology on sustainability and ethical fashion, on 3rd December 2018, we overhauled our standard terms to reflect the same. Numerous announcements and public statements on national television were made to raise awareness to our customers of Airin Meerah's exciting new goal and to notify our business partners of our novel commitment. This included, but was not limited to, circulating email-blast through our customer communication channels, posting on social media platforms, and issuing a pop-up notification on our website that summarized the changes to our standard terms.
8. I trust this explains the background of the formation of the CMSA with Ng Garment. Contracts are promises. Promises are meant to be kept, not to be broken. I was truly disappointed to learn that Ng Garment was unable to live up to their promises. Ng Garment also broke our shared promise to not only weave clothing, but to weave a better world.

Dated: 30th August 2019

Best regards,



Airin Meerah

Airin Meerah Apparel Sdn Bhd
200, Jalan Maarof, Bangsar
59100 Kuala Lumpur, Malaysia

THE MALAYSIAN FASHION CHRONICLE

By Leon Barik

AIRIN MEERAH: COMMITMENT TO ETHICAL FASHION QUESTIONED?

KUALA LUMPUR (1/8/2019) - The quest to acquire the green credentials has started to sweep the fashion industry. This objective is mainly brought forward by fashion institutions seeking to burnish its reputation to its customers. But behind this eco-fight, a broad set of issues related to social justice are gaining increased scrutiny. Further, is it possible to complete such a quest without compromising the affordability of the price tag that they offer to their customer?

“Woven by Threads of Sweat, Blood, and Tears”, a recently published documentary article written by Kaira Venkatraman, a Malaysian investigative journalist, exposed a spectrum of fashion industry players who managed to cast an illusion that they have achieved the goal of sustainability and ethics in fashion by relying on underpaid labors in China and Mongolia.

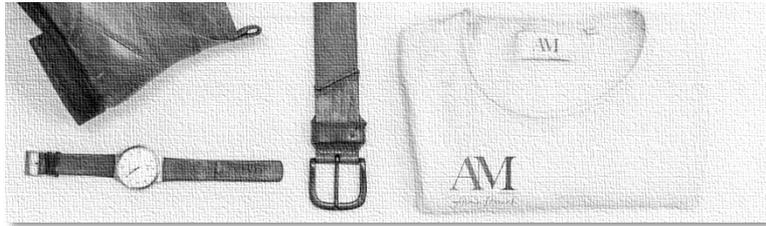
The article focused on several cities, amongst them are Xinjiang, China and Ulaanbaatar, Mongolia. Additionally, it claimed that under the banner of a poverty alleviation programme, poor farmers, small traders and idle villagers of working age were obliged to attend training and indoctrination courses for several weeks to months and were assigned to stitch clothes, make shoes and/ or gather cotton.



Ms. Venkatraman’s article also featured an anonymous interview with an elderly woman who testified about a strict working environment in the factory she worked and how she was forced to leave her peaceful life as a farmer to become one of the cotton gatherers. Moreover, she stated that the factory also set longer working hours for women and refused to release their daily remuneration if the targets were not met.

Several experts were called to provide their opinions regarding this, and two schools of thought have developed. Several experts confirmed that those are rural areas with a surplus of labor, and a high percentage of unemployment is likely to threaten social stability. As such, the placement of the unemployed in a steady and supervised work environment will alleviate poverty and reduce crime rates. The other experts argue that this treatment constitutes social injustice and can amount to mistreated or even forced labor. This is ironic considering China, Mongolia, and Malaysia ratified the C100 – ILO Equal Remuneration Convention, 1951 (No. 100), which requires them to *“ensure the application to all workers of the principle of equal remuneration for men*

and women workers for work of equal value". As such, one could argue that the reputation of any company whose products are manufactured in this coercive and unequal labor scheme will be tainted as not being sustainable and/or ethical.



Shockingly, in one of the many photo clips featured in Ms. Venkatraman's article, several dresses had the "AM" logo that many associate with Airin Meerah. Sev-

eral comments, and even conspiracy theories, have sparked up accusing Airin Meerah of using these fabrics and clothing manufacturers in China and/or Mongolia. If it were proven that Airin Meerah is engaging such labor, Airin Meerah would likely be vicariously liable.

Airin Meerah is, so far, the only fashion giant in the region who dares to pledge their alliance to both sustainable and ethical fashion. This is shown by their numerous and constant marketing endeavors that highlight their products' embodiment of and commitment to the highest responsible, sustainable, and ethical standards. Its recent collection of dresses that were supposed to be manufactured in a sustainable and ethical manner received outstanding responses from the public. The Nepal S&E Fashion Week subsequently invited Airin Meerah to showcase samples from this new collection of dresses in Nepal this September. It is questionable whether Airin Meerah's reputation will stand firm in light of this investigative article.

The Malaysian Fashion Chronicle reached out to Airin Meerah's representative, and was informed that an official statement by Airin Meerah would be issued soon.

Leon Barik.

Malaysian Fashion Chronicle.

Airin Meerah Apparel Sdn Bhd

From: Airin Meerah <airin@airinmeerah.dress>
Sent: Friday, August 2, 2019 5:15 PM
To: Towny Ng <towny@nggarment.org.cn>
Cc: Jessica Hiujun; Mike Ling; Sarah Ling
Subject: RE: The Malaysian Fashion Chronicle Article dated 1st August 2019

Dear Towny,

Kindly take note that we have engaged our solicitors to deal with this matter. Therefore, kindly address all correspondences to their address below:

LING LING PARTNERSHIP
Unit 10-20, Tower 1, Avenue 3, The Horizon
Jalan Kerinchi, Bangsar South, 59200 Kuala Lumpur

Thank you.

Best regards,

Airin Meerah

Airin Meerah Apparel Sdn Bhd
200, Jalan Maarof
Bangsar 59100
Kuala Lumpur
Malaysia



Our standard terms and conditions are available [here](#)

From: Towny Ng <towny@nggarment.org.cn>
Sent: Friday, August 2, 2019 3:30 PM
To: Airin Meerah <airin@airinmeerah.dress>
Subject: RE: The Malaysian Fashion Chronicle Article dated 1st August 2019

WITHOUT PREJUDICE

Dear Ms. Meerah,

As emphasized in our previous email, we maintain our position that we have duly complied with all our obligations under the CMSA and the AM's Terms and Conditions.

As such, you are not entitled to terminate the CMSA. We have also begun the manufacturing of the subsequent consignments of the Dresses, in particular, Types H to AB, and such termination will result in a disproportionate loss to Ng Garment.

We, therefore, seek your kind understanding in this matter, retraction of the said notice, and we look forward to our continued business relationship.

At the same time, we reserve all our rights in this matter.

Thank you.

Kind regards,

TOWNY NG
CEO

NG GARMENT MANUFACTURING (XINJIANG) CO LTD,
Wuxi St, Xinshi, Urumqi,
Xinjiang China



From: Airin Meerah <airin@airinmeerah.dress>
Sent: Friday, August 2, 2019 2:55 PM 1:24 PM
To: Towny Ng <towny@nggarment.org.cn>
Subject: RE: The Malaysian Fashion Chronicle Article dated 1st August 2019

Dear Towny,

We take note of your response to our email below.

Unfortunately, it is undeniable that the photographs in the article, as well as the identity of the manufacturing plant incriminated, refer to Ng Garment.

We have conducted a thorough internal investigation, and it was found that the pieces of clothing pictured in the photographs match the dresses as described in the CMSA. From the photographs, it has been determined that the pieces of clothing match the shape, colours, texture, and materials of the dresses specified in the said agreement.

We further wish to reiterate that at all material times, the Airin Meerah brand has always upheld the highest standards of confidentiality when it comes to the idea, design, materials, and specifications of all our collections. The specifications of the dresses in the photographs have also never been disclosed to any other business partner except Ng Garment.

In view thereof, and in these circumstances, we are left with no choice but to exercise our rights to protect the integrity and reputation of the Airin Meerah's brand.

NOTICE OF TERMINATION

Please note that due to your failure to manufacture and deliver the dresses in accordance with the highest responsible, sustainable, and ethical standards as stipulated in the AM's Terms and Conditions (Version. 03.12.2018), you have committed a fundamental breach of CMSA.

As per the CMSA, as well as the AM's Terms and Conditions, please accept this email as our notice of termination of the CMSA, effective immediately upon receipt of this email.

We further reserve our rights to claim for damages, including but not limited to loss of profits.

Thank you.

Best regards,

Airin Meerah

Airin Meerah Apparel Sdn Bhd
200, Jalan Maarof
Bangsar 59100
Kuala Lumpur
Malaysia



Our standard terms and conditions are available [here](#)

From: Towny Ng <towny@nggarment.org.cn>
Sent: Friday, August 2, 2019 10:45 AM
To: Airin Meerah <airin@airinmeerah.dress>
Subject: RE: The Malaysian Fashion Chronicle Article dated 1st August 2019

Dear Ms. Meerah,

How are you?

Firstly, let me begin by saying how shocked and surprised we are by your allegations that our manufacturing facilities are engaged in unethical practices.

We strongly deny the false allegations in your email. Ng Garment does not and will not tolerate such strong statements about our manufacturing practices. Kindly note that we follow the same standard operating procedure as all other clothing manufacturers in our province. We have also complied with the standard operating procedures in the manufacturing and delivery of the first batch of dresses on 1st April 2019 as per the specifications and requirements laid down in the CMSA as well as the AM's Terms and Conditions.

With regards to the Malaysian Fashion Chronicle article, we note that in many instances prior to this, there have been many allegations that it often publishes fake news, as well as news aimed at tarnishing the good name of reputable corporations and individuals in the region. Has it never occurred to you before that the article might be one of those fake-news articles?

Further, there was no mention of Ng Garment in the article, nor any of its fabrics suppliers and/or other companies or factories. Taking into account the size of your business, and its turnovers, the article could be talking about any of your business partners, whether manufacturers or suppliers. The photographs featured also look as

if they were photoshopped. We were also unable to ascertain the identity of the elderly woman who was interviewed for the article. We, therefore, reiterate that we believe the news article is fake and unreliable and therefore, should not be of your significant concern.

Regarding the sustainable and ethical standards mentioned in your email, may we kindly enquire wherein our agreement this is stated? We believe that you may have mistaken us with your other business partners, as no such terms were incorporated in the CMSA, as well as the AM STC agreed between us.

We trust the above is clear. We look forward to our continued business relationship.

Thank you.

Kind regards,

TOWNY NG
CEO

NG GARMENT MANUFACTURING (XINJIANG) CO LTD,
Wuxi St, Xinshi, Urumqi
Xinjiang China



From: Airin Meerah <airin@airinmeerah.dress>
Sent: Friday, August 2, 2019 8:35 AM
To: Towny Ng <towny@nggarment.org.cn>
Subject: The Malaysian Fashion Chronicle Article dated 1st August 2019
Attachments: mfcarticle.pdf

Dear Towny,

We hope this email meets you well.

Just yesterday, it was brought to our attention that an article was published on the Malaysian Fashion Chronicle, bearing the title “*Airin Meerah: Ethical Brand Commitment Questioned?*”, in which negative references were made to our brand, Airin Meerah. A copy of the said article is attached for your reference.

In the article, strong allegations were made about our brand’s failure to uphold the highest responsible, sustainable, and ethical standards in our business practices. It was alleged that our brand is engaged with a clothing and/or fabrics manufacturer(s) who apparently is involved in unethical practices, particularly in the unequal treatment of its factory workers. The article also featured an interview with an elderly female employee who described that female workers are demanded to work longer hours or risk their salaries being withheld. The article featured several photographs, one of which contained clothes bearing the Airin Meerah’s logo. Allegations were further made in the article that our company is therefore vicariously liable for the unethical treatment of the factory workers.

As the allegations in the article undermine the very foundation and commitment of the Airin Meerah brand to the highest responsible, sustainable, and ethical standards, as stated in the AM STC, we, therefore, take these allegations seriously and have taken

steps to issue an official statement, affirming our commitment to and philosophy of ethical and sustainable fashion and announcing that this matter will be thoroughly investigated.

We further note that the said photograph featured a piece of clothing that is, in fact, being manufactured specifically in your facility. In view thereof, we seek your kind clarification as to your views and position on the allegations made in the article.

We trust that your facility will adhere to the highest responsible, sustainable, and ethical standards in your manufacturing practice, as well as ensure the same standards are maintained by the fabrics suppliers retained by you, as required under the AM's STC incorporated into the CMSA.

We hope to hear from you at your earliest convenience. In the meantime, we reserve all our rights.

Thank you.

Best regards,



Airin Meerah Apparel Sdn Bhd
200, Jalan Maarof
Bangsar 59100
Kuala Lumpur
Malaysia



Our standard terms and conditions are available [here](#)

Please quote our reference when replying.

Our Ref. : AIAC/INT/ADM-888-2019



28th September 2019

LING LING PARTNERSHIP

Unit 10-20, Tower 1, Avenue 3, The Horizon
Jalan Kerinchi, Bangsar South 59200
Kuala Lumpur
[Attn.: Mike Ling & Sarah Ling]

By Email & Post

(Email: sarah@llp.com; mike@llp.com)

**NG GARMENT MANUFACTURING (XIN-
JIANG) CO LTD**

Wuxi St, Xinshi, Urumqi, Xinjiang, China
[Attn.: Towny Ng]

By Email & Post

(Email: towny@nggarment.org.cn)

Dear Sirs/Madams,

IN THE MATTER OF AN AIAC ARBITRATION BETWEEN AIRIN MEERAH APPAREL SDN BHD (CLAIMANT) AND NG GARMENT MANUFACTURING (XINJIANG) CO LTD (RESPONDENT)

We refer to the above matter.

Please be advised that this arbitration matter has been registered pursuant to **Rule 2** of the **AIAC Arbitration Rules 2018** ("**Rules**"). According to **Rule 2(2)** of the **Rules**, the arbitration commenced on 2nd September 2019.

We wish to bring to your attention **Rule 14(1)** and **Rule 14(2)** of the **Rules**, which states that the Director of the AIAC shall fix a provisional advance deposit, which is intended to cover the costs of the arbitration. The amount of this deposit is calculated based on the unquantified amount in dispute and shall be paid in equal shares by both Parties within 21 days upon request from the AIAC.

Having regard to the above, please be informed that a provisional advance deposit of **USD15,000.0** is payable in equal shares by the Parties. The amount to be paid by the Parties is as follows:

Claimant	:	USD7,500.00.
Respondent	:	USD7,500.00

Please be advised that pursuant to **Rule 14(3)** of the **Rules**, in the event that any of the Parties fails to pay its share of the deposit, the Director of the AIAC will give the other Party an opportunity to make the required payment within a specified period of time. The arbitral proceedings shall not proceed until the provisional advance deposit is paid in full.

We wish to highlight that pursuant to **Rule 14(4)** and **Rule 14(5)** of the **Rules**, further deposits may be requested following a calculation of the estimated fees and expenses of the Arbitral

Tribunal and AIAC administrative fee. Any unexpended balance shall be returned to the Parties upon rendering of the final account.

Finally, please be advised that according to the Service Tax Act 2018 effective as of 1 September 2018, a service tax (“**SST**”) is applicable to taxable services specified in the First Schedule of the Service Tax Regulations 2018. In compliance with the legislative requirements, the AIAC includes (where applicable), as part of its calculation of deposits, a 6% SST rate on: (i) the arbitrator’s fees; and (ii) the AIAC administrative fees. The AIAC will issue tax invoices accordingly when the arbitration proceedings conclude. Please see the AIAC’s [Circular on the Application of Service Tax Act 2018](#) for further details.

Please find enclosed our Invoices no. 10000393 and 10000394 for your reference.

Kindly remit the above-stated amount within 21 days by **18th October 2019** and submit to us the proof of the remittance.

Thank you.

Yours faithfully,

[*signed*]

ALBERTA PRIMADONA
Senior International Case Counsel
Email: alberta@aiac.world

Your Ref. No.: Please Advise

Our Ref. No.: JH/ARB/078



30th September 2019

LING LING PARTNERSHIP

Unit 10-20, Tower 1, Avenue 3, The Horizon
Jalan Kerinchi, Bangsar South 59200 Kuala Lumpur

[Attn.: Mike Ling & Sarah Ling]

[email: sarah@llp.com; mike@llp.com]

By Email & Post

Dear Sir/Madam,

RE: IN THE MATTER OF AN AIAC ARBITRATION BETWEEN AIRIN MEERAH APPAREL SDN BHD (CLAIMANT) AND NG GARMENT MANUFACTURING (XINJIANG) CO LTD (RESPONDENT)

We are instructed by our client, Ng Garment Manufacturing (Xinjiang) Co Ltd, to serve onto you the Response to the Notice of Arbitration for the above matter.

Please ensure to address any future correspondence related to this matter to us.

Best regards,

Jessica Hiujun

Managing Partner

cc. ASIAN INTERNATIONAL ARBITRATION CENTRE (AIAC)

Bangunan Sulaiman

Jalan Sultan Hishamuddin

50000 Kuala Lumpur

Malaysia

Attn: Alberta Primadona, Senior International Case Counsel, AIAC

Ref. No.: AIAC/INT/ADM-888-2019



Xinsheng Plaza, Tower C, 30F
5 Finance Street, Xicheng District
100032 Beijing, PRC



+861051284400



jessica@hiujun.org

IN THE MATTER OF AN ARBITRATION PURSUANT TO
THE AIAC ARBITRATION RULES 2018

ARBITRATION NO.: AIAC/INT/ADM-888-2019

BETWEEN:

AIRIN MEERAH APPAREL SDN BHD
(Claimant)

v.

NG GARMENT MANUFACTURING (XINJIANG) CO LTD
(Respondent)

**RESPONSE TO THE
NOTICE OF ARBITRATION**



Hiujun Law Firm

Xinsheng Plaza, Tower C, 30F
5 Finance Street, Xicheng District
100032 Beijing, PRC

Representative of the Respondent

30th September 2019

I. INTRODUCTION

1. This Response to the Claimant's Notice of Arbitration ("**Response**"), together with its Exhibits numbered RS. EXHIBIT 1 to RS. EXHIBIT 3, is submitted on behalf of the Ng Garment Manufacturing (Xinjiang) Co Ltd pursuant to the Article 4 of the AIAC Arbitration Rules 2018.
2. In this Response, unless otherwise stated, the Respondent adopts the abbreviations used in the Claimant's NoA. Unless otherwise stated, capitalised terms shall have the meanings given to them in the NoA.
3. For the avoidance of doubt, any allegation set out in the NoA, which is not expressly or specifically addressed in this Response shall not be construed as an admission or concession by the Respondent of the allegation made.
4. The Response shall not be construed as a submission to the jurisdiction of the Arbitral Tribunal or a waiver by the Respondent of their right to challenge the jurisdiction and power of the Arbitral Tribunal.
5. Pursuant to Article 4 of the AIAC Arbitration Rules 2018, this Response contains information concerning the following:
 - i. The name, description and contact details of the Parties (**II**);
 - ii. Respondent's arguments as to the Arbitral Tribunal's jurisdiction (**III**);
 - iii. Respondent's arguments as to the nature and circumstances of the dispute (**IV**);
 - iv. Respondent's arguments concerning the composition of the Arbitral Tribunal (**V**);
 - v. Respondent's position regarding the relief sought by the Claimant and the relief sought by the Respondent (**VI**);
 - vi. Confirmation of delivery of the Response to all other parties (**VII**).

II. THE PARTIES

6. Paragraphs 4, 5, 6, 7, and 8 of the NoA are admitted.
7. Kindly ensure that all future correspondences are directed to the Respondent's representative:

Hiujun Law Firm

Xinsheng Plaza, Tower C, 30F

5 Finance Street, Xicheng District

100032 Beijing, PRC

Attn. to: Jessica Hiujun (jessica@hiujun.com)

III. RESPONDENT'S ARGUMENTS AS TO THE ARBITRAL TRIBUNAL'S JURISDICTION

8. Paragraph 17 and 18 of the NoA are denied. The Respondent objects to the jurisdiction of the Arbitral Tribunal. The Claimant erroneously initiated this arbitration proceeding under the administration of the AIAC, applying AIAC Arbitration Rules 2018, and claiming that the seat of arbitration is located in Kuala Lumpur, Malaysia. This untenable assertion is based on the Claimant's specious reference to Article 23 of the CMSA, which provides as follows:

“Art. 23 Dispute Resolution

Unless the Parties agree otherwise, all disputes arising from or in connection with this Agreement shall be settled through arbitration using the facilities and rules at the Asian International Arbitration Centre in Kuala Lumpur, Malaysia.”

9. The Claimant has orchestrated numerous false allegations to the Respondent by concealing relevant and material facts of the case to bring favour on their side. The Claimant mentioned nothing in their NoA about the existence of a valid and binding arbitration clause in the Textiles Supply Agreement (“TSA”). Article 13 of the TSA reads as follows:

“Art. 13 Dispute Resolution

All disputes arising from or in connection with this Agreement shall be settled through arbitration using the facilities and rules at the at alternative dispute resolution centre in Ulaanbaatar, Mongolia.”

10. The Claimant agreed to the dispute resolution clause in the TSA (see **RS. EXHIBIT 1** – Witness Statement of Mr Towny Ng; see **RS. EXHIBIT 2** – Textiles Supply Agreement). Moreover, the Respondent asserts that the crux of the dispute stems from the TSA. Taking into account the number of inter-related contractual agreements associated with the present dispute, and by applying the “one-stop” principle and locating the centre of gravity of the dispute, it is clear that the present claim revolves around the terms of the TSA. Therefore, the Claimant has wrongfully initiated this arbitration proceeding by invoking the arbitration clause contained in the CMSA.

11. As such, contrary to the Claimant’s position, if this dispute were to be brought to arbitration, the proceeding should be under the administration of an alternative dispute resolution centre in Ulaanbaatar, Mongolia, with the seat of arbitration being Ulaanbaatar, Mongolia. Initiating an arbitration proceeding that is not in accordance with the agreement of the Parties is a valid ground to object to the jurisdiction of the Arbitral Tribunal and/or challenge the enforceability of the arbitral award, at a later stage. Thus, since these proceedings have been wrongfully initiated, this Arbitral Tribunal is requested to determine that it lacks the jurisdiction to hear the present matter.

IV. RESPONDENT’S ARGUMENTS AS TO THE NATURE AND CIRCUMSTANCES OF THE DISPUTE

12. The Respondent is astonished by the Claimant’s ability to cherry-pick the facts. It is evident that the NoA has bypassed a considerable amount of facts that are of important milestones to the present case, which will be further elaborated below. Strictly without prejudice, and without any concession to our objection to the jurisdiction of the Arbitral Tribunal, the Respondent will confer with this in turn.

13. The Respondent strongly denies paragraph 11 of the NoA. The Arbitral Tribunal is put on notice that there are two versions of Airin Meerah’s STC. The

Claimant purports that the CMSA incorporates the revised version of the Airin Meerah's STC ("**Revised AM STC**"). The Claimant, however, seems to ignore the existence of the original version of the Airin Meerah's STC ("**Original AM STC**") (see **RS. EXHIBIT 3**).

14. It is the Respondent's position that the Revised AM STC have never been validly incorporated into the CMSA. The Claimant never offered a reasonable opportunity for the Respondent to learn of the Revised AM STC. The Original AM STC contained no commitment to ethical and sustainable standards. At the time the CMSA was formed, the Parties never intended to be obligated to "*uphold the highest responsible, sustainable and ethical standards*" in their manufacturing practices. Such standard was discussed at some point, but it never materialised (see **RS. EXHIBIT 4** – Witness Statement of Mr Christian Jones).
15. Additionally, the onus was on the Claimant to ensure that proper notice of the revisions to the standard terms was issued. Such obligation is further amplified if it involves a shifting of the business philosophies and ideologies that will substantially affect the performance of the contract. By failing to serve a proper notice when the Claimant overhauled the AM STC, the Revised AM STC were never incorporated into the CMSA.
16. Even if the incorporation of the Revised AM STC was to be deemed valid, the ethical and sustainable terms are not effective on the Respondent since the terms are surprising. Therefore, the Respondent is not under any obligation to comply with the ethical and sustainable standards due to the non-existence of any and/or non-effectiveness of the provisions under the CMSA imposing the same on the Respondent. The Claimant had an ample opportunity to bring such standard to the attention of the Respondent, but the Claimant stood silent and said nothing (see **RS. EXHIBIT 5** – Exchange of Communications on Due Diligence)

17. *Assuming arguendo* that the Respondent is obligated to adhere to the ethical and sustainable standards, the Respondent nevertheless submits that none of its conduct can be construed as a ground for termination of the CMSA pursuant to the UNIDROIT Principles 2016. As such, the Respondent alleges that the Claimant's termination of the CMSA is invalid.
18. As pointed out by the Claimant, the existence of a fundamental breach of contract is required to warrant a rightful termination of a contract. The Respondent submits that it performed its obligations under the CMSA and did not deprive the Claimant of its expectations under the CMSA. The delivery of the First Consignment of Dresses was successful and in compliance with the quality required under the CMSA. The Claimant even admitted that it had received a shower of compliments regarding the Dresses.
19. Further, the Claimant is not entitled to terminate the CMSA as the Respondent will suffer disproportionate loss as a result of the termination. At the time of finalising the CMSA, the Claimant made it clear that tardiness is out of the question, and we therefore punctually delivered the First Consignment of the Dresses to the Respondent. The Respondent is also currently in the midst of producing the next consignment of the Dresses, Types H – AB, and has tendered various purchase orders to our supplier, Gölgör Textiles and Fabrics LLC, to acquire the necessary materials. The Respondent, at this juncture, is unable to produce the purchase orders as exhibits to this Response due to the confidential nature of those orders.
20. While the Respondent refutes all allegations made by the Claimant, the Claimant is put on notice that the Respondent is currently in the midst of investigating the allegation of the unequal treatment practices with the Gölgör Textiles and Fabrics LLC.

V. RESPONDENT'S ARGUMENTS CONCERNING THE COMPOSITION OF THE ARBITRAL TRIBUNAL

21. In its NoA, the Claimant nominated Prof. Dr. A from A Chambers as the First Arbitrator.
22. Strictly without prejudice, and *assuming arguendo*, but not conceding that the Arbitral Tribunal has jurisdiction to hear this dispute, the Respondent nominates Ms. B, a fashion industry specialist, to serve as the Second Arbitrator, whose details are as follows:

Ms. B
B Fabulous Collection
266 Wangfujing St
Beijing, PRC
b@fabcollection.com

VI. RESPONDENT'S POSITION REGARDING THE RELIEF SOUGHT BY THE PARTIES

23. The Respondent rejects the Claimant's claims and relief as set out in its NoA.
24. The Respondent respectfully requests the Arbitral Tribunal to:
 - i. Find that it lacks the jurisdiction to decide the dispute between the Claimant and the Respondent;
or *assuming arguendo* that the Arbitral Tribunal decides otherwise:
 - ii. Dismiss the Claimant's claim in its entirety;
 - iii. Declare that the Respondent has duly performed its contractual obligations;
 - iv. Declare that the Claimant wrongfully terminated the CMSA;
 - v. Order the Claimant to pay all arbitration costs, including the Respondent's representative's fees and expenses; and
 - vi. Order any further and/or additional relief as the Arbitral Tribunal may deem appropriate.
25. Respondent reserves its right to further develop its arguments and the relief it

is seeking.

VI. CONFIRMATION OF DELIVERY OF THE RESPONSE TO ALL OTHER PARTIES

26. Respondent confirms that copies of the Response and any exhibits have been or are being served simultaneously on the Claimant by email, and in hardcopy on 30th September 2019.

[*signed*]

JESSICA HIUJUN

Managing Partner

Hiujun Law Firm

Xinsheng Plaza, Tower C, 30F

5 Finance Street, Xicheng District

100032 Beijing, PRC

Representative of the Respondent

Exhibits to the Response

Title of the Exhibit	Exhibit number
Witness Statement of Mr. Towny Ng	RS. EXHIBIT 1
Textiles Supply Agreement	RS. EXHIBIT 2
Original AM STC	RS. EXHIBIT 3
Witness Statement by Mr Christian Jones	RS. EXHIBIT 4
Exchange of Communications on Due Diligence	RS. EXHIBIT 5

WITNESS STATEMENT OF MR. TOWNY NG

TOWNY NG

Born 23rd April 1965

I, Towny Ng, of Floor, 40, TLCC Building, Xinging, China, affirm the following based on my personal knowledge:

1. I am the CEO of Ng Garment Manufacturing (Xinjiang) Co Ltd ("**Respondent**"), a company registered in China with its headquarters in Xinjiang and factories in various Chinese cities. The Respondent manufactures clothes and other apparel with various famous fashion brands around the world.
2. The Respondent was engaged by the Claimant for the manufacturing of dresses. The Respondent entered into a Clothing Manufacturing and Supply Agreement ("**CMSA**") with Airin Meerah Apparel Sdn Bhd ("**Claimant**") on 1st December 2018. In the CMSA, the Respondent agreed to manufacture 100,000 dresses in various quantities and specifications ("**Dresses**").
3. The Claimant was very concerned about the quality of the fabric to be used in the manufacturing of the Dresses. Since the Claimant required specific high-quality fabric for the Dresses, it was expected that an agreement would also be entered into for the supply of the specific fabric before the execution of the CMSA.
4. Gölgör Textiles and Fabrics LLC ("**Gölgör**") is a supplier for high-quality fabric based in Mongolia with a stellar global reputation and was the driving force behind the Claimant's prior projects. Therefore, quite naturally, Gölgör was engaged for the supply of the fabric for the Dresses.
5. On 20th November 2018, upon the Claimant's request, Gölgör circulated by email its draft Textiles Supply Agreement ("**TSA**") to both the Claimant and Respondent for comments (see Enclosure).
6. The Respondent collaborated with Gölgör on various occasions without any issues. Hence, a "light-touch" review was conducted by the Respondent. The Respondent was satisfied that the draft TSA covered every material aspect of the fabric supply, including the quantity, quality, etc. The Respondent replied to Gölgör that it had no comments on the draft TSA (see Enclosure).
7. The Claimant also did not express any concerns with the draft TSA save for its dispute resolution clause, which was different from the one in the proposed CMSA (see Enclosure).

8. Gölgör explained that the TSA dispute resolution clause was much more suited for disputes relating to the supply of fabric. The Claimant was content with the draft TSA's dispute resolution clause and Gölgör's explanation (see Enclosure).
9. On 2nd December 2018, the **TSA** was signed by Gölgör and the Respondent with the Claimant's signature and endorsement. Under the TSA, Gölgör would provide high-quality fabric for the manufacturing of the Dresses.

Enclosure to the Witness Statement of Mr. Towny Ng

From: Airin Meerah <airin@airinmeerah.dress>
Sent: Tuesday, November 20, 2018 1:13 PM
To: Tania Gölgör <tania.Gölgör@Gölgör.com.mn>
Cc: Towny Ng <towny@nggarment.org.cn>
Subject: RE: Draft TSA

Hi Tania,

Noted. Thank you very much for your reply! It probably makes sense to have fabric manufacturing related disputes resolved in Mongolia.

Best regards,



Airin Meerah Apparel Sdn Bhd
200, Jalan Maarof
Bangsar 59100
Kuala Lumpur



AM for sustainable and ethical fashion in 2019. Click [here](#) for more

From: Tania Gölgör <tania.Gölgör@Gölgör.com.mn>
Sent: Tuesday, November 20, 2018 1:10 PM
To: Airin Meerah <airin@airinmeerah.dress>
Cc: Towny Ng <towny@nggarment.org.cn>
Subject: RE: Draft TSA

Hi Airin,

We have used this dispute resolution clause in all our previous contracts. We always accommodate the needs of our business partners and have never had any disputes with them, so nothing to worry about 😊.

Indeed, given Mongolia is well-known for its cotton, fabric, and wool supply industry, any disputes regarding fabric manufacturing are probably better suited to be resolved in Mongolia.

Also, we've inserted the following clause in the draft TSA.

“Art. 38 Airin Meerah’s Business Philosophy

The Supplier is to deliver the goods and/or render the services in a manner that adheres to Airin Meerah’s underlying company principles on sustainable and ethical manufacturing. Airin Meerah’s Standard Terms and Conditions are enclosed.”

Duly noted on your last point.

Best,
Tania
Gölgör Textiles and Fabrics LLC

From: Airin Meerah <airin@airinmeerah.dress>
Sent: Tuesday, November 20, 2018 1:06 PM
To: Tania Gölgör <tania.Gölgör@Gölgör.com.mn>
Cc: Towny Ng <towny@nggarment.org.cn>
Subject: RE: Draft TSA

Hi Tania,
Thanks for the draft agreement and also your effort in facilitating this great project!
Our legal department has quickly reviewed the draft.

“Art. 13 Dispute Resolution

All disputes arising from or in connection with this Agreement shall be settled through arbitration using the facilities and rules at the at alternative dispute resolution centre in Ulaanbaatar, Mongolia.”

“dispute resolution centre in Ulaanbaatar”, what is it? If I recall correctly, this seems to be different than the one in the CMSA. For the sake of consistency, shall it be changed to the one as in the CMSA?

Also, this is to put you on notice to adhere to our sustainable and ethical practices. You may do so by comprehending our standard terms and conditions.

Best regards,



Airin Meerah Apparel Sdn Bhd
200, Jalan Maarof
Bangsar 59100
Kuala Lumpur



AM for sustainable and ethical fashion in 2019. Click [here](#) for more

From: Towny Ng <towny@nggarment.org.cn>
Sent: Tuesday, November 20, 2018 10:57 AM
To: Tania Gölgör <tania.Gölgör@Gölgör.com.mn>
CC: Airin Meerah <airin@airinmeerah.dress>
Subject: RE: Draft TSA

Hi Tania,
Thanks for your email with the draft TSA.
It looks fine to us.

Kind regards,

TOWNY NG
CEO

NG GARMENT MANUFACTURING (XINJIANG) CO LTD,
Wuxi St, Xinshi, Urumqi
Xinjiang China



From: Tania Gölgör <tania.Gölgör@Gölgör.com.mn>
Sent: Tuesday, November 20, 2018 9:54 am
To: Towny Ng <towny@nggarment.org.cn>; Airin Meerah <airin@airinmeerah.dress>
Subject: RE: Draft TSA

Dear all,

It's exciting to have the opportunity to work with you guys!
Please see the draft TSA attached. It was just drafted by our sales team based on some similar contracts we've used before.

Let me know if you have any comments.

Regards,

Tania

Gölgör Textiles and Fabrics LLC

From: Airin Meerah <airin@airinmeerah.dress>
Sent: Tuesday, November 20, 2018 7:54 am
To: Tania Gölgör <tania.Gölgör@Gölgör.com.mn>
Cc: Towny Ng <towny@nggarment.org.cn>
Subject: RE: Draft TSA
Attachments: Draft TSA

Hi Tania,

I wonder whether you can circulate the draft TSA. Apologies if I sound a bit pushy.

The fabric supplied by you is essential to the dresses. Indeed, it'll be the most important aspect of the manufacturing processes.

Just have to make sure that things aren't going wrong....

Best regards,



Airin Meerah Apparel Sdn Bhd
200, Jalan Maarof
Bangsar 59100
Kuala Lumpur



AMI for sustainable and ethical fashion in 2019. Click [here](#) for more

TEXTILES SUPPLY AGREEMENT

PREAMBLE

Whereas a Clothing Manufacturing and Supply Agreement Ltd has been signed or will be signed between Airin Meerah Apparel Sdn Bhd and Ng Garment Manufacturing (Xinjiang) Co Ltd in relation to the manufacturing of certain dresses which will be made of the fabric supplied under this agreement.

Whereas "Textiles" mean orthogonal finished fabrics made of:

- Cotton;
- Wool;
- Linen; and
- Silk.

[...]

Art. 1 Negotiation and Finalizing Purchase Orders

In the event a Purchase Order is submitted to the Supplier, the Purchase Order shall not become binding unless and until accepted in writing by the Supplier. Failure to accept the Purchase Order within ten (10) days or within the term otherwise agreed by the Parties, shall void the Purchase Order, and any late acceptance shall not become binding on the Buyer unless and until the Buyer assents to it.

Art. 2 Standard Piece

- (1) Quality of the Textiles will be based on the standard Textiles piece the Supplier delivers to the Manufacturer and must be accompanied by the technical data sheet for the item;
- (2) The Manufacturer will use the standard piece to carry out all the tests necessary so as to verify its compliance with the requirements for its intended use;
- (3) The same standard piece and relevant technical data sheet of the item shall be used as a reference for the subsequent deliveries as far as appearance, handle, colour variation, and final results for the intended use are concerned.

Art. 3 Delivery Terms and Conditions

- (1) The delivery terms agreed by the Parties are specified in the acknowledged Purchase Order. In the event the Purchase Order is modified, the renegotiated delivery date shall apply.
- (2) Unless the Parties agree otherwise, the Supplier shall be deemed to have fulfilled its obligation to dispatch the goods when products are made available to the Manufacturer on the day and time agreed or previously communicated by the Buyer. In this case, the goods shall travel at the Manufacturer's risk.

[...]

Art. 13 Dispute Resolution

All disputes arising from or in connection with this Agreement shall be settled through arbitration using the facilities and rules at the at alternative dispute resolution centre in Ulaanbaatar, Mongolia.

Art. 14 Law of the Agreement

This Agreement shall be governed by the UNIDROIT Principles of International Commercial Contracts (2016).

[...]

Art. 38 Airin Meerah's Business Philosophy

The Supplier is to deliver the goods and/or render the services in a manner that adheres to Airin Meerah's underlying company principles. Airin Meerah's Standard Terms and Conditions are enclosed.

Date: 2 December 2018

[*signed*]

Signed by the Supplier

Tania Gölgör

on behalf of the Gölgör
Textiles and Fabrics LLC

[*signed*]

Signed by the Manufac-
turer

TOWNY NG

on behalf of the Ng Gar-
ment Manufacturing (Xin-
jiang) Co Ltd

Endorsed by the Buyer

AIRIN MEERAH

on behalf of Airin Meerah
Apparel Sdn Bhd

Enclosures:

- a. Airin Meerah's Standard Terms and Conditions Ver 13.01.2005



AIRIN MEERAH'S STANDARD TERMS AND CONDITIONS

(Version 13.01.2005)

Welcome to AIRINMEERAH.dress. This website and domain name are owned and operated by AIRIN MEERAH APPAREL SDN. BHD, a company registered in Malaysia, Registration No. QR1518514 (“**Airin Meerah**”).

Any agreements concluded with Airin Meerah (“**AM Contracts**”) are subject to the following standard terms and conditions (“**AM STC**”).

By entering into the AM Contracts, you agree to all of the AM STC. You shall check this page regularly to take notice of any reasonable changes we may make to the AM STC.

PREAMBLE

Airin Meerah is an award-winning fashion company where our products embody the values of simplicity, quality, and elegance. By manufacturing our products in an affordable and accessible manner, we want you to proudly say “I am wearing AM”.

[...]

Section 11. Manufacturing & Supplying

All Manufacturers bound by the AM Contracts shall, under all circumstances, during the manufacturing and/or procurement of the goods directly or indirectly for Airin Meerah, ensure that:

1. Its Suppliers are of first echelon and have agreed to adhere to standards comparable to those set forth in Airin Meerah’s Standard Terms and Conditions.
2. The chosen suppliers will comply with the standards agreed with the Manufacturers in order to avoid a breach of Airin Meerah’s underlying company principles.

[...]

WITNESS STATEMENT OF MR CHRISTIAN JONES

Christian Jones

Born 31 December 1970

I, Mr Christian Jones, of Unit A-27-2, The Banks, London SE1 1TS, United Kingdom, affirm the following based on my personal knowledge:

1. I have a bachelor's degree in economics and a master's in business administration from the University of Australia. I was the Business Development Manager of Louise Victorine SE ("**Louis Victorine**"), the multinational luxury goods conglomerate headquartered in Paris, France and the main holding company of Ng Garment Manufacturing (Xinjiang) Co Ltd ("**Respondent**") from June 2009 to December 2010 and then Head of Business Development and Communications from January 2011 to February 2019.
2. During my stint as the Head of Business Development and Communications with Louise Victorine, it was the intention of Ms Irina Laurent, the CEO of Louis Victorine, to expand further into and be a leader in the Asian market. I was responsible for the creation of the business plan to turn this ambitious project into reality. The business expansion plan was publicly launched and announced on 21st February 2012. A part of this expansion plan is to first invest approximately USD\$700 million in establishing Hua Capital Asia ("**HUA**") to be Louise Victorine's private equity firm in Asia. Within 1.5 years of its operation in Mainland China, HUA successfully managed to boost Louise Victorine's presence and sales of different kinds of luxury goods thereby opening stores in China's major cities.
3. The second part of the business expansion plan was to create subsidiaries of Louise Victorine in Mainland China and the rest of the Asian region to follow. These subsidiaries would be in a form of wholly foreign-owned enterprises and to mainly operate as manufacturers of luxury goods with a particular focus on fashion. On 15th June 2014, the Respondent started its operation with its headquarters in Beijing. As its business grew, the Respondent started to look into solidifying its operations. To this end, the Respondent considered creating a second-tier subsidiary and did so on 6th December 2016 when Ng Textile (Mongolia) (later known as Gölgör Textiles and Fabrics LLC) was launched. Ng Textile (Mongolia) operated as the fabric supplier to the Respondent.
4. During a fashion event in Paris on 6th October 2018, Ms Irina Laurent introduced me to Ms Airin Meerah, the designer and founder of Airin Meerah Apparel Sdn Bhd ("**Claimant**"), who happened to be Ms Laurent's good friend from when they studied fashion in New York together. At the lunch meeting, the Claimant expressed her interest in engaging the Respondent and the Ng Textile (Mongolia) as clothing manufacturer and fabric supplier, respectively, for her upcoming Fall-Winter 2020/2021 Haute Couture collection to be launched on the eve of the 20th anniversary of the Claimant's fashion line.
5. The meeting was a success as the Claimant informally confirmed to Ms Laurent and me that the only thing needed to finalise an agreement was to set her up for a meeting with the Respondents to negotiate the contract. I then proceeded to introduce the Claimant to the Respondents via email:

From: Christian Jones <christian.jones@louisevictorine.com>
Sent: 7th October 2018, 9:02 am
To: Airin Merah <Airin@Airinmeerah.com>; Towny Ng <towny.ng@nggarmentmanufacturing.com.cn>; Tania Gölgör<tania.Gölgör@Gölgör.com.mn>
Cc: Irina Laurent <irina.laurent@louisevictorine.com>
Subject: House of Choi's Fall-Winter 2020/2021 Haute Couture Collection

Dear Airin,

Thank you for your time at lunch yesterday.

It was lovely to finally meet you in person after following your stellar career for the past 10 years since I started working at Louise Victorine.

We are flattered that you are interested in collaborating with us.

Irina and I are, of course, very excited to support your upcoming Fall-Winter 2020/2021 Haute Couture Collection that you plan to launch on the eve of the 20th anniversary of your eponymous line.

As a follow up to our discussion, let me introduce you to my two colleagues from Ng Garment Manufacturing (Xinjiang) Co Ltd and Ng Textile (Mongolia): Towny Ng and Tania Gölgör, both of whom are included in this correspondence. I understand that you have very specific criteria (*i.e.*: Mongolian cotton) and vision on how the collection will be and what values it must embody (*i.e.*: ethical fashion, sustainability, and gender equality).

I have spoken separately to Towny and Tania on how to make this collaboration come to life. Both of them are more than happy to meet you and discuss their services and products and how they are the perfect fit for your upcoming collection in specific and your brand in general. In fact, Towny and Tania are travelling to Kuala Lumpur next month. I think it is an opportune time for you to meet them.

Towny and Tania – over to you.

Best regards,

Christian Jones
Head of Business Development & Communications
Louis Victorine, SE
22, Rue le Grand, VIII^e arrondissement
75008 Paris, France

6. It bears mention that a week after the correspondence in paragraph 5 above took place, Ms Tania Gölgör, who was the Director of Sales & Marketing of the Hua Textile (Mongolia), decided to purchase all of Gölgör Textiles and Fabrics LLC's shares in order to separate it from our company structure and go private and independent. This decision, unfortunately, disrupted the company structure and, to some extent, the business operations of both Louise Victorine and the Respondent. We did manage to come to a mutual understanding with Ms Gölgör. Via telephone conference with Ms Laurent, Mr Ng, Ms Gölgör, and myself on 18th October 2018,

we agreed that Ng Textile (Mongolia) would exit from our global team and went independent with Ms Gölgöras as its new owner. However, this mutual decision came with a caveat: Ms Gölgör's new company would still be the Respondent's fabric supplier for Airin Meerah's Fall-Winter 2020/2021 Haute Couture Collection. From what I can recall, below are the relevant conversations:

Irina Laurent: "As devastated and disappointed as we are with your decision, Tania, the Board of Directors has agreed to let you and Gölgör Textiles and Fabrics LLC go independent. The financial arrangement on the purchase of the shares is already underway, and our team will reach out to you as soon as possible."

Tania Gölgör: "I am grateful for your and the Board's kind understanding, Irina. You will understand of course that when you put me in charge here in Mongolia, I expressed my desire to one day buy the company at the outset."

Irina Laurent: "And I trust you will also understand that there is a caveat here."

Tania Gölgör: "Name it."

Irina Laurent: "This new company of yours must still be involved in our collaboration with Airin Meerah. You are aware that I am planning to acquiesce with Airin Meerah Apparel Sdn Bhd. Not only that, Airin is a good friend of mine, and I have promised her that she would get the materials she wants for her upcoming collection, no matter what."

Tania Gölgör: "You need not worry, Irina. I will see to it that we fulfil our promise to Airin."

Irina Laurent: "Good, that settles it then."

Christian Jones: "Tania, I will leave it to you and Towny to arrange a meeting with Airin and do what it takes to give her anything she wants for her collection."

Towny Ng: "I went to her office earlier today, and she is available to meet us at her Kuala Lumpur atelier on 26th November, 11:00 A.M."

Tania Gölgör: "I will be there."

Irina Laurent: "Please do not mess this up. Ciao."

7. After Ms Gölgör bought the shares of Ng Textile (Mongolia), the company ceased and is now known as Gölgör Textiles and Fabrics LLC. The Respondent and the Gölgör Textiles and Fabrics LLC met with the Claimant in her Kuala Lumpur atelier as scheduled. From what I was told, the Claimant, the Respondent, and Gölgör Textiles and Fabrics LLC got along very well and even proceeded to negotiate the terms and conditions of the contract at the first meeting.
8. This Witness Statement is made on 20th September 2020 in London, United Kingdom.

[signed]

Christian Jones

RS. EXHIBIT 5

NG Garment Manufacturing Co. Ltd.

From: Towny Ng <towny@nggarment.org.cn>
Sent: Friday, November 21, 2018 1:24 PM
To: Airin Meerah <airin@airinmeerah.dress>
Subject: RE: Airin Meerah Apparel

Dear Airin,

Not yet 😊. Do let me know if this will be of concern with regards to our potential agreement.

Kind regards,

TOWNY NG
CEO

NG GARMENT MANUFACTURING (XINJIANG) CO LTD,
Wuxi St, Xinshi, Urumqi
Xinjiang China



From: Airin Meerah <airin@airinmeerah.dress>
Sent: Thursday, November 20, 2018 4:24 PM
To: Towny Ng <towny@nggarment.org.cn>
Subject: RE: Airin Meerah Apparel

Dear Mr. Ng,

Thanks for your email! I confirm the contents of your email.

Just to quickly check, your company has not received any certifications relating to sustainable and ethical manufacturing yet, right?

Best regards,

Airin Meerah

Airin Meerah Apparel Sdn Bhd
200, Jalan Maarof
Bangsar 59100
Kuala Lumpur
Malaysia



AM for sustainable and ethical fashion in 2019. Click [here](#) for more

From: Towny Ng <towny@nggarment.org.cn>

Sent: Wednesday, November 19, 2018 2:22 PM
To: Airin Meerah <airin@airinmeerah.dress>
Subject: Airin Meerah Apparel

Dear Ms. Airin Meerah,

Thank you again for meeting with us earlier this week. We hope you had a short but pleasant stay in Xinjiang.

I write to confirm the points of discussion from your visit to our manufacturing facilities earlier this week. As you have shared in the due diligence and background report conducted by your company:

- a. Our facilities possess the necessary manpower and capacity to meet the quantity requirements required by yourself;
- b. Our facilities are equipped with the specialised machines and tools to manufacture high-quality goods as required by yourself;
- c. Our facilities have previously manufactured similar high-end products for different brands;
- d. Our track record for on-time delivery has been 100% to date;
- e. Our reputation for accurate precision and high efficiency is well known among the other manufacturers in China; and
- f. Our facilities meet the requirements and business goals that you have in mind.

That being said, we look forward to receiving the draft Clothing Manufacturing and Supply Agreement and the Standard Terms and Conditions for our perusal and reference before we finalise the agreement.

If you have any other concerns or any other enquiries, please do not hesitate to contact me.

Also, do let me know if you'll be in town again – would be happy to take you on a tour of Xinjiang's most famous cuisines.

Thank you.

Kind regards,

TOWNY NG
CEO

NG GARMENT MANUFACTURING (XINJIANG) CO LTD,
Wuxi St, Xinshi, Urumqi
Xinjiang China



Please quote our reference when replying.

Our Ref. : AIAC/D/ADM-888-2019

Your Ref. : Please Advise



2nd November 2019

Ms. C

C & Partners

The Energy Building, 13Ath Floor

Sudirman Central Business District

Jl Jendral Sudirman Kav 52-53, RT. 5/RW3

Jakarta, Indonesia

By Email & Hand

(Fax: Please Advise)

(Email: c@cnp.com)

IN THE MATTER OF AN AIAC ARBITRATION BETWEEN AIRIN MEERAH APPAREL SDN BHD (CLAIMANT) AND NG GARMENT MANUFACTURING (XINJIANG) CO LTD (RESPONDENT)

We refer to the above matter.

We thank you for accepting the appointment as the Presiding Arbitrator in the above-captioned arbitration matter and returning to us the duly executed copies of the Letter of Acceptance and the Declaration. Kindly be informed that with your recent appointment, the Arbitral Tribunal has now been fully constituted.

Please be advised the Parties have duly paid the provisional advance deposit for this matter. As such, pursuant to Rule 14(3) of the AIAC Arbitration Rules 2018, you may now progress the arbitral proceedings.

Thank you.

Yours faithfully,

[signed]

DIANA FUTÉ

Deputy Head of Legal

Email: diana@aiac.world / alberta@aiac.world

c.c. Prof. Dr. A

A Chambers

EkoCheras, No. 693, Batu, 5, Jalan Cheras

56000 Kuala Lumpur, Malaysia

By Email & Hand

(Fax: Please Advise)

(Email: a@achambers.com)

Ms. B

B Fabulous Collection

266 Wangfujing St

Beijing, PRC

By Email & Hand

(Fax: Please Advise)

(Email: b@fabcollection.com)

C & Partners
The Energy Building, 13Ath Floor
Sudirman Central Business District
Jl Jendral Sudirman Kav 52-53, RT. 5/RW3
Jakarta, Indonesia
c@cnp.com

Our Reference: RB/01/2019/PKC

3rd November 2019

Hiujun Law Firm

Xinsheng Plaza, Tower C, 30F
5 Finance Street, Xicheng District
100032 Beijing, PRC
[Ref.: JH/ARB/078]
[Attn. to: Jessica Hiujun]

By Email & Post
(Fax: Please Advise)
(Email: jessica@hiujun.com)

Ling Ling Partnership

Unit 10-20, Tower 1, Avenue 3, The Horizon
Jalan Kerinchi, Bangsar South, 59200 Kuala Lumpur
[Ref.: MLSL/ARB/007]
[Attn.: Mike Ling & Sarah Ling]

By Email & Post
(Fax: Please Advise)
(Email: mike@ling.com; sarah@ling.com)

Dear Sirs,

IN THE MATTER OF AN AIAC ARBITRATION BETWEEN AIRIN MEERAH APPAREL SDN BHD (CLAIMANT) AND NG GARMENT MANUFACTURING (XINJIANG) CO LTD (RESPONDENT)

With reference to the arbitration above and the confirmation by the Director of the AIAC dated 2nd November 2019, the three-member Arbitral Tribunal has been constituted as follows:

- (a) Ms. C, Presiding Arbitrator;
- (b) Prof. Dr. A, First Arbitrator;
- (c) Ms. B, Second Arbitrator.

In order to progress this arbitration, the Arbitral Tribunal intends to fix the first preliminary meeting. The Arbitral Tribunal invites the Claimant and the Respondent to confirm their availability on 1st December 2019 from 10:00 AM MYT (UTC+8) at the AIAC.

Kindly provide us your confirmation by no later than **10th November 2019**.

Should the Parties be agreeable, I would like to invite the Claimant to liaise and arrange the necessary with Mr. Diego Sulamazra (Senior Case Counsel, AIAC), who acts as the tribunal secretary for the present arbitral proceedings.

Thank you.

[signed]

As ever,

Ms. C

Presiding Arbitrator

c.c. Prof. Dr. A

A Chambers
EkoCheras, No. 693, Batu, 5, Jalan Cheras
56000 Kuala Lumpur, Malaysia
[Ref. No: Please Advise]

By Email & Hand
(Fax: Please Advise)
(Email: a@achambers.com)

Ms. B

B Fabulous Collection
266 Wangfujing St
Beijing, PRC
[Ref. No: Please Advise]

By Email & Hand
(Fax: Please Advise)
(Email: b@fabcollection.com)

**ASIAN INTERNATIONAL ARBITRATION
CENTRE (AIAC)**

Bangunan Sulaiman
Jalan Sultan Hishamuddin
50000 Kuala Lumpur
Malaysia
[Ref. No: AIAC/INT/ADM-888/2019]

By Fax, Email & Hand
(Fax: 03 2271 1010)
(Email: arbitration@aiac.world; director@aiac.world; alberta@aiac.world; di-ego@aiac.world)



Ling Ling Partnership

PARTNER

Mike Ling
Sarah Ling

ASSOCIATE

Natasha Syazulaikha
Daniel Lim
Alif Sivadass

Address

Unit 10-20, Tower 1, Avenue 3, The Horizon
Jalan Kerinchi, Bangsar South, 59200 Kuala
Lumpur

Tel: (03) 2271- 1555
Fax: (03) 2251- 1555

Email: lingling@llp.com
Website: www.llp.com

5th November 2019

Ms. C

C & Partners
The Energy Building, 13Ath Floor
Sudirman Central Business District
Jl Jendral Sudirman Kav 52-53, RT. 5/RW3
Jakarta, Indonesia
[Ref. No.: RB/01/2019/PKC]

By Email & Hand

(Fax: Please Advise)
(Email: c@cnp.com)

Prof. Dr. A

A Chambers
EkoCheras, No. 693, Batu, 5, Jalan Cheras
56000 Kuala Lumpur, Malaysia
[Ref. No: Please Advise]

By Email & Hand

(Fax: Please Advise)
(Email: a@achambers.com)

Ms. B

B Fabulous Collection
266 Wangfujing St
Beijing, PRC
[Ref. No: Please Advise]

By Email & Hand

(Fax: Please Advise)
(Email: b@fabcollection.com)

Dear Members of the Tribunal,

IN THE MATTER OF AN ARBITRATION BETWEEN AIRIN MEERAH APPAREL SDN BHD (CLAIMANT) AND NG GARMENT MANUFACTURING (XINJIANG) CO LTD (RESPONDENT) AND GÖLGÖR TEXTILES AND FABRICS LLC (ADDITIONAL PARTY)

REQUEST FOR JOINDER

PURSUANT TO RULE 9(1) OF THE AIAC ARBITRATION RULES 2018 (“RULES”)

We act for Airin Meerah Apparel Sdn Bhd, the Claimant, in the AIAC arbitration indicated above. We have received instruction from our Client to file this Request for Joinder to add Gölgör Textiles and Fabrics LLC as the 2nd Respondent in the present arbitral proceedings. We are instructed by our Client to set out the following as the basis of the Claimant’s Request for Joinder pursuant to the second and third limbs of Rule 9(1) of the Rules which states that: “[A]ny Party to an arbitration or any third party (“Additional Party”) may request one or more Additional Parties to be joined as a party to

the arbitration (“Request for Joinder”), provided that..., or provided that such Additional Party is prima facie bound by the arbitration agreement. The Request for Joinder will be determined by the arbitral tribunal...”

The Additional Party is, prima facie, bound by the Clothing Manufacturing & Supply Agreement (“CMSA”).

- a) The Mongolian Fabric Manufacturer is a party to the CMSA by virtue of its genuine behaviour of displaying great interest as far as the performance of the CMSA is concerned; and
- b) In the alternative, the extension doctrine is applicable for the Additional Party as the validity and effectiveness of the CMSA extends to parties who are involved in the performance of the CMSA and not only restricted to parties’ consent to the CMSA.

Further, the outcome of the Claimant’s internal investigation leads us to conclude that the Additional Party had been practicing unequal treatment towards their employees. This is also corroborated by the article titled *“Woven by Sweat, Blood, and Tears”* by Ms. Kaira Venkatraman which identified Ulaanbaatar, Mongolia – the domicile of the Additional Party – where such forced labor scheme was implemented.

We respectfully request the Arbitral Tribunal’s further directions to the Parties in regards to the Claimant’s Request for Joinder.

Thank you for your kind attention to this matter.

Yours faithfully,

[signed]

MIKE LING

Ling Ling Partnership
Representative of the Claimant

cc **Hiujun Law Firm**
Xinsheng Plaza, Tower C, 30F
5 Finance Street, Xicheng District
100032 Beijing, PRC
[Ref. No: JH/ARB/078]
[Attn. to: Jessica Hiujun]

By Email & Post
(Fax: Please Advise)
(Email: jessica@hiujun.com)

Gölgör Textiles and Fabrics LLC
12, Peace Avenue
Ulaanbaatar, Mongolia
[Ref. No: Please Advise]
[Attn. to: Tania Gölgör]

By Email & Post
(Fax: Please Advise)
(Email: tania.Gölgör@Gölgör.com.mn)

ASIAN INTERNATIONAL ARBITRATION CENTRE (AIAC)
Bangunan Sulaiman
Jalan Sultan Hishamuddin
50000 Kuala Lumpur
Malaysia
[Ref. No: AIAC/INT/ADM-888/2019]

By Fax, Email & Hand
(Fax: 03 2271 1010)
(Email: arbitration@aiac.world; director@aiac.world; alberta@aiac.world; di-ego@aiac.world)

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Jl Jendral Sudirman Kav 52-53, RT. 5/RW3
Jakarta, Indonesia
c@cnp.com

Our Reference: RB/01/2019/PKC

6th November 2019

Hiujun Law Firm

Xinsheng Plaza, Tower C, 30F
5 Finance Street, Xicheng District
100032 Beijing, PRC
[Ref. No: JH/ARB/078]
[Attn. to: Jessica Hiujun]

By Email & Post
(Fax: Please Advise)
(Email: jessica@hiujun.com)

Gölgör Textiles and Fabrics LLC

12, Peace Avenue
Ulaanbaatar, Mongolia
[Ref. No: Please Advise]
[Attn. to: Tania Gölgör]

By Email & Post
(Fax: Please Advise)
(Email: tania.Gölgör@Gölgör.com.mn)

Dear Sirs/Madams,

I write on behalf of the Arbitral Tribunal. I refer to the Claimant's Request for Joinder dated 6th November 2019 to join the Additional Party as the 2nd Respondent into this arbitration.

Pursuant to Rule 9(4) of the AIAC Arbitration Rules 2018 ("**Rules**"), the party or parties who receive the Request for Joinder shall submit within 15 days a Response to the Request for Joinder indicating its consent or objection to such Request. The Arbitral Tribunal is mindful of Rule 9(5) of the Rules and as such directs the Respondent and the Additional Party to submit their response to the Claimant's Request for Joinder by no later than 20th November 2019 for the Arbitral Tribunal's consideration and subsequent determination.

Thank you for your kind attention to this matter.

As ever,

Ms. C

On behalf of the Arbitral Tribunal

c.c. Prof. Dr. A

A Chambers
EkoCheras, No. 693, Batu, 5, Jalan Cheras
56000 Kuala Lumpur, Malaysia
[Ref. No: Please Advise]

By Email & Hand
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B Fabulous Collection
266 Wangfujing St
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(Fax: Please Advise)
(Email: b@fabcollection.com)

[Ref. No: Please Advise]

LING LING PARTNERSHIP

Unit 10-20, Tower 1, Avenue 3, The
Horizon
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Kuala Lumpur
[Attn.: Mike Ling & Sarah Ling]

By Email & Post
(Fax: Please Advise)
(Email: sarah@llp.com; mike@llp.com)

**NG GARMENT MANUFACTURING (XIN-
JIANG) CO LTD**

Wuxi St, Xinshi, Urumqi, Xinjiang, China
[Attn.: Towny Ng]

By Email & Post
(Fax: Please Advise)
(Email: towny@nggarment.org.cn)

**ASIAN INTERNATIONAL ARBITRATION
CENTRE (AIAC)**

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50000 Kuala Lumpur
Malaysia
[Ref. No: AIAC/INT/ADM-888/2019]

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tion@aiac.world](mailto:arbitration@aiac.world); [direc-
tor@aiac.world](mailto:director@aiac.world); [al-
berta@aiac.world](mailto:alberta@aiac.world); [di-
ego@aiac.world](mailto:diego@aiac.world))



Temür Advocates LLP

TEMÜR ADVOCATES LLP

3rd Floor, Orchid Business Centre, Ulaanbaatar, 18000,
Mongolia

P: +976 1234 5555

E: office@temuradvocates.com

Our Reference: RB/01/2019/PKC

8th November 2019

Ms. C

C & Partners

The Energy Building, 13Ath Floor
Sudirman Central Business District
Jl Jendral Sudirman Kav 52-53, RT. 5/RW3
Jakarta, Indonesia

[Ref. No.: RB/01/2019/PKC]

By Email & Hand

(Fax: c@cnp.com)

(Email: a@achambers.com)

Dear Madam Presiding Arbitrator,

RE: IN THE MATTER OF AN AIAC ARBITRATION BETWEEN AIRIN MEERAH APPAREL SDN BHD (CLAIMANT) AND NG GARMENT MANUFACTURING (XINJIANG) CO LTD (RESPONDENT)

We act for Gölgör Textiles and Fabrics LLC in the present arbitral proceedings.

We refer to your letter, dated 6th November 2019.

Our Client has instructed us to state that it not only refuses to consent to the Claimant's Request for Joinder dated 5th November 2019 but also to wholly denies the contents therein. Please note that our Client cannot be joined in this arbitration. The 2nd Respondent is neither a party, nor it is *prima facie* bound by the Clothing Manufacturing & Supply Agreement as referred to in the Claimant's Request for Joinder.

We also reserve all of our Client's rights in this arbitration.

Thank you.

Best regards,

TEMÜR Lee

Senior Associate

Your Ref. No.: Please Advise
Our Ref. No: JH/ARB/078



9th November 2019

Ms. C
C & Partners
The Energy Building, 13Ath Floor
Sudirman Central Business District
JI Jendral Sudirman Kav 52-53, RT. 5/RW3
Jakarta, Indonesia
[Ref. No.: RB/01/2019/PKC]

By Email & Hand
(Fax: c@cnp.com)
(Email: a@achambers.com)

By Email & Post

Dear Madam Arbitrator,

RE: IN THE MATTER OF AN AIAC ARBITRATION BETWEEN AIRIN MEERAH APPAREL SDN BHD (CLAIMANT) AND NG GARMENT MANUFACTURING (XINJIANG) CO LTD (RESPONDENT)

We have been appointed as the legal representative of the Respondent in this arbitration. As such, we would be obliged if you could forward all correspondence pertaining to this matter to us instead of our Client.

We have taken note of the Claimant's Request for Joinder ("**Request**") dated 5th November 2019 and have been instructed by our Client to state that the Gölgör Textiles and Fabrics LLC should not be added as the 2nd Respondent for this matter as they are not a party to the CMSA. Nevertheless, the Respondent will leave the Request entirely to be decided by the Arbitral Tribunal.

We hereby reserve our Client's rights in this arbitration.

We trust the above clarifies.

Please do not hesitate to contact us should you have any questions.

Thank you.

Yours faithfully,

Jessica Hiujun
Managing Partner



Xinsheng Plaza, Tower C, 30F
5 Finance Street, Xicheng District
100032 Beijing, PRC



+861051284400



jessica@hiuijun.org

**IN THE MATTER OF AN ARBITRATION UNDER
THE ASIAN INTERNATIONAL ARBITRATION CENTRE AIAC ARBITRATION
RULES 2018**

BETWEEN:

AIRIN MEERAH APPAREL SDN

BHD

(CLAIMANT)

-AND-

NG GARMENT MANUFACTURING (XINJIANG) CO LTD.

(RESPONDENT)

-AND-

GÖLGÖR TEXTILES AND FABRICS LLC

(ADDITIONAL PARTY)

[CASE NO.: AIAC/INT/ADM-888-2019]

PROCEDURAL ORDER NO.1

Ms. C, Presiding Arbitrator

Prof. Dr. A, First Arbitrator

Ms. B, Second Arbitrator

Tribunal Secretary:

Mr. Diego Sulamazra

Date: 2nd December 2019

I. Introduction

1. The first preliminary meeting between the Arbitral Tribunal and the Parties was held on 1st December 2019 at 10:00 A.M MYT (UTC +8) at the Asian International Arbitration Centre (“**AIAC**”), Kuala Lumpur, Malaysia. The session concluded at 12:57 A.M MYT (UTC +8).
2. The first preliminary meeting was attended by and conducted in the presence of:
 - (a) Members of the Arbitral Tribunal:
 - Ms. C (Presiding Arbitrator);
 - Prof. Dr. A (First Arbitrator);
 - Ms. B (Second Arbitrator).
 - (b) Representatives of the Parties:
 - Mr. Mike Ling, Partner of Ling Ling Partnership, Representative of the Claimant;
 - Mrs. Jessica Hiujun, Managing Partner of Hiujun Law firm, Representative of the Respondent.
 - (c) Mr. Diego Sulamazra, Senior Case Counsel, AIAC, Secretary of the Arbitral Tribunal.
3. By consent, this Procedural Order records the procedural rules that govern this arbitration and any reservation made by the Parties in respect thereof. Unless specified otherwise, this Procedural Order adopts the abbreviations set out in the NoA and Response.

II. Order of the Proceedings

4. After a discussion with the Parties regarding the structure of the proceedings, which is to be in a timely and cost-efficient, and in light of the joinder application raised by the Claimant as well as the objection to the jurisdiction of the Arbitral Tribunal raised by the Respondent, the Arbitral Tribunal hereby limits the scope of the upcoming first day of hearings to the following issues:
 - a. Jurisdiction of the Arbitral Tribunal;
 - b. Joinder of the Additional Party;
 - c. The validity of termination of the CMSA by the Claimant; and
 - d. Reliefs sought by the Claimant.
5. In light of the aforementioned, the Arbitral Tribunal makes the following orders:
 - a. The Parties are required to present their views on the following issues:
 - i. Whether this arbitration should be conducted pursuant to Article 23 of the CMSA or Article 13 of the TSA;
 - ii. If the Arbitral Tribunal rules that it was properly constituted pursuant to the Parties’ agreement, whether it should exercise its power to

- enjoin the Additional Party as the 2nd Respondent in the present arbitration;
- iii. Whether the Claimant has validly terminated the CMSA due to the alleged fundamental breach of the Respondent under the UNIDROIT Principles 2016; and
 - iv. Whether the Claimant is entitled to damages, in particular, the loss of profits, under the UNIDROIT Principles 2016.

Please note that the Parties are at liberty to present in any order agreed between them.

- b. The following timetable shall apply to the written submission of the Parties:
 - i. Memorandum on behalf of the Claimant: by no later than 3rd August 2020
 - ii. Memorandum on behalf of the Respondent: by no later than 3rd August 2020
- c. The oral submissions of the Parties shall take place at/on the following:
 - i. Venue: Ulaanbaatar, Mongolia. Exact location to be announced soon.
 - ii. Time: 7th September 2020 to 10th September 2020.
- d. In the event the Parties need further information, the Parties may submit Requests for Clarification by no later than 13th March 2020. Please note that the Parties must elaborate on the rationale for the clarification. The Arbitral Tribunal will not entertain a Request for Clarification that is not accompanied by the rationale for the questions. The procedure for submitting Requests for Clarification will be advised soon.

This Procedural Order is issued on 2nd December 2019.

[signed]

Prof. Dr. A
First Arbitrator

[signed]

Ms. B
Second Arbitrator

[signed]

Ms. C
Presiding Arbitrator