



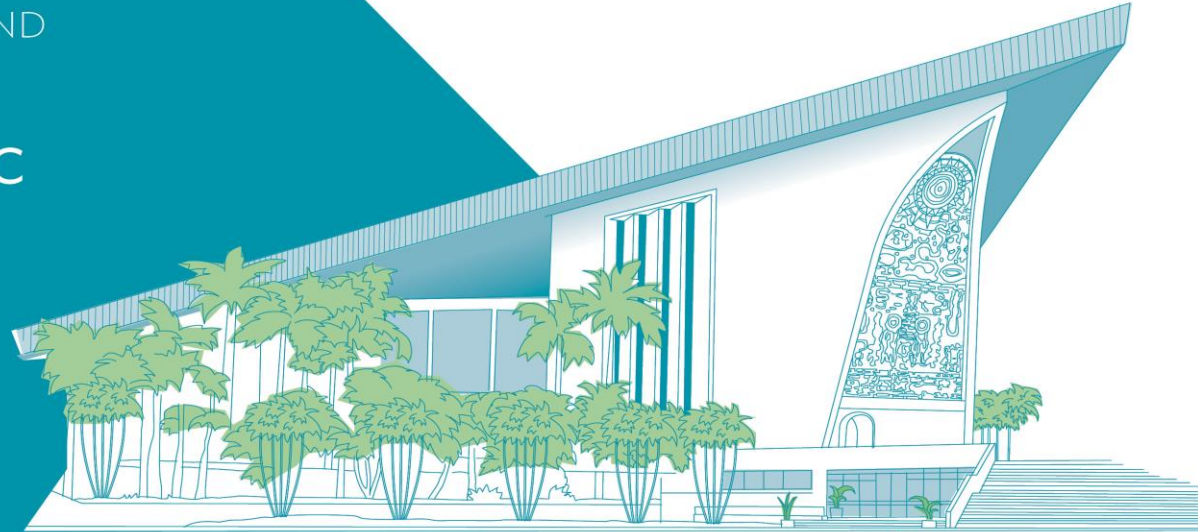
WILMER OUTLER PICKERING HALE AND DORR LLP



INTERNATIONAL MEDIATION AND  
ARBITRATION CONFERENCE

# 2nd South Pacific International Arbitration Conference

25–26 March 2019  
Stanley Hotel, Port Moresby  
Papua New Guinea



## DRAFTING ARBITRATION AGREEMENTS

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Date 25-26 March 2019

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# Arbitration Agreement

- “foundation stone”
- Arbitration clause or submission to arbitration
- “in writing”
- Consent to arbitration
- Part of “bargain”
- Separability between arbitration agreement and main contract
- Source of powers and jurisdiction of tribunal



# Essentials of Arbitration Agreement

- Institutional or ad hoc
- Arbitration rules and model clauses
- Scope
- Seat/Place of arbitration
- Number of arbitrators
- Selection and replacement of arbitrators
- Language
- Law governing arbitration agreement



# Model Clause

- ▶ “Any dispute, controversy or claim arising out of, relating to or in connection with this contract, including any question relating to its existence, validity or termination, shall be resolved by arbitration in accordance with the **(insert arbitration rules)**. The seat of the arbitration shall be **(insert city)**. The language of the arbitration shall be **(insert language)**”

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# Multi-Tier Dispute Resolution Clauses

- ▶ Negotiation and/or mediation before arbitration
- ▶ Time periods triggered by defined and undisputable event
- ▶ Arbitration mandatory and not permissive
- ▶ Definition of disputes in identical terms