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MEDIA RELEASE

**Singapore International Commercial Court Launches
Mediation-Friendly Protocol with Singapore International Mediation Centre
to Advance Singapore as Asian Hub for Dispute Resolution**

The Singapore International Commercial Court (SICC) and the Singapore International Mediation Centre (SIMC) have collaborated to establish a litigation-mediation-litigation (LML) framework with a view to promoting the amicable resolution of international commercial disputes. Parties may choose to adopt the LML Protocol when contracts are being negotiated by incorporating the model LML Clause into their agreements. Alternatively, parties may by a separate agreement adopt the LML Protocol at any other time, such as after a dispute has arisen. It will come into effect from 12 January 2023.

2 The LML Protocol sets out the procedure under which disputes commenced in the SICC are to be referred to the SIMC for mediation, and the procedure to continue or terminate proceedings in the SICC on the conclusion of the mediation. Amongst other things, the LML Protocol also provides for a case management stay of the SICC proceedings for up to eight weeks after the commencement of mediation, subject to any extension by the Court for good reasons, and the LML Protocol also recognises that the Court may grant interim relief to preserve a party's rights despite a case management stay.

3 "When we introduced the standalone rules for the court last April (SICC Rules 2021), one important aspect was to facilitate amicable resolution of disputes through alternative methods such as mediation. This is in keeping with our general principle of the expeditious and efficient administration of justice," said Justice Philip Jeyaretnam, President of the SICC.

4 "Establishing the LML Protocol with SIMC provides clear guidance to parties on how they may attempt settlement through mediation for disputes before the SICC. They have the flexibility to incorporate the model LML Clause into their contracts, or at any other time such as after a dispute has arisen," added Justice Jeyaretnam.

5 "Leveraging the expertise of two high-quality dispute resolution institutions, this mechanism is in line with international trends in mixed-mode dispute resolution and reflects the Court's steadfast support for alternative dispute resolution methods," said Mr Chuan Wee Meng, SIMC's CEO.

6 "The LML Protocol provides an integrated option for effective dispute resolution, combining the benefits of mediation such as confidentiality, expediency and creative solutioning, with the reciprocal recognition, registrability and enforceability of an international commercial court order," said Mr Chuan.

How the LML Protocol works

7 Parties who have commenced proceedings with the SICC and are not guided by a Litigation-Mediation-Litigation clause in their contract may opt to mediate under this Protocol or be directed by the Court to do so. Upon commencement of mediation at SIMC, SICC may then pause litigation proceedings for up to eight weeks. Most mediations at SIMC take one day and enjoy a 70-80 per cent settlement rate.

8 If the mediation is successful, parties may choose to have the settlement terms recorded as an order of court. If there is a partial settlement, parties may choose to have the settled items recorded as an order of court and seek SICC's directions on the conduct of proceedings for the remaining issues, in accordance with the SICC Rules 2021.

9 Mediation is a powerful method of resolving a wide range of disputes, including large, complex, high-value commercial cases. In 2021, the total value of cases filed for mediation at SIMC rose substantially, equalling the US\$3 billion total dispute value for the previous six years (2014-2020). In 2022, total dispute value further rose to US\$4.84 billion.

10 For its key highlights, please refer to the Infographics in **Annex A** and for the LML Protocol, please refer to **Annex B**.

ISSUED BY:

Singapore International Commercial Court
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12 January 2023

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About SICC

The Singapore International Commercial Court (SICC) is a division of the Singapore High Court. Established in 2015, it has gained a reputation as a leading and trusted neutral forum for effective transnational dispute resolution. The SICC bench comprises a diverse panel of eminent international and local Judges experienced in specialist commercial disputes. Described as “arbitration in litigation”, the SICC combines the best practices of international arbitration with the substantive principles of international commercial law. Procedures are flexible and may be tailored to suit parties’ preferences in many aspects, and foreign lawyers may represent parties in certain circumstances. Yet the SICC retains the key advantages of litigation such as the right of appeal and published judgments, as well as issuing orders for the joinder of third and related parties – vital in multi-party/multi-contract scenarios. Parties around the world choose to resolve their disputes before the SICC because it offers a truly unique and cost-effective dispute resolution option.

For more information, please visit www.sicc.gov.sg

About SIMC

The Singapore International Mediation Centre (SIMC) is a not-for-profit organisation that offers professional dispute resolution services tailored to the evolving needs of businesses in Asia. Working across multiple jurisdictions covering common and civil law traditions, SIMC has an extensive network of mediators and partners globally. SIMC’s panel of 70 international independent mediators have extensive experience resolving cross-border disputes and are highly regarded for delivering successful outcomes in complex, high-stakes commercial disputes.

Litigation-Mediation-Litigation Protocol

Referral To Mediation



01
Start proceedings with the Singapore International Commercial Court (SICC)



02
Parties inform SICC Registry that they have agreed to mediate

Mediation Stage



03
Singapore International Mediation Centre (SIMC) will notify parties and SICC of mediation commencement date



04
Stay of SICC Proceedings granted by SICC

Mediation In Progress



Mediation Unsuccessful
Refer to Stage 5A



Mediation Successful
and settlement reached, parties must inform the SICC Registry if they wish to record a settlement as an Order of Court
Refer to Stage 5B or 5C

Conclusion Of Mediation

5A Where mediation is not successful, at the CMC*:

- parties may seek directions on the conduct of proceedings going forward

*CMC refers to a case management conference at which the SICC may make orders or give directions in respect of proceedings before the SICC



5B Where parties have agreed in mediation to settle part of their disputes, at the CMC*:

- parties may record a settlement as an Order of Court (for the part of their disputes that are settled)
- if parties wish to continue to mediate the remainder of the dispute, parties may seek directions in respect of the mediation
- parties may seek directions in respect of the proceedings in general (for the part of their disputes that are not settled)

5C Where mediation is successful, at the CMC*:

- parties may record the settlement as an Order of Court
- parties may seek directions on the filing of Notices of Discontinuance



Jointly presented by:

ANNEX B

Litigation-Mediation-Litigation Protocol (“LML Protocol”)

1. Application of LML Protocol

- a. This LML Protocol applies where the parties have agreed to resolve the whole or any part of a dispute, controversy or claim (a “Dispute”) in accordance with a Litigation-Mediation-Litigation Clause (“LML Clause”) providing for litigation in the Singapore International Commercial Court (“SICC”) or for dispute resolution under this LML Protocol, or have otherwise agreed to submit to the jurisdiction of the SICC under the LML Clause.
- b. Nothing in this LML Protocol precludes the parties from agreeing to refer a Dispute for mediation other than in accordance with this LML Protocol at any time.

2. Referral to Mediation

- a. Parties may refer a Dispute for mediation in accordance with this LML Protocol, regardless whether the parties have commenced any proceedings in the SICC.
- b. Where the parties have not commenced any proceedings in the SICC, and any party wishes to commence proceedings under this LML Protocol, that party must commence proceedings in the SICC by filing and serving an Originating Application and Claimant’s Statement in accordance with the Singapore International Commercial Court Rules 2021 (“SICC Rules 2021”). The Claimant’s Statement must be accompanied by a letter to the SICC Registry stating that the parties have agreed to refer the Dispute for mediation in accordance with this LML Protocol, must state details of the Dispute, and must be accompanied by a copy of the parties’ written dispute resolution agreement. The defendant to the proceedings must file and serve a Defendant’s Statement in accordance with the SICC Rules 2021. The Defendant’s Statement must state whether the defendant objects to the referral of the Dispute to mediation in accordance with this LML Protocol, and, if so, provide concise reasons for the objection.
- c. Where parties have commenced proceedings in the SICC, and the parties agree to refer the Dispute for mediation in accordance with this LML Protocol, one of the parties (“Party A”) must file with the SICC Registry a letter stating that the parties have agreed to refer the Dispute for mediation in accordance with this LML Protocol. Party A’s letter must be filed within 28 days after the filing and service of the Defendant’s Statement, must be copied to every other party to the proceedings in the SICC, must state details of the Dispute that the parties have agreed to refer for mediation, and must be accompanied by a copy of the parties’ written dispute resolution agreement. Any other party to the proceedings (“Party B”) may object to the referral of the Dispute for mediation in accordance with this LML Protocol by filing with the SICC Registry, within 7 days after the date Party A’s letter is filed, a letter that identifies each party who, to Party B’s knowledge, objects to the referral, and provides concise reasons for the objection.
- d. The Court may, without an oral hearing, determine any objection and give directions in relation to the referral of the Dispute for mediation in accordance with this LML Protocol.
- e. The Court may, at a case management conference, give directions in relation to the mediation of the Dispute under this LML Protocol, or for the fair, expeditious and efficient disposal of the action.

3. Commencement of Mediation

The Claimant or Party A (as the case may be) must, by the date and time (if any) stated in the Court's directions, take the relevant steps under the Mediation Rules of the Singapore International Mediation Centre ("SIMC") to commence mediation.

4. After commencement of mediation

- a. The SIMC must notify the parties by letter of the date on which the mediation was commenced ("Mediation Commencement Date"). The letter will be copied to the SICC Registry.
- b. The Court may grant a case management stay of the SICC proceedings for a period starting on the Mediation Commencement Date and ending on the earlier of the following:
 - i. 8 weeks after the Mediation Commencement Date; or
 - ii. the date on which the mediation ended ("Mediation Conclusion Date"), as set out in SIMC's notification to SICC of that date.
- c. The Court may extend the case management stay for good reasons.
- d. The SIMC will administer the mediation in accordance with the Mediation Rules of the SIMC.

5. Interim Relief and Residual Powers

- a. Despite any case management stay of the SICC proceedings, the Court may, on the application of a party, make such interim or supplementary orders as the Court thinks fit for the purposes of preserving the rights of any party, including but not limited to an order in relation to any of the following matters:
 - i. the appointment of any expert;
 - ii. the determination of any question of law or the construction of any document;
 - iii. the preservation, interim custody or sale of any property that is or forms part of the subject-matter of the Dispute;
 - iv. the preservation and interim custody of any evidence;
 - v. the production of any document;
 - vi. an interim injunction or other interim measure, including but not limited to an interim injunction to ensure that any judgment or order made in the SICC proceedings, or any mediated settlement agreement, is not rendered ineffectual by the dissipation of assets by a party; and
 - vii. the enforcement of any obligation of confidentiality.
- b. The applicant in an application to the Court mentioned in clause 5(a) must notify the SIMC by letter (copied to the SICC Registry):
 - i. of the making of the application, within 3 business days after the application is made; and
 - ii. of the Court's decision on the application, within 5 business days after the Court has decided the application.

6. Conclusion of Mediation

- a. After the case management stay has expired, the SICC Registry will convene a case management conference.

- b. If the parties have agreed to adjourn the mediation in respect of any Dispute, the parties may seek directions from the Court, in relation to subsequent mediation sessions, and an extension of the case management stay under clause 4(c), at the case management conference.
- c. If the parties have concluded a mediated settlement agreement in respect of every Dispute referred for mediation, the parties must inform the SICC Registry by letter whether the parties wish to record the terms of the mediated settlement agreement as an order of court and, if so, provide the SICC Registry with a copy of the mediated settlement agreement. The letter must be filed at least 5 business days before the case management conference. The parties may record the terms of the mediated settlement agreement as an order of court at the case management conference.
- d. If the parties have concluded a mediated settlement agreement in respect of one or more, but not all, of the Disputes referred for mediation, the parties must inform the SICC Registry by letter whether the parties wish to record the terms of the mediated settlement agreement as an order of court and, if so, state which Disputes are settled and which Disputes are not settled, and provide the SICC Registry with a copy of the mediated settlement agreement. The letter must be filed at least 5 business days before the case management conference. At the case management conference:
 - i. the parties may record the terms of the mediated settlement agreement as an order of court; and
 - ii. the parties may seek the directions of the Court on the conduct of the proceedings in the SICC in respect of the Disputes that were not settled.
- e. If the parties have not concluded a mediated settlement agreement in respect of any Dispute referred for mediation, the parties may seek the directions of the Court on the conduct of the proceedings at the case management conference.
- f. The parties agree to treat any Dispute that is settled in the course of the mediation as falling within the scope of the LML Clause or a jurisdiction agreement between the parties, regardless whether that Dispute was referred for mediation in accordance with this LML Protocol.

7. Financial Matters

- a. To avoid doubt, the parties shall pay to the Registrar of the Supreme Court, in accordance with the applicable Rules of Court, the applicable fees and charges (however described) upon the commencement and during the continuation of proceedings in the SICC.
- b. To avoid doubt, the parties shall pay to the SIMC, in accordance with the SIMC mediation rules, the applicable fees and charges (however described) upon the commencement and during the continuation of mediation.

8. Definitions

In this LML Protocol, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, namely:

“business day” means any day other than a Saturday, Sunday or a public holiday; and

“public holiday” means any day which is declared to be or proclaimed as a public holiday or which under any written law is to be observed as a public holiday in Singapore.