

## **SICC PROCEDURAL GUIDE<sup>1</sup>**

*A pocket guide to the procedures of the Singapore International Commercial Court as set out in the applicable legislation and the SICC Rules 2021.*

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<sup>1</sup> This procedural guide is applicable for proceedings which are governed by the Singapore International Commercial Court Rules 2021 (“SICC Rules 2021”). Please refer to Section 1.2.3 and O 1, r 2 of the SICC Rules 2021 for more information on the applicability of the SICC Rules 2021.

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### **Disclaimer**

*The contents of this document are for reference purposes only. They are not in any way a substitute for direct reference to the relevant legislation and practice directions. Specific legal advice should always be sought separately.*

## **List of abbreviations**

|                              |   |  |
|------------------------------|---|--|
| Adjudication track           | : | The procedural mode by which proceedings are to be brought in the SICC. There are three default adjudication tracks, namely, the pleadings adjudication track, the statements adjudication track and the memorials adjudication track. |
| Counsel                      | : | A person falling within the definition of “counsel” in O 1, r 4 of the SICC Rules, including a registered foreign lawyer who is granted full registration under Section 36P of the Legal Profession Act (Cap 161).                     |
| Form                         | : | Forms in Appendix A of the SICC Rules  |
| General Division             | : | The General Division of the High Court of Singapore  |
| O                            | : | Order in the SICC Rules  |
| Official website of the SICC | : | <a href="http://www.sicc.gov.sg">www.sicc.gov.sg</a>   |
| Originating application      | : | The process by which a civil action is commenced in court. This is the only mode of commencement of claims in the SICC.  |
| r / rr                       | : | Rule or rules in the SICC Rules or other subsidiary legislation  |
| Registered Foreign Lawyer    | : | A foreign lawyer registered under Section 36P of the Legal Profession Act (Cap 161)  |
| Registered Law Expert        | : | A law expert registered under Section 36PA of the Legal Profession Act (Cap 161)   |
| Rules of Court               | : | The Rules of Court 2021, including the practice directions issued by the Registrar, which are applicable to proceedings in the High Court and proceedings in the Court of Appeal arising therefrom.                                    |
| s / ss                       | : | Section or sections in primary legislation   |
| SICC                         | : | Singapore International Commercial Court   |
| SICC Rules                   | : | Singapore International Commercial Court Rules 2021  |

- Third-Party Funder<sup>2</sup> : A person who carries on the business of funding all or part of the costs of dispute resolution proceedings to which the person is not a party
- Third-party funding contract<sup>3</sup> : A contract whereby a third-party funder provides funds to any party for the purpose of funding all or part of the costs of that party in dispute resolution proceedings, in return for a share or other interest in the proceeds or potential proceeds of the proceedings to which the party may become entitled.

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<sup>2</sup> Please refer to Section 5B of the Civil Law Act (Cap 43).

<sup>3</sup> *Ibid.*

# **1. Sources of Singapore International Commercial Court procedural rules**

## **1.1. Supreme Court of Judicature Act (Cap 322)**

1.1.1 The Supreme Court of Judicature Act (Cap 322) is the primary legislation setting out the constitution and powers of the Singapore International Commercial Court (“SICC”). The SICC is a division of the General Division of the High Court of Singapore (“General Division”). It is thus a part of the Supreme Court, which is the superior court in Singapore.

1.1.2 The Supreme Court of Judicature Act (Cap 322) provisions relating to the SICC are found in ss 18A–18M. The SICC procedural rules which are contained in the Singapore International Commercial Court Rules 2021 (“SICC Rules”) are made pursuant to the Supreme Court of Judicature Act (Cap 322) s 80(1), (2) and (2A).

## **1.2. Singapore International Commercial Court Rules 2021**

1.2.1 The SICC Rules is subsidiary legislation. It regulates and prescribes the procedure and practice to be followed in the SICC and the Court of Appeal (in respect of appeals and originating applications arising from decisions made in the SICC).

1.2.2 The SICC Rules is broken down into Orders which in turn comprise a series of rules.

1.2.3 The SICC Rules apply to:

1.2.3.1 every case commenced in the SICC on or after 1 April 2022 (unless the case is transferred out of the SICC);

1.2.3.2 every case commenced in the General Division on or after 1 April 2022 and transferred from the General Division to the SICC;

1.2.3.3 any proceedings (either upon application or on the General Division’s own motion) for the transfer of a case from the General Division to the SICC, where the case is commenced on or after 1 April 2022;

1.2.3.4 every appeal to the Court of Appeal, filed on or after 1 April 2022, from a judgment or an order of the SICC; and

1.2.3.5 every originating application to the Court of Appeal, filed on or after 1 April 2022, in relation to a judgment or an order of the SICC: see SICC Rules O 1, r 2(1).

- 1.2.4 If all parties consent in writing, the SICC Rules apply with necessary modifications to:
- 1.2.4.1 every case commenced in the SICC before 1 April 2022;
  - 1.2.4.2 every case commenced in the General Division or the High Court (as the case may be) before 1 April 2022 and transferred from the General Division to the SICC at any time;
  - 1.2.4.3 every appeal to the Court of Appeal, filed before 1 April 2022, from a judgment or an order of the SICC; and
  - 1.2.4.4 every originating application to the Court of Appeal, filed before 1 April 2022, in relation to a judgment or an order of the SICC: see SICC Rules O 1, r 2(2).
- 1.2.5 Where the parties consent to applying the SICC Rules, the SICC fees under Order 26 of the SICC Rules will apply: see SICC Rules O 26, r 1(1)(f).
- 1.2.6 The Court seeks to achieve the following “General Principles” in interpreting any provision and exercising any power under the SICC Rules:
- 1.2.6.1 the expeditious and efficient administration of justice according to law;
  - 1.2.6.2 procedural flexibility;
  - 1.2.6.3 fair, impartial and practical processes;
  - 1.2.6.4 procedures compatible with and responsive to the needs and realities of international commerce: see SICC Rules O 1, r 3(1).
- 1.2.7 All parties must assist the Court and conduct their cases in a manner which will go towards achieving the General Principles: see SICC Rules O 1, r 3(2).

### 1.3. User Guides

- 1.3.1 A set of User Guides has been issued by the SICC to provide guidance on certain features of SICC proceedings. The contents of the User Guides are organised into Notes which cover topics such as: jurisdiction, commencing an action, foreign representation, disapplication of Singapore evidence law, injunctions prohibiting disposal of assets, remote hearings and enforcement of SICC

judgments.

1.3.2 The User Guides do not form part of the SICC Rules and do not in any way modify anything in the SICC Rules. They are purely for reference purposes and do not bind the SICC in any way.

#### 1.4. Resources

1.4.1 The Supreme Court of Judicature Act (Cap 322), SICC Rules and User Guides are all available on the SICC website ([www.sicc.gov.sg](http://www.sicc.gov.sg)) and the Singapore Courts website (<https://www.judiciary.gov.sg/>).

1.4.2 All primary and subsidiary legislation of Singapore is also available on Singapore Statutes Online (<https://sso.agc.gov.sg>).

## 2. **Jurisdiction of the SICC**

2.1 The SICC has the jurisdiction to hear and try a case if (a) the action between the parties when the case was first filed is of an international and commercial nature, (b) the case is one that the General Division may hear and try in its original civil jurisdiction (i.e. at first instance), (c) where each party named in the case when it was first filed has submitted to the SICC's jurisdiction under a written jurisdiction agreement, and (d) where the parties do not seek any relief in the form of, or connected with, a prerogative order (such as a mandatory order, a prohibiting order, a quashing order or an order for review of detention): see Supreme Court of Judicature Act (Cap 322) s 18D(1); SICC Rules O 2, r 1(1); User Guides Note 1. For provisions relating to the original civil jurisdiction of the General Division, see Supreme Court of Judicature Act (Cap 322) ss 16–17.

2.2 The SICC also has jurisdiction to hear any proceedings relating to international commercial arbitration that the General Division may hear under the International Arbitration Act (Cap 143A): see Supreme Court of Judicature Act (Cap 322) s 18D(2)(a); SICC Rules O 23, r 3(1). Matters which the SICC will have regard to for the purposes of determining whether proceedings are “proceedings relating to international commercial arbitration” are set out at SICC Rules O 23, r 3(2).

2.3 The SICC also has the jurisdiction to hear the following: see SICC Rules O 2, r 1(2).

2.3.1 Cases transferred from the General Division to the SICC.

2.3.2 Originating applications for the production of documents, an injunction, or a search order, before the commencement of proceedings in the SICC.

2.3.3 Originating applications seeking permission to commit a person for contempt of court in respect of any judgment or order made by the

## SICC.

- 2.4 An action is international in nature if:
- 2.4.1 any of the following places is situated in a State other than Singapore:
    - 2.4.1.1 the place of business of at least one party to the action;
    - 2.4.1.2 the place where a substantial part of the obligations of the commercial relationship between the parties is to be performed;
    - 2.4.1.3 the place with which the subject matter of the action is most closely connected; or
  - 2.4.2 all parties named in the case when it was first filed have expressly agreed that the subject matter of the action relates to more than one State: see SICC Rules O 2, r 1(3)(a).
- 2.5 An action is commercial in nature if:
- 2.5.1 the subject matter of the action arises from a relationship of a commercial nature, whether contractual or not;
  - 2.5.2 the action relates to an *in personam* intellectual property dispute; or
  - 2.5.3 all parties named in the case when it was first filed have expressly agreed that the subject matter of the action is commercial in nature: see SICC Rules O 2, r 1(3)(b).
- 2.6 An action is presumed to be of an international and commercial nature if each party named in the case when it was first filed has submitted to the jurisdiction of the SICC under a written jurisdiction agreement: see SICC Rules O 2, r 1(8).
- 2.7 The SICC may decline to exercise jurisdiction in a case, or over a claim in a case, if exercising jurisdiction would be contrary to the SICC's international and commercial character or would be an abuse of the process of the SICC: see SICC Rules O 2, r 3(2).
- 2.8 For matters relating to the SICC's jurisdiction over persons sought to be joined as additional parties to SICC proceedings: see Section 8 below.
- 3. Commencement of SICC proceedings**
- 3.1 There is a single mode of commencement for SICC proceedings, which is by filing an Originating Application: see SICC Rules O 4, r 1(1) and Annex A to this document.
- 3.1.1 An Originating Application is valid for service for 12 months beginning



with the date of its issue: see SICC Rules O 4, r 3(1). An application may be made to extend the validity of the Originating Application at any time before or after it expires, if the Originating Application has not been served on all the defendants: see SICC Rules O 4, r 3(2).

### 3.2 Written jurisdiction agreement and Claimant's Statement

3.2.1 An Originating Application must be accompanied by a copy of the written jurisdiction agreement to which the claimant and defendant are party: see SICC Rules O 4, r 1(3).

3.2.2 Unless otherwise provided in the SICC Rules, an Originating Application must also be accompanied by a Claimant's Statement, which must contain a concise summary of: (a) the material facts giving rise to the claim; (b) any alleged harm suffered by the claimant relevant to the relief sought; (c) the cause of action against the defendant; and (d) the relief sought including, where possible, an initial quantification of the claim amount: see SICC Rules O 4, r 4(1)–(2).

3.2.3 Proceedings under the International Arbitration Act (Cap 143A) must be commenced by way of an Originating Application and accompanied by a witness statement only. The witness statement must: (a) state the grounds in support of the application; (b) exhibit a copy of the arbitration agreement or any record of the content of the arbitration agreement, the award and any other document relied on by the claimant; (c) set out any evidence relied on by the claimant; and (d) be served with the Originating Application: see SICC Rules O 23, r 4. A written jurisdiction agreement or Claimant's Statement is not required.

### 3.3 Offshore case declaration

3.3.1 An "offshore case" is an action that has no substantial connection with Singapore, but does not include: (a) any proceedings under the International Arbitration Act (Cap 143A) that are commenced by way of any originating process; and (b) an action *in rem* (against a ship or any other property) under the High Court (Admiralty Jurisdiction) Act (Cap 123): see SICC Rules O 3, r 3(1). For more information on what constitutes an action that has no substantial connection to Singapore, see SICC Rules O 3, r 3(2).

3.3.2 Where the claimant takes the position that the action is an offshore case, the claimant may file an offshore case declaration together with the Originating Application: see SICC Rules O 4, r 1(4).

3.3.3 For more information on offshore case declarations, see Section 11.3 below; User Guides Note 3.

### 3.4 Fees and deposits upon commencement of action

3.4.1 An initial deposit of S\$20,000 or S\$35,000 shall be furnished by a party upon commencement of an action in the SICC depending on whether the case is heard by a single Judge or 3 Judges: see SICC Rules O 26, r 7(1).

3.4.2 The court fee payable upon filing the Originating Application differs depending on whether the action is to be heard by a single Judge or 3 Judges: see SICC Rules O 26, r 3(1). See also Annex B to this document.

3.4.3 For more information on fees and deposits, see SICC Rules O 26.

### 3.5 Filing of documents

3.5.1 Generally, all Singapore legal practitioners, and all foreign lawyers registered under s 36P of the Legal Profession Act (Cap 161) (“Registered Foreign Lawyers”) who are granted full registration, who represent parties in proceedings in the SICC, are to file documents in all proceedings using the online Integrated Electronic Litigation System (“eLitigation”) ([www.elitigation.sg](http://www.elitigation.sg)): see SICC Rules O 27, r 10(1).

3.5.2 Where it is impracticable for a Registered Foreign Lawyer who is granted full registration to file, serve, deliver or otherwise convey documents using eLitigation, a request for assistance to record such documents in eLitigation may be made to the Registrar in accordance with the steps prescribed on the official website of the SICC: see SICC Rules O 27 r 12(4).

3.5.3 Litigants in person may file documents through the Service Bureau located in the Singapore Supreme Court building. The Service Bureau may also be used by counsel and law firms if the modes described at Sections 3.5.1 and 3.5.2 above are not available for any reason.

## 4. **Service of court documents**

### 4.1 Personal service and ordinary service within Singapore

4.1.1 Any document that is required to be served on any person need not be served personally unless expressly provided for by the SICC Rules or in any written law: see SICC Rules O 5, r 1.

4.1.2 Generally, an Originating Application must be served personally on each defendant: see SICC Rules O 5, r 1(1).

4.1.3 Personal service of an Originating Application on a natural person

may be effected by leaving a sealed copy of the Originating Application with the person to be served: see SICC Rules O 5, r 2(1).

- 4.1.4 Personal service of an Originating Application on an entity may be effected by personal service on the chairperson or president of the entity, or the secretary, treasurer or other officer thereof: see SICC Rules O 5, r 2(1). See also the Companies Act (Cap 50) ss 387 (companies incorporated in Singapore), 376 (foreign companies).
  - 4.1.5 Personal service of an Originating Application may also be effected in such other manner agreed with the party to be served, or according to the requirements of any written law: see SICC Rules O 5, r 2(1).
  - 4.1.6 Where a document need not be served personally, the document may additionally be served (a) in such manner agreed with the party to be served, (b) by leaving the document at or posting it to an applicable address as listed under SICC Rules O 5, r 3(1)(c), (c) by electronic mail to an applicable address as listed under SICC Rules O 5, r 3(1)(d), (d) by fax to an applicable fax number as described under SICC Rules, O 5, r 3(1)(e), (e) by transmission through eLitigation, or (f) in such other manner as the SICC may direct or as provided under any written law: see SICC Rules O 5, r 3(1).
- 4.2 Process servers
- 4.2.1 Generally, personal service is to be effected by a process server of the SICC, counsel or counsel's employee: see SICC Rules O 5, r 2(2).
- 4.3 Substituted service
- 4.3.1 If a document is required to be served personally on any person and it appears to the SICC that it is impractical within a reasonable period of time to serve that document personally on that person, the SICC may on application make an order for substituted service of that document (e.g. by posting on front door of last known address, advertisement). An application for such an order may be made by way of a summons without notice supported by a witness statement: see SICC Rules O 5, r 4.
- 4.4 Service out of jurisdiction
- 4.4.1 The SICC's permission is not required for service of an Originating Application out of Singapore (a) on a party to a written jurisdiction agreement, or (b) if service out of Singapore is allowed under an agreement between the parties: see SICC Rules O 5, r 6(2). In all other circumstances, permission of the SICC should be obtained by way of an application: see SICC Rules O 5, r 6(1) and (4).
  - 4.4.2 Service out of Singapore of documents other than the Originating

Application is required except where permission for service of the Originating Application out of Singapore has already been granted or is not required: see SICC Rules O 5, r 6(3).

4.4.3 For methods of service of documents outside of Singapore, see SICC Rules O 5, rr 7–10.

4.5 For more information on service of documents, see SICC Rules Order 5 and Annex G to this document.

## **5. Defendant's Statement**

5.1 A Defendant must file and serve a Defendant's Statement within 28 days from being served with both the Originating Application and the Claimant's Statement or accompanying witness statement (in the case of proceedings under the International Arbitration Act (Cap 143A)): see SICC Rules O 4, r 5(1) and O 23, r 6(2).

5.1.1 The Defendant's Statement must (a) state whether the Defendant intends to contest the claim or any part of it and identify the claim or part that is contested, and (b) state whether the Defendant intends to apply to dispute that the Originating Application, Claimant's Statement or accompanying affidavit was properly served or to dispute that the SICC has or should assume jurisdiction in the matter see SICC Rules O 4, r 5(8) and O 23, r 6(1).

5.1.2 The Defendant's Statement should provide a concise summary of the material facts underlying any defence, and the nature and grounds of the defence. Such a summary is not required in proceedings under the International Arbitration Act (Cap 143A) where the Defendant files and serves, together with the Defendant's Statement, a witness statement stating the grounds on which the Defendant opposes the application: see SICC Rules O 4, r 5(8) and O 23, r 6(1).

5.1.3 If the Defendant intends to bring a counterclaim against the claimant, the Defendant's Statement should summarise: (a) the material facts giving rise to the counterclaim; (b) any alleged harm suffered by the defendant relevant to the relief sought; (c) the cause of action against the claimant; and (d) the relief sought including, where possible, an initial quantification of the counterclaim amount: see SICC Rules O 4, r 5(8)(f).

## **6. Adjudication tracks**

6.1 Unless otherwise provided in the SICC Rules, the SICC will order that a contested claim or counterclaim be decided by one of the following adjudication

tracks: pleadings, statements, or memorials: see SICC Rules O 4, r 6(1).

6.1.1 In deciding the applicable adjudication track, the Court may have regard to any agreement between the parties on the applicable adjudication track: see SICC Rules O 4, r 6(2).

6.1.2 The Court may modify the adjudication track to be applied in a case in such manner and to such extent as it considers appropriate and may order at any stage of the proceedings that another adjudication track be applied in the case before it: see SICC Rules O 4, r 6(3)–(5).

6.1.3 Proceedings under the International Arbitration Act (Cap 143A) must be decided by the statements adjudication track as modified by the provisions in SICC Rules Order 23, unless the Court otherwise directs: see SICC Rules O 23, r 2(2).

## 6.2 Pleadings adjudication track

6.2.1 Pleadings are required only where the SICC has made an order that a contested claim or counterclaim is to be decided by the pleadings adjudication track: see SICC Rules O 6, r 1(1). The pleadings adjudication track is equivalent to the writ action under the Rules of Court in force before 1 April 2022, and generally culminates in a trial. The main types of pleadings are explained in Sections 6.2.2 to 6.2.6 below.

### 6.2.2 Statement of Claim

6.2.2.1 A Statement of Claim must provide a succinct and precise account of the facts justifying the claim: see SICC Rules O 6, r 2(2) and Form 10.

6.2.2.2. A Statement of Claim must be filed and served within 14 days after the SICC makes an order that the contested claim or counterclaim is to be decided by the pleadings adjudication track: see SICC Rules O 6, r 2(1).

6.2.2.3 Before the time by which the claimant must file and serve a Statement of Claim expires, the claimant may apply to the Court for an order that the Claimant's Statement is to stand as the Statement of Claim: see SICC Rules O 6, r 2(3).

### 6.2.3 Defence

6.2.3.1 The defendant must file and serve a Defence within 14 days after service of either (a) the Statement of Claim, or (b) an order made by the SICC that the Claimant's Statement is to stand as the Statement of Claim: see SICC Rules O 6, r 3 and Form 11.

- 6.2.3.2 Before the time by which the defendant must file and serve a Defence expires, the defendant may apply to the Court for an order that the Defendant's Statement is to stand as the Defence: see SICC Rules O 6, r 3(3).
- 6.2.4 Reply
  - 6.2.4.1 The claimant on whom the defendant serves a Defence must file and serve a Reply on that defendant unless the claimant wishes only to deny assertions made in the Defence without adding anything material: see SICC Rules O 6, r 5 and Form 12.
  - 6.2.4.2 A Reply to any Defence must be served by the claimant within 14 days after the service of either (a) that Defence, or (b) an order made by the SICC that the Defendant's Statement is to stand as the Defence: see SICC Rules O 6, r 5.
- 6.2.5 Counterclaim
  - 6.2.5.1 A defendant who intends to counterclaim against the claimant must file and serve the Counterclaim with the Defence: see SICC Rules O 6, r 4(1) and Form 11.
  - 6.2.5.2 A claimant on whom a defendant serves a Counterclaim must, if he intends to defend it, serve on that defendant a Defence to Counterclaim within 14 days after the service of either (a) the Counterclaim, or (b) an order made by the SICC that the Defendant's Statement that sets out any counterclaim is to stand as the Counterclaim: see SICC Rules O 6, r 6(1) and Form 12.
  - 6.2.5.3 Unless the defendant wishes only to deny assertions made in the Defence to Counterclaim without adding anything material, the defendant must file and serve a Reply to the Defence to Counterclaim on the claimant within 14 days after the Defence to Counterclaim is served on the defendant: see SICC Rules O 6, r 7 and Form 13.
  - 6.2.5.4 In relation to making a counterclaim against additional parties, see SICC Rules O 10, r 2.
- 6.2.6 Further and better particulars of pleadings
  - 6.2.6.1 Further and better particulars of any claim, defence or other matter stated in a pleading would themselves stand as pleadings: see the definition of "pleading" under SICC Rules

O 1, r 4.

6.2.6.2 A party who requires further and better particulars of any matter stated in another party's pleading must first make a written request to that party for such particulars: see SICC Rules O 6, r 13(2).

6.2.6.3 For more information on interlocutory applications concerning further and better particulars of pleadings, see SICC Rules O 6, r 13; Section 11.9 below.

## 6.2.7 Requirements of pleadings

6.2.7.1 The formal and substantive requirements for pleadings as set out in the Forms prescribed under SICC Rules Order 6, including those relating to matters which must be specifically pleaded, must be complied with: see SICC Rules O 6, r 10. For more information on the formal and substantive requirements for pleadings, see SICC Rules O 6, rr 2–7. See also SICC Rules O 6, r 12 on admissions and denials.

6.2.7.2 Every pleading, including any further and better particulars thereof, must be verified by a statement of truth, which may be contained in the pleading or may be in a separate document served subsequently that identifies the document to which it relates: see SICC Rules O 6, r 11(1)–(2).

6.2.7.3 Where there are amendments made to the pleading, the amendments must be verified by a statement of truth unless the court orders otherwise: see SICC Rules O 6, r 11(3) and Annex E to this document.

6.2.7.4 The statement of truth must state that the party seeking to rely on the pleading believes that the facts stated in the pleading are true and must be signed by the party seeking to rely on the pleading, or an appropriate person such as a person holding a senior position in a company or corporation where the party is a company or corporation: see SICC Rules O 6, r 11(4)–(6).

6.2.7.5 Proceedings for contempt of court may be brought against a person if the person makes, or causes to be made, without an honest belief in its truth, a false statement in a pleading verified by a statement of truth: see SICC Rules O 6, r 11(15).



## 6.2.8 Close of pleadings

6.2.8.1 The pleadings in an action are deemed to be closed at the end of 14 days after service of the Reply or, if there is no Reply but only a Defence to Counterclaim, after service of the Defence to Counterclaim. If neither a Reply nor a Defence to Counterclaim is filed and served, the pleadings are deemed to be closed at the end of 14 days after service of the Defence: see SICC Rules O 6, r 9.

## 6.3 Statements adjudication track

6.3.1 The statements adjudication track is equivalent to the originating summons under the Rules of Court in force before 1 April 2022, and generally culminates in a hearing on submissions.

### 6.3.2 Witness statements

6.3.2.1 The claimant must file and serve witness statement(s) setting out all evidence necessary for the claim in the Originating Application within 14 days after the SICC makes an order that a contested claim or counterclaim is to be decided by the statements adjudication track: see SICC Rules O 7, r 3.

6.3.2.2 The defendant must file and serve his witness statement(s) setting out all evidence necessary for the defence within 21 days after being served with the claimant's witness statement(s): see SICC Rules O 7, r 4.

### 6.3.3 Counterclaim

6.3.3.1 If a defendant intends to make a counterclaim against the claimant, all evidence necessary for the counterclaim must be included in the witness statement(s) referred to at Section 6.3.2.2 above: see SICC Rules O 7, r 5(1).

6.3.3.2 If the claimant wishes to defend any counterclaim made by the defendant, the claimant must file and serve further witness statement(s) setting out all evidence necessary to defend the counterclaim within 14 days after being served with the witness statement(s) of the defendant: see SICC Rules O 7, r 5(2).



## 6.4 Memorials adjudication track

6.4.1 Where the SICC has made an order that a contested claim or counterclaim is to be decided by the memorials adjudication track, the SICC may make orders or directions including the following: (a) the timelines for the filing of the claimant's Memorial and the defendant's Counter-Memorial; (b) the timelines for the filing of a Reply Memorial and a Rejoinder Memorial, if necessary; and (c) the preparation and adduction of any evidence, including expert evidence in the proceedings: see SICC Rules O 8, r 1(3).

### 6.4.2 Memorial and Counter-Memorial

6.4.2.1 Generally, a claimant's Memorial must set out in full detail: (a) a statement of facts supporting the claim; (b) the legal grounds or arguments supporting the claim; and (c) the relief claimed together with the amount of all quantifiable claims. The Memorial should be accompanied by copies of all witness statements, expert reports (where applicable) and documentary exhibits supporting the claim: see SICC Rules O 8, r 2(1).

6.4.2.2 Likewise, generally, a defendant's Counter-Memorial must set out in full detail: (a) a statement of facts supporting the defence and any counterclaim; (b) the legal grounds or arguments supporting the defence and any counterclaim; and (c) the relief claimed together with the amount of all quantifiable counterclaims. The Counter-Memorial should be accompanied by copies of all witness statements, expert reports (where applicable) and documentary exhibits supporting the defence and counterclaim, if any: see SICC Rules O 8, r 2(2).

## 6.5 Amendment of Originating Application, pleading or memorial, etc.

6.5.1 The SICC may, on the application of a party, allow that party to amend its Originating Application, pleading or memorial: see SICC Rules O 16, r 3(1) and Annex E to this document.

6.5.2 In an amendment, a party may plead events that occurred after the Originating Application was filed, provided that the party may not thereby raise a new cause of action not existing when the Originating Application was filed: see SICC Rules O 16, r 3(2).

## **7. Case management conferences**

### **7.1 Fixing of case management conferences**

7.1.1 A case management conference will be held as provided in the SICC Rules or at any time the SICC thinks appropriate. At the first case management conference, the SICC may determine the adjudication track and give consequential directions, including on alternative dispute resolution: see SICC Rules O 9, r 1(1)-(2). At a case management conference, the SICC may make such order or give any direction to achieve the General Principles: see SICC Rules O 9, r 1(3).

### **7.2 Preparation for the case management conference**

7.2.1 Prior to a case management conference, parties must: (a) attempt to agree on the matters to be discussed at that case management conference including but not limited to the adjudication track for the determination of the dispute and any proposed modifications to the track; (b) attempt to identify the real issues in dispute, and any preliminary issues; (c) consider the possibility of alternative dispute resolution, and be prepared to inform the SICC of the suitability of the case for alternative dispute resolution; and (d) unless the SICC otherwise directs, submit a Case Management Bundle or updated Case Management Bundle (as the case may be) at least 7 working days prior to the case management conference: see SICC Rules O 9, r 3.

7.2.2 If the parties are of the view that attendance at a case management conference may be dispensed with and directions may be given by the SICC on paper, a party may apply to the SICC at least 7 working days before a case management conference by way of a letter: see requirements to be specified in the letter as set out in the SICC Rules O 9, r 2(4).

### **7.3 Case Management Bundle**

7.3.1 Unless the SICC otherwise directs, the Case Management Bundle must be prepared or updated (as the case may be) by the claimant in consultation with the other parties: see SICC Rules O 9, r 4(1).

7.3.2 The Case Management Bundle must contain the most recent versions of: (a) the Claimant's Statement and each Defendant's Statement; (b) the pleadings, memorials and witness statements which have been filed pursuant to the applicable adjudication track; (c) a Case Management Plan, which must be prepared or updated (as the case may be) based on the latest information that is available; (d) a Pre-Hearing / Pre-Trial Timetable, based on the latest information that is available; and (e) a List of Issues: see SICC Rules O 9, r 4(2) and

Forms 16, 17 and 18.

- 7.3.3 Where the SICC has directed that the proceedings are to lead to a trial of the case, the Case Management Bundle must additionally contain: (a) a Trial Checklist, which must be prepared or updated (as the case may be) by each party to the case, based on the latest information available; and (b) a Trial Timetable: see SICC Rules O 9, r 4(3) and Forms 19 and 20.
  - 7.3.4 The parties must endeavour to prepare an agreed Case Management Plan, Pre-Hearing / Pre-Trial Timetable, List of Issues and Trial Timetable to the extent possible, but if the parties are unable to agree, the claimant must prepare or update the document (as the case may be) and the other parties must provide comments on the document: see SICC Rules O 9, r 4(4).
- 7.4 Conduct of case management conferences
- 7.4.1 Case management conferences will generally be conducted as an oral hearing that lead counsel or counsel fully instructed on the matter must attend: see SICC Rules O 9, r 2(1).
  - 7.4.2 Counsel appearing at the case management conference are expected to be in a position to inform the Judge(s) of all matters pertinent to the making of orders or giving of directions for the just, expeditious and economical disposal of the cause or matter.
  - 7.4.3 The SICC may, in consultation with the parties, give directions on the use of suitable technology to facilitate the communication between the parties and the SICC in relation to case management and other matters: see SICC Rules O 9, r 2(2).
  - 7.4.4 Where the SICC consists of 3 Judges, any one of the 3 Judges may hear any case management conference in the proceedings: see SICC Rules O 1, r 10(3).
- 7.5 Non-compliance with directions made at a case management conference
- 7.5.1 Where a party is unable to comply with any case management direction, that party must inform the SICC of the same by way of letter as soon as practicable, and seek further directions on the management of the case: see SICC Rules O 9, r 6(2).
  - 7.5.2 Where a party fails to comply with any direction, the other party may, after informing the non-complying party of its intention to do so, apply to the SICC by way of letter as soon as practicable, to seek further directions on the management of the case: see SICC Rules O 9, r 6(3).

- 7.5.3 See also SICC Rules O 1, r 11 for the general powers of the Court, including in relation to any non-compliance with the SICC Rules, any written law, the Court's orders or directions.
- 7.6 Variation or amendment of case management directions
- 7.6.1 Where all parties consent, any party may apply to the SICC by way of letter as soon as practicable for a variation or an amendment of any direction, stating the reasons for the application and exhibiting a draft consent order signed by all parties: see SICC Rules O 9, r 6(1).
- 7.7 Alternative dispute resolution
- 7.7.1 Where the parties are agreeable to alternative dispute resolution, the SICC may make directions to facilitate the parties' attempt at alternative dispute resolution: see SICC Rules O 9, r 5(1).
- 7.7.2 Where the parties are not agreeable to alternative dispute resolution, the SICC may direct that alternative dispute resolution be reconsidered at a subsequent time, or make any order necessary to facilitate the amicable resolution of the dispute: see SICC Rules O 9, r 5(2).
- 7.7.3 If the parties reach a settlement through alternative dispute resolution, the SICC may record a consent order on the terms of the settlement: see SICC Rules O 9, r 5(3).
- 7.7.4 In considering proportionality and reasonableness in assessing costs, the SICC may have regard to the conduct of the parties, including whether the conduct of the parties in respect of alternative dispute resolution facilitated the smooth and efficient disposal of the case and the existence and terms of any offer to settle: see SICC Rules O 22, r 3(2)(e)(iv) and (h).

## **8. Joinder, Removal and Substitution of Parties, Etc**

- 8.1 Joinder of persons as parties
- 8.1.1 A person may be joined as a party to the case if: (a) the requirements under SICC Rules Order 10 for joining the person are met, and (b) the claims by or against the person do not include a claim for any relief in the form of, or connected with, a prerogative order (including a mandatory order, a prohibiting order, a quashing order or an order for review of detention) and are appropriate to be heard in the SICC: see SICC Rules O 10, r 5(1).
- 8.1.2 There is no requirement that a person sought to be joined as a party to the case must have submitted to the Court's jurisdiction under a

written jurisdiction agreement, save that a State or the sovereign of a State may not be made a party to a case in the SICC unless it has submitted to the jurisdiction of the SICC under a written jurisdiction agreement: see SICC Rules O 10, r 5(2)).

8.1.3 There is also no requirement that the claims by or against a person sought to be joined to the action must be of an international and commercial nature, so long as the action as a whole maintains an international and commercial character: see Supreme Court of Judicature Act (Cap 322), s 18D(3). The SICC, in exercising its discretion to join a party to a case, must have regard to its international and commercial nature: see SICC Rules O 10, r 5(3).

8.1.4 For more information on the requirements and procedure for adding, removing and substituting parties in a case before the SICC, see SICC Rules O 10, rr 6-7.

8.1.5 For more information on the requirements and procedure for issuing a third-party notice, see SICC Rules O 10, rr 10-11.

## 8.2 Removal and substitution of parties

8.2.1 The SICC may order any person be removed as a party if it is not appropriate for that person to be a party to the proceedings: see SICC Rules O 10, r 6(2).

8.2.2 The SICC may order a new party to be substituted for an existing one if (a) the existing party's interest or liability has passed to the new party; and (b) it is appropriate to substitute the new party so that the SICC can resolve the matters in dispute in the proceedings: see SICC Rules O 10, r 6(3).

## 8.3 Misjoinder and nonjoinder of parties

8.3.1 No case is defeated by reason of the misjoinder or nonjoinder of any party and the SICC may in any case determine the issues or questions in dispute so far as they affect the rights and interests of the persons who are parties to the case: see SICC Rules O 10, r 9.

## 9. **Production of documents**

### 9.1 Scope of production

9.1.1 Each party must provide to the other parties all documents in its possession or control on which it relies, within the time and in the manner ordered by the SICC. A party may not provide to the other parties additional documents on which that party intends to rely,

unless the SICC otherwise grants permission: see SICC Rules O 12, r 1.

9.1.2 Copies of a document may be produced unless the SICC orders, or a party requests, the inspection of the original: see SICC Rules O 12, r 8.

9.2 Request to produce documents, objection to production and application to order production

9.2.1 A party (“requesting party”) may serve a request to produce on any person (“requested person”) within the time ordered by the SICC. The request to produce must describe the requested documents with sufficient particularity in order for them to be produced, state how the requested document is material to the issues in the case, state the requesting party’s belief that the documents are in the possession or control of the requested person, and the reasons for such belief, and state whether the documents are in the requesting party’s possession or control and, if so, why the documents are being requested, and be signed by the requesting party or the requesting party’s counsel: see SICC Rules O 12, r 2.

9.2.2 A requested person who objects to producing any requested document must serve a notice of objection on the requesting party stating the reasons for the objection. The notice of objection must be served within 14 days after being served with the request to produce if the requested person is a party to the proceedings. If the requested person is not a party to the proceedings, the notice of objection must be served within 28 days after being served with the request to produce: see SICC Rules O 12, r 3.

9.2.3 The requesting party may, within 14 days after being served a notice of objection, apply to the SICC by way of a summons for an order to produce the documents objected to: see SICC Rules O 12, r 4(1).

9.2.4 A requested document that merely leads a party on a train of inquiry resulting in the obtaining of information which may adversely affect or support a party’s case is not sufficiently material to the issues in the case, unless otherwise determined by the SICC: see SICC Rules O 12, r 4(3).

9.2.5 A party may request and the SICC may make an order for the production of electronically-stored documents: see SICC Rules O 12, r 13(1).

9.2.6 A party has a continuing duty in the course of proceedings to disclose documents that fall within the scope of a request to produce that has not been objected to (or was objected to only on grounds that the document is not in the party’s possession or control), or any order

made under Order 12 for disclosure of documents of the class to which the documents belong: see SICC Rules O 12, r 9.

9.2.7 For more information on requests for production of documents, see SICC Rules Order 12 and Annex F to this document.

### 9.3 Pre-action production

9.3.1 An application for the production of documents may be made to the SICC before the commencement of proceedings. Such an application must be made by Originating Application and be supported by a witness statement: see SICC Rules O 12, r 6.

### 9.4 Use of documents in other proceedings

9.4.1 Any document produced in Order 12 or by compulsion of law may be used only for the purpose of the case it is produced in, except where: (a) the document has been used in a hearing which is open to the public; (b) the party who produced the document consents to the use of the document for any purpose other than for that case; or (c) the SICC grants permission for the use of the document for any purpose other than for that case: see SICC Rules O 12, r 12(1).

9.4.2 In relation to a document which has been used in a hearing which is open to the public, an application may be made to the SICC to restrict or prohibit the use of the document for any purpose other than for that case: see SICC Rules O 12, r 12(2).

### 9.5 Interrogatories

9.5.1 Generally, interrogatories are a procedure by which a person may be required to answer questions relating to the existence of some fact within that person's knowledge and which are relevant to the dispute.

9.5.2 A party to SICC proceedings may serve interrogatories on another party only with the permission of the SICC: see SICC Rules O 12, r 14(1).

9.5.3 A party served with interrogatories must serve the answers to the interrogatories by way of a witness statement within the specified time: see SICC Rules O 12, r 14(3) and Annex F to this document.

## 10. **Evidence**

### 10.1 Evidence in trials

10.1.1 Generally, evidence in trials must be adduced by way of witness statements, cross-examination and re-examination: see SICC Rules



O 13, r 1.

- 10.1.2 A witness's evidence-in-chief must be given by witness statement instead of orally, unless the SICC orders otherwise, and must contain all material facts which must not be departed from or supplemented by new facts in oral evidence without the permission of the SICC: see SICC Rules O 13, rr 1(2) and (3). For more information on the formal requirements of a witness statement, see SICC Rules O 13, rr 5-7. For more information on the contents of a witness statement, see SICC Rules O 13, rr 8-10.
- 10.1.3 If a party intends to object to the contents of witness statements on the ground of admissibility or other reasons, that party must give notice by letter to the party who is relying on those witness statements at least 28 days before the first date of the hearing unless the SICC orders otherwise: see SICC Rules O 13, r 1(4).
- 10.1.4 A party may apply to the SICC to make an order for pre-trial examination where it is necessary in the interests of justice to record the evidence of any witness in or out of Singapore before a trial: see SICC Rules O 13, r 13.

## 10.2 Evidence in hearings other than trials

- 10.2.1 As a general rule, and unless the SICC orders otherwise, evidence in hearings other than trials, including interlocutory proceedings, must be adduced by way of witness statements, without oral evidence or cross-examination: see SICC Rules O 13, r 2(1).
- 10.2.2 A pleading may be used as evidence in hearings other than trials, including interlocutory proceedings, provided it is verified by a statement of truth: see SICC Rules O 13, r 2(2). For more information on pleadings to be verified by a statement of truth, see SICC Rules O 6, r 11 and Section 6.2.7.
- 10.2.3 A witness statement made for the purpose of being used in interlocutory proceedings may contain statements of information or belief: see SICC Rules O 13, r 8(3).

## 10.3 Evidence by live video or live television link where person to be examined is out of jurisdiction

- 10.3.1 A party applying for permission for any witness outside Singapore to give evidence by live video or live television link must take note of the relevant legislation and requirements in force in the jurisdiction where the witness is giving evidence. The party must make all necessary enquiries and take all necessary steps to ensure that the jurisdiction where the witness is giving evidence raises no objections to the giving



of evidence in that jurisdiction for court proceedings in Singapore: see SICC Rules O 13, r 14(2).

- 10.3.2 An application for permission for any witness outside Singapore to give evidence by live video or live television link in any proceedings must be made expeditiously and, in any case, unless the Court otherwise directs, not later than 8 weeks before the date of commencement of the hearing at which the witness is to give evidence: see SICC Rules O 13, r 14(1).
- 10.3.3 For more information on applying for a witness outside of Singapore to give evidence by live video or live television link, see SICC Rules O 13, r 14.

#### 10.4 Expert evidence

- 10.4.1 An expert is a person with scientific, technical or other specialised knowledge based on training, study or experience, and has the duty to assist the SICC in the matters within the expert's expertise and on the issues referred to the expert: see SICC Rules O 14, r 1(1)-(3).
- 10.4.2 No expert evidence may be adduced in the SICC unless the SICC grants permission. The SICC may grant permission for the use of expert evidence only if it will contribute materially to the determination of any issue in the case that relates to scientific, technical or other specialised knowledge and the issue cannot be resolved by an agreed statement of facts or by submission based on mutually agreed materials: see SICC Rules O 14, r 2(1)-(3).
- 10.4.3 The SICC may at any time or on its own motion, or upon a party's application, make any orders or directions in relation to the use of expert evidence: see SICC Rules O 14, r 2(4). The SICC may order the experts to meet to try to narrow any dispute, and may also order that all or some of the experts testify as a panel: see SICC Rules O 14, rr 5(1) and 6(1).
- 10.4.4 Generally, expert evidence is to be given in a written report signed by the expert and exhibited in a witness statement made by the expert: see SICC Rules O 14, r 4(1). For more information on what an expert's report should contain, see SICC Rules O 14, rr 4(2) and (3).
- 10.4.5 For cases placed on the Technology, Infrastructure and Construction ("TIC") list, the provisions in Order 28 also apply and the SICC may make any order in relation to expert evidence in addition to, or in place of, any requirement under Order 28 or Order 14: see SICC Rules O 28, r 4(3).

## 10.5 Disapplication of Singapore evidence law

- 10.5.1 The SICC may, on the application of a party, order that any rule of evidence in Singapore law does not apply, and that other rules of evidence (if any) whether found in foreign law or otherwise apply: see SICC Rules O 13, r 15(1); User Guides Note 4. An application for an order must be made by summons and supported by a witness statement: see SICC Rules O 13, r 15(7)-(8).
- 10.5.2 Such an application can only be made if all parties agree on (a) the rules of evidence that do not apply and (b) any rules of evidence that apply instead: see SICC Rules O 13, r 15(2); User Guides Note 4.
- 10.5.3 The SICC may, for the just, expeditious and economical disposal of the proceedings, modify the parties' agreement but only with the parties' consent, and stipulate such further conditions that supplement and are consistent with the parties' agreement (or modified agreement) as the SICC sees fit: see SICC Rules O 13, r 15(3).

## 11. **Common interlocutory applications**

- 11.1 The following explains in more detail some of the common types of interlocutory applications that parties may encounter in SICC proceedings.
- 11.2 Jurisdictional Challenge
  - 11.2.1 A party who wishes to persuade the SICC that it has no jurisdiction or should decline to exercise jurisdiction in a case, or over a claim in a case must, within 14 days after service of a Defendant's Statement, make an application for the SICC to consider the matter of its jurisdiction: see SICC Rules O 2, rr 3 and 7.
  - 11.2.2 For more information on the procedure and the orders the SICC may make in such an application, see SICC Rules O 2, rr 3 and 7.
  - 11.2.3 A defendant who disputes that an Originating Application or Claimant's Statement has been served in accordance with Order 5 may apply to the SICC for such relief as may be appropriate, including an order setting aside service of the Originating Application or Claimant's Statement on that defendant. Such an application must be made by summons and supported by a witness statement, within 14 days after the service of a Defendant's Statement: see SICC Rules O 2, rr 6 and 7.
- 11.3 "Offshore case"
  - 11.3.1 A party may be represented in an "offshore case" by a Registered Foreign Lawyer who has been granted full registration: SICC Rules O

3, r 1 and User Guides Note 3.

- 11.3.2 For the definition of an “offshore case”, see SICC Rules O 3, r 3 and Section 3.3.1 above.
- 11.3.3 An action is to be treated as an “offshore case” if either (a) the claimant has filed an offshore case declaration together with the originating process, or (b) any other party has filed such a declaration together with the first document filed by the party in that case. An offshore case declaration must explain why the case is an offshore case, and state all the facts relevant to the explanation: see SICC Rules O 3, r 5.
- 11.3.4 Where no offshore case declaration is filed, a party may apply to the SICC for a decision that a case is an offshore case. Such application must, among other things, be made by summons and supported by a witness statement: see SICC Rules O 3, r 6.
- 11.3.5 The SICC may at any time decide that a case is not or is no longer an offshore case. For the procedure to apply for such a decision, see SICC Rules O 3, r 7(2). Where the SICC decides that a case is not or is no longer an offshore case, any offshore case declaration filed in the case ceases to have effect: see SICC Rules O 3, r 7(4). The SICC may, in the interests of the just, economical and expeditious disposal of the proceedings, allow a party who has been represented by a Registered Foreign Lawyer or by a solicitor represented under s 36E of the Legal Profession Act (Cap 161) to continue to be so represented: see SICC Rules O 3, r 7(1) and (4).
- 11.3.6 Sections 11.3.3 to 11.3.5 do not apply to proceedings under the International Arbitration Act (Cap 143A): see definition of an “offshore case” in SICC Rules O 3, r 3 and Section 3.3.1 above.

#### 11.4 Injunctions

- 11.4.1 Interim injunctions are usually sought to preserve certain rights pending the full adjudication of a dispute. Examples of injunctive relief include search orders and freezing orders.
- 11.4.2 An application for the grant of an injunction or search order may be made by a party at any time after the commencement of proceedings in the SICC: see SICC Rules O 18, r 1(1). An application must be made by way of a summons supported by an affidavit and where the case is one of urgency, the application can be made by a summons without notice supported by an affidavit: see SICC Rules O 18, rr 1(2)-(5); Form 30. See also SICC Rules O 13, r 3(2)(b) on the use of affidavits instead of witness statements in this instance, and SICC Rules O 13, r 11 on the formalities relating to the giving of evidence by affidavit, which are governed by the domestic Rules of Court.

- 11.4.3 An injunction application may, on the request of the applicant and in appropriate circumstances, be heard on an urgent basis: see SICC Rules O 18, r 1. See also Annex D to this document. The hearing of an injunction application may be conducted through teleconference or video conference as the Court hearing the application may direct: see Appendix C of SICC Rules at paragraph 11.
- 11.4.4 The respondent to an application without notice, especially where the application seeks injunctive relief, should be invited to attend at the hearing of the application. Any party applying for an injunction without notice must give notice of the application to the other concerned parties prior to the hearing. The notice may be given by way of electronic mail, or fax, or, in cases of extreme urgency, orally by telephone. Except in cases of extreme urgency or with the permission of the SICC, the party shall give a minimum of two hours' notice to the other parties before the hearing. The notice should inform the other parties of the date, time and place fixed for the hearing of the application and the nature of the relief sought. If possible, a copy of the originating process, the summons without notice and affidavit(s) should be given to each of the other parties in draft form as soon as they are ready to be filed in SICC.
- 11.4.5 However, Section 11.4.4 need not be followed if the giving of notice to the other parties, or some of them, would or might defeat the purpose of the application without notice.
- 11.4.6 In all cases where a party approaches the SICC on a without notice basis, that party must consider its duty to make full and frank disclosure to the SICC and the potential consequences of material non-disclosure. Parties should also bear in mind their continuing duty to make full and frank disclosure of all disclosable matters that arise or occur to the party after the grant of relief.
- 11.4.7 At the hearing of the summons without notice, in the event that some or all of the other parties are not present or represented, the applicant's counsel should inform the SICC of:
- 11.4.7.1 The attempts that were made to notify the other parties or their counsel of the making of the application;
  - 11.4.7.2 What documents were given to the other parties or their counsel and when these documents were given; and
  - 11.4.7.3 Whether the other parties or their counsel consent to the application being heard without their presence.

If the other parties are not present or represented because the applicant was of the view that giving of the notice to the parties would or might defeat the purpose of the summons without notice, the

applicant's counsel should inform the SICC of this, and explain the basis for the applicant's view.

- 11.4.8 All summons without notice for injunctions and search orders should be supported by an affidavit containing the following information under clearly defined headings:
  - 11.4.8.1 Reason(s) the application is taken out on a without notice basis, including whether the applicant believes that there is a risk of dissipation of assets, destruction of evidence or any other prejudicial conduct;
  - 11.4.8.2 Urgency of the application (if applicable), including whether there is any particular event that may trigger the dissipation of assets, destruction of evidence or any other prejudicial conduct;
  - 11.4.8.3 Factual basis for the application, including the basis of any belief that there will be dissipation of assets, destruction of evidence or any other prejudicial conduct, whether there have been any past incidents of the opponent dissipating assets, destroying evidence or engaging in any other prejudicial conduct, and whether there is any evidence of dishonesty or bad faith of the opponent;
  - 11.4.8.4 Factual basis for any reasonable defences that may be relied on by the opponent;
  - 11.4.8.5 Whether the applicant is aware of any issues relating to jurisdiction, *forum non conveniens* or service out of Singapore, and if so, whether any application relating to these issues has been or will be made;
  - 11.4.8.6 An undertaking to pay for losses that may be caused to the opponent or other persons by the granting of the orders sought, stating what assets are available to meet that undertaking and to whom the assets belong; and
  - 11.4.8.7 Any other material facts which the SICC should be aware of.
- 11.4.9 The applicant should prepare skeletal submissions on the points to be raised at the hearing of the summons without notice. At the hearing, the applicant should give a copy of the skeletal submissions to the SICC and to any opponent present. As soon as possible after the hearing, the applicant should file the skeletal submissions.
- 11.4.10 The SICC may also require the applicant to prepare a note of the hearing setting out the salient points and arguments canvassed before the SICC and may order such a note to be served together with the

court documents on any opponent who is not present at the hearing or within a reasonable time after the service of the court documents.

- 11.4.11 For more information on freezing orders, see Forms 30 and 31, and User Guides Note 5. For more information on search orders, see Form 32.

## 11.5 Striking out

- 11.5.1 A party may apply to the SICC to strike out or amend any or part of any Originating Application, pleading or memorial on the ground that: (a) it discloses no reasonable cause of action or defence; (b) it is an abuse of the process of the SICC; or (c) it is in the interests of justice to do so. Upon such an application, the SICC may order the action to be stayed or dismissed or judgment to be entered accordingly: see SICC Rules O 16, r 4(1).

- 11.5.2 The SICC may order any affidavit, witness statement or other document filed in the SICC to be struck out or redacted on the ground that: (a) the party had no right to file the affidavit, witness statement or document; (b) it is an abuse of the process of the SICC; or (c) it is in the interests of justice to do so: see SICC Rules O 16, r 4(3).

- 11.5.3 The SICC may order to be struck out of any witness statement any matter which is scandalous, irrelevant or otherwise oppressive: see SICC Rules O 13, r 8(5).

## 11.6 Summary judgment

- 11.6.1 Where proceedings are conducted by way of the filing of pleadings, the claimant may apply for summary judgment against any defendant after the defence has been filed and served on the ground that that defendant has no defence to: (a) a claim; (b) a particular part of a claim; or (c) a claim or part of a claim, except as to the amount of any damages claimed: see SICC Rules O 16, r 6.

- 11.6.2 Generally, upon such an application the SICC may (a) dismiss the application, (b) grant judgment to the claimant, or (c) grant permission to defend to the defendant with or without any conditions (e.g. permission to defend may be conditional upon the defendant furnishing security): see SICC Rules O 16, r 6(8).

- 11.6.3 A “claimant” here includes a defendant who brings a counterclaim or third-party proceedings: see SICC Rules O 16, r 6(12).

## 11.7 Judgment in default of filing a Defendant’s Statement

- 11.7.1 In an action commenced by Originating Application, where the

defendant fails to file and serve a Defendant's Statement within the prescribed time or states in the Defendant's Statement that the defendant does not intend to contest some or all of the claims, the claimant may apply for judgment to be given against the defendant: see SICC Rules O 4, r 5(4)-(6) and Form 8. See also O 23, r 6(5)-(7) and Form 44.

#### 11.8 Judgment in default of pleadings

11.8.1 In an action that is placed on the pleadings adjudication track, where the defendant fails to file and serve a Defence on the claimant or to make an application for an order that the Defendant's Statement is to stand as the Defence within the prescribed time, the claimant may apply for judgment in default of Defence: see SICC Rules O 6, r 3 and Form 14.

11.8.2 For judgment in default of a defence to counterclaim, see SICC Rules O 6, r 6(3).

#### 11.9 Further and better particulars of pleadings

11.9.1 On the requirements of pleadings, see Section 6.2.7 above.

11.9.2 A party who requires further and better particulars of any matter stated in another party's pleadings must first make a written request to that party for such particulars: see SICC Rules O 6, r 13(2); Section 6.2.6 above.

11.9.3 If the written request is denied, the party seeking the further and better particulars may apply to the SICC for an order that the other party serves the further and better particulars: see SICC Rules O 6, r 13(1) and Annex F to this document.

#### 11.10 Security for costs

11.10.1 The SICC may, on the application of a defendant, order the claimant, a non-party, or a Third-Party Funder with whom the claimant has a third-party funding contract in relation to the action or other proceedings to give security for the defendant's costs of the action or other proceedings: see SICC Rules O 16, rr 2 and (3).

11.10.2 For more information on the circumstances in which the SICC may order that security be furnished, please see SICC Rules O 16, rr 2(1)–(3).

#### 11.11 Production of documents and interrogatories

11.11.1 See Section 9 above.



## 11.12 Confidentiality orders

- 11.12.1 The SICC may, on the application of a party, make any of the following orders: (a) an order that the case be heard in private, (b) an order that no person must reveal or publish any information or document relating to the case, or (c) an order that the Court file be sealed, with or without exceptions or conditions, including any directions on what information relating to the proceedings may be published: see SICC Rules O 16, r 9(1). The application must be supported by a witness statement exhibiting any agreement between the applicant and any other party on the matters mentioned: see SICC Rules O 16, r 9(3).
- 11.12.2 In deciding whether to make any of the above-mentioned orders, the SICC may have regard to (a) whether the case is an “offshore case” (see Section 3.3.1 above), and (b) any agreement between the parties on the making of such an order: see SICC Rules O 16, r 9(2).
- 11.12.3 The SICC may for the purposes of publication, redact any judgment or order in the interests of justice or where the judgment or order was made in hearings which were conducted in private: see SICC Rules O 20, r 13(1).
- 11.12.4 Where the SICC considers that there are any matters which a party reasonably wishes to remain confidential, the SICC must: (a) give directions for those matters to be concealed in publishing the judgment of the SICC; or (b) if it is not possible or practicable for the judgment of the SICC to be published without revealing those matters, give directions for the judgment not to be published for 10 years after the date of the judgment, or such shorter period as the SICC may order: see SICC Rules O 16, r 9(12).
- 11.12.5 For proceedings under the International Arbitration Act (Cap 143A), see also ss 22 and 23 of that Act.

## 11.13 Separate hearings for separate questions or issues

- 11.13.1 The SICC may, on application by a party or on its own motion, order any question or issue arising in a cause or matter to be determined before, at or after the hearing or trial of the cause or matter and may give directions as to the manner in which the question or issue may be stated: see SICC Rules O 16, r 11.

## 11.14 Determination of foreign law

- 11.14.1 Parties may apply for questions of foreign law to be determined on the basis of submissions (which may be oral or written or both) instead of proof: see SICC Rules O 16, r 8(1). The SICC may make such an order if it is satisfied that each party is or will be represented by a



counsel, a Registered Foreign Lawyer who is granted restricted registration under Section 36P of the Legal Profession Act, or a Registered Law Expert, who is suitable and competent to submit on the relevant questions of foreign law: see SICC Rules O 16, r 8(2).

- 11.14.2 Any person who wishes to make submissions on questions of foreign law must have a right of audience before the SICC, which may be acquired by way of registration with the SICC: see SICC Rules O 16, r 8, Legal Profession Act (Cap 161) ss 36P, 36PA; Legal Profession (Representation in Singapore International Commercial Court) Rules 2014; User Guides Note 3; Sections 22.2 to 22.3 below.

#### 11.15 Interpleader

- 11.15.1 A person under a liability in respect of any property upon which two or more persons make or are expected to make conflicting claims, may apply to the SICC for relief by way of interpleader, so as to be released from any liability relating to the property: see SICC Rules O 11, r 1. An application for relief must be made by an Originating Application unless it is made in a pending action, in which case it must be made by summons: see SICC Rules O 11, r 2.

- 11.15.2 At the hearing of the application, the SICC may decide on the conflicting claims to the property summarily, give directions regarding the hearing of the conflicting claims, or give directions for the retention, sale or disposal of the property and the payment of any sale proceeds: see SICC Rules O 11, r 5.

#### 11.16 Withdrawal or Discontinuance

- 11.16.1 If all the parties to an action consent, an action or counterclaim may, without the permission of the SICC, be discontinued in whole or in part at any time before the trial or hearing, by producing to the SICC the parties' written consent signed by all the parties: see SICC Rules O 17, r 2(4).

- 11.16.2 An application may be discontinued only with the permission of the SICC: see SICC Rules O 17, r 5.

- 11.16.3 For more information on withdrawal and discontinuance with or without permission of the SICC, see SICC Rules Order 17.

#### 11.17 Stay of Enforcement

- 11.17.1 A party who is liable under any judgment or order of the SICC may apply for a stay of enforcement. The application must be supported by a witness statement setting out the reasons for the application: see SICC Rules O 24, r 2(1).

11.17.2 Where the Sheriff has seized properties or attached a debt pursuant to any judgment or order before the SICC orders a stay of enforcement, the SICC may give such consequential directions as may be appropriate to the Sheriff in respect of the seizure or attachment: see SICC Rules O 24, r 2(2).

## **12. Technology, Infrastructure and Construction List**

12.1 The TIC list is a specialised list of the SICC that deals principally with complex disputes, such as technology-related disputes and disputes relating to infrastructure and construction projects.

12.2 Application of Order 28 of the SICC Rules

12.2.1 Order 28 of the SICC Rules applies to (a) every case that is placed on the TIC list; and (b) any proceedings for the placement of a case in the TIC list: see SICC Rules O 28, r 1(1).

12.2.2 For legacy cases (i.e. cases governed by Order 110 of the Rules of Court in force before 1 April 2022) which are placed in the TIC list, please refer to Part XXIV of the SICC Practice Directions in force before 1 April 2022: see SICC Rules O 28, r 2(2) and (3).

12.3 Requirements for a TIC claim

12.3.1 A TIC claim must meet the following requirements:

12.3.1.1 the SICC has jurisdiction to hear and try the case in which the claim is made;

12.3.1.2 the claim involves technically complex issues or questions; and

12.3.1.3 it is desirable for the case in which the claim is made to be placed in the TIC list, taking into account the following matters:

a. whether the placing of the case in the TIC list is (i) warranted by the financial value of the claim or the complexity of the claim, or both; or (ii) will assist in the disposal of the claim;

b. the effect that placing the case in the TIC list would have on the likely costs of the proceedings, the speed with which the matter can be resolved, and any other questions of convenience to the parties: see SICC Rules O 28, rr 2(1) and (2).

- 12.3.2 It is desirable for a case in which a claim is made to be placed in the TIC list if the claim is, or relates to, any of the following matters as set out below:
- 12.3.2.1 any building or other construction dispute;
  - 12.3.2.2 any engineering dispute;
  - 12.3.2.3 any claim by or against any engineer, architect, surveyor, accountant or other specialised adviser relating to any service provided by the engineer, architect, surveyor, accountant or specialised adviser, as the case may be;
  - 12.3.2.4 any claim relating to the design, supply or installation of any computer, any computer software or any related network system;
  - 12.3.2.5 any claim relating to the quality of any goods sold or hired, or any work done, material supplied or service rendered, for any technology, infrastructure or construction project;
  - 12.3.2.6 any challenge to a decision of an arbitrator in any construction or engineering dispute (including any application for leave to appeal against any such decision, and any appeal against any such decision): see SICC Rules O 28, r 2(3).

#### 12.4 Procedure for placement of a case in TIC list

- 12.4.1 A case in which a TIC claim is made may be placed on the TIC list if the case is commenced in the SICC where each party to the case has submitted to the jurisdiction of the SICC under a written jurisdiction agreement and either each party to the case has agreed in writing for the case to be placed in the TIC list, or the claimant indicates in the Originating Application that the case is to be placed in the TIC list: see SICC Rules O 28, r 3(1)(a) and (2).
- 12.4.2 The SICC may, on its own motion, or on the application of a party, order that a case commenced in the SICC, or transferred from the General Division to the SICC, be placed in the TIC list if a TIC claim has been made in the case: see SICC Rules O 28, r 3(3).
- 12.4.3 In the event there ceases to be a TIC claim made in a case placed in the TIC list, the case may be transferred out of the TIC list by the SICC on its own motion or on the application of a party: see SICC Rules O 28, r 3(5).

- 12.5 Production of documents, evidence and presentation of parties' cases
  - 12.5.1 In relation to a case which is to be decided under the pleadings adjudication track, the Court may order each party to file and serve the witness statements (containing the evidence in chief) of all or some of the party's witnesses after pleadings have been filed and served but prior to production of any documents: see SICC Rules O 28 r 8(1).
  - 12.5.2 The Court must consider whether there are any circumstances necessitating the earlier production of documents: see SICC Rules O 28 r 8(2).
  - 12.5.3 Parties may be directed to submit a Scott Schedule in the presentation of their cases instead of, or in addition to, tendering a list of issues or written submissions: see SICC Rules O 28 r 9.
  - 12.5.4 For issues relating to expert evidence, please refer to Section 10.4.
- 12.6 Voluntary protocols for cases in the TIC list
  - 12.6.1 To cater to the needs of the parties, there are voluntary protocols which may be adopted by the agreement of the parties in cases placed in the TIC list or disputes involving TIC claims. These are the Pre-Action Protocol and the Simplified Adjudication Process Protocol.
  - 12.6.2 Pre-Action Protocol
    - 12.6.2.1 The Pre-Action Protocol for disputes involving TIC claims is voluntary and parties may agree to apply this, or such version containing modifications agreed in writing by the parties to any dispute between them involving a TIC claim: see SICC Rules O 28, r 3(7) and (8); Appendix D of the SICC Rules.
    - 12.6.2.2 This seeks to facilitate the early exchange of information about a claimant's claims and a defendant's response to those claims so that parties are put in a position to make informed decisions about the possibility of settlement without recourse to litigation and to support the efficient management of proceedings where litigation is necessary.
  - 12.6.3 Simplified Adjudication Process Protocol
    - 12.6.3.1 The Simplified Adjudication Process Protocol for claims in cases placed in the TIC list is voluntary and parties may agree to apply this, or such version containing

modifications agreed in writing by the parties to any dispute between them involving a TIC claim: see SICC Rules O 28, r 10; Appendix E of the SICC Rules.

12.6.3.2 This seeks to provide a cost-effective simplified adjudication process for certain claims in a case placed in the TIC list.

12.6.3.3 The parties to a case placed in the TIC list must indicate in the Case Management Plan whether there is any agreement in writing between the parties to apply a Simplified Adjudication Process Protocol to the case: see SICC Rules O 28, r 10(1) and (2); Appendix E of the SICC Rules. They must inform the SICC of the agreement without any delay, arrange for the forms for the information required to apply the protocol to be completed and signed by counsel or each party and file the signed forms: see SICC Rules O 28, r 10(3).

12.6.3.4 In the event a Simplified Adjudication Access Protocol applies, the SICC may, to facilitate the just, expeditious and economic disposal of the case, (i) modify the protocol or any provision within, with the consent of the parties; and (ii) give such further directions consistent with the protocol as the SICC sees fit to supplement the protocol: see SICC Rules O 28, r 10(5).

## 12.7 Case management conference

12.7.1 The SICC may convene a case management conference at any time, and may direct the attendance of the parties' experts in addition to the parties or their counsel: see SICC Rules O 28, r 7.

12.7.2 Each party to a case placed in the TIC list must consider the use of alternative dispute resolution: see SICC Rules O 28, r 11. Please see Section 7.7.

## 13. **Pre-trial preparation**

### 13.1 Opening statement

13.1.1 An opening statement sets out the case in a nutshell, both as to facts and law. It is intended to identify the issues that are, and are not, in dispute. This will enable the SICC to appreciate what the case is about. For more information on opening statements, see SICC Rules Appendix C 5(B)(ii).

13.1.2 At least 7 days before trial is to commence, each party must file and provide to the Registry and all other parties an opening statement and a bundle of any authorities referred to in the opening statement. The opening statement may not exceed 20 pages: see SICC Rules O 19, r 3.

### 13.2 Trial bundle

13.2.1 At least 7 days before trial is to commence, the claimant must provide to the Registry a hard copy for each member of the coram and a soft copy of the trial bundle, and if the claimant is represented by counsel, the claimant's counsel who has conduct of the trial must at the same time provide an undertaking to the SICC in Form 35: see SICC Rules O 19, r 4 and SICC Rules Appendix C 5(B)(iii).

13.2.2 The SICC may direct the production of a core bundle, which should include the most important documents from the trial bundle upon which the case will turn or to which repeated reference will have to be made. The core bundle must not exceed 250 pages and the claimant must provide to the Registry a hard copy for each member of the coram and a soft copy of the core bundle together with the trial bundle: see SICC Rules O 19, r 5 and Appendix C 5(B)(iv).

13.2.3 The claimant is responsible for preparing the trial bundle and any core bundle. For more information on the preparatory steps to be taken for trial and core bundles, see SICC Rules O 19, r 6, Appendix C 5(B)(iii), and Appendix C 5(B)(iv).

13.2.4 In the event there are unredacted versions of documents which the SICC has ordered should be redacted on grounds of confidentiality, or documents which the SICC has ordered to be sealed, these documents must be included in a single separate bundle (known as a confidential bundle): see SICC Rules O 19, r 7(1).

### 13.3 Attendance of witnesses

13.3.1 An order to attend court or an order to produce documents is a court document issued upon request by a party requiring a witness to physically attend proceedings in the SICC to give oral evidence or produce documents or both: see SICC Rules O 20, r 3(2) and Form 36.

13.3.2 An order to attend court or an order to produce documents must be served by the requesting party on the witness by personal service in Singapore at least 28 days before the hearing: see SICC Rules O 20, r 3(4). A person who has been served with an order to attend court or an order to produce documents may, within 14 days of being served, apply to set aside the order by way of a summons supported by a witness statement: see SICC Rules O 20, r 3(5).

#### 13.4 Requests for technology facilities

13.4.1 The SICC courtrooms and chambers are equipped with advanced technology facilities to enable the parties and counsel to present their cases more effectively in hearings.

13.4.2 Technology facilities such as teleconference, video conference and audio-visual facilities, etc. can be made available upon a formal request made to the SICC: see SICC Rules Appendix C 4.

#### 13.5 Record of hearings

13.5.1 Where an audio recording system approved by the Registrar is used, the audio recording is the official record of the hearing: see SICC Rules O 20, r 9(2).

13.5.2 Parties may apply for a certified transcript of the official record of hearing upon payment of the relevant fees: see SICC Rules O 20, r 9(4).

### **14. Trials and hearings in general**

14.1 Opening statements – See Section 13.1 above.

14.2 Order of presenting cases by the respective parties

14.2.1 Generally, trial proceedings will begin with the claimant providing an oral opening address, followed by an oral address by the defendant, to outline and supplement the parties' respective opening statements. Thereafter, the claimant will proceed to call witnesses to give evidence in court, i.e. through evidence-in-chief, cross-examination and re-examination.

14.2.2 Generally, after the claimant's witnesses have given evidence and have been cross-examined and re-examined, the defendant's witnesses will then give evidence in court unless the defendant makes a submission of "No case to answer". The procedure for the examination of the defendant's witnesses is the same as that for the claimant's witnesses: see SICC Rules O 20, r 5(3); Section 14.4 below.

14.2.3 However, testimony by expert witnesses may not follow the same sequence and procedure as set out in Section 14.2.2 above. On expert evidence, see Section 10.4 above.

14.2.4 At the conclusion of the examination of all the witnesses of both the claimant and the defendant, closing submissions by each party will be

made to the SICC: see SICC Rules Appendix C 5(B)(vi); Section 14.5 below.

### 14.3 Mode of giving evidence

14.3.1 As the evidence to be given by each witness will generally already be contained in a witness statement (see Section 10.2.1 above), the evidence-in-chief of each witness is usually short and brief.

14.3.2 Unless permission is granted by the SICC, once a witness of fact commences cross-examination, the witness of fact will not be permitted to discuss the evidence with anyone, including any counsel, until that witness of fact is released from oath after re-examination: see SICC Rules Appendix C 5(A)(ii), paragraph 29.

14.3.3 On expert evidence, see Section 10.4 above.

### 14.4 Cross-examination and re-examination

14.4.1 After the evidence-in-chief of a witness is completed, the adverse party is entitled to ask the witness questions. This is known as cross-examination of the witness: see SICC Rules Appendix C 5(A)(i), paragraph 30.

14.4.2 After cross-examination, the party who called the witness is allowed to ask further questions of the witness to clarify the answers given by the witness during cross-examination. This is known as re-examination of the witness: see SICC Rules Appendix C 5(A)(ii), paragraphs 32.

14.4.3 The SICC may, at any time, ask the witness questions. Where the questions elicit answers not previously dealt with by the parties, the parties will be given a reasonable opportunity to direct questions to that witness on the answers given: see SICC Rules Appendix C 5(A)(ii), paragraph 33.

### 14.5 Closing submissions

14.5.1 Unless otherwise directed, the SICC will require written closing submissions from the parties. Written closing submissions will generally be filed and exchanged between the parties simultaneously and, unless otherwise directed, will be followed by the filing and exchange of written reply submissions: see SICC Rules Appendix C 5(B)(vi), paragraphs 51 to 54.

14.5.2 After all written closing submissions have been filed and exchanged, the parties will be allowed to make oral submissions if so directed by the SICC. The SICC may impose limits on the length of time each



party is given for oral submissions: see SICC Rules Appendix C 5(B)(vi), paragraph 53.

#### 14.6 Judgment

14.6.1 The SICC may give its judgment in any matter whether heard in open Court or in chambers (a) orally at the conclusion of the hearing or on a subsequent date with the parties present, or (b) in writing at the conclusion of the hearing or on a subsequent date with or without the parties present. The parties are entitled to a copy of the judgment in writing upon payment of the relevant charges: see SICC Rules O 20, r 10.

14.6.2 For more information on the drawing up and filing of judgments and orders by the parties, see SICC Rules O 20, r 12.

#### 14.7 Hearings without oral arguments

14.7.1 All parties must attend the hearing of any matter in person or by counsel: see SICC Rules O 20 r 2(1). If none of the parties attend court when the hearing begins, the SICC may dismiss the matter: see SICC Rules O 20 r 4(1). If any of the parties or their counsel does not attend court when the hearing begins, the SICC may proceed with the hearing, give judgment against or dismiss the claim of the absent party or make any other appropriate order: see SICC Rules O 20 r 4(2).

14.7.2 The SICC may dispense with the attendance of the parties or their counsel (as the case may be) and decide any matter after reading the documents filed and without the need for oral arguments except for the following matters: (a) where oral evidence is given at any part of the proceedings (including any part of a trial of an action) unless all the parties consent; or (b) where the hearing of the matter is required under written law or an order of court to be advertised or published in any newspaper or the *Gazette*: see SICC Rules O 20, r 2(2).

14.7.3 The SICC may, in any matter that it may decide without hearing oral arguments, direct that the matter be heard in an asynchronous manner except where to do so would be inconsistent with the SICC's duty to ensure that the proceedings are conducted fairly to all parties: see SICC Rules O 20, r 2(3).

#### 14.8 Assessment of damages / taking of accounts

14.8.1 In certain cases, the SICC may grant judgment only on the issue of liability and defer its ruling on the precise quantum of damages that has to be paid to the winning party.

14.8.2 In such situations, the same Judge may give directions on the assessment of damages and proceed subsequently to assess

damages or order the Registrar to assess damages: see SICC Rules O 20, r 17.

- 14.8.3 The SICC may also order the taking of accounts whereby the court determines the quantum involved in a dispute. The SICC must give the appropriate directions for the taking of accounts and proceed subsequently with the taking of accounts or order that such taking of accounts proceed before the Registrar: see SICC Rules O 20, r 17(5).

## **15. Appeals**

### **15.1 Appeals from the SICC to the Court of Appeal - Appeals procedure and timelines**

- 15.1.1 An appeal to the Court of Appeal must be brought by way of notice of appeal. Every notice of appeal must state whether the whole or part only (and if so, what part) of the order the appeal is in respect of: see SICC Rules O 21, r 14(1).

- 15.1.2 Unless the SICC or the Court of Appeal otherwise directs, an appeal does not operate as a stay of enforcement or of proceedings under the decision of the SICC: see SICC Rules O 21, r 6.

- 15.1.3 If a party intends to appeal against the order of the SICC hearing any application in proceedings, or any appeal in relation to such application, the notice of appeal must be filed and served on all parties in the proceedings within 14 days after the date of the order or, in a case where a request for further arguments has been made under Section 29B(2) of the Supreme Court of Judicature Act (Cap 322), within 14 days after the date mentioned in Section 29B(4)(b) of that Act: see SICC Rules O 21, rr 4 and 14(2).<sup>4</sup>

- 15.1.4 If a party intends to appeal against the order of the SICC made on the trial or the hearing on the merits of a proceedings, the assessment of damages or taking of accounts, or an application for contempt of court, the notice of appeal must be filed and served within 28 days after the date of the SICC's order or, in a case where a request for further arguments has been made under Section 29B(2) of the Supreme Court of Judicature Act, within 28 days after the date mentioned in Section 29B(4)(b) of that Act: see SICC Rules O 21, r 14(3).<sup>5</sup>

- 15.1.5 At the time of filing the notice of appeal, the appellant must provide security for the respondent's costs of the appeal in the amount of S\$25,000 where the appeal is filed against an order of the SICC made on an application in proceedings or any appeal in relation to such

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<sup>4</sup> If the judgment or order that is the subject of the appeal was given or made before 1 April 2022, the Rules of Court in force before 1 April 2022 continue to apply to the determination of timelines for the filing of an appeal: see SICC Rules O 21, r 17(1).

<sup>5</sup> *Ibid.*

application, and in the amount of S\$54,000 where the appeal is filed against an order of the SICC made on the trial or the hearing on the merits of the proceedings, the assessment of damages or taking of accounts, or an application for contempt of court: see SICC Rules O 21, r 18(5)-(6).

- 15.1.6 For more information on the documents to be submitted by the appellant and the respondent to the Court of Appeal in an appeal, see SICC Rules O 21, rr 20-22, Appendix C 6.
- 15.1.7 Generally, the Court of Appeal will consist of 3 or any greater uneven number of Judges of Appeal: see Supreme Court of Judicature Act (Cap 322) s 50(1). An International Judge may sit in the Court of Appeal in an appeal from any judgment or order of the SICC: see Supreme Court of Judicature Act (Cap 322) s 5A.
- 15.1.8 The Court of Appeal may decide any matter without hearing oral arguments, save for any part of a proceeding where oral evidence is given unless all the parties consent: see Supreme Court of Judicature Act (Cap 322) s 55(1)-(2). The Court of Appeal may, in any matter that the court may decide without hearing oral arguments, direct that the matter be heard in an asynchronous manner by exchange of written correspondence with the party or parties using such means of communication as directed by the court. The Court of Appeal must not hear a matter in an asynchronous manner if to do so would be inconsistent with the court's duty to ensure that the proceedings are conducted fairly to all parties: see Supreme Court of Judicature Act (Cap 322), s 55(3)-(4).

## 15.2 Matters that are non-appealable or appealable only with permission

- 15.2.1 For matters that are non-appealable, see Supreme Court of Judicature Act (Cap 322) s 29 and Fourth Schedule. Examples include cases where the judgment or order is made by consent of the parties.
- 15.2.2 For matters that are appealable only with permission, see Supreme Court of Judicature Act (Cap 322) s 29A and Fifth Schedule. Examples include (a) cases where the amount in dispute, or the value of the subject-matter, at the hearing before the SICC does not exceed S\$250,000 and (b) cases where the only issue in the appeal would relate to costs or fees for hearing dates.
- 15.2.3 An appeal cannot be brought against a decision of the SICC where the parties have agreed in writing signed by or on behalf of each party that the decision is final, unless the party seeking to appeal proves that the decision is affected by fraud or illegality, or there was a fundamental breach of the rules of natural justice in the proceedings resulting in the decision: see Supreme Court of Judicature Act (Cap 322) s 29 and Fourth Schedule, paragraph 3. Where a party seeking

to appeal alleges that the decision is affected by fraud or illegality, or there was a fundamental breach of the rules of natural justice in the proceedings resulting in the decision, an appeal may be brought only with the permission of the Court of Appeal: see Supreme Court of Judicature Act (Cap 322) s 29A and Fifth Schedule, paragraph 5.

- 15.2.4 Where permission to appeal is required, a party must apply for such permission from the Court of Appeal and file and serve the application on all parties in the proceedings within 14 days after the date of the SICC's order, or in a case where a request for further arguments has been made under Section 29B of the Supreme Court of Judicature Act before the application is filed, within 14 days after the date the Judge (a) affirms, varies or sets aside the decision after hearing further arguments; or (b) certifies, or is deemed to have certified, that no further arguments are required: see SICC Rules O 21 rr 16(1) and (3).<sup>6</sup>
- 15.2.5 A party applying for permission to appeal must file written submissions and any accompanying bundle of authorities, and may file a bundle of documents, at the time of filing the application: see SICC Rules O 21, r 16(5). Within 14 days after the application and supporting documents are served, a party opposing the application must file and serve written submissions and any accompanying bundle of authorities, and may file and serve a bundle of documents: see SICC Rules O 21, r 16(6).
- 15.2.6 Where permission to appeal is granted, the applicant must file and serve on all parties in the proceedings the notice of appeal in Form 38 within 14 days after the date of the decision granting permission: see SICC Rules O 21, r 16(12).

### 15.3 Judgments and orders

- 15.3.1 The Court of Appeal may give its judgment in any appeal or application (a) orally at the conclusion of the hearing or at a subsequent date, or (b) in writing at the conclusion of the hearing or at a subsequent date: see SICC Rules O 21, r 25(1).
- 15.3.2 In any appeal or application to the Court of Appeal, the parties may inform the Registrar in writing that they wish to record a consent judgment or order. The Court of Appeal may record the consent judgment or order without requiring the parties to appear before the Court of Appeal, or give such directions to the parties as it deems

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<sup>6</sup> If the judgment or order that is the subject of the permission to appeal application was given or made before 1 April 2022, the Rules of Court in force before 1 April 2022 continue to apply to the determination of timelines for the filing of the Originating Application for permission to appeal: see SICC Rules O 21, r 17(1). If permission to appeal is granted pursuant to such an application filed on or after 1 April 2022, the notice of appeal must be filed and served within 14 days after the date on which permission to appeal is granted: see SICC Rules O 21 r 17(2).

appropriate: see SICC Rules O 21, r 26.

#### 15.4 Applications filed to the Court of Appeal

15.4.1 Generally, every application to the Court of Appeal must be made either by way of an Originating Application, or in an appeal which is pending before the Court of Appeal, by way of a summons. In either case, if evidence is to be relied on, the Originating Application or the summons (as the case may be) must be accompanied by witness statement(s): see SICC Rules O 21, r 30(1). The applicant must provide security in the amount of S\$10,000: see SICC Rules O 21, r 30(11).

15.4.2 For the procedure and timelines for applications filed to the Court of Appeal, see SICC Rules O 21, rr 30-31.

15.4.3 Please also see Section 15.1.8 for more information on the Court of Appeal hearing any matter without oral hearing, and on asynchronous hearings.

#### 16. **Costs**

16.1 Subject to any written law, costs are in the discretion of the SICC and the SICC has the power to determine all issues relating to the costs of or incidental to all proceedings, including by whom and to what extent costs are to be paid, at any stage of the proceedings or after the conclusion of the proceedings: see SICC Rules O 22, r 2(1).

16.2 The SICC may require parties to provide a costs schedule to be submitted with closing submissions, or to submit cost estimates or budgets in the course of the proceedings: see SICC Rules Appendix C 5(B)(vi) paragraph 54; see Form C1.

#### 16.3 Considerations in assessing costs

16.3.1 Generally, a successful party is entitled to costs and the quantum of any costs award will generally reflect the costs incurred by the party entitled to costs, subject to the principles of proportionality and reasonableness: see SICC Rules O 22, r 3(1). Please see the powers of the SICC in relation to costs as set out in SICC Rules O 22, r 2(2).

16.3.2 In considering the principles of proportionality and reasonableness, the SICC may have regard to all relevant circumstances: see SICC Rules O 22, r 3(2). This includes whether the conduct of the parties, including conduct in respect of alternative dispute resolution, facilitated the smooth and efficient disposal of the case (SICC Rules O 22, r 3(2)(e)(iv)) and the existence of any offer to settle, the date the offer was made, the terms of the offer and the extent to which the claimant's judgment is more favourable than the terms of the offer to

settle (SICC Rules O 22, r 3(2)(h)).

- 16.3.3 The costs of a third-party funding contract are not recoverable as part of the costs of, or costs that are incidental to any application or proceedings in the SICC, or any application to the Court of Appeal or appeal from the SICC to the Court of Appeal: see SICC Rules O 22, r 1(5).

## **17. Court fees**

- 17.1 Court fees include all charges, commissions and fees payable under the SICC Rules, and include: (a) milestone fees set out in SICC Rules O 26, r 3; (b) hearing fees set out in SICC Rules O 26, r 4; and (c) miscellaneous fees set out in SICC Rules O 26, r 5.

## **18. Milestone fees and hearing fees**

- 18.1 Milestone fees are fees payable for proceedings in the SICC and the Court of Appeal for prescribed milestone events. For more information on the prescribed milestone events and the corresponding court fees that are payable, see SICC Rules O 26, r 3. See also Annex B to this document.
- 18.2 Hearing fees are fees payable for hearings conducted by the SICC and the Court of Appeal. For more information on the prescribed hearing fees for the various types of hearings involved, see SICC Rules O 26, r 4. See also Annex C to this document.

## **19. Deposit**

- 19.1 Every party to a case in the SICC must pay to the Registrar the applicable deposit as set out in SICC Rules O 26, r 7(1) and in such form as set out in the official website of the SICC. For more information on when the deposit must be paid, see SICC Rules O 26, r 7(2)-(4).
- 19.2 For more information on the deduction, maintenance and refund of the deposit, see SICC Rules O 26, r 7(8)-(14).
- 19.3 No interest is payable on any deposit placed with the Registrar: see SICC Rules O 26, r 7(15).

## **20. Enforcement of SICC judgment or order in Singapore**

- 20.1 An application relating to the enforcement of a judgment or an order of the SICC in Singapore is to be made in accordance with the SICC Rules and the domestic Rules of Court: see SICC Rules O 24, r 1(2). The ways in which enforcement may be carried out include: (a) an application to seize and sell properties belonging to the enforcement respondent; (b) an application to seize and deliver or give possession of properties in the possession or control of the enforcement respondent; (c) an application to attach debts due to the enforcement



respondent; and (d) an application for examination of the enforcement respondent: see SICC Rules O 24, r 1(2).

## **21. Enforcement of SICC judgment or order abroad**

- 21.1 A judgment or order of the SICC is an order of a superior court of law and may be enforced accordingly: see Section 1.1.1 above.
- 21.2 Upon registration of a SICC judgment under the reciprocal frameworks in the countries covered by the Reciprocal Enforcement of Commonwealth Judgments Act (Cap 264) and the Reciprocal Enforcement of Foreign Judgments Act (Cap 265), the SICC judgment can be given the same effect and directly enforced as if it was a judgment issued by a national court of the country of enforcement, save for certain limited exceptions. The Acts cover the United Kingdom, Australia (federal jurisdiction, New South Wales, Queensland, South Australia, Tasmania, Victoria, Western Australia, Australian Capital Territory, Norfolk Island and Northern Territory), New Zealand, Sri Lanka, Malaysia, Windward Islands, Pakistan, Brunei Darussalam, Papua New Guinea, India (except the State of Jammu and Kashmir) and Hong Kong Special Administrative Region of the People's Republic of China.
- 21.3 Under the Hague Convention on Choice of Court Agreements, which Singapore has ratified, a judgment or order of the SICC may be recognised and enforced in States which are party to the Convention: see Choice of Court Agreements Act (Cap 39A). As at the date of this Procedural Guide, these States include all member States of the European Union, Denmark, United Kingdom, Mexico and Montenegro.
- 21.4 A judgment or order of the SICC may also be enforced in common law jurisdictions by way of commencing an action on the judgment debt in those jurisdictions.
- 21.5 A judgment or order of the SICC may also be enforced in certain civil law jurisdictions on the basis of reciprocity between superior courts of law.
- 21.6 For further information on enforcement of SICC Judgments, see User Guides Note 7.

## **22. Legal representation in proceedings in the SICC**

- 22.1 Representation by advocates and solicitors, and Singapore law qualified lawyers
- 22.1.1 Advocates and solicitors of the Singapore Supreme Court practising in a Singapore Law Practice have the right to appear and plead in the SICC: see Legal Profession Act (Cap 161) s 29(1); SICC Rules O 3, rr 1(1)(a) and 2(1)(a).
- 22.1.2 Singapore law qualified lawyers practising Singapore law in a Joint



Law Venture or its constituent foreign law practice, a Qualifying Foreign Law Practice or a licensed foreign law practice also have the right to appear and plead in any relevant proceedings and relevant appeals: see Legal Profession Act (Cap 161) s 36E; Legal Profession (Regulated Individuals) Rules 2015 r 14(1)(c); SICC Rules O 3, rr 1(1)(c)(i) and 2(1)(c)(i). For definitions of “relevant proceedings” and “relevant appeals”, see Legal Profession Act s 36O(1); Legal Profession (Representation in Singapore International Commercial Court) Rules 2014 r 3; SICC Rules O 3, rr 1(2) and 2(2).

## 22.2 Representation by foreign lawyers or law experts

22.2.1 Registered Foreign Lawyers who are granted full registration may represent parties in any relevant proceedings and relevant appeal (including for the purposes of submitting on matters of foreign law where the SICC has ordered for a question of law to be determined on the basis of submissions instead of proof) or any proceedings preliminary to any relevant proceedings or relevant appeal (such as an application for pre-action production of documents or for a stay of execution pending appeal): see Legal Profession Act (Cap 161) s 36P; SICC Rules O 3, rr 1(1)(c)(ii) and 2(1)(c)(ii). For definitions of “relevant proceedings” and “relevant appeal”, see Legal Profession Act s 36O(1); Legal Profession (Representation in Singapore International Commercial Court) Rules 2014 r 3; SICC Rules O 3, rr 1(2) and 2(2)

22.2.2 Registered Foreign Lawyers who are granted restricted registration and Registered Law Experts may represent parties solely for the purposes of submitting on matters of foreign law where the SICC has ordered for a question of law to be determined on the basis of submissions instead of proof (see Section 11.14 above) and the SICC has permitted the named Registered Foreign Lawyer or Registered Law Expert to make those submissions on behalf of a party: see Legal Profession Act (Cap 161) ss 36P(1) and (2) and 36PA(1); Legal Profession (Representation in Singapore International Commercial Court) Rules 2014 r 3(2)(e); SICC Rules O 3 rr 1(1)(d) and 2(1)(d); User Guides Note 3.

## 22.3 Registration of foreign lawyers or law experts

22.3.1 Every foreign lawyer or law expert representing a party to proceedings commenced in or transferred to the SICC, and in appeals from such proceedings, must be registered as a Registered Foreign Lawyer or Registered Law Expert (as the case may be): see Legal Profession Act (Cap 161) ss 36P and 36PA; SICC Rules O 3, rr 1(1)(c)(ii), 1(1)(d), 2(1)(c)(ii) and 2(1)(d). There are 2 types of registration for Registered Foreign Lawyers, namely full registration and restricted registration: see Legal Profession Act (Cap 161) s 36P(1) and (2); Legal Profession (Representation in Singapore International Commercial Court) Rules 2014 r 4(1)-(2).

- 22.3.2 A foreign lawyer granted full registration may:
- 22.3.2.1 Appear or represent any party in any relevant proceedings or relevant appeal, or any proceedings that are preliminary to any relevant proceedings or relevant appeal; and
  - 22.3.2.2 Give advice, prepare documents and provide any other assistance in relation to any relevant proceedings or relevant appeal, or any proceedings that are preliminary to any relevant proceedings or relevant appeal.
- 22.3.3 A foreign lawyer granted restricted registration or a Registered Law Expert may appear in any relevant proceedings or relevant appeal, or give advice and prepare documents, solely for the purposes of making submissions on such matters of foreign law permitted by the SICC or the Court of Appeal: see Legal Profession Act (Cap 161) ss 36P(2) and 36PA(1).
- 22.3.4 An application for registration must be made in accordance with the Legal Profession (Representation in Singapore International Commercial Court) Rules 2014.

#### 22.4 Notice of counsel on record

- 22.4.1 A party to proceedings in the SICC must file and serve a notice stating all the counsel acting for the party in the proceedings: see SICC Rules O 3, r 10(1)-(2); Form 2. A party to proceedings that are transferred to the SICC need not file such a notice upon the transfer, if the party did not change counsel after the transfer: see SICC Rules O 3, r 10(3). Such a notice is also to be filed whenever a party appoints any additional counsel to act for that party: see SICC Rules O 3, r 10(2)(c). A further notice must be filed and served if a party changes the counsel acting for him or appoints counsel after acting in person: see SICC Rules O 3, r 10(4); Form 2.
- 22.4.2 A party to proceedings in the SICC intending and entitled to act in person without legal representation must give notice to all parties: see SICC Rules O 3, r 10(6); Form 3. For entities which must be represented by counsel, see SICC Rules O 3, r 9.
- 22.4.3 Where a counsel has ceased to be the counsel acting for the party who appointed him or her, and that party fails to file and serve a notice in Forms 2 or 3, the counsel may apply to the SICC by way of summons supported by witness statement for an order declaring that the counsel has ceased to be the counsel acting for the party in the proceedings: see SICC Rules O 3, r 10(7) and (8). If the SICC grants the order, the counsel must file and serve a notice on all parties: see

SICC Rules O 3, r 10(7); Form 4.

## **ANNEX A**

### **TYPICAL PROCEDURE OF AN SICC ACTION COMMENCED BY ORIGINATING APPLICATION\***

#### **Claimant files Originating Application (“OA”)**

The OA must be in Form 5 and must be accompanied by a copy of the written jurisdiction agreement to which the claimant and defendant are party. The OA must also be accompanied by a Claimant’s Statement in Form 6. The claimant may, when filing the OA, file an offshore case declaration. (SICC Rules O 4, r 1(1)–(4), r 4).



#### **Claimant serves the OA on the defendant**

Service to be effected in accordance with SICC Rules O 5, r 1.



#### **Defendant files the Defendant’s Statement**

The Defendant’s Statement must be in Form 7 and filed within 28 days from the service of both the Originating Application and Claimant’s Statement on the defendant (SICC Rules O 4, r 5(1)).



#### **Defendant may apply to dispute jurisdiction of the SICC or to dispute service**

Application may be taken out under SICC Rules O 2, rr 3(4)(b) or 6.



**Action continues if challenge is not made or is unsuccessful**



**Action terminates if challenge is successful**



#### **Filing of Case Management Bundle**

To be filed at least 7 working days before the first Case Management Conference, and to contain the following: (a) the Claimant’s Statement and each Defendant’s Statement; (b) any pleadings, memorials and witness statements which have been filed; (c) a Case Management Plan; (d) a Pre-Hearing / Pre-Trial Timetable; and (e) a List of Issues (SICC Rules O 9, rr 3 and 4).



#### **First Case Management Conference**

Directions for the progress of the matter, including trial or hearings dates for the action, to be given.



#### **Adjudication tracks**

The SICC will order that a contested claim or counterclaim be decided by one of the following adjudication tracks: (a) pleadings; (b) statements; or (c) memorials. (SICC Rules O 4, r 6(1)).



#### **Matter to progress**

The matter will progress in accordance with the directions given at the first case management conference.



**Trial / Hearing**

\* Excluding proceedings under the International Arbitration Act (Cap 143A)

## **ANNEX B**

### **MILESTONE FEES PAYABLE FOR PROCEEDINGS IN THE SICC**

| <b>No.</b>  | <b>Milestone event</b>   | <b>Amount Payable</b>                    |                                      | <b>Payable by whom</b>                               |
|---|--|--|--------------------------------------|--|
|   |  | <b>Main action heard by single Judge</b> | <b>Main action heard by 3 Judges</b> |  |
| <b>All tracks (pleadings, statements and memorials adjudication tracks)</b> |  |  |                                      |  |
| 1   | On filing the Originating Application and the Claimant's Statement                                     | \$3,740                                  | \$5,390                              | The claimant   |
| 2   | On filing the Defendant's Statement  | \$3,740                                  | \$5,390                              | The defendant  |
| 3   | When a person joined as a party to the action files its first document                                 | \$3,740                                  | \$5,390                              | The joined party                                     |
| 4   | When parties receive their first notification of a hearing for directions on case management           | \$4,565                                  | \$7,865                              | Each party   |
| 5   | When a party files an interlocutory application  |  |                                      |  |
|   | (a) Simple or consent application:   | \$3,000                                  | \$4,800                              | The applicant, unless ordered otherwise by the Court |
|   | (b) Any other interlocutory application  | \$4,000                                  | \$8,000                              | The applicant, unless ordered otherwise by the Court |
| <b>Additionally for pleadings adjudication track</b>                        |  |  |                                      |  |
| 6   | On the date on which witness statements are ordered to be exchanged (excluding any extensions of time) | \$19,140                                 | \$22,440                             | Each party   |
| 7   | Upon the setting down of the cause or matter for trial   | \$6,655                                  | \$8,305                              | Each party   |
| <b>Additionally for memorials adjudication track</b>                        |  |  |                                      |  |
| 8   | On filing the Memorial   | \$19,140                                 | \$22,440                             | The claimant   |
| 9   | On filing the Counter-Memorial   | \$19,140                                 | \$22,440                             | The defendant  |
| 10  | Upon the setting down of the cause or matter for trial, if any   | \$6,655                                  | \$8,305                              | Each party   |

**MILESTONE FEES PAYABLE FOR APPEALS FROM THE SICC TO THE COURT OF APPEAL AND APPLICATIONS TO THE COURT OF APPEAL**

| <b>No.</b>                             | <b>Milestone event</b>                                      | <b>Amount Payable</b> | <b>Payable by whom</b>   |
|--|---|-----------------------|--|
| <b>Appeals to Court of Appeal</b>      |   |                       |  |
| 1                                      | Upon filing of the notice of appeal                         | \$28,000              | The appellant  |
| 2                                      | Upon filing of the appellant's Case or written submissions  | \$28,000              | The appellant  |
| 3                                      | Upon filing of the respondent's Case or written submissions | \$14,000              | The respondent   |
| <b>Applications to Court of Appeal</b> |   |                       |  |
| 4                                      | When either party files an application                      | \$8,000               | The applicant, unless otherwise ordered by the Court of Appeal |

## ANNEX C

### HEARING FEES PAYABLE FOR PROCEEDINGS IN THE SICC

| No. | Nature of hearing   | Amount Payable                          |                     | Payable by whom                                     | When the fees are payable  |
|-----|---|---|---------------------|---|--|
|     |   | Hearing by single Judge or by Registrar | Hearing by 3 Judges |   |  |
| 1   | For each day (or part thereof) of the trial of an Originating Application, a hearing for the assessment of damages or taking of accounts, or any hearing other than the trial of an Originating Application |   |                     |   |  |
|     | (a) Where the total number of hearing days utilised (including any hearing of an interlocutory application but excluding the first half-day) does not exceed 4 days (i.e. Days 1 to 4)                      | \$4,500                                 | \$13,500            | The claimant, unless otherwise ordered by the Court | Where Order 19, Rule 2 applies: Upon the setting down of the cause or matter for trial<br><br>Where Order 19, Rule 2 does not apply: 21 days before the hearing or as directed by the Court or the Registrar |
|     | (b) Where the total number of hearing days utilised (including any hearing of an interlocutory application but excluding the first half-day) exceeds 4 days (i.e. Day 5 onwards)                            | \$9,000                                 | \$18,000            | The claimant, unless otherwise ordered by the Court | Where Order 19, Rule 2 applies: Upon the setting down of the cause or matter for trial<br><br>Where Order 19, Rule 2 does not apply: 21 days before the hearing or as directed by the Court or the Registrar |
| 2   | For the first half-day of hearing (or part thereof) of an interlocutory application, where the Court does not dispense with oral arguments  |   |                     |   |  |
|     | (a) Simple or consent application   | \$1,800                                 | \$3,500             | The applicant, unless otherwise                     | Upon the fixing of the hearing or  |



|   |  |         |          |  |  |
|---|--|---------|----------|--|--|
|   |  |         |          | ordered by the Court   | as directed by the Court or the Registrar  |
|   | (b) Any other interlocutory application  | \$3,100 | \$4,900  | The applicant, unless otherwise ordered by the Court                 | Upon the fixing of the hearing or as directed by the Court or the Registrar                    |
| 3 | For each additional half-day of hearing (or part thereof) of an interlocutory application, after the first half-day, where the Court does not dispense with oral arguments             |         |          |  |  |
|   | (a) Where the total number of hearing days utilised (including any hearing of an interlocutory application but excluding the first half-day) does not exceed 4 days (i.e. Days 1 to 4) | \$2,250 | \$6,750  | The applicant, unless otherwise ordered by the Court                 | Upon the fixing of the additional days of hearing or as directed by the Court or the Registrar |
|   | (b) Where the total number of hearing days utilised (including any hearing of an interlocutory application but excluding the first half-day) exceeds 4 days (i.e. Day 5 onwards)       | \$4,500 | \$9,000  | The applicant, unless otherwise ordered by the Court                 | Upon the fixing of the additional days of hearing or as directed by the Court or the Registrar |
| 4 | For each determination where the Court dispenses with the hearing of oral arguments pursuant to Order 20, Rule 2(2) apart from interlocutory applications                              | \$7,000 | \$14,000 | The claimant or the applicant, unless otherwise ordered by the Court | As directed by the Court or the Registrar  |

## HEARING FEES PAYABLE IN THE COURT OF APPEAL

| No. | Nature of hearing  | Amount Payable | Payable by whom   | When the fees are payable   |
|-----|--|----------------|---|---|
| 1   | For each half-day of hearing (or part thereof) of an appeal  | \$9,000        | The appellant, unless otherwise ordered by the Court of Appeal                  | 21 days before the hearing of the appeal or as directed by the Court or the Registrar                                 |
| 2   | For the first half-day of hearing (or part thereof) of an application, where the Court does not dispense with oral arguments                                 | \$4,900        | The applicant, unless otherwise ordered by the Court of Appeal                  | Upon the fixing of the half-day of hearing (or part thereof) or as directed by the Court or the Registrar             |
| 3   | For each additional half-day of hearing (or part thereof) of an application, after the first half-day, where the Court does not dispense with oral arguments | \$9,000        | The applicant, unless otherwise ordered by the Court of Appeal                  | Upon the fixing of the additional half-days of hearing (or part thereof) or as directed by the Court or the Registrar |
| 4   | For each determination of an appeal where the Court of Appeal dispenses with the hearing of oral arguments   | \$14,000       | The appellant or the applicant, unless otherwise ordered by the Court of Appeal | As directed by the Court or the Registrar   |

## **ANNEX D**

### **URGENT APPLICATIONS**

#### **Urgent applications during office hours**

1. There may be occasions when applications for interim injunctions or interim preservation of subject matter of proceedings, evidence and assets to satisfy judgments need to be heard on an urgent basis. To request the urgent hearing of such applications, the applicant may attend physically before the Registrar on duty during the applicable operating hours regarding the fixing of a suitable hearing date or for directions. Alternatively, the applicant may contact the SICC Registry to arrange to attend before the Registrar on duty by live video link, live television link, live audio link or any other electronic means of communication approved by the Chief Justice (“electronic means”).
2. Before the applicant attends before the Registrar on duty to request an urgent hearing before a Judge of any application, the applicant should complete (as far as possible) and file the Form of Request for Urgent Hearing before Judge (“Urgent Hearing Form”). A copy of the Urgent Hearing Form should be served on each respondent to the application at the time of filing, unless the application is an application without notice and service of the Urgent Hearing Form would or might defeat the purpose of the application.
3. The applicant should prepare skeletal submissions for the urgent hearing before the Judge, and file the skeletal submissions at the same time as the Urgent Hearing Form. A copy of the skeletal submissions should be served on each respondent to the application at the time of filing, unless the application is an application without notice and service of the skeletal submissions would or might defeat the purpose of the application. If the skeletal submissions are not filed, the applicant should inform the Registrar on duty whether the skeletal submissions will be filed and served by the time of the urgent hearing before the Judge.
4. If, due to urgency, the applicant is unable to file or serve the Urgent Hearing Form and/or the skeletal submissions before attending before the Registrar on duty, the applicant should provide a copy each of the Urgent Hearing Form and the skeletal submissions to each respondent to the application when the parties attend before the Registrar on duty. Each such copy of the Urgent Hearing Form or the skeletal submissions must be a hard copy, if the parties attend before the Registrar on duty physically, or in soft copy, if the parties attend before the Registrar on duty by electronic means. Thereafter, the Urgent Hearing Form and the skeletal submissions should be filed as soon as possible and, in any event, no later than the next working day after the attendance before the Registrar on duty, unless the SICC directs otherwise. If any respondent does not attend before the Registrar on duty, the Urgent Hearing Form and the skeletal submissions should be served on that respondent as soon as possible after the hearing before the Registrar, and, in any event, before the urgent hearing before the Judge, unless the SICC directs otherwise.

5. In cases of extreme urgency where the applicant is unable to comply with the requirement to file or provide a copy of the skeletal submissions by the time of the urgent hearing before the Judge, the applicant should inform the Registrar on duty of the applicant's intention to seek a dispensation of that requirement at the hearing before the Judge, and provide supporting reasons for the dispensation.
6. The applicant's skeletal submissions should contain the following:
  - (a) the relevant facts;
  - (b) the applicable law;
  - (c) the reason(s) for requesting an urgent hearing; and
  - (d) a summary of arguments.
7. The applicant's skeletal submissions should be in the following format:
  - (a) all pages should be paginated;
  - (b) the skeletal submissions should not exceed 10 pages (excluding the cover page and backing page);
  - (c) the minimum font size to be used is Times New Roman 12 or its equivalent;
  - (d) the print of every page must be double spaced; and
  - (e) every page must have a margin on all 4 sides, each of at least 35 mm in width.

### **Urgent applications after office hours, on weekends and public holidays**

8. When an urgent application for interim injunctions or interim preservation of subject matter of proceedings, evidence and assets to satisfy judgments arises on a weekend or on a public holiday, the applicant should contact the Registrar on duty at (+65) 6332 4351 or (+65) 6332 4352. The Registrar will only arrange for the hearing of applications which the Registrar considers are so urgent that they cannot be heard the next working day.
9. Before contacting the Registrar on duty, all the necessary papers required for the application must be prepared together with the appropriate draft orders of Court and forwarded by way of an electronic mail to this address [Supcourt\\_SICCRetry@supcourt.gov.sg](mailto:Supcourt_SICCRetry@supcourt.gov.sg).
10. Hearings of urgent applications (interlocutory or otherwise) may be conducted through electronic means if directed by the Judge hearing the application. Each

party shall make its own arrangements to procure the necessary telecommunications facilities or services in order to participate in the hearing by electronic means. Each party shall be responsible for ensuring that it joins the hearing by electronic means at the designated date and time. Costs reasonably incurred in participating in such hearing by electronic means may, subject to the discretion of the SICC as to costs, be claimable as disbursements in the cause or matter.

### **Urgent hearing**

11. Subject to the directions of the SICC, counsel may appear before the Judge for an urgent hearing with paper documents or using electronic documents which are electronically transmitted to the Judge (e.g. electronic mail or online file sharing) even before the filing of the relevant documents using the Electronic Filing Service or the alternative means set out under SICC Rules O 27, r 12(4).
12. Counsel so appearing must give an undertaking to file all the documents used at the hearing using the Electronic Filing Service or the alternative means set out in SICC Rules O 27, r 12(4) by the next working day after the hearing.

### Form of Request for Urgent Hearing before Judge

|  |   |
|--|---|
| Case Number(s) and Case Name(s)  |   |
| Sub-Case Number(s) (if applicable)   |   |
| Name(s) of Applicant(s)  |   |
| Details of Applicant(s)  | (Claimant/ Defendant/ Third Party)                                  |
| Counsel for Applicant(s)<br><i>(if represented)</i>  | (Name(s) of counsel and Law Practice)                               |
| Contact Number(s) of Counsel for Applicant(s) <i>(if represented)</i> or of Applicant(s) <i>(if unrepresented)</i>   |   |
| Name(s) of Respondent(s)   |   |
| Counsel for Respondent(s)<br><i>(if represented)</i>   | (Name(s) of counsel and Law Practice)                               |
| Contact Number(s) of Counsel for Respondent(s) <i>(if represented)</i> or of Respondent(s) <i>(if unrepresented)</i> |   |
| Summary of relief sought   | (E.g. Mareva Injunction)  |
| Proposed hearing dates for the application(s)  | (Please indicate the dates on which all parties are able to attend) |
| Estimated duration of the hearing  | (E.g. 1 hour or less, Half-day, Full-day)                           |
| Summary of relevant facts: ( <i>Maximum 500 words</i> )  |   |
| Reason(s) for urgency: ( <i>Maximum 300 words</i> )  |   |

|   |  |
|---|--|
| Have all requisite Court papers been filed and are they in order?   |  |
| Is this an application without notice?  |  |
| Is this an application without notice seeking injunctive relief?  | <p>(If yes, please state whether notice of the application has been given to the other concerned parties prior to the hearing.</p> <p>If notice of the application has been given, please state the date, time and manner in which notice was given.</p> <p>If notice of the application has not been given, please state whether and when notice will be given and, if not, the reasons for not giving notice.)</p> |
| Has/Have the Applicant(s) notified the Respondent(s) of the attendance before the Registrar on Duty?  | (If not, please state the reason(s) why.)  |
| Has there been any previous request for an urgent hearing of the application(s)?  | (If yes, please state the date and outcome of each previous request, and the reason(s) for making this request.)   |
| <p>Skeletal Submissions* (please select the applicable option):</p> <p><input type="checkbox"/> I confirm that the skeletal submissions have been filed together with this Form.</p> <p><input type="checkbox"/> The skeletal submissions could not be filed together with this Form, but will be filed as soon as possible and, in any event, no later than the next working day after the attendance before the Registrar on duty, unless the SICC directs otherwise.</p> <p><input type="checkbox"/> Due to the extreme urgency, the skeletal submissions cannot be filed or provided in hard copy by the time of the hearing before the Judge, and I intend to seek a dispensation of this requirement at the hearing before the Judge.</p> |  |
| <p>Signature of Counsel for Applicant or of Applicant:</p> <p>Name:</p> <p>Date:</p>  |  |

\* The skeletal submissions are to comply with the requirements stated in "Urgent applications during office hours" of Annex D to the SICC Procedural Guide.



## **ANNEX E**

### **AMENDMENT OF DOCUMENTS**

1. The requirements in this Annex apply to documents and pleadings filed in any proceedings in the Court.
2. Where a document is required to be amended and filed in the SICCC, a fresh copy of the document with the amendments included must be prepared, regardless of the number and length of the amendments sought to be made.
3. The procedure for amending a document is as follows:
  - (a) a fresh amended copy of the document should be produced.
  - (b) the number of times the document has been amended is to be indicated in parentheses after the name of the document. It should therefore be entitled “[document name] (Amendment No. 1)” or “[document name] (Amendment No. 2)” as appropriate.
  - (c) the changes made in the document from the latest version of the document filed in Court should be indicated in the following way:
    - (i) deletions are to be made by drawing a single line across the words to be deleted; and
    - (ii) insertions are to be underlined.
  - (d) where pleadings are amended, the following colours shall be used to indicate the history of the amendments in the pleadings:
    - (i) black for the first round of amendments;
    - (ii) red for the second round of amendments;
    - (iii) green for the third round of amendments;
    - (iv) blue for the fourth round of amendments; and
    - (v) brown for subsequent rounds of amendments.
4. The requirement in paragraph 3(b) does not apply to Originating Applications and summonses amended from an application with notice to an application without notice or vice versa.
5. The requirement in paragraph 3(c) does not apply to the originating processes, summonses and other electronic forms that are composed online through the Electronic Filing Service.

6. Where the amendments are so numerous or of such a nature or length that to make written alterations of the document would make it difficult or inconvenient to read, the amended document should comprise two versions:
  - (a) a clean version without the amendments shown; followed in the same document by
  - (b) a version showing the amendments in colour.
7. Where pleadings are amended, the amended pleading should comprise two versions of the document from the third round of amendments onwards:
  - (a) a clean version without the amendments shown; followed in the same document by
  - (b) a version showing the amendments in colour.

Only one amended pleading consisting of these two versions is required to be filed.

8. An amended pleading or other document is to be endorsed with a statement that it has been amended, specifying the date on which it was amended and by whom the order (if any) authorising the amendment was made and the date thereof, and if no such order was made, the number of the Rule in the SICC Rules pursuant to which the amendment was made.
9. Where electronic forms are amended:
  - (a) the amendment endorsement is to take either one of the following forms:
    - (i) by order of court made on [date order was made]; or
    - (ii) pursuant to [cite specific rule number].
  - (b) The amendment endorsement is to be appended to the title of the electronic form, after the amendment number as required under paragraph 3(b) above. Where an electronic form is amended more than once, the endorsement need only cite the basis for the most recent amendment.
  - (c) The date of the electronic form is to reflect the date on which the document is amended.

## **ANNEX F**

### **Summary Table for Applications for Further and Better Particulars, Production of Documents or Interrogatories**

1. Unless otherwise directed, this Annex applies to any application made for an order under SICC Rules O 6, r 13, O 12, r 4, or O 12, r 14 where:
  - (a) more than 5 categories or sub-categories of particulars, documents or interrogatories are sought, or the parties agree that this Annex applies to the application; and
  - (b) the application is contested.

The SICC may also direct that this Annex applies to any other application.

2. With a view to enhancing the efficacy of an oral hearing, the parties should complete the summary table in the form set out in this Annex (the “Summary Table”), instead of filing written submissions. In exceptional circumstances (e.g. where there are novel issues to be determined), the parties may seek permission of the SICC to file written submissions in addition to the Summary Table.
3. Unless otherwise directed by the SICC, the parties should complete the Summary Table in the following manner:
  - (a) The applicant should complete Columns A and B of the Summary Table, and serve the Summary Table on the respondent, when filing the application. The applicant may also complete Column C of the Summary Table before the applicant serves the Summary Table on the respondent under this sub-paragraph.
  - (b) If the applicant did not complete Column C of the Summary Table when the application was filed, the applicant should complete Column C of the Summary Table, and serve the Summary Table with Column C completed on the respondent, no later than 8 working days before the date of the hearing.
  - (c) The respondent should complete Column D of the Summary Table, and serve the Summary Table with Column D completed on the applicant, within 3 working days after receiving from the applicant the Summary Table with Column C completed.
  - (d) The applicant should complete Column E of the Summary Table, serve on the respondent the completed Summary Table, and file the completed Summary Table using the Electronic Filing Service as an “Other Hearing Related request”, within 3 working days after receiving from the respondent the Summary Table with Column D completed and, in any event, no later than 2 working days before the date of the hearing.

4. Where a party wishes to adduce any evidence for the purposes of the application, or the SICC grants a party permission to file written submissions in addition to the Summary Table:
  - (a) the SICC may adjust the timelines mentioned in paragraph 3; and
  - (b) the party must file and serve the party's affidavit, witness statement or written submissions (as the case may be) in accordance with the timelines directed by the SICC.

**Form of Summary Table  
for Applications for Further and Better Particulars, Production of Documents  
or Interrogatories**

| <b>Case number</b>     |   |   |                                  |                                    |   |
|------------------------|---|---|----------------------------------|------------------------------------|---|
| <b>Case Title</b>      |   |   |                                  |                                    |   |
| <b>Application for</b> |   | Further & Better Particulars Production of Documents / Interrogatories <i>(Delete as appropriate)</i>   |                                  |                                    |   |
| <b>S/N</b>             | <b>A</b>  | <b>B</b>  | <b>C</b>                         | <b>D</b>                           | <b>E</b>  |
|                        | <b>Category / Request</b>                                     | <b>Issue / reference to pleading / affidavit/ witness statement</b><br>*  | <b>Applicant's submissions**</b> | <b>Respondent's submissions***</b> | <b>Applicant's submissions in reply to respondent's submissions</b> |
| 1.                     | (E.g. Minutes of Meeting of Board of Directors on 2 Jan 2021) | (E.g. Relevancy, Privilege)<br><br>(E.g. paragraphs 13 to 15 of the Defence / paragraphs 3 to 6 and page 32 of the affidavit of X dated dd/mm/yy) |                                  |                                    |   |
| 2.                     |   |   |                                  |                                    |   |
| 3.                     |   |   |                                  |                                    |   |

\* Reference to the specific paragraph and/or page of a pleading or affidavit or witness statement should be stated. Parties are to categorise the requests and confer on points of agreement.

\*\* The applicant is to state the applicant's submissions.

\*\*\*The respondent is to state the respondent's submissions. Where the respondent agrees to the request, the respondent may state so in this column.

## **ANNEX G**

### **SERVICE**

#### **Personal service of processes and documents**

1. The attention of counsel is drawn to SICC Rules O 5, r 2(2) which provides:  
  
“The following persons may effect personal service:
  - (a) a process server of the Court;
  - (b) counsel;
  - (c) counsel’s employee;
  - (d) any other person that the Registrar may allow in a particular case or generally.”
  
2. Counsel are required to notify the SICC Registry of the particulars of their employee who have been authorised by them to serve processes and documents (“authorised process servers”) by submitting a request to authorise user to the SICC Registry in accordance with the instructions on the official website of the SICC. Where such authorised process servers are no longer authorised, counsel are to revoke or delete the authorisation immediately by submitting a request to the SICC Registry in accordance with the instructions on the official website of the SICC. Counsel’s employees do not require the authorisation of the Registrar to effect personal service of processes and documents.
  
3. As personal service can be effected by counsel or counsel’s employees, Court process servers will not be assigned to effect personal service of originating processes and documents unless there are special reasons.
  
4. If there are special reasons requiring personal service by a Court process server, a request for such service should be submitted to the SICC Registry in accordance with the instructions on the official website of the SICC, setting out the special reasons. The approval of the Duty Registrar should then be obtained for such service. Once approval has been obtained and any applicable fees paid, a process server will be assigned to effect service and an appointment for service convenient to both the litigant and the assigned process server will be given.
  
5. On the appointed date, the person accompanying the Court process server should attend at the SICC Registry. The party requesting service to be effected by the Court process server will be responsible for all transport charges incurred for the purposes of effecting service.

## **Service out of Singapore**

6. An application for permission to serve an originating process outside of Singapore must be made in the manner set out in SICC Rules O 5, r 6(4). Leave will only be granted if it is sufficiently clear that the case is a proper one for service out of Singapore.
7. The methods by which service of an originating process may be made out of Singapore are set out in SICC Rules O 5, r 7. Pursuant to SICC Rules O 23, r 5(1), service out of jurisdiction of an Originating Application filed under Order 23 or any order made in any proceedings under the International Arbitration Act (Cap 143A) is permissible with permission of the SICC whether or not the arbitration was, or is being, held or the award was made within the jurisdiction.

## **Substituted service**

8. The provisions of SICC Rules O 5, r 4 apply with regard to the substituted service of documents in cases where it appears to the SICC that personal service of such documents is impractical.
9. An application for an order for substituted service must be made in the manner set out in SICC Rules O 5, r 4(2). The SICC has, on any such application, the discretion to authorise the service of documents in such manner as the SICC is satisfied will probably be effectual in bringing such documents to the notice of the person to be served.
10. In any application for substituted service, the applicant should persuade the SICC that the proposed mode of substituted service will probably be effectual in bringing the document in question to the notice of the person to be served.
11. Two reasonable attempts at personal service should be made before an application for an order for substituted service is filed. In an application for substituted service, the applicant must demonstrate by way of witness statement why he or she believes that the attempts at service made were reasonable.
12. The applicant should, where appropriate, also consider other modes of substituted service, such as AR registered post or electronic means (including electronic mail or Internet transmission) in addition to or in substitution of substituted service by posting on doors or gates of residential and business premises.
13. An application for substituted service by posting at an address or by AR registered post should contain evidence (for example, relevant search results from the relevant authorities, such as the Inland Revenue Authority of Singapore, the Singapore Land Authority, the Housing & Development Board or the Accounting and Corporate Regulatory Authority) that the person to be served is resident or can be located at the property.



14. To avoid doubt, substituted service by AR registered post is deemed to be effected when the postal service has delivered the document, or attempted to deliver the document (in cases where no one is present or willing to accept the document).
15. If substituted service is by electronic mail, it has to be shown that the electronic mail account to which the document will be sent belongs to the person to be served and that it is currently active.
16. An application for substituted service by advertisement should only be considered as a last resort and should contain evidence that the person to be served is literate in the language of the newspaper in which the advertisement will be placed.
17. The SICC may, in the exercise of its discretion, give directions as to the manner in which the mode of service is to be effected, including (without limitation):
  - (a) The content of any notice that must accompany the document to be served, explaining the nature of the document to be served, the steps that the recipient must take upon receipt of the document and the possible consequences should the recipient not take any action; and
  - (b) The filing of a witness statement or other evidence by the party effecting service of the document confirming that the directions of the SICC have been adhered to.

### **Ordinary service of documents**

18. SICC Rules O 5, r 3 applies in relation to the service of documents other than those required to be served personally pursuant to any provision in the SICC Rules.
19. Without limiting the scope of SICC Rules O 5, r 3(1), the manner in which the SICC may direct service of any document to be effected includes by way of courier, electronic mail and social media.