APPENDIX 1

CMC- Matrix

Matters to be discussed and agreed during CMC		Best practice	Other recommendations / practical tip
PART I – Basic planning			
1.1	Presentation of the dispute	The Claimant provides a brief outline of the key elements of its position and the relief sought. The Respondent is given an opportunity to provide its comments.	
1.2	Decision based on written evidence	It should be discussed whether all or parts of the issues of the dispute can be determined based on documents only.	
1.3	Splitting the proceedings and Part Award(s)	It should be discussed whether the proceedings in respect of one or some of the claims, or in respect of one or more of the points in dispute in a claim, shall be heard and decided separately.	If the proceedings are split, time for potential subsequent hearings should still be reserved.
1.4	Length of the main hearing	Based on the parties' knowledge of the dispute, it should (at least on a preliminary basis) be agreed how many days / weeks are necessary to conduct the main hearing.	If it is difficult for the parties to assess the amount of time necessary to conduct the main hearing, extra days / weeks should be reserved to be able to schedule the main hearing.

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1.5	Scheduling of the main hearing	The main hearing should be scheduled at a time where the parties' counsel and all members of the arbitral tribunal are available. The hearing should be scheduled no later than six months from the first CMC if the hearing is estimated to last five days or less or within 12 months if the hearing is estimated to last more than five days.	Generally, a four day a week hearing is recommended. If a main hearing lasts more than six weeks, there should be a "break week" in the middle of the proceedings. If possible, at least one day off should be allowed between the witness examinations and the start of the closing arguments.
1.6	Venue for the main hearing	A venue for the main hearing should be booked as soon as possible at a place agreed by the parties.	One of the parties should be responsible for presenting options to the other party and the arbitral tribunal. If the parties do not agree on the venue, the arbitral tribunal should reserve or book the venue. The contract with the lessor should be entered into jointly by the parties' counsels.

Matters to be discussed and agreed during CMC		Best practice	Other recommendations / practical tip
1.7	Language	If not already agreed, the language of the pleadings and main hearing should be agreed, as well as the language of the Award. If no agreement is reached in the CMC, the arbitral tribunal decides on the appropriate language.	It may be possible to have a different language during the main hearing than in the pleadings.
1.8	Translations of evidence	Evidence in English does not require translation. Evidence not in English or the language of the proceedings, may be ordered translated into English, but it should be considered whether only relevant parts require translation.	
1.9	Translation of sources of law	If the language to be used to determine the dispute is English, the arbitral tribunal will normally not order legal precedencies, judgements etc. to be translated from a Scandinavian language to English.	

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1.10	Deadlines for statement of claim, statement of defence, subsequent pleadings and potential closing submissions	Based on the dates for the main hearing, deadlines should be agreed for the statement of claim, the statement of defence, subsequent pleadings, potential closing submission and a cut-off date for presenting new evidence.	It is recommended that the statement of claim is submitted 28 days after the first CMC and the statement of defence 28 days thereafter. It is normally recommended to have two pleadings from each party after the statement of defence with a deadline of 21 days. The time limit for presentation of new arguments and evidence should be 14 days prior to the start of the main hearing. In larger cases this deadline should be considered to be set earlier than 14 days. Closing submissions are generally not necessary.
1.11	Witnesses of fact	It should be clarified whether any of the parties intends to present written witness statements. If yes, deadlines for this must be set. A deadline for presentation of the parties' preliminary list of witness of fact should be agreed.	

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1.12	Expert witnesses	It should be discussed whether a joint expert witness/witnesses can be appointed instead of each party having its own. It should be discussed and agreed when and how potential expert witnesses shall present their written material in advance of their testimony.	It is recommended to specify that potential expert reports should contain the following: a) the instructions/mandate pursuant to which the expert is providing its opinions or conclusions; b) a statement of the expert's independence from the parties, their legal counsels and the arbitral tribunal; c) a statement of the facts on which the expert is basing its expert opinions and conclusions; and d) the expert opinions and conclusions, including a description of the methods, evidence and information used in arriving at the conclusions.
1.13	Appointment of mediator	It should be discussed whether a mediator shall be appointed by the arbitral tribunal to facilitate a settlement before the main hearing.	If the parties agree to appoint a mediator, the mediator may be appointed by the arbitral tribunal taking into account the nature of the dispute.

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1.14	Possible allocation of time during the case preparation for mediation/settlement discussions	The parties should discuss and agree whether time should be reserved for possible settlement discussions in the preparation schedule.	Generally, the most suitable time for potential settlement discussions is right after the filing of the statement of defence. It is recommended that the arbitrators do not participate as mediators as this will necessitate a change of arbitrators if the mediation is unsuccessful.
1.15	Security for the arbitrators fees and expenses	The arbitrators should be entitled to security for their fee and expenses at all times.	The security should also cover the cost of the rent of venue and all other costs to be incurred by the arbitral tribunal. Security may be arranged by the respective parties issuing a deposit to its legal counsel, followed by the legal counsel's confirmation that the deposit is received and reserved as security for the arbitrators' fees and expenses.

1.16	Potential termination fee to the Tribunal	It should be discussed whether a termination fee to the arbitrators will be applicable if the case is settled or terminated prior to the main hearing based on the following principles: - If the hearing is scheduled for one to two days, no cancellation fee should apply. - If the hearing is scheduled for 3 to 8 days, and the hearing is cancelled less than 3 weeks prior to the hearing, a fee equal to 15 % of the arbitrator's normal fee for the time reserved. - If the hearing is scheduled for more than 8 days, and the hearing is cancelled less than 6 months, but more than 3 months prior to the hearing, a cancellation fee equal to 5 % of the arbitrator's normal fee for the time reserved. - If the hearing is scheduled for more than 8 days, and the hearing is cancelled less than 3 months, but more than 3 weeks prior to the hearing, a cancellation fee equal to 10 % of the arbitrator's normal fee for the time reserved. - If the hearing is scheduled for more than 8 days, and the hearing is cancelled less than 3 weeks prior to the hearing, a cancellation fee equal to 15 % of the arbitrator's normal fee for the time reserved	If the parties should consider a cancellation fee if the case is settled shortly after the commencement of the main hearing, the principles for cancellation fees prior to the main hearing should be taken into account.

Matters to be discussed and agreed during CMC		Best practice	Other recommendations / practical tip
PART II – document management			
2.1	Numbering of pleadings	The statement of claim and subsequent pleadings from the Claimant should start with "C" and be consecutively numbered (C-1, C-2 etc.). Statement of defence and subsequent pleadings from the Respondent should start with "R" and be consecutively numbered (R-1, R-2 etc.).	

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2.2	Numbering of exhibits and exhibit-table	Exhibits submitted by the Claimant should be consecutively numbered and start with "C" (C-001, C-002, C-003 etc.). Exhibits submitted by the Respondent should be consecutively numbered and start with "R" and (R-001, R-002, R-003 etc.). Each party should keep an updated table with all the exhibits submitted by it. Such a table should be submitted with each pleading in both pdf and native file.	In larger cases it is recommended that the exhibit-table be produced in Excel, with the following columns: "Exhibit no.", "Date of document" (year-month-date), "Description of document given in the pleading".
2.3	Database	In cases with substantial number of documents, a database should be set up for exchange of all submitted documentation and pleadings.	
2.4	Paper copies	It should be discussed and agreed whether paper copies of the pleadings and exhibits should be circulated in addition to electronically available version.	

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2.5	Factual abstract and deadline for circulation	A factual abstract shall always be produced unless the number of exhibits is limited. Unless otherwise agreed, the Claimant is responsible for production of the factual abstract. A deadline for the circulation of the factual abstract should be agreed. If parts of the factual abstract are not organized chronologically, a chronological list of all the documents submitted should be made.	In cases lasting more than 5 days, it is recommended that the factual abstract is produced at least one month in advance of the start of the main hearing, and that potential new documentation submitted after the production date is taken into an additional factual abstract to be produced and circulated as soon as possible.
2.6	Legal abstract	The production of legal abstracts should be discussed.	The arbitral tribunal should encourage the parties to prepare a joint legal abstract, and set deadlines for circulation of lists of sources of law in advance of the main hearing. In cases involving complicated legal questions, the arbitral tribunal may order the parties to produce legal abstracts.

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2.7	Assisting documents	Assisting documents may be produced and used at any stage of the proceedings to ease the understanding of facts and sources of law already submitted. It should be discussed and agreed that assisting documents used during the main hearing are submitted to the opponent's counsel at the latest before the start of the main hearing on the day the document is intended used.	It is good practice that there are clear references in the assisting documents to the exhibit(s) from which the information in the assisting document is taken.
PART III – the Award			
3.1	Confidentiality of Award	It should be discussed and agreed whether the final Award shall be confidential. If not agreed the background law will apply.	If confidentiality is agreed, it should be discussed whether the parties could accept publication of the Award if it is made anonymous.