

Contact Persons:

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Lambert Rasa-Ratnam
Partner
DID: +603 6208 5859
Fax: +603 6201 0122
Email: lr@lh-ag.com

Affirming the Enforceability of the Asymmetrical Arbitration Clause

BANKING & INSOLVENCY

Kumar Kanagasingam
Partner
DID: +603 6208 5803
Fax: +603 6201 0122
Email: kk@lh-ag.com

Wilson Taylor Asia Pacific Pte Ltd v Dyna-Jet Pte Ltd

Sean Yeow Huang-Meng
Partner
DID: +603 6208 5867
Fax: +603 6201 0122
Email: yhm@lh-ag.com

Parties are often faced with contracts that only allow one, but not the other, to refer disputes to arbitration. Such unilateral agreements are known as asymmetrical arbitration agreements. A good example of this is the **PWD Form 203A**, which only gives to the contractor the right to refer to arbitration any disputes that may arise between the contractor and the government.

Andrew Chiew Ean Vooi
Partner
DID: +603 6208 5852
Fax: +603 6201 0122
Email: ac@lh-ag.com

Asymmetrical arbitration agreements have been criticised as being overly favourable to one party. However, the Singapore Court of Appeal has recently upheld the validity and enforceability of asymmetrical arbitration agreements: [*Wilson Taylor Asia Pacific Pte Ltd v Dyna-Jet Pte Ltd*](#).^[1]

Mong Chung Seng
Partner
DID: +603 6208 5864
Fax: +603 6201 0122
Email: mcs@lh-ag.com

Prior to the promulgation of the Arbitration Act 2005, the Malaysian High Court enforced asymmetrical arbitration agreements in *Majlis Perbandaran Seremban v Maraputra Sdn Bhd*.^[2] The Singapore Court of Appeal decision is a positive affirmation of the Malaysian jurisprudence and practice regarding asymmetrical arbitration agreements.

Hoi Jack S'ng
Partner
DID: +603 6208 5908
Fax: +603 6201 0122
Email: hjs@lh-ag.com

CONSTRUCTION

Dato' Nitin Nadkarni
Partner
DID: +603 6208 5866
Fax: +603 6201 0122
Email: nn@lh-ag.com

If you have any query or would like to know more about asymmetrical arbitration agreements, please contact [Dato' Nitin Nadkarni \(nn@lh-ag.com\)](#).

Darshendev Singh
Partner
DID: +603 6208 5845
Fax: +603 6201 0122
Email: ds@lh-ag.com

Lim Tse Wei and Lim Chee Yong

CORPORATE & COMMERCIAL DISPUTES

Rosli Dahlan
Partner
DID: +603 6208 5804
Fax: +603 6201 0122
Email: rd@lh-ag.com

G Vijay Kumar
Partner
DID: +603 6208 5870
Fax: +603 6201 0122
Email: vkq@lh-ag.com

SM Shanmugam
Partner
Tel: +603 6208 5865
Fax: +603 6201 0122

Email: ssm@lh-ag.com

Ang Hean Leng

Partner

Tel: +603 6208 5809

Fax: +603 6201 0122

Email: ahl@lh-ag.com

Lee Hishammuddin Allen & Gledhill

Level 6, Menara 1 Dutamas
Solaris Dutamas
No. 1, Jalan Dutamas 1
50480 Kuala Lumpur
Malaysia

T +603 6208 5888

F +603 6201 0122/0136

E enquiry@lh-ag.com

W www.lh-ag.com

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[\[1\]](#) [2017] SGCA 32

[\[2\]](#) [2004] 5 MLJ 469