

# GENERAL RULES OF PROCEDURE AND GUIDELINES FOR ARBITRATORS AND PARTIES FOR CONDUCT OF ARBITRATION PROCEEDINGS 2016 (GENERAL RULES 16)

## BACKGROUND AND INTRODUCTION

The IMC International ADR Centre (IIAC) is an independent company constituted under the Companies Act, 2013 promoted by the Indian Merchants Chamber for purposes of propagating alternate dispute resolution methods to assist all sections of society, individuals, corporate, firms, institutions and others in resolving disputes.

IIAC does not itself resolve disputes; it administers resolution processes including constituting arbitral tribunals in accordance with the various rules framed by it.

Fair and just processes for resolving disputes which are also expeditious and affordable are indispensable in our society. These “*General Rules of Procedure & Guidelines*” Rules are designed to set out practical aspects of the proceedings such as the manner of filings, nature of pleadings, admissibility of documents etc.

This General Rules have various guidelines *inter alia* setting out provisions for filing and inspection of documents, manner of writing awards, notices and communication etc. The General Rules also provides for guidelines for Code of Conduct of the parties in the representative.

This Rules provide for physical as well as e-filing.

These Rules are supplementary to other applicable rules, conduct and procedures published by IIAC and the “*General Rules of Procedure & Guidelines*” apply to the extent the other rules are silent or do not provide to

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the contrary. They are designed with a view to further the objectives set out in each of the rule books.

The *General Rules of Procedure & Guidelines* in force at time of filing the “Request for Arbitration” (as defined in applicable Rules) shall be applicable to proceedings commenced pursuant to such Request.

***Please visit IIAC website: [www.iiac.net.in](http://www.iiac.net.in)***

**GENERAL RULES OF PROCEDURE AND GUIDELINES  
FOR  
ARBITRATORS AND PARTIES FOR CONDUCT OF  
ARBITRATION PROCEEDINGS 2016  
(GENERAL RULES 16)**

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## **“GENERAL RULES OF PROCEDURE AND GUIDELINES TO ARBITRATORS AND PARTIES FOR CONDUCT OF PROCEEDINGS 2016 (GENERAL RULES 16)”**

These rules of procedure are hereinafter called the “*General Rules of Procedure and Guidelines to Arbitrators and Parties for Conduct of Proceedings 2016*” of the *IMC International ADR Centre (IIAC)* and for sake of brevity are referred to as “*General Rules of Procedure & Guidelines*”.

### **1. APPLICABILITY OF THE RULES**

- (i) These Rules shall come into force from 1st April, 2016 except Rule 5 which will come into force as and when notified by IIAC.
- (ii) All references to “*General Rules of Procedure & Guidelines*” in any Rules and procedures for conduct of arbitration proceedings by IIAC shall mean these “*General Rules of Procedure and Guidelines to Arbitrators and Parties for Conduct of Proceedings 2016*”, published by the “*IMC International ADR Centre*” (IIAC) and all amendments made to them from time-to-time.
- (iii) The “*General Rules of Procedure & Guidelines*” are supplementary to other applicable rules, conduct and procedures published by IIAC and the “*General Rules of Procedure & Guidelines*” shall apply to the extent the other Rules are silent or do not provide to the contrary.

The *General Rules of Procedure & Guidelines* in force at time of filing the “Request for Arbitration” (as defined in applicable Rules) shall be applicable to proceedings commenced pursuant to such Request.

- (iv) Subject to the above, these “*General Rules of Procedure & Guidelines*”, shall apply to all proceedings and shall be binding on all Panel Arbitrators, constituted Arbitral Tribunals and to parties who have agreed to refer their disputes or who have referred disputes and differences to arbitration, and their representatives appearing in arbitrations conducted in accordance with Rules

framed by IIAC. These Rules shall also, to the extent required, apply to Neutrals and to parties who have agreed to refer their disputes or who have referred disputes and differences to MedCon 16 framed by IIAC.

## 2. PLEADINGS

- (a) Pleadings shall include claim statements, defence statements, counter claims and set offs, applications, replies and rejoinders to applications, witness statements and affidavits.
- (b) All pleadings shall be typed on A4 size white paper on one side of the page and shall be indexed and numbered/paginated serially. All paragraphs shall be numbered. Documents annexed to claimant's pleadings will be marked as annexures in alphabetical order and those annexed to respondent's pleadings will be marked in numerical order. Page numbers and annexure numbers shall continue to run serially through successive pleadings filed by parties and shall not be repeated.
- (c) Compilation of documents and materials filed by parties shall also be indexed and numbered serially in same manner as pleadings.
- (d) All pleadings shall be signed and verified on oath before a Notary Public by the party to the dispute or its authorized employee having personal knowledge of the allegations made in the pleadings identifying in the verification clause, which statements in the various paragraphs of the pleadings are true to the deponents personal knowledge and which are based on information or belief or advice. The source of information shall also be stated briefly.
- (e) Parties shall sign and verify all pleadings in accordance with above rule before filing or serving such pleadings with IIAC or the opposite party.
- (f) All pleadings shall be filed within the prescribed time periods unless extension of time has been granted pursuant to an application made by the party in writing.
- (g) IIAC may, upon sufficient grounds being made out by a party in writing explaining the cause of delay, grant that party an

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extension of time for filing its pleadings only upon payment of costs as may be prescribed;

Provided, that an application requesting for extension of time shall be entertained only once and an extension of time will not exceed 15 (fifteen) working days.

- (h) Where a claimant fails to file a statement of claim within the time prescribed or the time as extended by IIAC, the Arbitral Tribunal shall terminate the proceedings.

Failure of the respondents to file a reply or the claimant to file a reply to counter-claim or set off within the time stipulated or the extended time shall constitute a waiver by that party of the opportunity to file the reply/reply to counter-claim.

### **3. FILING OF PLEADINGS & COMMUNICATIONS**

All communications, pleadings, compilations of documents and materials etc., shall be filed with the Secretariat, IIAC in the manner set out in these Rules.

All communications, pleadings, compilations of documents and materials etc., shall state on the first page the arbitration case number assigned by IIAC, the name of the Arbitral Tribunal and the names and addresses of the parties as also the description of pleadings e.g. statement of claim, reply and defence, compilation of documents relied on by claimants etc., as the case may be.

Fees and Charges as prescribed by IIAC shall be paid at time of filing.

### **4. PHYSICAL FILING AND SERVICE**

- 4.1 Pleadings and copies of supporting documents and other materials relied upon by a party when filed by parties in physical form, shall be filed with IIAC in sets of 5 (five) copies where the Arbitral Tribunal comprises of three arbitrators and sets of 3 (three) copies when Arbitral Tribunal is a Sole Arbitrator. Out of the sets filed, one set in case of pleadings shall bear the original verification and signatures of deponent and Notary Public and copies of documents or materials shall be certified as true copies of the original.

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A party filing any pleadings, documents or materials shall **first** serve copies on the opposite party and shall furnish IIAC with proof of service on the opposite party at time of filing pleadings, documents etc., with IIAC in the time as prescribed.

- 4.2 IIAC shall send to the Arbitral Tribunal a copy of the statement of claim, statement of defence and counterclaim/set off, communications, pleadings, compilations of documents and materials etc., and reply to the statement of defence and to counterclaim/set off communications, pleadings, compilations of documents and materials etc., and the documents when filed by parties.
- 4.3 A party may serve any pleading duly signed and verified as per these Rules and copies of supporting document on the opposite party by hand delivery, registered post, courier, or by emails or other electronic media.

### 5. E-FILING

PDF copies of pleadings duly affirmed and verified by parties as per Rule 4 and copies of supporting documents and other materials relied upon may be e-filed by a party after obtaining an authentication number from the Secretariat, IIAC.

A Party e-Filing any pleadings, documents or materials shall simultaneously also e-Serve a copy of such pleadings, documents or materials on the opposite party.

One set in physical form of any pleadings, (bearing original verification and signatures of deponent and Notary Public) and copies of documents or materials certified as true copies of the original when E-Filed, shall be filed and delivered to IIAC within **24 hours** of e-filing.

### 6. DISCLOSURE OF DOCUMENTS

- a) Parties shall file a list of all documents, materials and evidence that they rely upon and intend to submit to the Arbitral Tribunal in support of their claim or defence along with their statement of claim, reply, defence, counterclaim as the case may be.
- b) Parties shall also file a Compilation of Documents and other materials duly indexed and paginated which are relied upon by them in support of their respective cases along with their claim statements, reply, counterclaim as the case may be. The



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Compilation of Documents will be arranged in chronological order, indexed and paginated.

- c) A party shall also file along with their statement of claim, defence, reply and counterclaim/Set Off as the case may be, within 10 (ten) days of receipt of "Notice of Completion of Pleadings" from IIAC. Both parties shall file with IIAC a List titled "List of Disclosure", setting out all documents, records and materials with their dates along with a brief description thereof which are in that party's possession or which at material times were in that parties possession and which relate to the matters in issue or are necessary for determining the controversies arising in the arbitration. When a document, record or material has ceased to be in a party's possession, then the date and reason for loss of possession shall also be given.
- d) Arbitral Tribunal shall disallow production of documents or other materials if not disclosed before closure of evidence.

### **7. APPLICATIONS FOR DISCLOSURE OF DOCUMENTS AND INTERROGATORIES**

- (a) Applications for disclosure or production of any documents or materials or for administration of interrogatories on the opposite party shall be made at the earliest opportunity and before the time table of hearings is finalized.
- (b) A party intending to make an application shall be responsible for giving notice of intention to make such application and serve the application on the opposite party and the Secretariat, IIAC.
- (c) All applications shall be heard and disposed of by a reasoned order passed at the earliest, by the Arbitral Tribunal.

### **8. INSPECTION OF DOCUMENTS**

A party filing or disclosing any documents or materials shall, at time of furnishing copies to the opponent, fix and intimate an appointment for taking inspection of original documents and materials disclosed by that party. There shall be at least 5 (five) working days between the date of service of copies of the documents and materials on a party and the date/appointment fixed for giving of inspection. The opponents shall

carry and complete inspection of original documents and materials disclosed by the party within 5 (five) working days of commencing inspection.

**9. ADMISSION AND DENIAL OF DOCUMENTS**

The Arbitral Tribunal shall be entitled to determine the admissibility, relevance and evidentiary value of documents and materials filed by parties having regard to all the documents material and evidence placed by parties before the Arbitral Tribunal.

Any party desiring to dispute the execution or contents of a document or material produced by the opponent shall file its objections setting out what is disputed and reasons thereof. The objections will be heard and decided upon at the earliest.

**10. WITNESSES**

- (i) Parties shall be responsible to ensure that their witness remain present at the hearings fixed for their examination or cross-examination.
- (ii) Examination in Chief will be by way of an affidavit of evidence of the witness, made before a Notary Public, unless otherwise directed by the Arbitral Tribunal.
- (iii) All costs for production of a witness will be borne at the first instance by the party producing that witness and such costs may form part of an **order of costs** at time of making the Award.
- (v) A witness may be examined by a video link or any electronic communication with leave of the Arbitral Tribunal.
- (vi) If the witness remains absent/unavailable without reasonable cause the Arbitral Tribunal will be entitled to proceed with the hearing.

**11. NOTICES & COMMUNICATIONS**

- (i) No Party shall communicate directly with any member of the Arbitral Tribunal and the Arbitral Tribunal shall not communicate with any Party during the pendency of the arbitration proceedings.

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- (ii) Throughout the Arbitral proceedings all communications by parties to the Arbitral Tribunal shall be addressed to the Secretariat, IAC only, who shall in turn communicate with the Arbitral Tribunal.
- (iii) All communications between any Party and the Secretariat, IAC and in particular, communications intended to be communicated to the Arbitral Tribunal, shall be simultaneously endorsed/marked to the other Party.
- (iv) All communications shall be in writing in English language and may be delivered by hand delivery, registered post, courier or by e-mails or other electronic media.

### 12. LANGUAGE OF PLEADINGS AND PROCEEDINGS

All pleadings including claim statements, defence statements, affidavits, documentary evidence, contracts, correspondence, etc., must be submitted in the English language.

All proceedings (including oral hearings) will be conducted in English language unless otherwise agreed by the parties.

Whenever documentary evidence is submitted in a regional or foreign language, it must be accompanied by an officially certified English translation.

Where parties agree to permit use of a language other than the English language during oral hearings or for examination of a witness, then an Arbitral Tribunal will be entitled to order the use of services of a qualified translator and to make an order for bearing the costs of translator's services in such manner as they feel just and proper.

### 13. CODE OF CONDUCT OF PARTIES & THEIR REPRESENTATIVES

- (i) The parties have a duty to do all things necessary for adhering to the timetable for hearings and for the proper fair and expeditious conduct of the proceedings, including complying with **orders or directions** of the Arbitral Tribunal without delay.
- (ii) During the pendency of the arbitration proceedings, parties and their representative shall not, directly or indirectly, communicate with a person serving as an Arbitrator and shall endeavour to

## GENERAL RULES OF PROCEDURE AND GUIDELINES FOR ARBITRATORS AND PARTIES

maintain the dignity and distance maintained by Arbitrator from parties.

- (iii) Parties and their representatives shall not, directly or indirectly, discuss or attempt to discuss a case or any matter which is connected with or in issue in the arbitration proceedings with any serving Arbitrator.
- (iv) For a reasonable period after the publication of an Award, parties who have been appearing in arbitration proceedings should not, directly or indirectly, offer any appointment to any Arbitrator who constituted their Arbitral Tribunal or offer them opportunity to acquire interests in that parties business or enter into relationships with the Arbitrator in circumstances which may reasonably create the appearance that they had influenced the Arbitrator in their conduct or decision on the arbitration proceeding in expectation or anticipation of the appointment, interest or relationship.
- (v) Parties who indulge in unacceptable practices or in violation of these “General Rules of Procedure” and Guidelines or other Rules and procedures of IIAC may be ordered to pay costs or may also be refused participating in Arbitration or Mediation proceedings conducted by IIAC under its Procedures and Rules.

### 14. POWERS OF ARBITRATORS

- (i) An arbitrator may ask questions, call witnesses, and request for additional disclosure of documents or other evidence if he is satisfied that more information or evidence than what has been presented by the parties is required to decide the case.
- (ii) If either party to the dispute fails to comply with any procedural order of the Arbitral Tribunal, then the Arbitral Tribunal shall have power to order costs to be paid either as a condition precedent or otherwise or proceed with the arbitration and make an Award.

### 15. HEARINGS

- (i) All Arbitral Tribunal Meetings for directions and hearings shall be held at the premises of IIAC at IMC International ADR Centre (IIAC), IMC Building 3rd Floor, IMC Suresh Kotak International

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ADR Centre, IMC Marg, Churchgate, Mumbai 400 023, unless otherwise directed by IIAC.

- (ii) An Arbitral Tribunal may decide to undertake site inspection, if necessary.
- (iii) If the Arbitral Tribunal fixes a date, time and place of hearing other than in the premises of IIAC, reasonable notice of such hearings and venue shall be given to parties.
- (iv) All hearings, except meeting for preliminary orders, directions or hearings for interim relief and applications shall as far as possible, be full day hearings commencing from 10.00 am to 1.30 pm (morning sessions) and 2.30 pm to 5.30 pm in the afternoon.
- (v) Hearings shall as a rule be held from day-to-day basis.
- (vi) Where an Arbitral Tribunal does not hold full day hearings or day-to-day hearings it shall record reasons for not holding such hearings.
- (vii) Unless otherwise agreed between the parties in writing, the Arbitral Tribunal shall hold oral hearings.
- (viii) An Arbitral Tribunal may ask parties to submit written arguments in advance or after conclusion of oral arguments.
- (ix) All meetings and hearings shall be in private.
- (x) After the conclusion of evidence and hearing of arguments the Arbitral Tribunal shall in the presence of the parties, fix a date for pronouncement of the Award.
- (xi) When a party fails to appear after due notice, an Arbitrator will be entitled to proceed with the arbitration hearings. However, an Arbitrator should do so only after satisfying himself that the other party has been duly served with notice.

### 16. PARTIES CONDUCT DURING PROCEEDINGS

- (i) Parties appearing shall ensure that they and their representatives and witnesses remain present at the hearings venue at the appointed time.

**17. EXTENSIONS OF TIME & ADJOURNMENTS**

- (i) The parties have a duty to do all things necessary for adhering to the time table fixed by the Arbitral Tribunal and for the proper and expeditious conduct of the proceedings, including complying with all orders and directions.
- (ii) A party desirous of seeking any extension of time fixed for filing of any pleadings or documents or seeking an adjourning of a hearing shall apply in writing at least 10 (ten) working days prior to the date fixed for filing or hearing setting out the reasons why extension of time or adjournment is sought. The application will be accompanied with a payment of prescribed Fees & Charges (Non-refundable). Payment shall be made in the form as prescribed by IIAC.
- (iii) The Arbitral Tribunal may grant extension of time or adjournment for reasons to be recorded in writing and on such terms and conditions and costs or additional costs as it considers just and proper or may refuse extension/adjournment.

Provided, no request for adjournment shall be entertained 5 (five) working days before the scheduled hearing date, unless special circumstances or exceptional reasons are shown to exist or in cases of emergency. In such cases the Arbitral Tribunal may order payment of prescribed costs or additional costs or a percentage thereof or may for good reasons recorded in writing exempt the payment of costs.

- (iv) The Sole Arbitrator/Presiding Arbitrator of the Arbitral Tribunal shall ensure the prompt progress of the arbitration, by making orders.

**18. REPRESENTATIONS AT PERSONAL HEARINGS**

- a) Parties to a dispute may appear in person or may be represented by advocates or other representatives of their choice.
- b) Where a party to a dispute desires to be represented by an advocate or other representative of their choice, the party shall within 10 (ten) working days of appointment of the Arbitral Tribunal file an Authority Letter on its letterhead naming and

authorizing the name of the advocate or representative who will act for and on behalf of the party to the proceedings.

- c) The Authority Letter shall be in Format prescribed or as may be required and shall be signed by that party.
- d) Communications duly served on the representative of a party at the address given in the Format shall be deemed to have been duly served on the relevant party. Filing of the Authority Letter as aforesaid, all communications shall be carried out with the so appointed advocate/representatives as the case may be.

**19. ARBITRATION AWARDS**

- a) The Arbitral Tribunal shall have powers to pass Interim Awards on application of a party. The Arbitral Tribunal shall after hearing parties make an Interim Award if it considers it fit and just to do so. All Interim Awards shall give reasons.
- b) After conclusion of arguments the Arbitral Tribunal shall make and publish its Award.
- c) Unless the parties otherwise agree, or if the Award is by consent, the Award shall set out sufficient reasons to show why the Arbitral Tribunal has reached the decisions contained in it.
- d) The Presiding Arbitrator will be responsible for drafting the Award but may delegate this responsibility to a member of the Arbitral Tribunal.
- e) An Award shall state that the seat of the arbitration as being Mumbai, India, or such other place if the parties have agreed upon another place as being the seat of the arbitration.
- f) All Awards made under these Rules of Procedure will be deemed to have been made in India irrespective of where matters were decided, or where the Award was signed, or dispatched to or delivered to the parties in dispute.
- g) All Awards will be stamped by IIAC.
- h) The Award including Interim Award shall be in writing on IIAC's official form and shall be dated and signed by all members of the Arbitral Tribunal, that is all three Arbitrators where the Arbitral

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Tribunal comprises of three Arbitrators or the Sole Arbitrator as the case may be.

- i) An Award will become effective and binding after it is stamped and signed by all Arbitrators constituting the Arbitral Tribunal.
- j) After Award is stamped and signed by the Arbitral Tribunal IAC will notify all parties to the dispute of the making of the Award.
- k) A certified true copy of the Award will be released to all parties to the disputes only upon payment of the stamping fee and any outstanding Fees and Charges, costs and expenses.
- l) The Original Award will remain in the possession of the IAC and will be filed in any Court of law, if required, to do so by any party.
- m) Awards made by IAC Arbitral Tribunals may be published on the IAC website, however the names of parties and other materials which IAC considers are confidential in nature, shall be obliterated.

### **20. AWARD OF INTEREST**

The Arbitral Tribunal can award simple or compound interest from such dates and at such rates as the Arbitral Tribunal considers fit, to meet the ends of justice.

### **21. AWARD OF COSTS**

The Arbitral Tribunal shall have powers to order actual costs incurred by a party in appropriate cases at any stage as also when making an order for costs at time of making an Award.

### **22. POWER TO REMOVE DIFFICULTIES**

On an application made by any Arbitrator or party, IAC shall have powers to pass orders, or directions for conduct of proceedings or to clarify, supplement, interpret its rules with view to removing any difficulties or hardship and ensuring speedy and fair disposal and minimising costs in the conduct of any proceedings administered under any of its Rules.



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**23. AMENDMENTS**

These rules may be amended, varied or modified by IIAC.

**24. INTERPRETATION**

Any question arising as to interpretation of these *General Rules of Procedure & Guidelines* shall be determined by IIAC and its decision and interpretation will be final and binding.

**Schedule**  
**(Format of Authority Letter naming and authorizing  
representative to act for and on behalf of a Party to the Dispute)**

*(Rule 12 of "General Rules of Procedure and Guidelines to Arbitrators and  
Parties for Conduct of Proceedings, 2016")*

To,  
The Secretariat,  
IMC INTERNATIONAL ADR CENTRE ("IIAC")  
IMC Building, 3rd Floor,  
IMC Suresh Kotak International ADR Centre,  
IMC Marg, Churchgate,  
Mumbai-400 023.  
Maharashtra,  
INDIA.

Dear Sir/Madam,

**RE ARBITRATION No. :** \_\_\_\_\_

IN the Matter of Arbitration Proceedings between

\_\_\_\_\_ Claimants

And

\_\_\_\_\_ Respondents

WE the Claimants/ Respondents above named, having our address at:  
\_\_\_\_\_, and E-mail as follows: \_\_\_\_\_ Tel. No.: \_\_\_\_\_,  
appoint: \_\_\_\_\_ Advocate / (give other qualifications) to act,  
appear and plead on my behalf in the above Arbitration proceedings.

All Communications and service of pleadings, documents are to be made  
at the undermentioned address: \_\_\_\_\_, and  
E-mail address: \_\_\_\_\_, Tel. Nos.: \_\_\_\_\_ Mobile No: \_\_\_\_\_.

Dated \_\_\_\_ day of \_\_\_\_ 20\_\_

Signed

Claimants/Respondents



**NOTES**

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