

GUIDANCE NOTE FOR CONDUCTING ARBITRATION PROCEEDINGS BY VIDEO CONFERENCE

Given the situation caused by COVID-19 pandemic, physically conducting the arbitration proceedings in DIAC are not feasible. The High Court of Delhi, vide office order dated 29.05.2020 has ordered suspension of functioning of Delhi High Court till 14.06.2020. The Committee for Preparation of Graded Action Plan of the Delhi High Court, in its meeting held on 14.05.2020, directed DIAC to start taking up matters through video conference. The Arbitration Committee chaired by **Hon'ble Mr. Justice J.R. Midha**, in its meeting held on 30.05.2020, decided to implement the following measures with effect from 08.06.2020, till further orders:

1. Filing of Cases

- 1.1. The parties looking to initiate a fresh arbitration under DIAC Rules can avail e-filing facility of DIAC. The petition/application/documents be sent to DIAC through e-mail at diac-dhc@nic.in or delhiarbitrationcentre@gmail.com till e-filing facility is made operational.
- 1.2. In ongoing arbitrations, documents and applications be sent to the arbitrator by e-mail with copy to the opposite party and DIAC.

2. Conduct of Arbitration Proceedings

- 2.1. Availing the physical infrastructure of DIAC is not compulsory in the arbitrations governed by the DIAC Rules. Hence, the arbitrators can conduct hearings by the way of Video-Conference ("VC"). However, where the proceedings through VC may not seem feasible, the arbitrators are at the liberty to conduct proceedings in a restricted environment. A copy of the order passed by the arbitrators during such proceedings be sent to the DIAC through e-mail.
- 2.2. The deputy counsels of DIAC shall liaise with the arbitrators, lawyers and parties to facilitate a seamless conduct of hearings through VC by organising scheduled

meetings on Cisco Webex or any other similar platform decided by the parties. Cisco Webex platform as well as stenographers are limited and therefore, the same will be allocated subject to availability. However, the parties are free to make alternative arrangements on their own. The concerned deputy counsel shall participate in the proceedings.

2.3. The order shall be digitally signed by the arbitrator. Alternatively, a scanned copy of the original signed order shall be circulated by the arbitrator to the parties as well as DIAC through email.

3. Matters Listed for Final Arguments

3.1. The arbitrators shall consider directing both the parties to file brief note of submissions along with copies of relevant pages of the documents on record and the judgments on which they wish to rely with relevant portions duly highlighted along with **a video clip of the oral arguments** within the stipulated time. Both the parties shall thereafter file an additional note along with **a video clip of the additional oral arguments** to respond to the submissions of the opposite party. (The arbitrators shall fix the number of pages of the written submissions as well as the duration of the video clip after consulting both the parties. For example, in a simple matter, the arbitrator may direct both the parties to submit a video clip of arguments of 15 minutes and an additional video clip of arguments of 10 minutes to respond to the submissions of the opposite party). The arbitrators shall thereafter fix the case for hearing by VC. If both the parties do not wish to address arguments through VC and are satisfied with submission of the video clips along with written submissions, the arbitrator may dispense with hearings through VC. However, if the arbitrator has

some queries, he may direct the parties to make submissions by VC and/or file additional note and/or video clip on those aspects.

- 3.2. The submission of a video clip of arguments in advance by the parties will ease the hearing process as the arbitrators can see the video clip of oral arguments in advance before the VC hearing, which will cut down the duration of the VC hearing.
- 3.3. The litigants will also be benefitted from this exercise in as much as they will get uninterrupted audience without any obstruction.
- 3.4. This procedure shall ensure that the lawyers do not indulge in repetitive arguments and would, thus, save the substantial time of the arbitral tribunal.
- 3.5. The lawyers, who do not have VC facility, would not be prejudiced as they can send the video clip of their arguments from their mobile via email or Whatsapp which is simple and user friendly.
- 3.6. The video clip of the arguments will become part of the record and will help the arbitrator to deal with all the contentions raised.
- 3.7. The video clip of the arguments can also be seen by the Court at the time of hearing the objections to the award and will rule out the possibility of any party raising pleas contrary to the record.
- 3.8. This practice, if followed properly, will greatly improve quality of hearing and consequently, justice delivery system while also saving time of all concerned namely, arbitrators, lawyers and litigants.

4. Recording of Evidence

The arbitrators may consider recording of evidence through VC. However, the arbitrators shall obtain requisite consent/declaration from the parties. The witness

may either digitally sign the recorded evidence or circulate a scanned version of the signed recorded evidence.

5. Fast Track Arbitration

5.1. DIAC Rules provides for an expedited arbitration where the arbitrator can conduct the arbitration on the basis of documents without the oral evidence. In the current circumstances, arbitration on the basis of documents without oral evidence will facilitate expeditious adjudication as well as promote social distancing.

5.2. The arbitrators shall consider directing both the parties to file brief note of submissions along with copies of relevant pages of the documents on record and the judgments on which they wish to rely with relevant portions duly highlighted along with a video clip of the oral arguments within the stipulated time. Both the parties shall thereafter file an additional note along with a video clip of the additional oral arguments to respond to the submissions of the opposite party. The arbitrators shall thereafter fix the case for hearing by video conference. If the proceedings through VC are not feasible, the arbitrators shall consider conducting the proceedings in a restricted environment.

6. Addressing Queries of Arbitrators, Lawyers and Parties

DIAC shall endeavour to resolve the queries telephonically and/or by email.

DIAC shall authorise specific personnel(s) for this purpose.

7. Fee Calculation and Deposit of Fees

The fee calculation shall be done by DIAC and communicated by e-mail upon submission of the claim statement/counterclaim by the claimant/counter claimant.

However, considering the present situation, payment through cheques is temporarily suspended and therefore, for time being, only online remittances will be accepted.

The details of the bank account will be displayed on the DIAC website for the convenience of the parties. Acknowledgment of payment along with transaction details be sent by parties to DIAC by e-mail.

8. Issuance of Notices

Notices to the witnesses shall be issued by DIAC by e-mail as per direction of arbitrator.

9. Confidentiality and Privacy

It shall be the duty of all parties, lawyers, arbitrators and other stakeholders involved to keep the arbitral process and its contents completely confidential. If required, the arbitrators may bind all the parties and participants involved to a confidentiality undertaking which can be digitally signed by the concerned person(s).