

RECOMMENDED GOOD PRACTICE FOR THE CONDUCT OF MEDIATION PROCEEDINGS UNDER THE AIAC MEDIATION RULES 2018

INTRODUCTION

These are recommended guidelines, save where the recommendations made are specifically set out as procedural requirements under the AIAC Mediation Rules 2018. This serves as a guide to mediators appointed under the AIAC Mediation Rules 2018 towards the conduct of the mediation process. Essentially, this guide deals with the conduct of mediation process commencing from prior to the mediator’s appointment to the termination of the mediation process.

This guide shall in no way constitute nor be treated as an exhaustive, mandatory, or otherwise binding document between the AIAC, the Director of the AIAC (“Director”) and the mediator *inter se*. The AIAC and/or the Director shall not be liable for any reliance placed on this guide whether through any act and/or omission of any party or the mediator.

CONDUCT OF MEDIATION PROCESS

Mediations under the auspices of the AIAC are private and confidential. Participants to mediation are required to execute a written confidentiality undertaking. The conduct of the mediation is set out in Rule 10 of the AIAC Mediation Rules 2018. The mediator shall at all times bear in mind that information discussed by a party with the mediator is kept confidential and may only be referred to in any joint session or with other party upon clear consent by the disclosing party. The mediator is also strongly reminded that he/she shall at all times remain independent and impartial.¹

No.	Item	√
<i>Conflict Check / Acceptance and Confirmation of Appointment</i>		
1.	Conducting a conflict check upon being nominated as a mediator	
2.	Confirming availability and competence to serve as mediator in the proposed mediation within the timelines stipulated by the AIAC	
3.	Setting out any disclosures to the Declaration in the Letter of Acceptance	
4.	Initiating correspondence with the parties to discuss proposed terms of appointment, including any additional fees, and procedural timetable to govern the conduct of mediation proceedings	
5.	Confirming the collection of deposits with the AIAC before commencing the proceedings ²	
6.	Scheduling a Preliminary Conference ³	
<i>Preliminary Conference</i>		

¹ AIAC Mediation Rules 2018, Rule 6

² AIAC Mediation Rules 2018, Rule 18(7)

³ AIAC Mediation Rules 2018, Rule 11

No.	Item	√
7.	Executing a written undertaking and highlighting the key features of the process, such as the facilitative nature and confidentiality of the proceedings ⁴	
8.	Inviting suggestions from the parties on their availability and timetabling preferences for the conduct of the mediation process, such as time, date, venue, representatives, attendees, language of mediation, whether interpreters are required, etc.	
9.	Setting a timetable for written submissions and the presentation of any documents that the parties may wish to rely upon, if any	
10.	Taking note of the deadline of the mediation and enquiring if any extension of the deadline is required and confirming the same in writing once agreed by the Parties	
Communications with AIAC		
11.	Ensuring that correct subject line is used in all email and physical correspondence	
12.	AIAC Case Counsel and AIAC Mediation to be copied to all correspondence	
13.	Confirming the collection of all remaining deposits with the AIAC	
Settlement in the Mediation		
14.	In the event of a settlement, to enquire with the parties if the settlement terms are to be recorded as part of a Settlement Agreement or Partial Settlement Agreement, as the case may be, or as a Consent Award	
Termination of the Mediation		
15.	In the event of a failure to reach a settlement and/or the mediation has been terminated, to enquire with the parties if they wish to convert and refer the dispute arbitration for final resolution under the Med-Arb procedure ⁵	
16.	Informing the Director of the AIAC promptly and in writing, of the termination of the mediation or resignation of the mediator ⁶	
17.	Mediation may be terminated or suspended by the mediator where ⁷ : <ul style="list-style-type: none"> the party and/or their representatives are unable to participate meaningfully and reasonably in mediation; or continuation of the mediation process would cause significant hard to any party or a third party;⁸ and mediator/co-mediator determine that it is necessary to suspend or terminate the mediation or to resign 	
18.	Mediation shall be deemed terminated upon the following ⁹ : <ul style="list-style-type: none"> the signing by the parties of a joint written statement of termination or a written settlement agreement; 	

⁴ AIAC Mediation Rules 2018, Rule 13

⁵ AIAC Arbitration Rules 2018, Rule 15; AIAC Arbitration Rules 2021, Rule 42

⁶ AIAC Mediation Rules 2018, Rule 14(3)

⁷ AIAC Mediation Rules 2018, Rule 14(1) and (2)

⁸ Mediation Act 2012, Section 8

⁹ AIAC Mediation Rules 2018, Rule 14(4)

No.	Item	√
	<ul style="list-style-type: none"> • a written declaration of the mediator and/or co-mediator, after consultation with the parties to the effect that further attempts at mediation are no longer justified; • expiry of 3 months from the date when the mediator/co-mediator was appointed unless any of the parties requests the mediator and/or co-mediator to continue the mediation; and • by order of the Director of the AIAC in the event that any monies properly payable under Rule 18 are not paid as required by the AIAC Mediation Rules 2018 	

CONCLUSION

Please note that the abovementioned recommendations only serve as a guideline to the mediator appointed under the AIAC Mediation Rules 2018. These recommendations are not exhaustive and the mediator has full discretion to conduct the mediation process as he/she deems fit.