

ADR Resources

UNIFORM SELF-ADMINISTERED ARBITRATION RULES

UNIFORM SELF-ADMINISTERED MEDIATION PROCEDURE

A LINKEDIN COLLABORATIVE INITIATIVE

Foreword

Back in mid-2010, the [ADRResources LinkedIn Group](#) set out to engage in a collaborative initiative to draft a set of Rules and Procedures designed to be party-driven, without the need for formal institutional case administration.

Our challenge was to get to the essence of an autonomous, ad hoc, self-administered, multi-jurisdictional model valid to resolve both civil and commercial disputes, and designed to afford parties effective administrative power: decision-making power. The balance of party/neutral powers became a crucial matter to provide the greatest amount of party autonomy, while also shifting power to neutrals on concrete occasions to move the cases forward in keeping with the intent and vision of the parties to resolve their dispute.

Conceptually, the [Uniform Self-Administered Rules & Procedures](#) are designed for parties having a dispute, but no previous agreement regarding dispute resolution. Therefore, we worked from the premise that submitting parties want to resolve their dispute after a dispute has arisen, and that they can and are willing to appoint neutrals themselves, while at the same time providing the parties with full case management to the greatest extent possible and reasonable.

Not every single procedural aspect of binding and non-binding ADR alternatives is subject to specific regulation, as we also set out to streamline these Rules and Procedures, while providing a framework within which to effectively address special, party and case-specific circumstances.

There is no sponsorship, and there is no copyright. All it takes for these Rules and Procedures to help parties is for parties to want to help themselves. In return, these rules allow parties to self-manage and resolve their very own, very unique controversy.

Done online by the
LinkedIn ADR Community

WHAT IS ARBITRATION?

Arbitration is one of many ADR mechanisms through which two or more parties may obtain a final and binding resolution to their dispute by an expert and independent professional of their own choice.

For the arbitration process to be legally valid and ultimately binding, the parties must agree to using arbitration of their own free will and must signify their resolve to abide by and perform the award of the arbitrator.

MODEL SELF-ADMINISTERED ARBITRATION CLAUSE

Any dispute arising out of this contract, or the breach thereof, shall be settled by arbitration in accordance with the **Uniform Self-Administered Arbitration Rules**. The parties also agree to abide by and to perform the award or judgment of the arbitrator as the final decision respecting such dispute.

WHAT IS MEDIATION?

Mediation is a process through which two or more parties are afforded an opportunity to explore and to reach a negotiated solution to their conflict with the help of a third neutral and disinterested party, the mediator.

UNIFORM SELF-ADMINISTERED ARBITRATION RULES

Drafted by the LinkedIn ADR Community

In effect when parties agree to incorporate the Model Self-Administered Arbitration Clause into their contract

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**UNIFORM SELF-ADMINISTERED
MEDIATION PROCEDURE**

*Drafted by the LinkedIn ADR Community
In effect when parties Consent to Mediate*

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UNIFORM SELF-ADMINISTERED ARBITRATION RULES

Drafted by the LinkedIn ADR Community

In effect when parties agree to incorporate the Model Self-Administered Arbitration Clause into their contract

INITIATION OF PROCEEDINGS

Agreement of the parties

Article 1

- (i) Where the parties agree to arbitrate under these Rules, they expressly incorporate by reference all articles contained herein, except those that may be in conflict with any provision regarding applicable law as chosen expressly and by mutual agreement of the Parties. Should a conflict of law arise, then applicable law as chosen by the Parties shall prevail over the specific rule. All other rules shall remain in full effect.
- (ii) The parties may modify these Rules by mutual agreement and in writing.
- (iii) No agreement of the Parties regarding modification of these Rules shall be deemed to be binding or applicable except with the written consent of the Arbitrator(s).

Initiation of Arbitration

Article 2

- (i) Submitting Parties jointly moving to initiate an arbitration (hereinafter "Parties"), shall sign and mutually exchange a document (hereinafter "Submission Agreement"), expressly signifying their intention to submit their dispute to arbitration under these Rules.
- (ii) The Submission Agreement shall contain the names, addresses, and relevant contact information of the Parties, as well as a brief statement of the nature of their dispute and the relief sought.
- (iii) The date of completion and execution of the Submission Agreement shall constitute the date of commencement of arbitration.
- (iv) Unless otherwise provided by statute and/or applicable law, Parties having executed a Submission Agreement under these Rules shall request that any ongoing court action be temporarily stayed until such time as arbitration is concluded or terminated as established in these Rules.
- (v) If no court action is pending, Submitting Parties agree not to commence any court action until such time as arbitration is concluded or terminated as established in these Rules.

Appointment of arbitrator(s)

Article 3

- (i) Parties shall have sixty (60) days to nominate and to appoint Arbitrators from the date they sign and exchange their mutual Submission Agreement. Failure to nominate and to appoint an Arbitrator(s) within sixty days shall render the Submission Agreement to arbitrate under these Rules null and void.
- (ii) Parties are free to agree on the number of Arbitrators and their professional qualifications, and may seek whatever professional assistance they may deem appropriate to complete the Arbitrator nomination and appointment process.

- (iii) No appointment shall be deemed final and effective until the nominee formally accepts the assignment in writing.
- (iv) Parties shall have fifteen (15) days from the date all Arbitrators are appointed to ratify their appointment. Failure to ratify appointments in writing shall render the Submission Agreement to arbitrate under these Rules null and void.

THE ARBITRATOR(S)

Chair

Article 4

Arbitrators acting collegially under these Rules shall choose a Chairperson whose only assigned prerogative is to channel communications with the Parties as established in these Rules.

Communications

Article 5

- (i) Parties acting under these Rules may communicate directly with the Arbitrator(s) provided any such communication is transmitted simultaneously to all appointed Arbitrators. Voice-based communications between Parties and the Arbitrator(s) may only be initiated upon the Parties' mutual knowledge and consent.
- (ii) Arbitrators acting as a panel may not communicate directly with the parties, except with the consent of the majority.

Interpretation and application of the rules

Article 6

- (i) When Parties ratify Arbitrator(s) appointment(s), they authorize Arbitrators to interpret and to apply these Rules.
- (ii) Any article of these Rules may be amended upon the written request of the Parties having obtained the Arbitrator(s) consent.

Duty to disclose

Article 7

- (i) Arbitrators engaged under these Rules, whether party-appointed or otherwise, shall be impartial and independent.
- (ii) Arbitrators shall communicate to all Parties any circumstance that may affect his independence and impartiality. The obligation of the Arbitrator(s) to communicate any such circumstances shall last throughout the duration of the arbitral proceedings.
- (iii) An Arbitrator making a disclosure under 7(ii) hereinabove may communicate directly and unilaterally with the Parties, provided said communication is directed to the Parties simultaneously.

Challenge and replacement

Article 8

- (i) Any Party may challenge an Arbitrator when it deems that there exist justifiable doubts regarding the Arbitrator's independence or impartiality arising out of new circumstances known to either or both Parties after the date of ratification.
- (ii) Parties shall have twenty (20) days to decide whether to remove or reaffirm an appointed Arbitrator. Absent an agreement, the Arbitrator shall be disqualified.

- (iii) The removal of any Arbitrator shall not be deemed by any Party as an acceptance, express or implied, by the Arbitrator regarding the grounds for challenge.
- (iv) If an Arbitrator in a three person panel is unable to participate or fails to participate as ascertained by the Parties or the Arbitrators, the remaining Arbitrators shall determine whether to continue the proceedings, or to request that the Parties appoint another arbitrator. If the remaining Arbitrators do not agree, the Parties shall decide whether to continue the proceedings or to appoint another Arbitrator. Failure to agree shall serve to initiate the Arbitrator appointment process.
- (v) Any vacancy shall be filled in accordance with the procedures established in these Rules for the appointment of arbitrators.

THE HEARING

Hearing procedure

Article 9

- (i) The Arbitrator(s) shall conduct the proceeding in whatever manner they deem appropriate, but shall observe at all times the principles of due process of law regarding the equality of the Parties and their right to a fair hearing.
- (ii) The Arbitrators shall maintain the privacy of any hearings held before them, and they shall have discretionary power to require the presence or exclusion of any person at a hearing, except that of the Parties or their named representatives.
- (iii) The Arbitrators may require that witnesses testify under oath as required by law or requested by any Party.
- (iv) Unless applicable law provides to the contrary, the Arbitrators may:
 - a) conduct hearings in the absence of a Party that has been duly notified of the time and place of any hearing as determined by the Arbitrators;
 - b) rely, and render an award, on the evidence before them when a Party fails to produce any evidence requested by the Arbitrators. The foregoing notwithstanding, the Arbitrators shall not render an award solely on the default of any party, and they shall require of the complying Party any evidence that they may require for the making of an award.

Locale and language

Article 10

- (i) Locale as defined herein shall mean the place of meeting of the parties and Arbitrators attending an officially scheduled hearing. The Parties may specify the locale of hearing.
- (ii) The Parties may agree on their preferred language regarding the conduct of the arbitral proceedings.
- (iii) Notwithstanding section (i) and (ii) above, any disagreement between the Parties as to locale or language shall be settled by the Arbitrator(s).

Executive Conference

Article 11

- (i) Within thirty (30) days from the date when Parties ratify the appointment of the Arbitrator(s), an Executive Conference shall be scheduled between the Parties and the Arbitrator(s) where Parties shall:

- a) File their respective claims, counterclaims, and/or answering statements with the Arbitrator(s);
 - b) Request that the Arbitrator(s) adopt interim measures or any measure for the protection and conservation of property as established in Article 12 herein below;
 - c) Request that the Arbitrator(s) select dates and a place to hold hearings;
 - d) Advance any other request to the Arbitrator(s) as each Submitting Party deems appropriate.
- (ii) The Executive Conference may take place either in person, or through any other means as agreed to by the parties. Absent an agreement of the Parties, the Executive Conference shall take place in person at a place and time selected by the Arbitrator(s).

Injunctive and temporary equitable relief

Measures for the protection of property

Article 12

- (i) Any Party may request that the arbitrator adopt interim measures or any measure for the protection and conservation of property as it deems appropriate.
- (ii) Any Party requesting injunctive relief, whether affirmative or negative or interim measures for the protection of property may request that an interim award be made by the Arbitrators.
- (iii) The Arbitrators may, at the request of a Party, order the posting of a bond, or similar instrument, to be secured by the Party requesting any type of interim relief.
- (iv) The cost associated with the making of an interim award shall be borne by the Party having moved for the making of an interim award.
- (v) Any matter whatsoever which becomes the subject of an interim award shall be subject to final disposition by the Arbitrators in their final award.
- (vi) Where applicable law mandates that interim measures or measures of protection be adopted solely by the judicial authority of the place where the arbitration is to be held or an award is to be rendered, neither Party will deem an appearance before such judicial authority as a waiver of its right to arbitrate in accordance with their arbitration agreement.

Stay of arbitration

Article 13

Unless applicable law provides to the contrary, arbitration shall not be stayed solely on the filing of any motion to stay arbitration, but it will require receipt by the Parties and the Arbitrators of an order to stay from the court having jurisdiction thereof.

Evidence

Article 14

- (i) Parties may offer any evidence that they may deem relevant to the dispute, and shall produce such evidence as may be directed by the Arbitrators.
- (ii) The Arbitrators shall be the sole judges of the relevance of any evidence offered by the Parties.
- (iii) The Arbitrators may admit evidence of witnesses whether by declaration or affidavit. If such evidence is admitted into the record, the Arbitrators shall afford the Parties an opportunity to review, comment on or rebut its content.

Multiparty arbitration Consolidation of proceedings

Article 15

- (i) Multiparty arbitration as defined herein shall mean arbitration between Parties involved in separate judicial or arbitral proceedings. The Arbitrators shall have no authority to compel the consolidation of any ongoing proceeding. Consolidation shall only occur upon written consent of all Parties provided that they agree on a procedure for the appointment of the Arbitrators.
- (ii) If Parties agree to arbitrate before an established panel in an on-going matter, the Arbitrators shall act as if they had been newly appointed as of the official date of consolidation of proceedings, and they shall commence the hearing process anew.

Closing of hearings

Article 16

- (i) The Arbitrators shall ask the Parties if they have presented all evidence supporting their respective claims or defenses. If the Parties state that all evidence has been introduced, or the Arbitrators are satisfied on their sole judgment that the record is complete, then the Arbitrators shall declare the hearings closed and shall have forty five days to render their award.
- (ii) The Arbitrators may reopen the hearings on their own initiative to receive additional evidence, or upon application and consent of all Parties.
- (iii) If the hearings are reopened pursuant to section (ii) above, they shall be closed pursuant to section (i) of this article.

THE AWARD

Majority decision. Procedural rulings

Article 17

Except where applicable law provides otherwise, all decisions and the award must be rendered by a majority of the Arbitrators.

Time, form, scope and delivery of the award

Article 18

- (i) The award shall be rendered within the time limits agreed by the Parties or provided in these Rules.
- (ii) Awards granting monetary relief shall be in the currency designated in the contract unless the Parties agree otherwise.
- (iii) The Parties waive any right to demand punitive damages, or any variation thereof, unless the Arbitrators determine that such damages must be made a part of their decision for the award to be a valid enforceable instrument.
- (iv) The award shall be executed in the manner required by applicable law. At a minimum, the award shall be rendered in writing and it shall be signed by a majority of the Arbitrators. The award shall also contain the date and place where it is made.
- (v) The award shall contain the final disposition of any injunctive relief or measures of protection of property ruled upon by the Arbitrators.
- (vi) The Arbitrators shall allocate in their award, as they deem appropriate, all fees and expenses relating to the arbitration proceedings as established in these Rules or permitted by applicable law.

(vii) The award shall be made public only as provided by law or as required by both Parties in writing. Registration of the award with competent public authorities shall be performed by the Parties as mandated by applicable law.

(viii) The Parties shall receive one original award signed by the Arbitrators and shall accept its delivery via certified mail sent to the addresses designated in the Parties' Submission Agreement.

Award upon settlement

Article 19

The voluntary settlement of the dispute will terminate the arbitration proceedings. The Arbitrators may issue a consent award describing the terms of settlement, but the Arbitrators are not, under any circumstance, obliged to do so.

LIABILITY AND JUDICIAL PROCEEDINGS

Waiver of rules

Article 20

Any Party that fails to object in writing that a provision of any of these Rules, or requirements thereunder, has not been complied with, shall be deemed to have waived its right to object.

Exclusion of liability

Article 21

No Arbitrator shall be liable to any Party for any act or omission regarding an arbitration administered under these Rules except when damages to the Parties have been inflicted deliberately.

Court applications

Article 22

- (i) No judicial proceeding by any of the Parties relating to the subject matter of the arbitration shall be interpreted as a waiver of its right to arbitrate under the Parties' arbitration agreement.
- (ii) No Arbitrator shall be called upon to participate in any judicial proceeding regarding the arbitration or the entering of the award in any court having jurisdiction thereof. Where applicable law requires the above described intervention, the moving Party shall compensate any and all expenses that may derive therefrom.

UNIFORM SELF-ADMINISTERED MEDIATION PROCEDURE

Drafted by the LinkedIn ADR Community, 2010-2011

In effect when parties Consent to Mediate

Consent to Mediate

- (i) To initiate mediation in accordance with Uniform Self-Administered Mediation Procedure (hereinafter "Procedure"), Submitting Parties (hereinafter "Parties"), shall sign and mutually exchange a document (hereinafter "Consent to Mediate"), expressly signifying their intention to submit their dispute to mediation under this Procedure.
- (ii) Before consenting to mediate, the Parties shall ascertain if their dispute can be subject to mediation in accordance with applicable law.
- (iii) This Procedure shall constitute the basis of the Parties' Self-Administered mediation.
- (iv) The Parties may modify this Procedure by mutual agreement and in writing.
- (v) The parties shall notify the Mediator of any modification of this Procedure within seven (7) days of the Mediator's appointment pursuant to this Procedure.
- (vi) Upon expiration of the time limit set forth in (v) above, any modification as agreed to by the Parties shall apply, and the appointed Mediator shall be deemed to be bound by the new terms as agreed to by the Parties.

Nomination of Mediator

- (i) Parties shall have fifteen (15) days to nominate a Mediator from the date they sign and exchange their mutual Consent to Mediate agreement. Failure to nominate a Mediator within the aforesaid time limit shall render the Consent to Mediate under this Procedure null and void.
- (ii) Parties are free to nominate a Mediator, are free to agree regarding professional qualifications, and may seek whatever professional assistance they may deem appropriate to complete the Mediator nomination process.
- (iii) A Mediator having been nominated by the Parties shall acknowledge nomination in writing.

Appointment and Ratification of Mediator

- (i) Parties having nominated a Mediator shall schedule an initial session with the Mediator without delay, but in no event later than 30 days from the date of effective nomination as communicated by the Mediator to the Parties.
- (ii) Parties shall have fifteen (15) days from the date of conclusion of the initial session to formally appoint and ratify the Mediator appointment.
- (iii) The Mediator shall have five (5) days from the date Parties appoint and ratify appointment to accept the appointment in writing.
- (iv) Failure to comply with (i) and/or (ii) above shall render the Consent to Mediate agreement under this Procedure null and void, except if the Parties agree to commence the Mediator nomination and appointment procedure anew.

Initiation

- (i) Parties having nominated a Mediator shall schedule an initial session pursuant to Appointment and Ratification of Mediator (i) above.
- (ii) Parties mediating under this Procedure shall send to the Mediator a statement outlining the nature of the dispute before the date when the initial session is scheduled to be held.
- (iii) Mediators nominated under this Procedure shall explain to the Parties the nature of mediation as an alternative dispute resolution process, as well as the methodology the Mediator will employ.
- (iv) The Parties and the Mediator shall schedule additional sessions to be held when and if the Parties ratify the appointment of the Mediator and the Mediator formally accepts the engagement in writing.

Counsel and Attendance

- (i) Parties may be represented by counsel or by any other person of their choice.
- (ii) Parties shall attend scheduled mediation sessions themselves.
- (iii) Parties mediating under this Procedure agree to attend every scheduled session unless they agree otherwise, or the Mediator terminates Mediation.

Stenographic record

No session may be recorded by any means whatsoever except with the written consent of the parties.

Confidentiality

- (i) No Mediator shall voluntarily divulge to third parties the content of any joint or caucus discussions held with the Parties, nor divulge the content of any document provided by the Parties.
- (ii) Parties shall not call upon the Mediator to participate in any judicial or out-of-court proceeding regarding any aspect of the mediation conducted under this Procedure.
- (iii) A Party moving to compel Mediator testimony shall compensate any and all expenses that may derive therefrom incurred by the Mediator.
- (iv) Where applicable law, or a court having jurisdiction, requires that the Mediator divulge confidential information, the Mediator shall comply and the Parties shall hold the Mediator harmless.

Termination of proceedings

Mediation under this Procedure shall terminate when:

- a) The Parties mutually agree to terminate mediation in writing communicated jointly to the Mediator;
- b) When the Mediator, at his discretion, determines that further sessions are unlikely to resolve the dispute of the Parties.

Agreement of the Parties. Med/Arb

- (i) Mediation terminated as a result of the agreement of the Parties on some or all issues, and communicated to the Mediator in writing, shall not require that the Mediator sign the agreement of the Parties.
- (ii) Where permitted by applicable law, Mediators acting under this Procedure are free to arbitrate outstanding issues at the request of the Parties, but are under no obligation to do so.

Dispute resolution...

MODEL SELF-ADMINISTERED ARBITRATION CLAUSE

Any dispute arising out of this contract, or the breach thereof, shall be settled by arbitration in accordance with the **Uniform Self-Administered Arbitration Rules**. The parties also agree to abide by and to perform the award or judgment of the arbitrator as the final decision respecting such dispute.

These Rules and Procedures are subject to no Copyright