



CD DIRECT

MODEL

ADR CLAUSE

(for inclusion in a contract)



**CONFLICT
DYNAMICS**

TRAINING
& DISPUTE
RESOLUTION
SERVICES

This Specimen Clause is for guidance only. It should be adapted to the particular circumstances and legal requirements of the dispute to which it relates. Wherever possible any such Clause should be drafted/approved by each party's lawyer.

SPECIMEN MEDIATION AND ARBITRATION CLAUSE

1. In the event of any dispute arising out of or relating to this contract, or the breach, termination or invalidity thereof then any party may give written notice to the other party or parties to initiate the procedure set out below ("the Dispute Notice").
2. The parties shall first endeavour to settle the dispute by mediation:
3. The parties shall agree on a mediator within 5 (five) business days of the notice referred to in clause 1.
4. If for any reason the parties do not agree on a mediator within 5 (five) business days of the Dispute Notice or the mediator agreed upon by the parties cannot or does not accept an invitation to mediate and the parties have for any reason failed to agree on another mediator within 10 (ten) business days of the Dispute Notice then any party may ask the Director of [insert chosen agency] (the "Director") to appoint a mediator. The mediator shall be a Dispute Settlement Accreditation Council ("DiSAC") accredited mediator.
5. The parties shall agree on the mediation procedure and failing agreement within 5 (five) business days of the Dispute Notice or such longer period of time as may be agreed to in writing, then the mediation shall take place in accordance with the United Nations Commission on International Trade Law ("UNCITRAL") Model Conciliation Rules in force at the time of the dispute.
6. If for any reason, including lack of co-operation by the parties, a dispute is not settled by mediation within thirty (30) days of the Dispute Notice or such longer period of time as may be agreed to in writing, then the dispute shall be settled by arbitration.
7. The parties may agree on the arbitration procedure and, failing agreement within 5 (five) business days of the exhaustion of the period referred to in clause 6 or such longer period of time as may be agreed to in writing, then the arbitration shall take place in accordance with the UNCITRAL Arbitration Rules in force at the time of the dispute.

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8. The appointing authority in terms of the UNCITRAL Arbitration Rules shall be the [insert chosen agency]
 9. Unless agreed otherwise the mediation and the arbitration shall be administered by the parties.
 10. The number of mediators shall be one (1) and the number of arbitrators shall be one (1).
 11. The place of the mediation and the arbitration hearing shall be [South Africa].
 12. The governing substantive law of the contract shall be the law of [South Africa].
 13. The governing procedural law of the mediation and the arbitration shall be the law of [South Africa].
 14. Nothing in this clause shall preclude any party from seeking urgent interim relief from any Court of competent jurisdiction.