



## Mediation Procedure for the CPR-FTI-Legal Innovators Flat Fee Mediation Program

This procedure applies for disputes below US\$ 5 million at issue mediated under the CPR-FTI-Legal Innovators Flat Fee Mediation Program.

The dispute will be mediated pursuant to the [CPR Mediation Procedure](#) modified as follows:

### 1. Mediator Selection

The mediator shall be selected from those mediators on CPR's Panels of Distinguished Neutrals, who have expressed a willingness to participate in the flat fee program. The mediator will be directly appointed by CPR, after the parties have agreed upon a date, as follows:

- A. To streamline the appointment process and ensure the best neutral selection possible, the parties will complete an online form providing any desired mediator qualifications, as well as a list of entities to be checked for conflicts. CPR will use this information to identify a mediator to be nominated for the matter. Before advising the parties of the nominee, CPR will first request the mediator candidate to disclose all circumstances, reasonably known to the candidate, that may cause the mediator not to be perceived as impartial. In considering which past and present relationships with parties, counsel, or others should be disclosed, candidates will be asked to review and be guided by the Proposed Model Rule 4.5.3<sup>1</sup>, developed by the CPR-Georgetown Commission on Ethics & Standards in ADR.
- B. Once CPR determines that any disclosures do not prevent a mediator from being nominated, CPR shall nominate the mediator to the parties, and the parties shall have two business days to challenge the mediator candidate if they know of any circumstances giving rise to reasonable doubt regarding the candidate's impartiality.
- C. Absent any objection – or if any objection raised is overruled by CPR – the mediator candidate shall be appointed to mediate the dispute.

### 2. Confidentiality

Unless the parties agree otherwise, CPR, FTI Consulting and Legal Innovators shall treat any mediation proceeding, its very existence, as well as any document exchanged in relation to the mediation, as confidential, except in connection with judicial proceedings ancillary to the mediation and unless otherwise required by law or to protect a legal right of a party.

The parties also understand that no attorney-client or other fiduciary relationship is being entered into between them and CPR, FTI Consulting or Legal Innovators.

---

<sup>1</sup> See <https://www.cpradr.org/resource-center/protocols-guidelines/ethics-codes/model-rule-for-the-lawyer-as-third-party-neutral>



### **3. Mediator Compensation**

Any matter under the CPR-FTI-Legal Innovators Covid-19 Flat Fee Mediation Program will be mediated for a flat fee of US\$6,000 (split among the parties and paid in advance). This amount will entitle the user to one day of mediation (up to 10 hours, including preparation) along with an expert evaluation of the losses at issue in the matter by FTI as well as legal guidance for the mediator from Legal Innovators.

Should the mediation last longer than 10 hours, any additional hour of mediation will be billed separately by the mediator to the parties at the rate of \$350/hour. Any out-of-pocket expenses, such as room rental, will also be billed separately by the mediator.

**It is strongly advised that the parties and the mediator enter into a retention agreement. A model agreement is attached hereto as a Form**