



CPR

International Institute for
Conflict Prevention & Resolution

LESS CONFLICT. MORE PURPOSE.

Model Clauses: Submission Agreements

For Domestic Disputes

Updated November 2021

This publication is intended as a guide to using dispute management clauses in general and cannot cover every type of transaction or specific situation. Readers should take legal advice before applying the information covered in this publication to specific issues or transactions. CPR accepts no liability for any issue arising out of a dispute over the usage of these clauses.

ABOUT CPR

Established in 1977, CPR is an independent nonprofit organization that promotes the prevention and resolution of conflict to better enable purpose.

The **CPR Institute** drives a global prevention and dispute resolution culture through the thought leadership of its diverse member companies, leading mediators and arbitrators, law firms, individual practitioners, and academics. It convenes Committees to share best practices and develop innovative tools. It connects thought leaders through global, regional and smaller events. It publishes a monthly journal on related topics and advocates for expanding the capacity for dispute prevention and resolution globally through a variety of initiatives.

CPR Dispute Resolution provides leading edge dispute management services – mediation, arbitration, early neutral evaluation, dispute review boards and others -- as well as training and education. It is uniquely positioned to resolve disputes by leveraging the resources generated by the leaders who participate in the CPR Institute. It has deep experience in dispute management, a deep bench on its global Panel of Distinguished Neutrals, and deep expertise across a variety of subject areas.

ABOUT THIS GUIDE:

As the U.S. court system reopens to hear cases, backlogs due to the pandemic and prioritization of criminal cases have led to even longer wait times for litigation than before the pandemic. There are faster routes to resolution, and for 40 years, CPR Dispute Resolution has helped businesses identify and navigate the most appropriate route for them.

CPR Dispute Resolution offers alternative mechanisms to courts and litigation designed to be faster and more efficient, allowing both parties to return their focus to their businesses. Parties simply submit an agreement to CPR to initiate the case, an agreement known as a “submission agreement.”

This guide is designed to assist users in drafting a submission to alternative dispute resolution (“ADR”) to suit their needs - via mediation, arbitration, or both concurrently.

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I. MEDIATION CLAUSES

1. Submission to Mediation Clause

We hereby agree to submit to confidential mediation under the [CPR Mediation Procedure](#) the following controversy:

[Describe briefly]

2. Submission to Mediation with Streamlined Mediator Procedure

We hereby agree to submit to confidential mediation under the [CPR Mediation Procedure](#) [as modified by the [CPR Streamlined Mediator Selection Procedure](#)] the following controversy:

[Describe briefly]

II. ARBITRATION CLAUSES

1. Submission to Fast-Track Administered Arbitration

We, the undersigned parties, hereby agree to submit to arbitration in accordance with the International Institute for Conflict Prevention and Resolution (“CPR”) Rules for Administered Arbitration (the “Administered Rules”), as supplemented and modified by the CPR Fast Track Rules for Administered Arbitration (the “Rules”), the following dispute:

[Describe briefly]

We further agree that the above dispute shall be submitted to a [sole arbitrator] [three arbitrators]. [The arbitrator(s), and not the court, shall have primary responsibility to hear and determine challenges to the jurisdiction of the arbitrator(s). OR The court, and not the arbitrator(s), shall have primary responsibility to hear and determine challenges to the jurisdiction of the arbitrator(s).] Subject to any extension granted under Rule 4.5 of the Rules, the arbitration shall be conducted in accordance with a procedural timetable providing for the delivery of an award [within __days after the constitution of the Tribunal][as provided in the Rules].The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq., and judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. The place of the arbitration shall be (city, state).”

2. Submission to Administered Arbitration

We, the undersigned parties, hereby agree to submit to arbitration in accordance with the International Institute for Conflict Prevention and Resolution (“CPR”) [Rules for Administered Arbitration](#) (the “Administered Rules” or “Rules”) the following dispute:

[Describe briefly]

We further agree that the above dispute shall be submitted to (a sole arbitrator) (three arbitrators, of whom each party shall designate one, with the third arbitrator to be appointed by CPR) (three arbitrators, of whom each party shall designate one, with the third arbitrator to be designated by the two party-appointed arbitrators) (three arbitrators, of whom each party shall designate one in accordance with the screened appointment procedure provided in Rule 5.4) (three arbitrators, none of whom shall be designated by either party). [We further agree that we shall faithfully observe this agreement and the Administered Rules and that we shall abide by and perform any award rendered by the arbitrator(s).] [The arbitrator(s), and not the court, shall have primary responsibility to hear and determine challenges to the jurisdiction of the arbitrator(s). OR The court, and not the arbitrator(s), shall have primary responsibility to hear and determine challenges to the jurisdiction of the arbitrator(s).] The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq., and judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof. The place of arbitration shall be (city, state).

III. ADDITIONAL CLAUSES

1. Concurrent Mediation-Arbitration

Following the commencement of any arbitration, the parties shall endeavor to settle the dispute by confidential mediation under the [CPR Mediation Procedure](#) in effect on the date of this Agreement (the “CPR Mediation Procedure”) [as modified by the [CPR Streamlined Mediator Selection Procedure](#)]. [Unless otherwise agreed, the parties shall select a mediator from the CPR Panels of Distinguished Neutrals]. If a mediation has already been initiated prior to the commencement of the arbitration pursuant to a CPR Mediation Model Clause, and if all parties consent, the previously appointed mediator may serve as the mediator under this Concurrent Mediation-Arbitration Clause. The mediation initiated under this Clause will continue until a written settlement agreement is reached, an award is delivered to the parties, or the procedure is terminated by agreement of the parties. Notwithstanding the foregoing, any party may withdraw at any time after attending the first substantive mediation conference, as provided in paragraph 3(b) of the CPR Mediation Procedure. The mediation shall be conducted in accordance with the [CPR Protocol for Concurrent Mediation-Arbitration](#) (CMA) [currently in effect OR in effect on the date of this Agreement] (the “CMA Protocol”) and the CPR Mediation Procedure, to the extent that Procedure is not inconsistent with this Clause or the CMA Protocol. Any settlement reached in the course of the mediation and before an award is made, shall be referred to the Arbitral Tribunal and, if the parties so agree, may be reflected in a consent award under Rule 21.5 of the [CPR Rules for Administered Arbitration](#).

2. Appellate Option Model Clause

An appeal may be taken under the [CPR Arbitration Appeal Procedure](#) from any final award of an arbitral panel in any arbitration arising out of this dispute that is conducted in accordance with the requirements of such Appeal Procedure. Unless otherwise agreed by the parties and the appeal tribunal, the appeal shall be conducted at the place of the original arbitration.

3. Diversity Commitment Clause

For those parties who wish to further emphasize their commitment to a diverse panel, they may include the following text in their submission agreement:

The parties agree that however the arbitrators are designated or selected, at least one member of any tribunal of three arbitrators shall be a member of a diverse group, such as women, persons of color, members of the LGBTQ community, disabled persons, or as otherwise agreed to by the parties to this Agreement at any time prior to appointment of the tribunal. Where CPR is to nominate or select the arbitrators, CPR will convene the parties to discuss the selection. In the event the parties desire multiple qualifications, if CPR is unable to accommodate a qualification specified by the parties and diversity, CPR may use its discretion to nominate or appoint a diverse candidate or candidates to serve on the tribunal.