



**SETTLEMENT ENTERPRISE SOLUTIONS**  
**16 COURT STREET, SUITE 2506,**  
**BROOKLYN, NEW YORK 11241**  
**PHONE: (646) 475-3500**  
[WWW.NY-ADR.COM](http://WWW.NY-ADR.COM)

## NY-ADR Rules and Policies:

### 1. Application of Rules and Policies.

The following rules and policies set forth herein are NY-ADR's Rules and Policies governing non-binding Mediations and binding Arbitrations of disputes that are submitted to NY-ADR by the parties. The parties may enter into a written agreement to amend and modify these rules for the purpose of their case.

### 2. Privacy.

All documents and materials submitted by the parties to NY-ADR for consideration of their case shall remain private in all regards. All communications whether written, oral or electronic shall remain confidential and considered privileged in connection with ongoing settlement activities. All communications and testimony offered in the context of any hearing (Mediation and/or Arbitration) shall be inadmissible in any Court proceeding. The terms of any settlement agreement reached by the parties shall be kept strictly confidential unless otherwise agreed to by the parties, unless disclosure shall be required for purposes of enforcement of the settlement.

### 3. Exclusion of Liability (NY-ADR).

NY-ADR or its Officers, employees, representatives, Arbitrators and/or Mediators shall not be liable for any act or omission in connection with any proceeding, Arbitration or Mediation conducted under these Rules or any other rules agreed to by the parties. The parties waive any cause of action and or claim or other remedy against NY-ADR or its Officers, employees, representatives, Arbitrators and /or Mediators.

### 4. Fees.

The parties shall pay the fees set forth in the Fee Schedule at the time of the filing of the request to Arbitrate/Mediate. The parties agree and acknowledge that all fees shall be paid prior to the commencement of the proceedings.

### 5. Representation.

The parties may appear and act on their own behalf or may appear by counsel or an individual authorized to appear and/or act on their behalf.

### 6. Adjournments of Arbitration/Mediation.



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The Arbitrator/Mediator may in their discretion, postpone a scheduled hearing upon the request of a party. The Arbitrator/Mediator may grant an adjournment to allow the parties to submit written submissions in advance of the scheduled hearing.

7. Modification of Rules and Policies.

NY-ADR reserves the right to amend, modify and change these Rules and Policies at any time and without notice. Parties that have already entered into Arbitration/Mediation agreements will be bound by the NY-ADR Rules and Policies in effect at the time the matter was submitted for consideration, unless otherwise agreed to by the parties.

8. Commencement of Arbitration:

A. The parties may submit to NY-ADR a joint request to Arbitrate by email to the NY-Administrator or by regular mail at NY-ADR, 16 Court Street, Suite 2506, Brooklyn, NY 11241. The parties may utilize the NY-ADR Arbitration Request form. If the parties do not submit the NY-ADR Arbitration Request form, the parties must include:

- Name(s) of the Parties
- Address and Telephone number for each of the parties
- Brief description of the nature of the claim/action
- Relief/ remedy sought

B. If the request for Arbitration arises from a written contract/agreement that requires the parties to Arbitrate, the initiating party shall submit:

- Written Notice/Demand to Arbitrate (Demand must include all items listed under A. above)
- Demand to Arbitrate must be served on the respondent. Demand must include a provision that the failure to respond to said demand within thirty (30) days of Service may result in a default against the defaulting party. The Arbitrators in their sound discretion may extend the time limit to respond under this provision.
- A copy of the written contract/agreement that sets forth the obligation and requirement to Arbitrate.

C. The parties may request an Arbitration on Submission. The parties will be required to coordinate a submission schedule for all briefs in advance of a



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submission date. If no submission schedule is submitted or agreed to by the parties, an in-person arbitration shall be conducted.

9. Answer and Counterclaim(s).

- A. The respondent shall be required to submit a response to the Demand for Arbitration with the NY-ADR Administrator within thirty (30) days of service of the Demand. The response shall detail the basis for the defense(s) and cross claims that are being asserted by respondent. Respondent shall serve a copy of its response on the initiating party within thirty (30) days.
- B. Any party that receives a counterclaim or cross claim may serve a response to said claim within ten (10) days of service of the response.
- C. Should any party fail to respond to a Demand for Arbitration, counterclaim or cross claim, that party will be deemed to have denied all claims against it for purposes of the Arbitration. In addition, that party will have waived its right to assert other claims by its failure to have timely responded.
- D. The parties may stipulate to amend and/or modify the claims asserted. Upon good cause shown and the absence of prejudice to the other parties, the Arbitrator may grant an application to amend/modify the claim asserted.

10. Service of Documents.

- A. The parties shall submit a pre-hearing brief at least ten (10) days prior to the scheduled hearing date. The pre-hearing brief shall include:
  - Statement of Facts
  - Details of each claim(s) asserted
  - Detail all evidence that will be utilized including all in person witnesses.
- B. The parties shall submit a pre-hearing brief listing all documents and witnesses to be utilized during the hearing. Copies of all documents shall be included along with the brief.
- C. The parties shall submit briefs to the NY-ADR Administrator.
- D. Documents submitted pursuant to this section shall be served by any means other than facsimile. The parties may consent to service by email.

11. Communication between Parties and Arbitrator.

The parties shall not communicate directly with the Arbitrator until such time as they are authorized by the NY-ADR administrator. All communication between the parties and NY-ADR shall be with the NY-ADR Administrator and not directly



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with the Arbitrator. All scheduling and coordination shall be between the parties and the NY-ADR Administrator.

**12. Location of Arbitration.**

The NY-ADR Administrator along with the arbitrator shall designate the location of the Arbitration which may be at an NY-ADR office, Arbitrator's office or at a mutually agreed upon location determined in consultation with the parties. The Arbitrator may travel to any location necessary in order to conduct hearings and receive testimony and inspect property, goods or documents. The out of pocket cost for said travel shall be paid by the parties.

**13. Payments.**

Fees are due and payable at the time the Demand for Arbitration is filed and by respondent upon the filing of the Response to the Demand for Arbitration. All fees must be paid prior to the commencement of the hearing. Should additional Arbitrator time be necessary, the parties upon direction from NY-ADR shall an interim or final payment for costs associated with the Arbitration. Said payments shall be made to NY-ADR and not the Arbitrator. NY-ADR may direct the Arbitrator not to proceed with the hearing until all outstanding payments have been received by NY-ADR.

**14. Selection and appointment of Arbitrator(s)**

The parties may mutually agree on an Arbitrator from the NY-ADR Panel of Neutrals. If the parties cannot agree on an Arbitrator, then:

- If the claim is less than \$20,000, the NY-ADR Administrator may appoint an Arbitrator from the NY-ADR Panel of Neutrals
- If the claim is greater than \$20,000 NY-ADR shall forward a list of three (3) Arbitrators to the parties. Each party may remove one (1) of the names and rank the remaining two (2) Arbitrators.
- The NY-ADR Administrator shall then review the rankings and select the Arbitrator based on the rankings of the parties.

**15. Arbitration hearings.**

- A. The Arbitrator will act fairly and impartially and ensure that each party has a reasonable opportunity to present its case.
- B. The Arbitrator will be in full charge of the hearings, at which all the parties shall be entitled to be present.



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- C. The NY-ADR Administrator or the Arbitrator assigned shall set the date, time and location of the hearing and will provide the parties with notice of the designation. Upon approval of the Arbitrator, the parties may agree to a different location than the one set by the NY-ADR Administrator.
  - D. The Arbitration proceeding shall be conducted pursuant to these Rules and Policies. The Arbitrator has discretion to alter the procedures if appropriate and reasonable to do so.
  - E. The Arbitrator will be guided by the NY CPLR for questions of admissibility of evidence during the hearing.
  - F. Should a party default in appearing without a valid excuse, the Arbitrator may use their discretion and either adjourn the hearing or may choose to proceed notwithstanding the non-appearance of a party.
  - G. The Arbitrator may limit testimony or exclude witnesses or evidence that the Arbitrator considers immaterial or unduly repetitive.
  - H. The Arbitrator will consider witnesses' deposition testimony provided that the other party had the opportunity to attend the deposition and question the witness. The Arbitrator may consider witness affidavits, but will give that evidence only such weight as the Arbitrator deems appropriate.
  - I. The Arbitrator may require the parties to submit post-hearing briefs, and legal memorandum, prior to issuing a decision regarding the case.
  - J. The Arbitrator shall endeavor to complete the Arbitration decision within thirty (30) days of the completion of the hearing. This time frame may be extended at the request of the Arbitrator from the NY-ADR Administrator.
16. Arbitration Award.
- A. The Arbitration Award shall be in writing and will be binding on all parties.
  - B. The Award shall be signed by the Arbitrator and forwarded to all the parties by the NY-ADR Administrator.
  - C. Based upon the agreement of the parties, and the nature of the dispute, the Arbitrator shall be authorized to issue interim and partial awards.
  - D. The parties may seek a correction of the Arbitration award, if within fifteen (15) days of receipt of the award and on notice to all parties, a request is submitted seeking to correct any mathematical, clerical and/or typographical error.



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## Mediations.

1. Commencement of Mediation:
  - A. The parties may submit to NY-ADR a joint request to Mediate by email to the NY-Administrator or by regular mail at NY-ADR, 16 Court Street, Suite 2506, Brooklyn, NY 11241. The parties may utilize the NY-ADR Request form. If the parties do not submit the NY-ADR Request form, the parties must include:
    - Name(s) of the Parties
    - Address and Telephone number for each of the parties
    - Brief description of the nature of the claim/ action, defense(s)
  - B. There shall be one Mediator assigned unless otherwise requested and agreed to by the parties.
  - C. The parties may agree to a Mediator from the designated list of Mediators. If the parties are unable to agree, the NY-ADR Administrator shall select a mediator for the parties based on the submission requests of the parties.
2. Mediation statements.
  - A. The parties at least seven (7) days prior to the mediation shall submit a written brief detailing the nature of the claim(s) and defense(s) and the issues to be addressed by the Mediator. The brief shall include all factual and legal arguments. If the parties submit legal argument in their briefs, the party must also include copies of all cases cited.
3. Mediator's Role.
  - A. The Mediator shall work to assist and facilitate a resolution and settlement of the claim between the parties.
  - B. The Mediator shall act in an independent and impartial manner throughout the proceeding.
  - C. The Mediator may use any manner and method of assisting the parties as the Mediator sees fit so as to bring about an expeditious resolution to the claim.
  - D. The Mediator may communicate with the parties together or separately of the other so as to facilitate a settlement.
  - E. The Mediator shall coordinate with the parties in selecting a location for meetings of the parties.
4. Termination of Mediation



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- A. If the parties reach a settlement during a Mediation proceeding, the parties shall execute a binding stipulation setting forth the terms and obligations of the parties pursuant to said settlement.
  - B. At the close of the proceedings, the Mediator along with the parties shall issue a letter that no settlement was reached and the Mediation shall be terminated. The terms and discussions held during the Mediation shall remain confidential and solely for the purpose of settlement negotiations. The letter shall likewise be signed by all parties.
5. Fees.
- The parties shall be required to pay all fees associated with the Mediation in accordance with the fee schedule provided by the NY-ARD Administrator in advance of the mediation. The total cost of the mediation shall be shared by the parties to the mediation.