

# JAMS INTERNATIONAL MEDIATION RULES

*Effective August 1, 2011*

# **JAMS INTERNATIONAL MEDIATION RULES**

JAMS International and JAMS provide mediation and arbitration services from Resolution Centers located throughout Europe and the United States. Our mediators and arbitrators hear and resolve some of the most complex and contentious disputes. Our mediators and arbitrators come from the highest ranks of the legal profession. These highly trained and experienced ADR professionals are dedicated to the highest ethical standards of conduct.

## **JAMS INTERNATIONAL**

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## Application of Rules

1. These Rules apply to the mediation of disputes where the parties seek the settlement of such disputes and where, either by stipulation in a contract or by agreement, they have agreed that these Rules will apply. The parties may agree to vary these Rules at any time.

## Initiation of Mediation

2. Any party or parties to a dispute wishing to initiate mediation may do so by filing with JAMS International a submission to mediation or a written request for mediation pursuant to these Rules.

3. A party may request JAMS International to invite another party to participate in mediation. Upon receipt of such a request, JAMS International will contact the other party involved in the dispute and attempt to obtain an agreement to participate in mediation.

4. A request for mediation should contain a brief statement of the nature of the dispute. It shall also set forth the contact information of all parties to the dispute and the counsel, if any, who will represent them in the mediation.

## Appointment of the Mediator

5. Upon receipt of a request for mediation, and if the parties have not jointly notified JAMS International of their mutual choice of a mediator, JAMS International will provide the parties with a list of no fewer than five persons who would, in JAMS International's view, be qualified to mediate the dispute. In compiling the list, JAMS International will take into account the nationalities of the parties, the language in which the mediation will be conducted, the place of the mediation and any substantive expertise that may be required or helpful. Each party may strike up

to two names and will number the remaining names in the order of preference. In light of the parties' expressed preferences, JAMS International will appoint the mediator. Normally, a single mediator will be appointed, unless the parties agree otherwise. JAMS International may recommend co-mediators in appropriate cases.

## Disclosures and Replacement of a Mediator

6. Any mediator, whether selected jointly by the parties or appointed by JAMS International, will disclose both to JAMS International and to the parties whether he or she has any financial or personal interest in the outcome of the mediation or whether there exists any fact or circumstance reasonably likely to create a presumption of bias. Upon receiving any such information, after soliciting the views of the parties, JAMS International may replace the mediator, preferably from the lists of acceptable mediators previously returned by the parties.

## Representation

7. Any party may be represented by persons of the party's choice. Representation by counsel is not required. Parties other than natural persons are expected to have present throughout the mediation an officer, partner or other employee authorized to make decisions concerning the resolution of the dispute.

## Date, Time and Place of the Mediation

8. The mediator will fix the date and the time of each mediation session. The mediation will be held at a JAMS International office convenient to the parties or at such other place as the parties and the mediator agree.

## Conduct of the Mediation and Authority of the Mediator

9. The mediator may conduct the mediation in such a manner as he or she considers appropriate, taking into account the circumstances of the case, the wishes of the parties and the need for a speedy settlement of the dispute. The mediator does not have the authority to impose a settlement on the parties. The mediator is authorized to conduct both joint and separate meetings with the parties. If requested, the mediator may make oral or written recommendations concerning an appropriate resolution of the dispute.

## Privacy

10. Mediation sessions are private. Persons other than the parties and their representatives may attend only with the permission of the parties and with the consent of the mediator.

## Confidentiality

11. All information, records, reports or other documents received by a mediator while serving in that capacity will be confidential. The mediator will not be compelled to divulge such records or to testify or give evidence in regard to the mediation in any adversary proceeding or judicial forum. The parties will maintain the confidentiality of the mediation and will not rely upon or introduce as evidence in any arbitral, judicial or other proceeding:

(i) views expressed or suggestions or offers made by another party or the mediator in the course of the mediation proceedings;

(ii) admissions made by another party in the course of the mediation proceedings relating to the merits of the dispute; or

(iii) the fact that another party had or had not indicated a willingness to accept a proposal for settlement made by another party or by the mediator.

Facts, documents or other things otherwise admissible in evidence in any arbitral, judicial or other proceeding will not be rendered inadmissible by reason of their use in the mediation.

## Exclusion of Liability

12. Neither JAMS International nor any mediator will be liable to any party for any act or omission alleged in connection with any mediation conducted under these Rules.

## Interpretation and Application of the Rules

13. The mediator will interpret and apply these Rules insofar as they relate to the mediator's duties and responsibilities. All other procedures will be interpreted and applied by JAMS International.

## Administrative Fees

14. Unless otherwise agreed by the parties to the mediation, all of JAMS International's administrative fees and expenses, including, without limitation, the fees and expenses of the mediator, will be divided equally between or among the parties to the mediation.

## Role of Mediator in Other Proceedings

15. Unless all parties agree in writing, the mediator may not act as an arbitrator or as a representative of, or counsel to, a party in any arbitral or judicial proceedings relating to the dispute that was the subject of the mediation.

## Resort to Arbitral or Judicial Proceedings

16. The parties undertake not to initiate, during the mediation, any arbitral or judicial proceedings in respect of a dispute that is the subject of the mediation, except that a party may initiate arbitral or judicial proceedings when, in its opinion, such proceedings either are necessary to toll a limitations period, including a statute of limitations that may be applicable, or are necessary otherwise to preserve its rights in the event that the mediation is unsuccessful.

## Governing Law and Jurisdiction

17. The mediation shall be governed by, construed and take effect in accordance with the laws where the mediation takes place. The courts of the state where the mediation takes place have exclusive jurisdiction to settle any claim, dispute or matter of difference that may arise out of or in connection with the mediation.

## Termination of the Mediation

18. Any of the parties may withdraw from the mediation at any time and shall immediately inform the mediator and the other representatives in writing. The mediation will terminate when:

- (i) a party withdraws from the mediation;
- (ii) the mediator, at his/her discretion, withdraws from the mediation; or
- (iii) a written settlement agreement is concluded.

The mediator may also adjourn the mediation in order to allow parties to consider specific proposals, get

further information or for any other reason that the mediator considers helpful in furthering the mediation process. The mediation will then reconvene with the agreement of the parties.

## Settlement Agreements

19. Any settlement reached in the mediation will not be legally binding until it has been reduced to writing and signed by, or on behalf of, the parties.

**For more information or to set a case,  
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