



STANDARD RULES AND PROCEDURES

(Effective 9/18/19)

NAM (National Arbitration and Mediation)
990 Stewart Avenue, First Floor
Garden City, NY 11530
Phone: 1-800-358-2550
Fax: 516-794-8971
www.namadr.com

RULE NO. 1: APPLICATION OF RULES

All rules set forth herein are NAM's STANDARD RULES AND PROCEDURES ("NAM. R.P.") and shall govern non-binding Mediations and binding Arbitrations of disputes that are administered by NAM by the parties' mutual agreement to use these rules. These rules shall serve to secure the most expeditious, private and inexpensive determination of every case, whether in law or equity.

The parties are free, however, to enter into a written agreement, at any time, to amend or modify any of NAM's rules for their case.

RULE NO. 2: PRIVACY

All documents and materials submitted to or filed with NAM shall remain private and not subject to public scrutiny. By the parties' agreement (as further set forth in NAM. R.P.4), all communications, whether oral or written, and all testimony will remain confidential, and inadmissible in any other judicial or alternative dispute resolution proceeding, with the exception of an appeal if the parties mutually agree in writing to an appeal process. Such appeal would then be subject to NAM's Appellate Dispute Resolution Rules and Procedures.

RULE NO. 3: EXCLUSION OF LIABILITY

- A. Neither NAM, nor its Officers, Directors, employees, representatives, Arbitrators or Mediators shall be liable for any act or omission in connection with any Arbitration or Mediation conducted under these Rules or any other rules and procedures mutually agreed upon by the parties.
- B. Neither NAM, nor its Officers, Directors, employees, representatives, Arbitrators or Mediators is a necessary party in any further alternative dispute resolution or judicial proceeding and may not be called to testify at any subsequent proceeding.
- C. The parties agree not to make any claims against NAM for damage, loss or injury and hereby waive any cause of action or other remedy against NAM, its employees, Arbitrators/Mediators, agents, etc.

RULE NO. 4: INITIATION OF ACTION

- A. Parties initiate a case by submitting a jointly-executed submission form to NAM or by requesting NAM to invite another party to join in a submission to Arbitration or Mediation. The submission form will include: names, addresses and telephone numbers of each party to the case, internal filing numbers (for corporate parties), whether Mediation (settlement conference) or Arbitration is selected, the nature of the claims, and an agreement by the parties that:
 - i. settlement offers will not be admissible in any public adjudication;
 - ii. in the case of Mediations, that the Mediator will not be called as a witness in any subsequent litigation;
 - iii. in the case of Arbitrations, that the parties will be bound by the Arbitrator's decision (subject to any High/Low limitations agreed upon by the parties);
 - iv. that all communications made during any Arbitration or Mediation will be confidential and inadmissible in any other judicial or alternative resolution proceeding and will be not be disclosed in any other context, and;

- v. that parties will destroy all documents received from any other party during the Arbitration or Mediation (except for decisions and settlement agreements) within ten days of the action's resolution.

- B. Submission forms may be either mailed or telecopied to NAM.

- C. An action is officially commenced upon NAM's receipt of a completed and mutually executed submission form.

- D. After agreeing to the selection of a Hearing Officer or Officers, the parties will negotiate and submit to NAM a Mediation or Arbitration schedule, together with payment of each party's administrative fee.

- E. For Mediation, the parties' schedule will be limited to a series of three preferred conference dates. For Arbitrations, the parties will provide a completed NAM schedule containing: deadlines for limited discovery (if discovery is required and subject to NAM. R.P.11 and 12), parameters for maximum and minimum awards (if High/Low Arbitration is selected) and any advance amendments or modifications to NAM's RULES AND PROCEDURES.

- F. NAM will process Arbitration schedules in accordance with the availability of its Hearing Officers.

- G. Parties may mutually amend Arbitration schedules and/or schedule discovery conferences, where discovery issues arise in a case and need to be resolved by the presiding Hearing Officers.

RULE NO. 5: FILING AND TIME PERIODS

Within 24 hours of filing, and in accordance with NAM. R.P.13, the filing party shall send copies of all filed papers to all other appearing parties. As further described in NAM. R.P.2, all such papers shall remain private and confidential and not subject to examination by non-parties.

For purposes of NAM. R.P., "days" are defined as calendar days. That is, official holidays and non-business days are included in the calculation of the time period. However, if the last day of a time period is a holiday or non-business day, the time period shall expire on the next business day.

RULE NO. 6: NATURE OF HEARING OFFICERS

- A. In general, Arbitrations and Mediations are conducted by one Hearing Officer of the parties' choosing. For Arbitrations, the parties may elect to have additional Arbitrators to judge their dispute.

- B. Each Hearing Officer shall be independent and impartial.

- C. Each Hearing Officer shall be bound by NAM's RULES.

RULE NO. 7: LEGAL REPRESENTATION

Any party submitting to dispute resolution pursuant to NAM's RULES AND PROCEDURES may be represented by a member of any federal or state bar.

RULE NO. 8: NATURE OF MEDIATION PROCEEDING

Any Hearing Officer selected shall serve as a neutral Mediator for such conferences. Mediation sessions are scheduled for one or more hours and are only binding where an agreement is reached. Documentary evidence may be used by the parties and submitted to the Hearing Officer to facilitate negotiations.

RULE NO. 9: NATURE OF ARBITRATION PROCEEDING

Arbitration proceedings are binding. Parties have an opportunity to present their case in a manner similar to a non-jury trial in the public court system. Hearings are usually scheduled for one hour or more and allow for limited live testimony. The parties may elect to have an accelerated hearing which does not permit hearing live testimony by non-party witnesses. In general, accelerated hearings are concluded within a matter of hours.

RULE NO. 10: INTERIM ORDER

At the request of either party, the Arbitrator(s) may issue an Interim Order regarding the subject matter of the dispute. The Arbitrator(s) may exercise his/her discretionary powers and order the apportionment of costs associated with applications for Interim Orders.

RULE NO. 11: ARBITRATION PRE-HEARING PROCEDURE

- A. At the parties' request, the assigned Hearing Officer shall schedule a conference to facilitate and expedite the disposition of the action. Examples of matters which may be considered at such conferences are: the possibility of consensual admissions of fact; limitations for the number of witnesses; and scheduling of discovery.
- B. At least ten (10) days before the hearing date, the parties shall submit a pre-hearing memorandum including the following elements:
 - i. A statement of facts;
 - ii. a statement of each claim being asserted (including relevant statutes and case law); and
 - iii. a statement of the evidence to be presented, including live witness testimony (and the amount of time anticipated for such testimony).
- C. In the event the parties have agreed and stipulated to an Arbitration that is based on written submissions, a date will be agreed upon and assigned for the submission of all papers to NAM and all involved parties. The parties will then have seven (7) days to rebut any information in their adversary's submissions, which they will send to NAM and all involved parties. At the conclusion of the seventh day, NAM will forward all submissions and rebuttals to the agreed upon Hearing Officer.

RULE NO. 12: LIMITED DISCOVERY

NAM's Arbitrations do not entail comprehensive discovery. Unlimited discovery would be contrary to NAM's goal of efficient and economical resolutions. The parties shall have the right to take depositions and to request documents on an expedited and limited basis subject to the approval of the Hearing Officer.

RULE NO. 13: CONDUCT OF ARBITRATION HEARINGS

A. Hearing Officer's Powers

Assigned Hearing Officers shall have the following powers: to rule upon the admissibility of evidence; to accept as evidence deposition testimony; to require the submission of briefs; and to make rulings on motions.

B. Attendance

Except by the parties' agreement, only the parties and/or their attorneys, agents and/or witnesses shall be permitted to attend or participate in conferences or hearings.

C. Evidence

- i. Except as otherwise provided by this rule or agreed to by the parties, the Federal Rules of Evidence shall be followed at all hearings.
- ii. At least ten (10) days prior to the hearing, together with the pre-hearing memorandum, each party shall send to all other parties a list of documents to be submitted and witnesses to be presented at the time of the hearing, together with a copy of any listed document not previously provided. Any document not sent in accordance with NAM. R.P.5 or any witness not so identified, except those required in rebuttal to any claim or defense, may be excluded at the time of hearing.
- iii. Subject to the Hearing Officer's approval, and upon prior notice to other parties, the following original documents or copies of original documents shall be accepted into evidence: records maintained in the ordinary course of business; bills; written estimates of value, damage to, cost of repair of, or loss of property; and medical reports, statements, affidavits.
- iv. At least five (5) days prior to the hearing, any party may deliver to the party proposing the report, record or document, a written demand that a witness or custodian be produced in person to testify at the hearing concerning such item and be subject to cross-examination. If there is an objection to such demand, the assigned Hearing Officer shall be the final Arbitrator of that dispute.

RULE NO. 14: NON-PARTICIPATING OR DEFAULTING PARTIES

- A. If a matter is called for a hearing and a party fails to appear, the Hearing Officer has broad discretion to either conduct the Arbitration in that party's absence and render a decision, or to grant a continuance.
- B. The Hearing Officer shall not render a decision based solely on the failure of the defaulting party to comply in the above circumstances. The Hearing Officer shall require the submitting or attending party to present such evidence as the Hearing Officer deems necessary to render a decision.

RULE NO. 15: DISMISSAL OF CASE

Any action may be dismissed, without prejudice, before final adjudication, by filing a stipulation of dismissal signed by all parties.

RULE NO. 16: ARBITRATION DECISIONS

- A. All Arbitration decisions issued by NAM shall be in writing and signed by the Hearing Officer(s) issuing the same. The decision of the Hearing Officer(s) shall be final and binding (with limited exception per Rule No. 16 D below) and a judgment may be entered for its enforcement in a public court pursuant to the rules of the relevant jurisdiction for enforcement or arbitral decisions. No application shall be made to NAM or the Hearing Officer, absent all parties' consent, for reconsideration or review of an Arbitration decision, except regarding mathematical errors.
- B. Arbitration decisions shall be rendered within a reasonable time of the closing of the record and shall, providing all parties have paid all requisite fees to NAM, be promptly mailed to each party or their attorney.
- C. All Arbitration decisions, whether monetary, injunctive or declaratory, are subject to the rules of the relevant jurisdiction for enforcement of Arbitration decisions.
- D. If the parties mutually agree in writing to provide for an appeal process with respect to the arbitration, such appeal would then be subject to NAM's Appellate Dispute Resolution Rules and Procedures (available at www.namadr.com). For more information, please contact NAM at 800-358-2550 Appeals Department.