

CEDR's 2020 Rules respond to recent developments and allow further confidence in commercial mediation

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CEDR, Europe's largest independent ADR (Alternative Dispute Resolution) organisation, launched the 2020 updates of all of its rules and main model mediation documents at a special event at its headquarters in London.

CEDR routinely updates its free model mediation documents, as a part of its not-for-profit mission, to reflect best practice and the changing requirements for mediation. When updating the 2020 rules, CEDR used its knowledge of the thousands of disputes it handles annually for all ADR processes and in particular the 400 'major case' mediations where the average quantum of claim is well over £1 million.

As a result, CEDR's Model Documents and ADR Contract Clauses are the most influential and frequently used mediation clauses in the field, historically with a combined 20,000 downloads from the CEDR website each year.

This year, following the annual review of mediation cases and other developments, CEDR's Rules and Model documents were amended to address four main identified issues:

- ***A CEDR note on the Singapore Convention, following the signing ceremony in August 2019.***

The note recognises that the Convention is not yet ratified, but that there will be considerations for Lawyers working with cross-border contentious matters after ratification occurs. CEDR will send further updates on the impact of the Singapore Convention post-ratification.

- ***A holistic approach to the standards expected of mediators.***

A link has been made in CEDR's Code of Conduct for Third Party Neutrals to explicitly say that where the ADR process used is Commercial Mediation that CEDR's Model Mediation Procedure should apply. In addition to providing greater context as to what to expect of the Mediator this linking also provides further compliance with the European Union Code of Conduct for Mediators.

- **Ensuring best practice after the end of the Mediation.**

It has long been recognised that, on occasions when settlement does not occur on the day of the mediation, further negotiations as a continuation of the mediation can produce a settlement. On the very rare occasions that these settlements are challenged it is important to demonstrate how these negotiations are part of the mediation and therefore guidance has been added to the CEDR Model Mediation Procedure.

- **Triggering ADR Clauses.**

The *Ohpen Operations UK Ltd v Invesco Fund Managers Ltd* case last year [EWHC 2246 (TCC)] which referenced CEDR, was a reminder that Dispute Resolution Clauses are there to be used rather than ignored. CEDR's own ADR Notice is an ideally suited mechanism to trigger a clause between disputants, and therefore it's labelling has been updated.

All documents can be viewed in the Resources Section of the CEDR website –

<https://www.cedr.com/commercial/resources/modelcontractclauses/>

CEDR would like to thank the 2020 Drafting Committee who have helped in this review of the documents.

2020 CEDR Rules Drafting Committee:

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- Abigail Day, CEDR Mediator
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The CEDR Model Documents and Rules consist of:

- CEDR Model Mediation Procedure
- CEDR Model Mediation Agreement (also called agreement to mediate)



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- CEDR Model Settlement Agreement
- CEDR Model Tomlin Order
- CEDR Code of Conduct for Third Party Neutrals
- CEDR ADR Contract Clauses:
 1. Simple core mediation clause
 2. Simple core including time and notification
 3. Simple core including time, reference to court proceedings in parallel
 4. Simple core including time, reference to no court or arbitration proceedings until mediation terminated
 5. Multi-tiered process (step clause)
 6. International core mediation clause (available in 25 languages: Arabic, Armenian, Brazilian Portuguese, Chinese (Mandarin), Croatian Dutch, English, Finnish, French, Georgian, German, Greek, Indonesian, Italian, Japanese, Korean, Mongolian, Polish, Portuguese, Romanian, Russian, Spanish, Swedish, Thai and Turkish.)
- The CEDR ADR Notice

CEDR also provides Employment Mediation ADR Clauses and Model Procedure Documents for other ADR processes.

About CEDR

CEDR is Europe's largest independent Alternative Dispute Resolution service for both commercial and consumer disputes handling thousands of referrals a year. CEDR operates the Court of Appeal's Mediation Service and is certified by the Chartered Trading Standards Institute under the European Union Directive on Consumer Alternative Dispute Resolution. CEDR is a leading negotiation and conflict management trainer internationally in the field and its acclaimed Mediator Skills Training Accreditation has been awarded to over 7000 mediators in 70 countries. As a non-profit organisation with a public mission to innovate and develop conflict management and dispute resolution CEDR undertakes unique Foundation activities such as the national negotiation competition, guidance for public inquiries and rules for settlement in arbitration.

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