

Dispute Resolution Program

Plan



Rules

The Road to Resolution

1-800-947-7658

The Plan

1. Purpose and Construction

The Plan is designed to provide a program for the quick, fair, accessible, and inexpensive resolution of all Disputes, as defined hereafter, between the Company and the Company's present and former Employees and Applicants for employment, including but not limited to those Disputes related to or arising out of a current, former or potential employment relationship with the Company. The Plan is intended to create an exclusive procedural mechanism for the final resolution of all Disputes falling within its terms. It is not intended either to abridge or enlarge substantive rights available under applicable law.

The Plan contractually modifies the "at-will" employment relationship between the Company and its Employees, but only to the extent expressly stated in this Plan. The Plan should be interpreted in accordance with these purposes.

2. Definitions

- A. "AAA" means the American Arbitration Association.
- B. "JAMS," formerly known as Judicial Arbitration and Mediation Services; now known as JAMS.
- C. The "*Act*" means the Federal Arbitration Act, 9 U.S.C. § 1, et seq., as amended from time to time.
- D. "*Company*" means Sponsor and every subsidiary (first tier and downstream) of

Sponsor, every Parent Corporation, and any Electing Entity. In the case of an Electing Entity, “Company” shall include the Electing Entity only to the extent provided in the Electing Entity’s agreement to be bound by the Plan.

- E. “*Dispute*” means all legal and equitable claims, demands and controversies, of whatever nature or kind, whether in contract, tort, under statute or regulation, or some other law, between persons bound by the Plan or by an agreement to resolve Disputes under the Plan, or between a person bound by the Plan and a person or entity otherwise entitled to its benefits, including, but not limited to, any matters with respect to:
- i. This Plan;
 - ii. The employment or potential reemployment of an Employee, including but not limited to the terms, conditions, or termination of such employment with the Company;
 - iii. Employee benefits or incidents of employment with the Company;
 - iv. Any other matter related to or concerning the relationship between the Employee and the Company including, by way of example and without limitation, allegations of: discrimination or harassment based on age, veteran status or disability; wrongful discharge; worker’s compensation retaliation; defamation; infliction of emotional distress; failure to pay wages; or status, claim or membership with regard to

any employee benefit plan; except as provided in Section 3E;

- v. An Applicant's application for employment and the Company's actions and decisions regarding such application;
- vi. Any prior resolution or settlement of a Dispute between Parties subject to the Plan; and
- vii. Any personal injury or death.

"Dispute" includes all such matters regardless of when the events on which they are based occurred, including matters based on events occurring before the Employee became subject to this Plan (so long as such Disputes were not previously asserted in a judicial forum) or after termination of the employment relationship.

- F. "*Electing Entity*" means any legal entity or person who has agreed to be bound by the Plan, and may include any entity or person alleged to have joint and several liability concerning any Dispute or are a Party in any Dispute, such as clients, customers, contractors, and vendors, and all of their directors, officers, employees, and agents, every plan of benefits, whether or not tax-exempt, established or maintained by any such entity, the fiduciaries, agents, and employees of all such plans, and the successors and assigns of all such entities, plans, and persons.
- G. "*Employee*" means any person who is or has been in the employment of the Company on or after the effective date of this Plan, whether or not employed at the time a claim

is brought with respect to a Dispute, i.e., someone who is bound by the Plan.

- H. “*Applicant*” means any person who is seeking or has sought employment with the Company after the effective date of this Plan.
- I. “*Party*,” with respect to a particular Dispute, means affected persons and/or entities bound by this Plan.
- J. “*Plan*” means this KBR Dispute Resolution Plan, as amended from time to time.
- K. “*Rules*” means the KBR Dispute Resolution Rules, as amended from time to time, which are applicable to mediation and arbitration.
- L. “*Sponsor*” means KBR, Inc., a Delaware Corporation.

3. Name, Application, and Coverage

- A. The Plan shall be referred to as the “KBR Dispute Resolution Plan.” Alternatively, it may be referred to as the “KBR Dispute Resolution Program” or the “Dispute Resolution Program (DRP).”
- B. Until revoked by Sponsor pursuant to this Plan, this Plan applies to and binds the Company, each Employee and Applicant and the estate, heirs, beneficiaries and assigns of any such person or entity; provided, however, that this Plan shall not apply to any Employee in a unit of Employees represented by a labor organization, or to the Company with respect to such Employees, except to the extent permitted in an applicable collective bargaining agreement or otherwise lawfully

imposed by the Company when no collective bargaining agreement is in effect.

- C. This Program is intended to be for the benefit of the Company's clients, customers, contractors, and vendors, who are intended third-party beneficiaries of this Dispute Resolution Plan. The mandatory arbitration provisions of this Plan shall be applicable to all Disputes between Employees and the Company's clients, customers, contractors, and vendors, who shall have the right to enforce those provisions of the Plan.
- D. Except as provided for herein, this Plan applies to any Dispute.
- E. Notwithstanding anything to the contrary in this Plan, the Plan does not apply to claims for worker's compensation benefits or unemployment compensation benefits, or any claim for alleged whistleblower retaliation arising under 7 U.S.C. § 26 or 18 U.S.C. § 1514A. Nor does it apply to any claim under Title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention. This exclusion shall be interpreted with reference to the Department of Defense Appropriations Act, 2010, Pub. L. No. 111-118, § 8116.
- F. Mediation and arbitration are only available for Disputes involving legally protected rights.

- G. Notwithstanding any other provision hereof, to preserve the status quo or return the parties to their positions as they existed prior to any alleged improper conduct, any Party may seek temporary relief (including temporary restraining orders and preliminary injunctions) from a court of competent jurisdiction if the necessary legal and equitable requirements under applicable law are met.

4. Resolution of Disputes

- A. All Disputes not otherwise settled by the Parties shall be finally and conclusively resolved through arbitration under this Plan and these Rules, instead of through trial before a court. The Parties forgo any right either may have to a jury trial on claims relating in any way to any Dispute.
- B. (i) Each Dispute shall be arbitrated on an individual basis. Neither the Company nor any Employee or Applicant may pursue any Dispute on a class action, collective action or consolidated basis or in a representative capacity on behalf of other persons or entities who are claimed to be similarly situated, or participate as a class member or opt-in plaintiff in such a proceeding. The arbitrator in any proceeding under this Plan shall have no authority to conduct the matter as a consolidated, class, or collective action.
- (ii) It is the intent of the Parties that a court of competent jurisdiction (not an arbitrator) determines the enforceability of the above subsection B(i) concerning class, collective, and representative actions to the extent there is a challenge as to its enforceability.

If any portion of subsection B(i) is held unenforceable, such as, for example, the prohibition on the right to participate in a representative as opposed to class action, then the remainder of subsection B(i) will remain enforceable. If the procedural limitation in subparagraph B(i) of this section is held unenforceable in its entirety by a court in a proceeding in which a Party seeks to pursue a class or collective action or otherwise act in a representative capacity, then this Plan shall not apply with respect to that Action, which shall proceed instead before the court; provided, that if the court ultimately denies the Party's request to proceed on a class, collective, or representative basis, then the remaining individual claim(s) shall be subject to this Plan and referable to arbitration pursuant to the Plan's terms.

5. Confidentiality and Non-Retaliation

- A. The Dispute Resolution Program (DRP), its Administrator, any subordinate administrators, the staff of the DRP and any other person conducting conferences or serving as an impartial third party on behalf of the DRP in any in-house Dispute Resolution process conducted under the auspices of the DRP, will hold matters reported under the DRP and related communications in confidence, in keeping with the Standards of Practice and the Code of Ethics of the International Ombudsman Association. The Code of Ethics and the Standards of Practice of the International Ombudsman Association are incorporated into this Plan by reference and appended.

Any communications with the Plan Administrator, any subordinate administrators, any member of the staff of the DRP, or any person conducting conferences or serving as an impartial third party on behalf of the DRP in any in-house Dispute Resolution process conducted under the auspices of the DRP, are considered confidential and privileged, and only the DRP, rather than any individual disputant, may waive confidentiality. The DRP may only waive confidentiality under circumstances consistent with the Code of Ethics and Standards of Practice of the International Ombudsman Association. The Plan Administrator, any subordinate administrators, members of the staff of the DRP and persons conducting conferences or serving as an impartial third party on behalf of the DRP in any in-house Dispute Resolution process conducted under the auspices of the DRP cannot testify or be subpoenaed or called to testify in any internal or external investigation, administrative hearing, or arbitration or litigation proceeding with respect to any such confidential communications.

- B. No Employee shall be subject to any form of discipline or retaliation with respect to terms and conditions of employment for initiating or participating in good faith in any process or proceeding under this Plan.

6. Amendment

- A. This Plan may be amended by Sponsor at any time by giving at least 30 days' notice to current Employees. However, no amendment

shall apply to a Dispute which is accrued prior to the effective date of the amendment.

- B. Sponsor may amend the Rules at any time by giving at least 30 days' notice to current Employees and serving notice of the amendments on AAA and JAMS. However, no amendment of the Rules shall apply to a Dispute which is initiated prior to the effective date of the amendment.

7. Termination

This Plan may be terminated by Sponsor at any time by giving at least 30 days' notice of termination to current Employees. However, termination shall not apply to Disputes which have been initiated prior to the effective date of termination.

8. Applicable Law

- A. The Act shall apply to this Plan, the Rules, and any proceedings under the Plan or the Rules, including any actions to compel, enforce, vacate, or confirm proceedings, awards, orders of an arbitrator, or settlements under the Plan or the Rules. The applicability of the Act (i) shall not depend on a determination that the relationship between an Employee or Applicant and the Company involves commerce and (ii) shall not be affected by a determination that any exemption or exclusionary provision of the Act (including that concerning foreign or interstate transportation workers) applies to such relationship.
- B. The substantive legal rights, remedies, and defenses of all Parties are preserved. In the

case of arbitration, the arbitrator shall have the authority to determine the applicable law and to order any and all relief, legal or equitable, including punitive damages, which a Party could obtain from a court of competent jurisdiction on the basis of the claims made in the proceeding.

- C. The Plan shall not be construed to grant additional substantive, legal, or contractual rights, remedies, or defenses which would not be applied by a court of competent jurisdiction in the absence of the Plan unless expressly authorized by these provisions.
- D. Notwithstanding the provisions of the preceding subsection, in any proceeding before an arbitrator, the arbitrator, in his or her discretion, may allow a prevailing Employee or Applicant a reasonable attorney's fee as part of the award. The discretion to allow an award of fees under this subsection is in addition to any discretion, right or power which the arbitrator may have under applicable law. However, any award of fees shall be reduced by any amounts which have been or will be paid by the KBR Employee Legal Consultation Plan.

9. Administrative Proceedings & Reporting to Government Agencies

- A. This Plan shall apply to a Dispute pending before any local, state or federal administrative body or court unless prohibited by law. This Plan is not intended to limit any person's right to file an administrative complaint or charge with, or to participate in the investigation of an

administrative complaint or charge by, any governmental agency if giving this Plan such effect would be contrary to law (e.g., this Plan does not limit a person's right to file a charge with the Equal Employment Opportunity Commission or National Labor Relations Board). This Plan also does not apply to any unfair labor practice proceedings before the National Labor Relations Board or subordinate tribunals.

- B. Nothing in this Agreement prohibits Employee from reporting possible violations of federal law or regulation to any governmental agency or entity including, but not limited to, the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, or making other disclosures that are protected under the whistleblower provisions of federal law or regulation. Employee does not need the prior authorization of Employer to make any such reports or disclosures and Employee is not required to notify Employer or KBR that Employee has made such reports or disclosures.
- C. Participation in any administrative or judicial proceeding by the Company shall not affect the applicability of the Plan to any such Dispute during or upon termination of the administrative or judicial proceedings. A finding, recommendation or decision by an administrative body on the merits of a Dispute shall have the same legal weight or effect under the Plan as it would in a court of competent jurisdiction.

10. Exclusive Remedy

Proceedings under the Plan, including arbitration, shall be the exclusive, final, and binding method by which Disputes are resolved.

11. Effective Date

The original effective date of this Plan was June 15, 1993. Its effective date as amended shall be 30 days following notice of the most recent amendments to current Employees.

12. Severability

The terms of this Plan and the Rules are severable. The invalidity or unenforceability of any provision herein shall not affect the application of any other provision. Where possible, consistent with the purposes of the Plan, any otherwise invalid provision of the Plan or the Rules may be reformed and, as reformed, enforced.

13. Administration

Sponsor shall appoint one or more persons to administer the Plan who shall be known as the “Dispute Resolution Plan Administrator.” The Dispute Resolution Plan Administrator shall be responsible for the management and administration of the Plan.

14. Assent

Employment or continued employment after the Effective Date of this Plan constitutes consent by both the Employee and the Company to be bound by this Plan, both during the employment and after termination of employment. Submission of

an application, regardless of form, for employment constitutes consent by both the Applicant and the Company to be bound by this Plan.

The Rules

1. Definitions

All definitions included in the KBR Dispute Resolution Plan apply to these Rules.

2. Application

- A. If different Rules are applicable to a specific class of Disputes, and have been adopted by Sponsor and served on AAA or JAMS, these Rules shall not apply to such class of Disputes.
- B. These Rules apply in the form existing at the time proceedings are initiated under them.
- C. To the extent consistent with these Rules, the Federal Rules of Civil Procedure apply to all proceedings governed by these Rules, except that the arbitrator shall have the discretion to deviate from the Federal Rules on the arbitrator's own motion or the motion of any Party.

3. Initiation of the Process

- A. A Party may initiate proceedings under these Rules at any time, subject to any defenses including those applicable to the timeliness of the claim, including limitations (see Section 34 of these Rules) and laches.
- B. While either Party to a Dispute shall have the right to initiate arbitration proceedings, the Party seeking monetary or other affirmative relief shall have the obligation to do so for all purposes, including limitations (see Section 34 of these Rules) and laches.

- C. A Party may initiate proceedings by serving a written request to initiate proceedings on AAA or JAMS and tendering the appropriate filing fee.
- D. Copies of the request shall be served on all other Parties to the Dispute by AAA or JAMS. The request shall describe the nature of the Dispute, the amount involved, if any, the remedy sought, and the proceeding locale requested.
- E. Proceedings may also be initiated by an Employee or Applicant by serving a written request to initiate proceedings on the Company's Dispute Resolution Plan Administrator. In such a case, the Plan Administrator shall forward any properly served request it has received to AAA or JAMS.
- F. Parties against whom a claim is asserted shall file an answering statement within 21 days of receiving notice of intent to arbitrate or a specification of claims, which shall include any counterclaims.

4. Appointment of Arbitrator

Binding arbitration under the Plan shall be conducted before a single arbitrator, who shall be neutral. When providing arbitrator candidates at any time under this Rule, AAA or JAMS shall ensure that the arbitrators have been prescreened by the Case Manager for subject matter knowledge and conflicts of interest, and the Case Manager shall provide the Parties with a description of each arbitrator's background and experience. AAA or JAMS shall also ensure that the arbitrators reside in the geographic

region of the United States bearing the most significant relationship to the parties' Dispute. If the proper region is in dispute, AAA or JAMS shall make the final determination based on the location of the parties, the underlying events, and the location of the witnesses. Before making the determination, AAA or JAMS shall provide the Parties with notice and an opportunity to be heard. Immediately after payment of the \$50 filing fee, the Case Manager of AAA or JAMS shall simultaneously send the Parties a strike list of at least five arbitrator candidates selected in accordance with the above Rules. Within 10 calendar days of transmittal of the strike list, each Party may strike any names objected to, number the remaining names, if any, in order of preference, and return the list to the Case Manager. From the persons who have been approved by all Parties, and in accordance with the order of mutual preference, AAA or JAMS shall invite the arbitrator to serve. If all the arbitrators are struck by the Parties, the Case Manager shall provide each Party with a second list of at least five arbitrator candidates selected in accordance with the above Rules. Within 10 calendar days of transmittal of the second strike list, each Party may strike two names and shall rank the remaining candidates in order of preference. If there is more than one candidate remaining after the Parties strike, the candidate with the highest total ranking by the Parties will become the arbitrator. Any ties will be resolved in the favor of the non-Company Party. If a Party does not return the list within the time specified, all candidates shall be deemed acceptable to that Party, and the strike list of the other Party shall be utilized.

AAA and JAMS shall not unilaterally appoint an arbitrator in any Dispute unless exhaustion of all steps prescribed above fails to result in an arbitrator's appointment.

5. Qualifications of the Arbitrator

No person shall serve as an arbitrator unless he or she is a licensed attorney. No person shall serve as an arbitrator in any matter in which that person has any financial or personal interest. Prior to accepting appointment, the prospective arbitrator shall disclose any circumstance likely to prevent a prompt hearing or create a presumption of bias. If based on the disclosures made by the prospective arbitrator, either Party objects to the appointment of the arbitrator, the objecting Party must communicate the basis for the objection to AAA or JAMS and the opposing Party. The non-objecting Party may then submit a response. Thereafter, based on the comments submitted by both Parties, AAA or JAMS may disqualify that person, and its decision shall be conclusive.

6. Vacancies

If a vacancy occurs for any reason (including because of disqualification pursuant to Rule 5 above) or if an appointed arbitrator is unable to serve promptly, the appointment procedure in Section 4 shall apply to the selection of a substitute arbitrator.

7. Date, Time and Place of Hearings

- A. The arbitrator shall set the date, time, and place of any hearing.
- B. Notice of any hearing shall be given at least 10 calendar days in advance, unless the

arbitrator determines or the Parties agree that a shorter time is necessary.

- C. When determining the location of any hearing, the arbitrator shall select the location, if any, agreed upon by the parties. If the parties do not agree on a location, the arbitrator shall select the proposed location bearing the most substantial relationship to the Dispute.

8. Conferences

At the request of AAA or JAMS or of a Party or on the initiative of the arbitrator, the arbitrator or AAA or JAMS may notice and hold conferences for the discussion and determination of any matter which will expedite the proceeding, including:

- A. Venue
- B. Clarification of issues
- C. Determination of preliminary issues, including summary determination of dispositive legal issues
- D. Summary (i.e., pre-hearing) determination, upon written motion of either Party and after opportunity for response by the nonmoving Party, of legal issues that dispose of the entire Dispute or any aspect of the Dispute. The arbitrator shall have the same authority as a court under Rules 12 and 56 of the Federal Rules of Civil Procedure to receive and rule upon pre-hearing motions for dismissal or for summary judgment.
- E. Discovery

- F. Protective orders concerning confidential information belonging to either Party or any third party or the improper use of publicity to coerce or influence a particular outcome
- G. Interim legal or equitable relief authorized by applicable law
- H. Pre- or post-hearing memoranda
- I. Stipulations
- J. Any other matter of substance or procedure

9. Mode of Hearings and Conferences

In the discretion of the arbitrator or by agreement of the Parties, conferences and hearings may be conducted by telephone or by written submission, as well as in person.

10. Pre-Hearing Discovery and Motion Practice

- A. On any schedule determined by the arbitrator, each Party shall submit in advance, the names and addresses of the witnesses it intends to produce and any documents it intends to present.
- B. The arbitrator shall have discretion to determine the form, amount, and frequency of discovery by the Parties.
- C. Discovery may take any form permitted by the Federal Rules of Civil Procedure, as amended from time to time, subject to any restrictions imposed by the arbitrator.
- D. Motion practice in any form permitted by the Federal Rules of Civil Procedure, including but not limited to the filing of

dispositive motions under Rule 12 and/or Rule 56, is expressly allowed.

11. Representation

Any Party may be represented by a licensed attorney.

12. Attendance at Hearings

The arbitrator shall maintain the privacy of the proceedings to the extent permitted by law. The arbitrator shall otherwise have the power to exclude any witness, other than a Party or other essential person, during the testimony of any other witness. The arbitrator shall determine whether any other person may attend the proceeding.

13. Postponement

- A. The arbitrator, for good cause shown by a Party, or on agreement of the Parties, may postpone any proceeding or conference.
- B. The pendency of court proceedings related to the same matter is not good cause for postponement.

14. Oaths

Before proceeding with the first hearing, each arbitrator may take an oath of office and, if required by law, shall do so. The arbitrator may require witnesses to testify under oath administered by any duly qualified person and, if required by law or requested by any Party, shall do so.

15. Record of Proceedings

There shall be no stenographic, audio, or video record of the proceedings unless either requested by one of the Parties or specified by the arbitrator. The Party requesting the record shall bear the entire cost of producing the same, unless the arbitrator, in his/her discretion, based on financial condition, requirement of law, or other good cause, orders otherwise. Copies of the record shall be furnished to all other Parties upon request and upon payment of the cost of reproduction.

16. Procedure

The proceedings shall be conducted by the arbitrator in whatever order and manner will most expeditiously permit full presentation of the evidence and arguments of the Parties.

17. Arbitration in the Absence of a Party

The arbitrator may proceed in the absence of Parties or representatives who, after due notice, fail to be present or fail to obtain a postponement. An award shall not be made solely on the default of a Party. The arbitrator shall require any Party who is present to submit such evidence as the arbitrator may require for the making of an award.

18. Evidence

A. The arbitrator shall be the sole judge of the relevancy, materiality, and admissibility of evidence offered. Strict conformity to legal rules of evidence shall not be necessary. However, the arbitrator should be guided by the Federal Rules of Evidence.

- B. The arbitrator may subpoena witnesses or documents at the request of a Party or on the arbitrator's own initiative.
- C. The arbitrator may consider the evidence of witnesses by affidavit or declaration, but shall give it only such weight as the arbitrator deems appropriate after consideration of any objection made to its admission.

19. Post-Hearing Submissions

All documentary evidence to be considered by the arbitrator shall be filed at the hearing unless the arbitrator finds good cause to permit a post-hearing submission. All Parties shall be afforded an opportunity to examine and comment on any post-hearing evidence. The arbitrator shall permit the filing of post-hearing briefs at the request of a Party and shall determine the procedure and timing of such filings.

20. Closing and Reopening of Proceedings

- A. When the arbitrator is satisfied that the record is complete, including the submission of any post-hearing briefs or documents permitted by the arbitrator, the arbitrator shall declare the proceeding closed.
- B. The proceeding may be reopened on the arbitrator's initiative or upon application of a Party at any time before the award is made.

21. Waiver of Procedures

Any Party who fails to object in writing, after knowledge that any provision or requirements of these procedures and Rules have not been

complied with, shall be deemed to have waived the right to object.

22. Service of Notices and Papers

Any papers, notices, or process necessary or proper for the initiation or continuation of any proceeding under these Rules (including the award of the arbitrator, any court action in connection therewith, or the entry of judgment on an award made under these procedures) may be served on a Party by mail addressed to the Party or his or her representative at the last known address or by personal service. AAA, JAMS, the Parties, and the arbitrator may also use facsimile transmission, telegram, email, or other written forms of electronic communication to give any notices required by these Rules.

23. Communications with AAA, JAMS, and the Company

- A. Any Party may notice, serve, or communicate with AAA by contacting:

American Arbitration Association
Regional Administrator
Galleria North Tower 2
13727 Noel Road, Suite 700
Dallas, TX 75240-6636
(800) 426-8792 or (972) 702-8222
Fax: (855) 267-4082
Website: www.adr.org

- B. Any Party may notice, serve or communicate with JAMS by contacting:

JAMS
8401 North Central Expressway, Suite 610
Dallas, TX 75225
(800) 352-5267 or (214) 744-5267
Fax: (214) 720-6010
Website: www.jamsadr.com

- C. Any Party may notice, serve or communicate with the Company by contacting:

Dispute Resolution Program
Plan Administrator
KBR
601 Jefferson Street
Houston, TX 77002-7900
(800) 947-7658 or (713) 753-5383
Fax: (713) 753-3384

24. Communication with the Arbitrator

There shall be no communication between the Parties and the arbitrator other than at any oral hearings or conferences. Any other oral or written communications from the Parties to the arbitrator shall be directed to AAA or JAMS (and copied to the Parties) for transmission to the arbitrator, unless the Parties and the arbitrator agree otherwise.

25. Time of Award

The award shall be promptly made by the arbitrator, unless otherwise agreed by the Parties or specified by applicable law, no later than 30 calendar days from the date of the closing of the proceeding or, if applicable, the closing of a reopened proceeding.

26. Form of Award

The award shall be in writing and shall be signed by the arbitrator. The arbitrator shall write a reasoned award that shall include a brief statement of the essential findings of fact and conclusions of law on which the award is based. The award shall be executed in any manner required by applicable law.

27. Modification of Award

On order of a court of competent jurisdiction, or on agreement of the Parties, the arbitrator shall modify any award. The arbitrator may modify an award on the motion of a Party if the arbitrator finds that the award, as rendered, is ambiguous or defective in form, or if the award requires an illegal or impossible act or if the award contains one or more errors of law. Any motion to modify an award must be filed no later than 10 days after the date of the award. These are the only circumstances under which an arbitrator shall have jurisdiction to withdraw or modify an award.

28. Settlement

If the Parties settle their Dispute during the course of the arbitration, the arbitrator may set out the terms of the settlement in a consent award.

29. Scope of Arbitrator's Authority

The arbitrator's authority shall be limited to the resolution of legal Disputes between the Parties. As such, the arbitrator shall be bound by and shall apply applicable law including that related to the allocation of the burden of proof as

well as substantive law. The arbitrator shall not have the authority either to abridge or enlarge substantive rights available under applicable law. The arbitrator may also grant emergency or temporary relief which is or would be authorized by applicable law. The arbitrator shall be bound by and shall comply with the provisions of the Plan and Rules, including the provisions in Section 5A relating to the confidentiality of communications with the DRP, its administrators and staff, and impartial third parties.

30. Judicial Proceedings and Exclusion of Liability

- A. Neither AAA, JAMS, nor any arbitrator is a necessary Party in any judicial proceedings relating to proceedings under these Rules.
- B. Neither AAA, JAMS, nor any arbitrator shall be liable to any Party for any act or omission in connection with any proceedings within the scope of these Rules.
- C. Any court with jurisdiction over the Parties may compel a Party to proceed under these Rules at any place and may enforce any award made.
- D. Parties to these Rules shall be deemed to have consented that judgment upon the award of the arbitrator may be entered and enforced in any federal or state court having jurisdiction of the Parties.
- E. Any court with jurisdiction over the Parties may issue any temporary relief to preserve the status quo or return the parties to their positions as they existed prior to any alleged improper conduct (including temporary

restraining orders and preliminary injunctions) if the necessary legal and equitable requirements under applicable law are met pending the initiation of proceedings under these Rules.

31. Fees and Expenses

- A. The expenses of witnesses shall be borne by the Party producing such witnesses, except as otherwise provided by law or in the award of the arbitrator.
- B. All attorney's fees shall be borne by the Party incurring them except as otherwise provided by law, by the Plan, or in the award of the arbitrator.
- C. Discovery costs (e.g., court reporter fees for original transcripts) shall be borne by the Party initiating the discovery. The cost of copies of deposition transcripts or other discovery shall be borne by the Party ordering the copy.
- D. The fees and expenses of experts, consultants, and others retained or consulted by a Party shall be borne by the Party utilizing those services.
- E. The Employee or Applicant shall pay a \$50 filing fee if he or she initiates arbitration or mediation. If the demand for mediation or arbitration is initiated by the Company, the filing fee will be paid by the Company. In either event, and other than as set out in the other subparts of this section, Employee/ Applicant Parties shall not be responsible for payment of fees and expenses of proceedings under these Rules including required travel

of an arbitrator or a mediator or expenses of an arbitrator, mediator, AAA or JAMS.

- F. Except as otherwise provided by law or in the award of the arbitrator, all other expenses, fees and costs of proceedings under these Rules shall be borne equally by the Parties who are not Employees/Applicants.

32. Interpretation and Application of These Rules

The arbitrator shall interpret and apply these Rules insofar as they relate to the arbitrator's powers and duties. All other rules shall be interpreted and applied by AAA or JAMS.

33. Applicable Law

- A. Proceedings under these Rules and any judicial review of awards shall be governed by the Act.
- B. Except where otherwise expressly provided in these Rules, the substantive law applied shall be state or federal substantive law which would be applied by a United States District Court sitting at the place of the proceeding.

34. Limitations

- A. A Party must initiate proceedings under these Rules within one year after the event which gives rise to the Dispute or the time allowed by applicable law for the filing of a judicial complaint, whichever is longer. Failure to do so will bar the claim.
- B. In the event a Party initiates judicial proceedings rather than proceeding under these Rules and thereafter is ordered by

the court or the Parties agree to submit the Dispute to arbitration under the Plan, the Party must initiate proceedings under these Rules within 90 days of entry of the court's order or the disposition of any immediate appeal of such order, or within the time allowed by applicable law for the filing of a complaint in a court of competent jurisdiction based on the event which gives rise to the Dispute, whichever is longer. Failure to do so will bar the claim. Provided, however, that any claim that was time-barred when the judicial proceeding was commenced cannot be revived by a subsequent demand for arbitration, regardless of whether the demand was timely made.

35. Mediation

At any time before the proceeding is closed, the Parties may agree to mediate their Dispute by notifying AAA or JAMS. The parties may agree to mediation procedures, or in the absence of such agreement, AAA or JAMS shall determine what procedures apply to any such mediation.

Appendix

International Ombudsman Association (IOA) Code of Ethics

Preamble

The IOA is dedicated to excellence in the practice of Ombudsman work. The IOA Code of Ethics provides a common set of professional, ethical principles to which members adhere in their organizational Ombudsman practice.

Based on the traditions and values of Ombudsman practice, the Code of Ethics reflects a commitment to promote ethical conduct in the performance of the Ombudsman role and to maintain the integrity of the Ombudsman profession.

The Ombudsman shall be truthful and act with integrity, shall foster respect for all members of the organization he or she serves, and shall promote procedural fairness in the content and administration of those organizations' practices, processes, and policies.

Ethical Principles

Independence

The Ombudsman is independent in structure, function, and appearance to the highest degree possible within the organization.

Neutrality and Impartiality

The Ombudsman, as a designated neutral, remains unaligned and impartial. The Ombudsman does not

engage in any situation which could create a conflict of interest.

Confidentiality

The Ombudsman holds all communications with those seeking assistance in strict confidence and does not disclose confidential communications unless given permission to do so. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm.

Informality

The Ombudsman, as an informal resource, does not participate in any formal adjudicative or administrative procedure related to concerns brought to his/her attention.

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IOA Standards of Practice

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Preamble

The IOA Standards of Practice are based upon and derived from the ethical principles stated in the IOA Code of Ethics. Each Ombudsman office should have an organizational Charter or Terms of Reference, approved by senior management, articulating the principles of the Ombudsman function in that organization and their consistency with the IOA Standards of Practice.

Standards of Practice

1. Independence

- 1.1 The Ombudsman Office and the Ombudsman are independent from other organizational entities.
- 1.2 The Ombudsman holds no other position within the organization which might compromise independence.
- 1.3 The Ombudsman exercises sole discretion over whether or how to act regarding an individual's concern, a trend or concerns of multiple individuals over time. The Ombudsman may also initiate action on a concern identified through the Ombudsman's direct observation.
- 1.4 The Ombudsman has access to all information and all individuals in the organization, as permitted by law.
- 1.5 The Ombudsman has authority to select Ombudsman Office staff and manage Ombudsman Office budget and operations.

2. Neutrality and Impartiality

- 2.1 The Ombudsman is neutral, impartial, and unaligned.
- 2.2 The Ombudsman strives for impartiality, fairness and objectivity in the treatment of people and the consideration of issues. The Ombudsman advocates for fair and equitably administered processes and does not advocate on behalf of any individual within the organization.

- 2.3 The Ombudsman is a designated neutral reporting to the highest possible level of the organization and operating independent of ordinary line and staff structures. The Ombudsman should not report to nor be structurally affiliated with any compliance function of the organization.
- 2.4 The Ombudsman serves in no additional role within the organization which would compromise the Ombudsman's neutrality. The Ombudsman should not be aligned with any formal or informal associations within the organization in a way that might create actual or perceived conflicts of interest for the Ombudsman. The Ombudsman should have no personal interest or stake in, and incur no gain or loss from, the outcome of an issue.
- 2.5 The Ombudsman has a responsibility to consider the legitimate concerns and interests of all individuals affected by the matter under consideration.
- 2.6 The Ombudsman helps develop a range of responsible options to resolve problems and facilitate discussion to identify the best options.

3. Confidentiality

- 3.1 The Ombudsman holds all communications with those seeking assistance in strict confidence and takes all reasonable steps to safeguard confidentiality, including the following:

The Ombudsman does not reveal, and must not be required to reveal, the identity of any individual contacting the Ombudsman

Office, nor does the Ombudsman reveal information provided in confidence that could lead to the identification of any individual contacting the Ombudsman Office, without that individual's express permission, given in the course of informal discussions with the Ombudsman; and

The Ombudsman takes specific action related to an individual's issue only with the individual's express permission and only to the extent permitted, and even then at the sole discretion of the Ombudsman, unless such action can be taken in a way that safeguards the identity of the individual contacting the Ombudsman Office. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm, and where there is no other reasonable option. Whether this risk exists is a determination to be made by the Ombudsman.

- 3.2 Communications between the Ombudsman and others (made while the Ombudsman is serving in that capacity) are considered privileged. The privilege belongs to the Ombudsman and the Ombudsman Office, rather than to any party to an issue. Others cannot waive this privilege.
- 3.3 The Ombudsman does not testify in any formal process inside the organization and resists testifying in any formal process outside of the organization regarding a visitor's contact with the Ombudsman or confidential information communicated to the Ombudsman, even if given permission or requested to do so. The Ombudsman may, however, provide general, non-confidential

information about the Ombudsman Office or the Ombudsman profession.

- 3.4 If the Ombudsman pursues an issue systemically (e.g., provides feedback on trends, issues, policies and practices) the Ombudsman does so in a way that safeguards the identity of individuals.
- 3.5 The Ombudsman keeps no records containing identifying information on behalf of the organization.
- 3.6 The Ombudsman maintains information (e.g., notes, phone messages, appointment calendars) in a secure location and manner, protected from inspection by others (including management) and has a consistent and standard practice for the destruction of such information.
- 3.7 The Ombudsman prepares any data and/or reports in a manner that protects confidentiality.
- 3.8 Communications made to the Ombudsman are not notice to the organization. The Ombudsman neither acts as agent for, nor accepts notice on behalf of, the organization and shall not serve in a position or role that is designated by the organization as a place to receive notice on behalf of the organization. However, the Ombudsman may refer individuals to the appropriate place where formal notice can be made.

4. Informality and Other Standards

- 4.1 The Ombudsman functions on an informal basis by such means as: listening, providing and receiving information, identifying and

reframing issues, developing a range of responsible options, and – with permission and at Ombudsman discretion – engaging in informal third-party intervention.

When possible, the Ombudsman helps people develop new ways to solve problems themselves.

- 4.2 The Ombudsman as an informal and off-the-record resource pursues resolution of concerns and looks into procedural irregularities and/or broader systemic problems when appropriate.
- 4.3 The Ombudsman does not make binding decisions, mandate policies, or formally adjudicate issues for the organization.
- 4.4 The Ombudsman supplements, but does not replace, any formal channels. Use of the Ombudsman Office is voluntary, and is not a required step in any grievance process or organizational policy.
- 4.5 The Ombudsman does not participate in any formal investigative or adjudicative procedures. Formal investigations should be conducted by others. When a formal investigation is requested, the Ombudsman refers individuals to the appropriate offices or individual.
- 4.6 The Ombudsman identifies trends, issues, and concerns about policies and procedures, including potential future issues and concerns, without breaching confidentiality or anonymity and provides recommendations for responsibly addressing them.
- 4.7 The Ombudsman acts in accordance with the IOA Code of Ethics and Standards of

Practice, keeps professionally current by pursuing continuing education, and provides opportunities for staff to pursue professional training.

- 4.8 The Ombudsman endeavors to be worthy of the trust placed in the Ombudsman Office.

Dispute Resolution Program

Plan



Rules

1-800-947-7658

