



Alternative Dispute Resolution System

ADR UBUNTU

WEBSITE

TERMS AND CONDITIONS

5 January 2024

ADR UBUNTU/WEBSITE TERMS AND CONDITIONS /1/2024

INTRODUCTION

1. These terms and conditions govern your use of this Website. By using this Website, you accept these terms and conditions in full. If for whatever reason you disagree with and of these terms and conditions you must not use this Website.
2. This Website has been developed to facilitate and ensure that everyone in South Africa has access to the benefits and advantages mediation offers when it comes to settling disputes (“disputes”) without having to litigate or adjudicate through the Courts.
3. By using this Website, you agree that the exclusions and limitations of liability set out in this Website disclaimer are reasonable. Once again If you do not think they are reasonable, you must not use this Website.
4. These Terms and Conditions are binding and enforceable against every person that accesses or uses this Website.
5. By using the Website and by clicking on the “**REGISTER NOW**” button on the Website, as may be applicable, you acknowledge that you have read and agree to be bound by these Terms and Conditions.

REGISTRATION PROCESS

6. Upon completion of the registration process the user shall then receive an email confirmation and must follow the directions provided. Once the process has been finalized the user shall be positioned to access his own profile to file a dispute and/or respond to a dispute lodged.
7. Only registered users may use this Website. All profile registrations are at no cost to the user.
8. Once registered as a user you will be requested to select your own unique username and password.
9. You will use this username and password to log into your profile on the Website.
10. You agree that your username and password shall be used for personal use only and not be disclosed by you to any third party.
11. You agree to notify the Website Administrator immediately when becoming aware of or reasonably suspecting any unauthorised access to or use of your username and password and to take reasonable steps to mitigate any resultant loss or harm resulting from the unauthorised access.
12. You agree that you will not in any way use any device, software or other instrument to interfere or attempt to interfere with the proper working of the Website.
13. You must not use this Website in any way that causes, or may cause, damage to the Website or impairment of the availability or accessibility of the in any way which is unlawful, illegal, fraudulent or harmful, or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

14. You agree that you are 18 years and older and have the necessary permission and/or authorization to register as a user in your personal capacity and/or on behalf of an entity you are representing.

INITIATE A DISPUTE

15. The Applicant initiating a dispute shall log into their profile and click on the **CREATE NEW DISPUTE** button provided. Creating a dispute is free of any costs.
16. Once clicked on the Applicant shall then follow the instructions and provide the information requested.
17. The information requested will relate to (a) the details of the person and/or entity you are registering the dispute against (the "Respondent"), (b) the description of the dispute itself and (c) the relief or compensation sought.
18. The Platform will also provide the Applicant direction as to how to upload supporting documentation (PDF format) he would rely on.
19. Once the information has been made available and documentation uploaded the Applicant will then instruct the Platform to forward the Notice and Statement of Dispute ("FORM 1 MED") to the Respondent.
20. Once the Applicant clicks on the **SEND TO RESPONDENT** link the Platform immediately sends FORM 1 MED to the Respondent via email and/or SMS.
21. The message and link in the email and/or SMS sent to the Respondent shall provide the Respondent with the necessary instructions on how to log in, create a new password, amend their profile and lodge a response to the dispute registered.
22. The Respondent will have the option to respond to the allegations within a period of 3 (three) working days from receiving the email and/or SMS unless said time frame is extended in writing by the Registrar.

NOTICE OF RESPONSE

23. Upon receipt of FORM 1 MED and after logging into their profile, the Respondent can by clicking on the **RESPOND** link and following the instructions provided, tender his response.
24. It is imperative that the Respondent have all the relevant information and/or documents, in PDF format, he wishes to utilize to substantiate his case before proceeding with filing his response.
25. Once the response is submitted, the Respondent shall instruct the Platform to forward the NOTICE OF RESPONSE ("FORM 2 MED") to the Applicant. Once the Respondent clicks on the **SEND RESPONSE TO APPLICANT** link the Platform immediately sends FORM 2 MED to the Applicant via email and/or SMS.

26. The message and/or link in the email and/or SMS sent shall provide the Applicant with the necessary instructions to log in and view the **NOTICE OF RESPONSE**.
27. Once the Respondent has filed his **NOTICE OF RESPONSE** all pleadings relating to the Mediation process will be closed.
28. The Website will not allow anyone, once the pleadings are closed, to file any additional information and/or upload any additional supporting documents regarding said dispute.

COSTS

29. All costs relating to the mediation of a dispute shall be for the account of the Applicant unless agreed otherwise in writing between the Parties.
30. Mediation costs are only charged once the Respondent files his response to the dispute lodged by the Applicant.
31. Once the Respondent has agreed to utilize the platform and/or filed his response the Registrar shall forward an invoice to the Applicant (or other Party). Said invoice must be settled within the timeframe indicated on the invoice.
32. A Mediator shall only be allocated once the invoice has been settled. If the invoice is not settled within 5 (five) working days from the date it was sent to the Applicant (or other Party) then the Registrar may remove the dispute and issue a directive that the Parties were unable to resolve the matter through mediation.
33. The Platform will not allow anyone, once the pleadings are closed, to file any additional information and/or upload any additional supporting documents regarding said dispute.

MEDIATION PROCESS

34. Once the Parties agree in writing to utilize the Platform to mediate the dispute and after filing their respective pleadings and payment is received, the Registrar shall appoint a Mediator to assist the Parties in resolving the dispute.
35. The Registrar shall select, allocate and appoint a sole Mediator to hear all disputes referred to the Platform in terms of Website Rules.
36. All mediations are done online unless the Parties agree in writing to otherwise and agree to the costs relating to the hosting of the session at a venue.
37. The Registrar shall utilize the functionality provided for by the Platform to select, allocate and appoint Mediators. Mediators aligned and registered on the Platform shall be informed in writing once a mediation hearing has been allocated to them. To access and view said disputes Mediators will log into their profiles and click on the respective case file.
38. All Mediators registered on the Platform shall be requested to sign a declaration that they shall immediately, upon receiving and accepting an appointment to hear a specific matter from the Platform, inform the Registrar in writing if they are aware of any circumstances or might reasonably that could give rise to any justified doubts as to his independence or impartiality to act as the Mediator.

39. The Mediator shall have the discretion to conduct the mediation in such a manner as he determines.
40. Every person involved in the mediation will keep confidential all information arising out of or in connection with the mediation, including the fact and terms of any settlement, the fact that the mediation is to take place or has taken place unless disclosure is required by law to implement or to enforce terms of settlement.
41. All Parties involved in the mediation acknowledge that all such information passing between them and the Mediator, is agreed to be without prejudice to any party's legal position and may not be produced as evidence or disclosed to any judge, arbitrator or other decision-maker in any legal or other formal process, except where otherwise disclosable in law.
42. All Parties also acknowledge that where a Party privately discloses to the Mediator any information in confidence before, during or after the mediation, the Mediator will not disclose that information to any other party or person without the consent of the party disclosing it, unless required by law to make disclosure.
43. All Parties also agree not to call the Mediator as a witness, nor require the Mediator to produce in evidence any records or notes relating to the mediation, in any litigation, arbitration or other formal process arising from or in connection with their dispute and the mediation, nor will the Mediator act or agree to act as a witness, expert, arbitrator or consultant in any such process.

SETTLEMENT AND TERMINATION OF MEDIATION

44. The Mediator must assist the Parties to amicably resolve the dispute. Once resolved the Mediator will then assist the Parties in drafting, finalizing and signing a Settlement Agreement.
45. If the Parties agree in writing to settle the dispute or any part thereof in a Settlement Agreement, then that Settlement Agreement shall be a final and binding settlement of the dispute or such part thereof.
46. The mediation shall terminate when the Mediator informs the Parties, in writing, that he believes that there is no reasonable prospect of settling the dispute through mediation.
47. The mediation shall also terminate when the Mediator receives written notice from a Party stating that the Party withdraws from the mediation.

PRIVACY

48. We will take reasonable measures to protect your privacy and personal information.
49. Should your personal information change, please inform us and provide us with updates to your personal information as soon as reasonably possible to enable us to update your personal information.

50. We will not, without your express written consent, use your personal information for any purpose other than (a) warranted and related to the dispute lodged, (b) to contact you regarding current or new service offerings, and/or (c) to improve your experience on the Website by, inter alia, monitoring statistical non-personal browsing habits, and to transact with us.
51. We will only disclose your personal information to the the course of our business to (a) employees and/or third party service providers who assist us to interact with you via the Website, email or any other method, and thus need to know your personal information in order to assist us to communicate with you properly and efficiently, (b) to our divisions and/or partners (including their employees and/or third party service providers) in order for them to interact directly with you via email or any other method for purposes of sending you marketing material regarding any current or new goods or services, new features, special offers or promotional items offered by them (unless you have opted out from receiving marketing material from us) and/or (c) when we are entitled to use or disclose your personal information if such use or disclosure is required in order to comply with any applicable law, order of court or legal process served on us, or to protect and defend our rights or property.
52. We will ensure that all of our employees, third party service providers, divisions and partners (including their employees and third-party service providers) having access to your personal information are bound by appropriate and legally binding confidentiality and non-use obligations in relation to your personal information.
53. We will not retain your personal information longer than the period for which it was originally needed, unless we are required by law to do so, or you consent to us retaining such information for a longer period.
54. We undertake never to sell or make your personal information available to any third party other than as provided for in this policy, unless we are compelled to do so by law.
55. Whilst we will do all things reasonably necessary to protect your rights of privacy, we cannot guarantee or accept any liability whatsoever for unauthorised or unlawful disclosures of your personal information, whilst in our possession, made by third parties who are not subject to our control, unless such disclosure, is as a result of our gross negligence.

DISCLAIMER

56. The use of the Website is entirely at your own risk and you assume full responsibility for any risk or loss resulting from use of the Website or reliance on any information on the Website.
57. Whilst we take reasonable measures to ensure that the content of the Website is accurate and complete, we make no representations or warranties, whether express or implied, as to the quality, timeliness, operation, integrity, availability

or functionality of the Website or as to the accuracy, completeness or reliability of any information on the Website.

58. We disclaim liability for any damage, loss or liability, whether direct, indirect or consequential in nature, arising out of or in connection with your access to or use of the Website and/or any content therein unless otherwise provided by law.
59. We give no representations or warranties, express or implied, that the Website provides for your needs. It is the obligation of the user to ensure that all their process requirements are met when using the Website.
60. Nothing in this Website disclaimer will exclude or limit any warranty implied by law that it would be unlawful to exclude or limit and nothing in this Website disclaimer.
61. You agree that you will not bring any claim personally against our panellists, officers or employees in respect of any losses you suffer in connection with the Website.
62. Without prejudice to the foregoing paragraph, you agree that the limitations of warranties and liability set out in this Website disclaimer will protect our panellists, officers, employees, agents, subsidiaries, successors, assigns and sub-contractors.
63. If any provision of this Website disclaimer is, or is found to be, unenforceable under applicable law, that will not affect the enforceability of the other provisions of this Website disclaimer.
64. You hereby indemnify ADR Ubuntu and undertake to keep us indemnified against any losses, damages, costs, liabilities and expenses incurred or suffered by us arising out of any breach by you of any provision of these terms and conditions or arising out of any claim that you have breached any provision of these terms and conditions.

BREACH

65. Without prejudice to these terms and conditions, if you breach these terms and conditions in any way, we may take such action as deems appropriate to deal with the breach, including suspending your access to the Website, prohibiting you from accessing the Website, blocking computers using your IP address from accessing the Website, contacting your internet service provider to request that they block your access to the Website and/or bringing court proceedings against you.
66. Any dispute between the Parties arising out of this Agreement or its legality or its enforceability or the interpretation thereof, that cannot be resolved within 5 (five) calendar days (Monday to Sunday), shall be referred to the ADR ACCESS platform ("Platform") for arbitration, by either of the Parties, by way of electronic notice to the other Party via the mobile number/s and/or email address/es provided in this Agreement.

67. The Accelerated Rules for Commercial Arbitrations as set out on the Platform shall be applied. This clause is a separate, divisible agreement from the rest of this Agreement and shall remain in effect, even if the Agreement or part thereof, is terminated, nullified, cancelled or found to be invalid, for any whatsoever reason or cause.

GENERAL

68. We may revise these terms and conditions from time-to-time.
69. Revised terms and conditions will apply to the use of this Website from the date of the publication of the revised terms and conditions on this Website.
70. We make no representations or warranties in relation to this Website or the information and materials provided on this Website. We reserve the right to restrict access to this Website.
71. Nothing on this Website constitutes, or is meant to constitute, advice of any kind. If you require advice in relation to any legal matter you should consult an appropriate professional.
72. We may transfer, sub-contract or otherwise deal our rights and/or obligations under these terms and conditions without notifying you or obtaining your consent.
73. You may not transfer, sub-contract or otherwise deal with your rights and/or obligations under these terms and conditions.
74. If a provision of these terms and conditions is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect.
75. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.
76. These terms and conditions, constitute the entire agreement in relation to your use of this Website, and supersede all previous agreements in respect of your use of this Website.
77. Any dispute between the Parties arising out of this Agreement or its legality or its enforceability or the interpretation thereof, that cannot be resolved within 5 (five) calendar days (Monday to Sunday), shall be referred to the ADR ACCESS platform ("Platform") for arbitration, by either of the Parties, by way of electronic notice to the other Party via the mobile number/s and/or email address/es provided in this Agreement.
78. The Accelerated Rules for Commercial Arbitrations as set out on the Platform shall be applied. This clause is a separate, divisible agreement from the rest of this Agreement and shall remain in effect, even if the Agreement or part thereof, is terminated, nullified, cancelled or found to be invalid, for any whatsoever reason or cause.
79. These terms and conditions will be governed by and construed in accordance with South African law.