

Guidance Note	Forms and Precedents	Checklists	Other Resources
1. UNDERSTANDING DISPUTE RESOLUTION			
1.1 Introduction			
1.1.1 What is dispute resolution			
1.1.2 Types of dispute resolution			Advantages and disadvantages of different forms of ADR
1.1.3 How to select the most appropriate form of dispute resolution			

2. ALTERNATIVE DISPUTE RESOLUTION			
2.1 Understanding ADR			
2.1.1 What is ADR			
2.1.2 Benefits of ADR versus litigation			
2.1.3 Types of ADR clauses and agreements	Dispute resolution clause for contracts		
	Template of an arbitration agreement		
	Template of mediation agreement		
2.1.4 Effect of arbitration clauses in contracts			
2.1.5 Enforcement of awards	Mediation agreement template		

3. MEDIATION			
3.1 Understanding mediation			
3.1.1 What is mediation and who are the role-players			
3.1.2 Advantages and disadvantages of mediation			
3.1.3 Which matters should be referred to mediation	Template of a mediation clause		CCMA website
3.1.4 What is the relevant mediation legislation	Form Med-1 Application for referral to mediation prior to litigation (J012)		
	Form Med-3 Application for referral to mediation after commencement of litigation (J128)		
3.2 The mediator			
3.2.1 What is the role and function of the mediator			

Guidance Note	Forms and Precedents	Checklists	Other Resources
3.2.2 How to become an accredited mediator			DISAC accredited service providers
			DISAC qualification standards
			Arbitration Foundation of Southern Africa website
			South African Association of Mediators website
			Family Life Centre website
			Divorce Mediators website
3.2.3 Choosing a mediator			DISAC accredited service providers
			Arbitration Foundation of Southern Africa website
			South African Association of Mediators website
			Family Life Centre website
			Divorce Mediators website
3.2.4 Conduct of a mediator			DISAC Code of professional conduct for mediators
3.2.5 Liability of a mediator			
3.3 The attorney's role in mediation			
3.3.1 Functions of an attorney in mediation			
3.3.2 Practical tips for attorneys on advising and attending mediation			
3.4 Conducting mediation proceedings			
3.4.1 How are mediation proceedings initiated			
3.4.2 Jurisdiction in mediation proceedings			
3.4.3 Limitations in mediation			
3.4.4 The mediation process			
3.4.5 Evidence and disclosure	Mediation agreement template		
3.5 Mediation agreements			
3.5.1 How to draft a mediation agreement	Mediation agreement template		

Guidance Note	Forms and Precedents	Checklists	Other Resources
	Company resolution authorising company representative to conclude mediation agreement		
3.5.2 Enforcing mediation agreements			
3.6 Settlement			
3.6.1 Settlement agreements	Settlement agreement		
3.6.2 Enforcing mediation settlement agreements			
3.7 Costs			
3.7.1 Costs in mediation proceedings	Mediation agreement template		

4. COURT ANNEXED MEDIATION			
4.1 Court proceedings			
4.1.1 What is court-annexed mediation			
4.1.2 Magistrates court pilot project			List of accredited mediators (website)
4.1.3 Court-annexed mediation rules	Form Med-1 Application for referral to mediation prior to litigation (J012)		List of accredited mediators (website)
4.1.4 How the process works	Form Med-8 Statement of claim (J277)		List of accredited mediators (website)
	Form Med-9 Statement of defence		
	Form Med-3 Application for referral to mediation after commencement of litigation (J128)		
	Form Med-14 Settlement agreement (J628)		
4.1.5 Costs in court-annexed mediation proceedings			
4.2 Mediation in family law			
4.2.1 Mediation in divorce proceedings	Template of a memorandum of understanding in a divorce matter		
4.2.2 The role of the family advocate in divorce mediation			

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4.2.3 The family advocate enquiry	Template of a memorandum of understanding in a divorce matter		
4.2.4 The best interests of the child			
4.2.5 Parenting plans	Parenting plan		
4.2.6 Agreement to mediate and the intake session	Template of mediation agreement		
4.2.7 Stages in the mediation process	Template of a memorandum of understanding in a divorce matter		
	Parenting plan		
4.2.8 Issues involving children			
4.2.9 Maintenance			
4.2.10 Division of assets			
4.2.11 The memorandum of understanding	Template of a memorandum of understanding in a divorce matter		
4.2.12 Setting the agenda	Suggested agenda for a divorce mediation		
4.2.13 Dealing with confidentiality, side meetings, deadlock and manipulation issues	Sample clause - Confidentiality		

5. ARBITRATION			
5.1 General arbitration principles			
5.1.1 What is arbitration			South African Law Commission – International arbitration report
			South African Law Commission – Domestic arbitration report
			UNCITRAL Model Law on International Commercial Arbitration
5.1.2 Arbitration regulatory bodies			AFSA website
			AOA website
			CCMA website
			AADR website
5.1.3 Arbitration rules			AFSA rules
			AFSA rules for expedited arbitration

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			AOA rules
			AADR rules
5.1.4 What matters are excluded from arbitration			
5.1.5 Effect of arbitration clauses in contracts			
5.1.6 Choosing an arbitrator			
5.1.7 FAQs			
5.2 Functions of arbitrators and umpires			
5.2.1 What is an arbitrator			
5.2.2 Appointment of an arbitrator			
5.2.3 Challenging the appointment of an arbitrator			AFSA rules
			AOA rules
			AADR rules
5.2.4 The arbitrator's role, function and powers			
5.2.5 Termination of appointment of an arbitrator			
5.2.6 What is an umpire and what are their functions	High Court notice of motion [Form 2]	Drafting a founding affidavit	
	Magistrates Court notice of motion [Form 1]		
5.2.7 Appointment of an umpire	Template of notice to appoint an umpire in terms of section 12(1) of the Arbitration Act		
5.2.8 Termination of appointment of an umpire			
5.3. The arbitration agreement			
5.3.1 Purpose and function of an arbitration agreement			
5.3.2 Drafting an arbitration agreement	Arbitration agreement template		
5.3.3 Consequences of an arbitration agreement			
5.3.4 Termination of an arbitration agreement			
5.3.5 How to proceed where there is no arbitration agreement			

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5.3.6 Arbitration in insolvency and liquidation proceedings			
5.3.7 Jurisdiction and applicable law of an arbitration	Arbitration agreement template		
5.3.8 Courts			
5.4 How are arbitration proceedings conducted			
5.4.1 Overview of the arbitration process			
5.4.2 Commencing arbitration proceedings	Arbitration referral letter	AFSA checklist	ICC rules
	Letter requesting appointment of an arbitrator	AOA checklist	AADR rules
	LRA Form 7.13 – Request for arbitration	AADR checklist	AFSA rules
			AOA rules
5.4.3 Pleadings			AADR rules
			AFSA rules
			AOA rules
5.4.4 Documentary evidence and discovery processes in arbitration			AFSA rules
			AOA rules
			AADR rules
5.4.5 Hearing			AFSA rules
			AOA rules
			AADR rules
5.4.6 Evidence of witnesses	High Court notice of motion [Form 2]	Drafting a founding affidavit	AADR rules
			AFSA rules
			AOA rules
5.4.7 Summoning of witnesses			
5.4.8 Recording of evidence			AFSA rules
			AOA rules
			AADR rules
5.4.9 Referring particular points to an umpire			
5.4.10 Procedure to obtain the court or counsel's opinion	High Court notice of motion [Form 2]	Drafting a founding affidavit	
5.4.11 General powers of the court in arbitration proceedings	High Court notice of motion for substituted service	Drafting a founding affidavit	
	High Court notice of motion [Form 2]		

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5.4.12 Offences during proceedings			
5.5 Requirements for arbitration awards			
5.5.1 Time for handing down award			AFSA rules
			AOA rules
			AADR rules
5.5.2 How are arbitration awards recorded			AFSA rules
			AOA rules
			AADR rules
5.5.3 Publication			
5.5.4 Interim relief			AFSA rules
			AOA rules
			AADR rules
5.5.5 Specific performance			AADR rules
			AFSA rules
			AOA rules
5.5.6 Binding award			AADR rules
			AFSA rules
			AOA rules
5.5.7 Interest			AFSA rules
5.5.8 Power of an arbitral tribunal to amend award			AFSA rules
			AOA rules
			AADR rules
5.5.9 How to make an award an order of court	Notice of motion		
	Founding affidavit		
5.5.10 Remittal of award			AFSA rules
			AOA rules
			AADR rules
5.5.11 Setting aside an arbitration award	High Court notice of motion - Form 2	Drafting a founding affidavit	
	Application for rescission of ruling/arbitration award		
5.5.12 How are arbitration awards enforced			
5.5.13 Appeals against arbitration awards			AFSA rules
5.5.14 Overturning arbitration awards			AFSA rules
5.5.15 Enforcing international arbitration awards			

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5.6 Costs			
5.6.1 Costs of proceedings			AFSA rules
			AOA rules
			AADR rules
5.6.2 Payment in respect of arbitrators and umpires			AFSA rules
			AOA rules
			AADR rules
5.7 Types of arbitration matters			
5.7.1 Labour law arbitration	LRA 7.13 – Request for arbitration		CCMA website
	LRA 7.18 – Application to certify CCMA award and writ of execution		List and contact details of bargaining councils
5.7.2 Arbitration in construction matters			FIDIC website
			ICC arbitration rules
			JBCC website
			AOA website
			AOA rules
			NEC website
			SAICE website
5.7.3 Commercial disputes			
5.8 International arbitration			
5.8.1 Using arbitration in international disputes			UNCITRAL Arbitration Rules
			New York Convention
			New York Convention website – list of contracting states
5.8.2 Jurisdiction in international disputes			London Court of International Arbitration website
			Singapore International Arbitration Centre website
			Hong Kong International Arbitration Centre website
			LCIA-MIAC Arbitration Centre website
			Swiss Arbitration Association website

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5.8.3 International regulatory bodies			LCIA India website ICC website
			ICC arbitration rules ICDR website
			LCIA website LCIA Rules
			HKIAC website HKIAC arbitration rules
			SIAC website SIAC arbitration rules
			UNCITRAL Arbitration Rules

6. CONCILIATION			
6.1 Understanding conciliation			
6.1.1 What is conciliation			CCMA website Conciliation information sheet
6.1.2 Advantages and disadvantages of conciliation			
6.1.3 The conciliation process	LRA 7.11 – Referring a dispute to the CCMA for conciliation (including con-arb)		
	LRA 7.12 – Certificate of outcome of dispute referred to conciliation		
	Settlement agreement		
6.1.4 Enforcing an agreement reached through conciliation	Settlement agreement		
6.1.5 Costs in conciliation proceedings			

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7. ADJUDICATION			
7.1 Understanding adjudication			
7.1.1 Adjudication in construction disputes			FIDIC website JBCC Adjudication Rules – October 2014 JBCC website NEC website SAICE website
7.1.2 How the adjudication process works	Template of notice referring dispute for adjudication	Items to include in the claimant's submission to the adjudicator	
	Template of a notice of dissatisfaction	Items to include in the defendant's submission to the adjudicator	
7.1.3 Appointing an adjudicator	Template of notice referring dispute for adjudication		AOA website
7.1.4 Submissions to the adjudicator		Items to include in the claimant's submission to the adjudicator	Tips to remember when preparing submissions to an adjudicator
		Items to include in the defendant's submission to the adjudicator	
7.1.5 The adjudicator's ruling	Template of a notice of dissatisfaction		
7.1.6 Appeal, review or referral of an adjudicator's ruling	Template of a notice of dissatisfaction		
7.1.7 Appeal or referral of an adjudicator's ruling to arbitration			
7.1.8 Advantages and disadvantages of adjudication			