



Model Dispute Resolution Clauses

The parties to any business or commercial relationship have an opportunity to include clear and concise dispute resolution provisions in their contracts, which can assist with resolving any dispute quickly, efficiently and cost-effectively, and potentially preserve the contractual relationship.

A dispute resolution clause is one of the most vital provisions in any contract. It allows the parties to agree within the contract the process to be followed in the event a dispute arises. Multi-tiered dispute resolution clauses are increasingly used by businesses, enterprises and organisations across all sectors to place a contractual obligation on the parties to first engage in negotiation and mediation, either as a pre-condition to arbitration or litigation, or to contract out of litigation and instead appoint an arbitrator to reach a final and binding decision.

Dispute resolution clauses are particularly important during the COVID-19 (novel coronavirus) pandemic where the courts and tribunals are facing unprecedented backlogs and delays as a result of social distancing restrictions.

Our model dispute resolution clauses – a multi-tiered clause and an arbitration clause – are suitable for inclusion in a wide range of contracts across many different sectors. However, if the nature of the contract and the likely nature of any dispute that might arise could be important in determining how the dispute resolution clause should be drafted, it is important to obtain legal advice before using our style clauses.

Multi-tiered dispute resolution clause

DISPUTE RESOLUTION

1. If a claim or dispute arises out of or in connection with this Agreement, whether during its Term or after its termination, including any questions regarding its existence, validity, termination or performance by the Parties (a “**Dispute**”), the Parties agree to appoint an authorised representative from each Party to attempt to resolve the matter by way of negotiation within 14 days of one Party first notifying the other Party of the Dispute.
2. If the Dispute is not resolved through direct negotiation between the Parties’ authorised representatives, the Parties first agree to participate in online mediation.
3. The Parties agree a mediator shall be selected from the panel, and the mediation conducted in accordance with the terms of engagement for mediation, of Squaring Circles ODR Limited, Caledonian Exchange, 19a Canning Street, Edinburgh EH3 8HE (“**Squaring Circles**”).
4. Either Party or both Parties may approach Squaring Circles to initiate the online mediation process. The mediator shall be selected by agreement between the Parties, in discussion with Squaring Circles.
5. If the Parties are unable to agree on a mediator within 14 days of one Party or both Parties requesting the appointment of a mediator, the Parties agree that a mediator will be selected by Squaring Circles after consultation with the Parties.
6. [The mediation shall commence within [30] days of the mediator being selected].

Squaring Circles

PHILOSOPHICAL MEANING – to see equally in four directions – up, down, in and out

METAPHORICAL MEANING – attempting anything that seems impossible



7. Disputes not resolved as provided in paragraphs 1 to 6 shall be finally settled by online arbitration to be determined by a sole arbitrator. Either Party or both Parties may refer the Dispute to online arbitration 14 days after the end of the mediation.
8. The Parties agree an arbitrator shall be selected from the panel, and the arbitration conducted in accordance with the terms of engagement for arbitration, of Squaring Circles. The parties further agree that the arbitrator shall not be the same person who conducted the mediation as provided in paragraphs 3 to 5.
9. Either Party or both Parties may approach Squaring Circles to initiate the online arbitration process. The arbitrator and the applicable scheme (“**Scheme**”) shall be selected by agreement between the Parties, in discussion with Squaring Circles.
10. If the Parties are unable to agree on an arbitrator and/or Scheme within 14 days of one or both Parties referring the Dispute to online arbitration, the Parties agree that an arbitrator and/or Scheme will be selected by Squaring Circles after consultation with the Parties.
11. [The arbitration shall commence within [30 days] of the arbitrator being selected].
12. The seat of the arbitration shall be Scotland and the governing law of the procedure of the arbitration shall be the law of Scotland. The language to be used in the arbitral proceedings shall be English.
13. Unless otherwise agreed in writing, the Parties shall share equally the fees charged by Squaring Circles for the mediation and/or arbitration process.

Arbitration clause

DISPUTE RESOLUTION

1. If a claim or dispute arises out of or in connection with this Agreement, whether during its Term or after its termination, including any questions regarding its existence, validity, termination or performance by the Parties (a “**Dispute**”), the Parties agree the Dispute shall be finally settled by online arbitration to be determined by a sole arbitrator.
2. The Parties agree an arbitrator shall be selected from the panel, and the arbitration conducted in accordance with the terms of engagement for arbitration, of Squaring Circles ODR Limited, Caledonian Exchange, 19a Canning Street, Edinburgh EH3 8HE (“**Squaring Circles**”).
3. Either Party or both Parties may approach Squaring Circles to initiate the online arbitration process. The arbitrator and the applicable scheme (“**Scheme**”) shall be selected by agreement between the Parties, in discussion with Squaring Circles.
4. If the Parties are unable to agree on an arbitrator and/or Scheme within 14 days of one or both Parties referring the Dispute to online arbitration, the Parties agree that an arbitrator and/or Scheme will be selected by Squaring Circles after consultation with the Parties.
5. [The arbitration shall commence within [30 days] of the arbitrator being selected].
6. The seat of the arbitration shall be Scotland and the governing law of the procedure of the arbitration shall be the law of Scotland. The language to be used in the arbitral proceedings shall be English.
7. Unless otherwise agreed in writing, the Parties shall share equally the fees charged by Squaring Circles for the arbitration process.

Squaring Circles

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METAPHORICAL MEANING – attempting anything that seems impossible

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