

SAMPLE ARBITRATION CLAUSE

Cary Cooper of Toledo, Ohio, prepared this sample arbitration clause for the explicit purpose of having the arbitration do what it is supposed to do: save on litigation costs to clients.

9. **Arbitration.** Any claim or dispute arising from or relating to this Agreement or to this arbitration clause must be resolved by binding arbitration [under the rules of the AHLA, AAA, CPR, JAMS, or other agency—or no mention of rules] [and state whether the arbitration is to be administered by that agency]. The purpose of this clause is to streamline and simplify the process. These provisions supersede any contrary arbitral rules that might otherwise apply.

9.1 Pleadings. The arbitration demand must be a clear and concise statement of the claim or dispute. The respondent's answer and any counterclaims must be filed within 20 calendar days of service of the demand.

9.2 Arbitrator. Within ten calendar days after the arbitration demand is served on the respondent, the parties must jointly select an arbitrator with at least five years' experience in that capacity. If the parties do not agree on an arbitrator within ten calendar days, a party may petition [the agency whose rules govern the arbitration to request a list of arbitrators and select one under the agency's rules] [or a court having jurisdiction to appoint an arbitrator].

9.3 Prehearing Conference. The arbitrator must promptly set a conference to clarify the claims and defenses, to establish fair procedures, and to set a schedule for completing the arbitration.

9.4 Discovery.

(A) **Required Disclosures.** Except for impeachment-only information, each party must voluntarily disclose:

- (1) the names and addresses of persons who have discoverable information that the party may use to support its claims or defenses;

- (2) a copy of the documents that the party may use to support its claims or defenses; and
 - (3) a computation showing each element of damages.
- (B) *Depositions.*** Each party may have no more than eight hours, total, for depositions.
- (C) *Expert-Witness Reports.*** Each testifying expert must provide:
- (1) a written report stating all opinions that he or she will express at the hearing;
 - (2) the basis and reasons for the opinions;
 - (3) the facts and data considered in forming the opinions;
 - (4) all exhibits that will be used to summarize or support the opinions; and
 - (5) his or her résumé.
- (D) *Other Discovery.*** No other discovery is allowed except by the arbitrator and for good cause.
- (E) *Discovery Disputes.*** The parties must confer in good faith to resolve all discovery disputes. If they cannot resolve these themselves, the parties must attempt to do so in conference with the arbitrator. If the dispute is not resolved in conference, the arbitrator must promptly rule on the issues.
- 9.5 Motions.** The parties must not file any motions without first conferring with opposing counsel and obtaining leave from the arbitrator.
- 9.6 Final Hearing.** The final hearing will be held in [city], [state], and must be concluded within six months of the date the arbitrator is appointed.
- 9.7 Award.** The arbitrator must issue a written, reasoned award within 20 calendar days from the date the hearing is formally closed, or as soon after that as is feasible. The sole remedy will be actual damages; no punitive damages are allowed.
- 9.8 Sanctions.** The arbitrator may impose reasonable monetary or other sanctions against a party, or the party's lawyer, as appropriate, for failing to comply with discovery obligations or engaging in other disruptive or dilatory conduct, whether direct or indirect.

- 9.9 Costs and Fees.** Unless the arbitrator orders otherwise, the parties must share arbitration costs equally, including the arbitrator's fees and expenses. Each party must pay its own expenses and attorneys' fees. A court reporter's fees must be paid by the party who retains the reporter.
- 9.10 Judicial Confirmation.** The arbitrator's award may be confirmed, modified, or vacated, and judgment entered, by any state or federal court having subject-matter jurisdiction sitting in the state of [state] [or by any other court having jurisdiction].
- 9.11 No Invalidation.** The arbitrator's failure to comply with any deadlines specified in this § 9 is not grounds for invalidating any provision of the Agreement.