



**Alternative Dispute Resolution System**

# **RULES FOR ONLINE VIDEO CONFERENCING**

13 March 2021

ADR/RULES/1/ONLINE VIDEO CONFERENCING/2021

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## Table of Contents

Section	Page
1. PURPOSE.....	2
2. LOGISTICS .....	2
3. PRIVACY AND SECURITY .....	2
4. VIRTUAL HEARING.....	3
5. CODE OF CONDUCT .....	<b>ERROR! BOOKMARK NOT DEFINED.</b>

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## 1. **PURPOSE**

- 1.1. To provide for due process and the equal treatment of parties and to ensure that each party is given its reasonable and fair opportunity to present its case through virtual hearings, conferences, or other electronic processes.
- 1.2. To ensure the smooth running of virtual hearings and conferences with minimal technical issues and disruption.
- 1.3. To promote fair, transparent, and efficient presentation of evidence electronically during the hearing.

## 2. **LOGISTICS**

- 2.1. The Registrar shall make contact with all Parties, prior to setting aside a Pre-Arbitration or Con-Arb meeting and/or a hearing date, to ensure that all have the technology available intended to be used during the video conferencing session.
- 2.2. The testing of the technology available shall then take place at the Pre-Arbitration and/or Con-Arb meetings prior to the hearing of the dispute. The testing shall be completed using the same platform and technology that will be used in the virtual hearing.
- 2.3. Each party shall be responsible for its virtual hearing arrangements.

## 3. **PRIVACY AND SECURITY**

- 3.1. Virtual hearings and any exchange of information made during the hearing shall be secure and private.

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- 3.2. Each party to a virtual hearing shall provide the Registrar with a list of all participants, not later than one week before the hearing. Subject to any other direction by the Registrar, participants to a virtual hearing shall be limited to parties' representatives, counsel, witnesses, ADR members, reporters, and such logistical, technical, or other support as may be required to assist in the presentation of evidence or with any technical issue.
- 3.3. Only the persons on the list of participants submitted to the Registrar shall be permitted to attend the virtual hearing and where a Party desires to include a person, not on the list of participants, such person may participate only upon approval by the appointed Arbitrator, after hearing the other Party's views.
- 3.4. The Parties shall connect to the virtual hearing platform through locations with reliable internet connectivity that offer seamless and smooth streaming and communications during the virtual hearing.
- 3.5. The parties shall ensure that any agreed audio/video conferencing platform is licensed with adequate security and privacy standards. The technical setup should be secure and user friendly.
- 3.6. The Parties shall ensure that the virtual hearing platform and/or the infrastructure meet the requirements of all relevant or applicable laws.

#### **4. VIRTUAL HEARING**

- 4.1. The Registrar shall serve as the host of the virtual hearing.

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- 4.2. The Arbitrator, the Parties and their representatives shall dial in to the hearing platform 15 minutes prior to the scheduled virtual session, to test the technical features of the platform to be used.
- 4.3. All the Parties and their representatives shall have virtual access to the remote hearing waiting room and the remote hearing room when they dial into the virtual platform.
- 4.4. Unless the Parties have expressly agreed, it is not recommended that one of the Parties attend the hearing physically at the same venue as the Arbitrator if the other party can only attend through the virtual hearing.
- 4.5. Where evidence is to be given during virtual hearings, all participants shall ensure that all connecting locations meet the logistical and technical requirements as outlined herein.
- 4.6. Witnesses need not be at the same location as Parties and/or representatives, but the location chosen by the witnesses shall comply with the minimum specifications outlined herein.
- 4.7. The video conferencing system at the location of the witness shall allow enough visibility to see the witness and to verify that no unauthorized person is present with him/her.
- 4.8. No witness should, however, be allowed to confer with any party representatives while giving evidence.
- 4.9. The witness shall identify all individuals present in the location where the witness is testifying and confirm that the witness is not receiving communications or assistance of any sort from any unauthorized person during the testimony. The witness shall be visible to all and shall always be visible to the witness during the direct examination, cross-examination, and re-examination, if any

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- 4.10. The witness shall give evidence during the virtual hearing under the arbitrator's direction and the arbitrator may terminate the video conference at any time if it deems the video conference so unsatisfactory or that it is unfair to either party to continue. It is recommended that where it is possible, the hearing be reconvened as soon as it is practicable as directed by the arbitrator.
- 4.11. The Arbitrator may at any time during the presentation of testimony ask a witness to orientate his or her camera to provide a complete view of the remote venue in order to confirm that no unauthorised person/s present.
- 4.12. When allocating time during virtual hearings, the Arbitrator shall set aside some time for housekeeping matters, objections, applications, and/or other unexpected incidents or events.
- 4.13. The parties shall ensure that all the documents which the witness may be questioned about during the virtual hearing are clearly identified, paginated, and made available to the witness during the examination, without any annotations, notes, or mark-ups.
- 4.14. An electronic hearing bundle of all documents to be presented or used shall be tailored to any specificities of the virtual hearing and the platform used and shall be made available to the arbitrator and all Parties by no later than one week before the virtual hearing.
- 4.15. The Arbitrator may at any time during the presentation of evidence ask a witness to display the documents used by the witness in hardcopy format to ensure that there are no notes thereon.
- 4.16. Witnesses shall not be allowed to bring their own notes into the hearing room, unless permitted by the Arbitrator on good cause shown.

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4.17. All hearings shall be conducted in the English language unless otherwise agreed upon between the Parties.

4.18. Where interpretation services are needed for witness examinations, each Party shall ensure that qualified interpreters are made available to the witness

4.19. A full recording of the virtual hearing shall be made available to the arbitrator and the Parties unless otherwise agreed.

## **5. PROTOCOL**

5.1. Witnesses not required to attend the remote hearing will attend in the waiting room until given access to the video conferencing platform.

5.2. Participants on the video conferencing platform must consider and ensure appropriate camera positioning reflecting the face and desk where the participant is positioned. No backdrops may be utilized by a participant during the hearing process.

5.3. In the event of any participating Party not speaking during, or participating directly in the proceedings, such a person must mute his or her microphone. All participants must eliminate background noise and use rooms with minimal disturbance

5.4. Only one person shall speak at a time unless in circumstances of either an objection, or to alert participants of technical difficulties

5.5. Dress code of all participants during a hearing shall be agreed upon at the Pre-Arbitration and/or Con-Arb meetings to be held.