

Praxis Forum

Rules on the Conduct of Trauma-Informed Arbitral Proceedings

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Note from the Author

Dispute resolution services do not operate in a vacuum. They exist because a conflict has occurred, and conflict inherently inflicts suffering, whether financial ruin, emotional distress, physical harm, or the systemic erosion of dignity and reputation.

To counterbalance the reality of this destruction, dispute resolution processes must recognize human suffering, and wrap the entire process in a trauma-informed, care-centric framework, from the intake phase to final case closure. With this in mind, the Praxis Forum has developed the *Rules on the Conduct of Trauma-Informed Arbitral Proceedings* to operationalize these principles at every stage of the arbitral process.

We hope these Rules offer you a true sanctuary, a structured space where conflict gives way to understanding, and where your voice, dignity, and path forward are fully protected.

May you find lasting value and peace in these pages.



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Preamble to the *Rules on the Conduct of Trauma-Informed Arbitral Proceedings*

The Praxis Forum *Rules on the Conduct of Trauma-Informed Arbitral Proceedings* (the “Praxis Forum Rules”) are intended to provide a framework for arbitral tribunals and parties to operationalize the principles of trauma-informed, care-centric interventions at every stage of the arbitral process.

The Praxis Forum Rules are not intended to replace the arbitration rules provided by various institutions and are designed to supplement the procedure to be agreed by parties or otherwise applied by arbitral tribunal in a particular dispute.

Parties and arbitral tribunals may decide to apply the Praxis Forum Rules as a binding document or as guidelines to all or any part of the proceedings. They may also exclude the application of any part of the Praxis Forum Rules or decide to apply only part of them.

Arbitral tribunals and parties may also modify the provisions of the Praxis Forum Rules by taking into account the particular circumstances of the case.

Article 1. Scope and Application of the Rules

These Rules establish a voluntary, supplementary framework for implementing trauma-informed dispute resolution practices within arbitration. Operating alongside existing procedural rules, this framework may be adopted in whole or in part by agreement of the parties or by direction of the tribunal. The provisions herein may be adapted to address the specific dynamics of the dispute, prioritizing fairness, dignity, and the mitigation of psychological distress.

1.1 Purpose and Integration

The Praxis Forum *Rules on the Conduct of Trauma-Informed Arbitral Proceedings* (the “Rules”) provide a specialized, supplementary framework designed to operationalize trauma-informed and care-centric principles at every stage of the arbitral process.

1.2 Coexistence with Primary Institutional Rules

The Rules are not intended to replace the primary arbitration rules provided by arbitral institutions. They shall supplement the arbitral procedure agreed upon by the parties or otherwise determined by the arbitral tribunal for a specific dispute.

1.3 Party Autonomy and Binding Status

Parties and arbitral tribunals may, at their discretion, elect to apply these Rules either as a binding procedural document or as non-binding guidelines. This application may extend to the entirety of the proceedings or be restricted to any specific phase or part thereof.

1.4 Modification and Exclusion

By mutual agreement or order of the tribunal, the parties may:

- 1.4.1 Exclude the application of any part of these Rules;
- 1.4.2 Selectively apply only specific provisions of these Rules; or
- 1.4.3 Modify any provision herein to account for the specific circumstances of the case and ensure the mitigation of human suffering.

Article 2. Proactive Role of the Arbitral Tribunal

2.1 General Principle

The arbitral tribunal is empowered and duty-bound to control the proceedings in a manner that balances procedural efficiency with psychological safety, thereby maintaining a trauma-informed environment that protects participants from unnecessary psychological harm during the evidentiary phase.

2.2 Trauma-Informed Case Management

The arbitral tribunal shall proactively manage and conduct the proceedings in a manner that recognizes the potential presence of trauma and minimizes the risk of secondary distress or re-traumatization for all participants, including parties, witnesses, and counsel.

2.3 Safeguarding Psychological Safety

In fulfilling this duty, the arbitral tribunal shall actively tailor the procedure to the specific circumstances of the case by:

- **2.3.1 Establishing Predictability:** Clearly explaining the purpose and scope of each procedural phase in advance to foster trust, transparency, and psychological safety.
- **2.3.2 Managing Room Dynamics:** Proactively monitoring the tone, demeanor, and questioning styles during hearings to prevent adversarial bullying or intimidation.
- **2.3.3 Recognizing Dysregulation:** Pacing the proceedings or calling timely recesses if a participant shows visible signs of acute distress or emotional exhaustion.

Article 3. Special Evidentiary Framework for Vulnerable Participants

3.1 General Principles

The arbitral tribunal shall proactively establish a framework for gathering evidence and taking testimony in a manner that protects psychological safety without compromising procedural integrity or

the search for truth, notably by adapting evidentiary procedures to ensure accuracy, reliability, and human dignity.

3.2 Evaluation of Testimony

The Arbitral Tribunal shall recognize that psychological trauma or severe stress may affect the sequencing, linear narrative, or peripheral details of a participant's recollection.

3.3 Credibility Assessments

The Arbitral Tribunal shall not draw immediate adverse inferences regarding a participant's credibility based solely on emotional detachment, non-linear sequencing of events, or minor factual discrepancies, provided the core substance of the testimony remains reliable.

3.4 Early Consultation and Evidence Protocols

At an early stage of the proceedings, or during the Case Management Conference, the Arbitral Tribunal may consult with the parties to identify highly sensitive categories of evidence. The Tribunal shall establish specific, protected protocols for the submission, review, and cross-examination of such evidence to minimize re-traumatization while preserving the right to be heard.

3.5 Written Submissions and Witness Statements

To reduce the psychological burden on vulnerable participants, the tribunal shall encourage the use of existing contemporaneous records, official reports, or previously recorded statements where appropriate, to avoid forcing a witness to recount traumatic events multiple times.

3.6 Redaction and Privacy

The tribunal may order the redaction of highly sensitive, non-material personal information from written statements, exhibits, or expert reports before they are distributed to the wider case file or public records.

3.7 Regulatory Oversight of Questioning

The tribunal shall proactively manage the tone, style, and scope of cross-examination. It shall strictly prohibit questioning that is deliberately intimidating, abusive, repetitive, or designed to humiliate a participant

3.8 Conversational Approach to Questioning

Cross-examination should be steered toward a structured, respectful inquiry. The tribunal may direct counsel to use clear, open-ended questions rather than aggressive, compound, or highly leading questions when dealing with vulnerable witnesses.

3.9 Pre-Screening of Questions

In highly sensitive matters, the tribunal may require counsel to submit a general outline of the topics or core questions intended for cross-examination during a pre-hearing conference to ensure safety boundaries are maintained.

3.10 Special Accommodations for Witness Testimony

The tribunal may permit a witness to have a non-testifying support person (such as a counselor or trusted representative) present with them during their testimony, provided that the support person does not coach or interfere with the witness.

3.11 Alternative Presentation Formats

To minimize face-to-face confrontation, the tribunal may authorize alternative arrangements for testimony, including:

- a) Testimony via video link from a separate, secure room.
- b) Adjustments to the physical layout of the room so the witness does not have direct, continuous line-of-sight with an alleged perpetrator or adversarial party.

- c) Submitting written responses to specific questions under controlled conditions, subject to the tribunal's oversight and the opposing party's right to reply.

3.12 Tribunal-Appointed Experts on Trauma

Where the psychological impact of an event is material to the dispute or to understanding a witness's behavior, the tribunal may, after consulting the parties, appoint an independent expert on trauma-informed practices to provide guidance.

3.13 Party-Appointed Experts on Trauma

The parties may submit expert evidence explaining the neurological, behavioral, or psychological impacts of trauma to assist the tribunal in contextualizing the evidence and fact-finding process.

Article 4. Document Production and Handling of Sensitive Evidence

4.1 Strict Relevance and Scope

The arbitral tribunal shall ensure that document production requests are strictly tailored to material issues. It shall proactively block fishing expeditions or overly broad discovery requests that appear designed to harass, embarrass, or inflict financial and emotional exhaustion on a party.

4.2 Assessment of Harm

In determining whether to order the production of a specific document, the tribunal shall weigh its evidentiary value against the potential psychological harm, distress, or violation of dignity that its disclosure may cause.

4.3 Confidentiality Regimes

The tribunal may, on its own motion or upon request, issue a Protective Order establishing strict confidentiality tiers (e.g., "Highly Confidential" or "Counsel Eyes Only") for sensitive personal, medical, or psychological records.

4.4 Redaction Protocols

Before any document containing sensitive, non-material personal information is entered into the record, the tribunal shall encourage or direct the parties to redact identifiers (such as home addresses, personal phone numbers, and unrelated medical or financial histories).

4.5 Sealing of Records

Highly sensitive documentary evidence may be ordered sealed, ensuring it is accessible only to the tribunal and the immediate parties, and explicitly excluded from any publicly available case summaries or awards.

4.6 Secure and Organized Access

The tribunal shall direct the use of secure, centralized electronic document repositories to prevent the chaotic or unexpected transmission of triggering materials directly to a participant's personal communication channels.

4.7 Advance Labeling of Sensitive Content

If a document repository contains highly graphic or potentially triggering content (such as explicit photographs, audio recordings, or detailed medical trauma reports), the producing party shall clearly label or tag the digital files with a standard warning prefix (e.g., [SENSITIVE CONTENT]) to allow reviewers to prepare psychologically before opening the file.

4.8 Restrictions on Unannounced Displays

Parties shall be prohibited from suddenly displaying graphic, highly sensitive, or triggering documentary evidence on shared screens during virtual hearings, or projecting them in physical hearing rooms, without giving prior notice to the tribunal and opposing counsel.

4.9 Controlled Review Protocols

When a witness or party must be confronted with a highly sensitive document during an oral hearing, the tribunal shall regulate the presentation. The tribunal may grant a brief recess before the document is introduced, limit the duration the document remains visible, or allow the witness to review it privately rather than publicly.

4.10 Treatment of Unlawfully or Unethically Obtained Data

To preserve a care-centric environment, the tribunal may exercise its discretion to exclude documentary evidence that was obtained through systemic harassment, cyberstalking, stealth recording, or other methods that inherently violate human dignity, unless the interests of justice absolutely require its admission.

Article 5. Conduct of Hearings and Management of Live Testimony

5.1 Setting Expectations

The arbitral tribunal shall ensure that witnesses are provided with clear, accessible information regarding the format, logistics, and expectations of the hearing well in advance. This includes outlining who will be in the room, the sequence of questioning, and the purpose of the proceedings.

5.2 Familiarization and Environmental Comfort

The tribunal shall encourage counsel to familiarize witnesses with the physical or virtual layout of the hearing room prior to the session to demystify the process and reduce situational anxiety.

5.3 Early Identification of Triggers

During pre-hearing conferences, counsel shall notify the tribunal of any specific vulnerabilities, potential emotional triggers, or communication barriers associated with a witness, allowing the tribunal to tailor the environment proactively.

5.4 Strict Scheduling

The tribunal shall make every effort to schedule witness testimony at a precise, predictable time. Witnesses shall not be left waiting indefinitely in virtual breakout rooms or physical waiting areas, as prolonged anticipation heavily compounds anxiety.

5.5 Mandatory Rest Breaks

The tribunal shall proactively implement regular, scheduled breaks during long testimonies to prevent cognitive fatigue and emotional exhaustion.

5.6 Immediate Recesses for Dysregulation

If a witness exhibits visible signs of acute emotional distress, panic, or hyperventilation, the tribunal shall immediately suspend the proceedings and grant a temporary recess until the witness is regulated and comfortable to proceed.

5.7 Prohibition of Intimidation and Harassment

The tribunal shall strictly prohibit any questioning or behavior by counsel that is deliberately designed to intimidate, mock, humiliate, or badger a witness.

5.8 Tone and Style of Questioning

Counsel shall be directed to maintain a professional, calm, and respectful tone. The tribunal may intervene if questioning becomes overly repetitive, convoluted, or designed to exploit a witness's emotional state rather than discover the truth.

5.9 Plain and Accessible Language

To prevent confusion and cognitive overload, questions should be framed in clear, concise, and direct language, avoiding double negatives or intentionally misleading compound structures.

5.10 Support Persons

A witness shall be permitted to have a non-testifying support person (such as a counselor, family member, or trusted representative) sit beside them during their testimony, provided that the support person does not coach, speak for, or influence the witness.

5.11 Mitigation of Visual Distress

In cases involving severe interpersonal conflict or trauma, the tribunal may alter the physical seating arrangement or utilize virtual platform settings (e.g., hiding specific participant video boxes) so the witness is not forced to maintain direct, continuous eye contact with an adversarial party.

5.12 Remote Testimony Options

The tribunal shall look favorably upon requests for vulnerable witnesses to testify via secure video link from a comfortable, familiar environment rather than forcing them to travel to a formal, high-stress hearing venue.

5.13 Limiting Repetitive Questioning

Counsel shall avoid asking a witness to repeatedly describe a highly traumatic event if the details are already clearly established in their written witness statement, unless a specific, material contradiction must be tested.

5.14 Post-Testimony Consideration

Once a witness has completed their testimony, the tribunal shall formally thank them for their time, acknowledge their contribution to the resolution of the dispute, and excuse them immediately so they are not forced to linger in an adversarial environment.

Article 6. Expert Evidence and Trauma-Informed Methodologies

6.1 Demonstrated Expertise

Where expert evidence is required to assess psychological trauma, emotional distress, or systemic harm, the arbitral tribunal shall ensure that the appointed expert possesses verified qualifications and training in trauma-informed methodologies.

6.2 Methodological Integrity

The tribunal may inquire into the expert's assessment methods to ensure that their interviews or evaluations of parties or witnesses were conducted in a manner that minimized the risk of re-traumatization.

6.3 Expert Witness Conferencing

To reduce the adversarial polarization typical of traditional cross-examination, the Arbitral Tribunal shall encourage the use of expert witness conferencing, including joint sessions or concurrent evidence protocols.

6.4 Collaborative Expert Dialogue

The arbitral tribunal may, after consulting the parties, direct concurrent expert evidence using a structured, conversational panel format. The tribunal shall manage the panel to facilitate a collaborative professional dialogue focused on identifying areas of consensus and divergence. The tribunal shall actively intervene to prevent hostile or adversarial debate and ensure a trauma-informed environment.

6.5 Joint Expert Reports

Prior to the evidentiary hearing, the tribunal may direct the opposing experts to meet, confer in good faith, and draft a single Joint Expert Report.

6.6 Delineation of Agreed and Disputed Facts

This report must clearly outline the agreed technical or psychological facts and isolate only the specific points of disagreement. This process minimizes the volume of conflicting documentation and reduces the cognitive and emotional load on the tribunal and the parties.

6.7 Scope of Independent Medical Evaluations

If an independent medical or psychological evaluation of a party is ordered, the tribunal shall establish strict guidelines regarding the duration, scope, and location of the examination to ensure the party's dignity is maintained.

6.8 Verification and Presence Protocols

The tribunal may permit the evaluation to be audio- or video-recorded, or allow a support person or legal representative to be present, to ensure a transparent and safe environment.

6.9 Trauma-Informed Expert Management

The tribunal shall recognize that experts who routinely review graphic evidence, medical trauma reports, or testimonies of severe suffering are at risk of vicarious trauma.

6.10 Respectful Engagement of Experts

The tribunal shall extend the same scheduling predictability, professional courtesy, and pacing accommodations to expert witnesses as it does to fact witnesses, ensuring they are not subjected to unnecessary professional hostility or prolonged waiting times.

Article 7. Application of the Law and Standards of Proof

7.1 Primacy of Law Over Legal Articulation

The arbitral tribunal is not purely passive and shall actively apply the law to the facts of the dispute. A vulnerable party's inability to perfectly articulate or categorize a legal theory due to trauma-induced

cognitive gaps or resource constraints shall not prevent the tribunal from applying the correct law to the established facts.

7.2 Invitation for Legal Submissions

Where the Arbitral Tribunal identifies a material legal issue or potential remedy that the parties have not fully addressed, it may invite the parties to submit arguments on that specific point to ensure a complete and fair resolution of the dispute.

7.3 Allocation of Evidentiary Burdens

In matters involving systemic harm, discrimination, toxic environments, or power imbalances, the tribunal may, where permitted by the governing law, shift or adapt the evidentiary burden. Once a *prima facie* case of harm is established by a vulnerable party, the burden may shift to the responding party to prove they met their duty of care.

7.4 Proportionality and Avoidance of Repetitive Trauma

The tribunal shall prevent parties from presenting an excessive, repetitive volume of triggering evidence simply to clear a standard burden of proof. If a fact or element of harm has already been reasonably established, the tribunal shall direct the parties that no further corroborating trauma narrative is required.

7.5 Assessment of Material Consistency

When assessing whether a party has met the required standard of proof, the Arbitral Tribunal shall account for the impact of severe stress or trauma on memory recollection. Minor chronological errors or omitted peripheral details shall not automatically defeat the proof of a core, material event.

7.6 Corroboration and Weight of Evidence

The tribunal shall recognize that traumatic events, particularly those involving a loss of dignity or psychological harm, often occur without direct eyewitnesses. The tribunal may find a matter proven

based on credible personal testimony coupled with circumstantial or contemporaneous behavioral changes, without requiring physical or third-party documentary proof for every detail.

7.7 Preservation of Procedural Fairness

If the Arbitral Tribunal intends to rely on a legal theory, statute, or precedent not raised by the parties, it must explicitly notify both parties and provide them with an equal, reasonable opportunity to submit comments and arguments. Failure to provide such notice constitutes a breach of the right to be heard.

7.8 Preservation of the Standard of Proof and Substantive Integrity

Adapting the management of evidence does not mean lowering the ultimate legal standard required to win a claim. The tribunal must ensure that any final finding of liability rests on clear, reliable, and legally sufficient proof, protecting the integrity of the final award.

Article 8. Structural Layout of the Hearing Room

8.1 Inclusive Spatial Arrangements

The arbitral tribunal may modify the traditional layout of the physical hearing room. This includes arranging tables in a circular or non-confrontational configuration to reduce power hierarchies and defensive psychological posturing.

8.2 Protective Spatial Barriers and Privacy Parameters

Upon request, the tribunal may install physical privacy screens or adjust seating arrangements to ensure that a vulnerable witness or party is not forced to maintain direct, continuous line-of-sight with an adversarial party during their presence in the room.

8.3 Dedicated Safe Spaces

The tribunal shall ensure the venue provides separate, secure waiting rooms for opposing parties and their witnesses to prevent accidental, high-stress interactions outside the formal hearing room.

8.4 Customization of the Digital Interface

In virtual hearings, the tribunal shall direct the use of platform settings that protect participant well-being. This includes allowing a witness to hide the video feed of a specific adversarial party from their screen while they are testifying.

8.5 Regulated Use of Chat and Screen Sharing

The chat function and screen-sharing capabilities shall be strictly controlled by the tribunal. No party may broadcast documents, text messages, or graphic evidence without prior authorization from the arbitrator.

8.6 Secure Breakout Rooms

Digital breakout rooms must be pre-configured and securely locked to ensure that participants can consult privately with their counsel or support persons without the risk of accidental intrusion by the opposing side.

8.7 Predictable Time Management

The tribunal shall strictly adhere to scheduled start, finish, and break times. Prolonged periods of waiting or unexpected, exhausting extensions of the hearing day must be avoided to preserve cognitive clarity and emotional stability.

8.8 Mandatory Intraday Recesses

A mandatory break of at least 10 to 15 minutes shall be instituted for every 60 to 90 minutes of hearing time, regardless of whether a party requests it.

8.9 Immediate Recesses for Nervous System Regulation

If the Arbitral Tribunal observes signs of acute nervous system dysregulation or extreme cognitive fatigue in any participant, it shall immediately suspend the session for a brief recess. The Tribunal shall

prioritize the physiological regulation of the participant over strict adherence to the hearing timetable, safeguarding both participant dignity and the quality of the evidence.

8.10 Maintenance of Professional Decorum and Conduct

The Arbitral Tribunal shall act as an active gatekeeper of the hearing's psychological climate. The Tribunal shall immediately intervene to address, correct, or suspend the session if counsel or a participant engages in non-verbal hostility, micro-aggressive behavior, or disruptive physical posturing; including audible scoffing, dismissive gesturing, or demonstrative expressions of contempt. The Tribunal may direct that such behavior and the subsequent intervention be expressly noted on the official record.

8.11 Standards of Verbal Communication

All participants, including the members of the Arbitral Tribunal, shall maintain a calm, measured, and respectful conversational tone throughout the proceedings. The chair of the Tribunal shall immediately intervene to suppress shouting, argumentative badgering, or conversational overlapping, thereby ensuring the accuracy of the official record and preventing the acoustic escalation of adversarial tension.

8.12 Confidentiality of Oral Proceedings and In-Camera Hearings

To protect the fundamental dignity, psychological safety, and privacy of the participants, the Arbitral Tribunal may, after consulting the parties, order that the hearing or specific portions thereof be held entirely in camera. Attendance shall be strictly restricted to the immediate parties, their authorized legal representatives, essential tribunal staff, and any approved support persons or experts.

8.13 Regulation of Attendance and Observer Conduct

If observers or public members are permitted to attend, the tribunal may establish strict rules regarding their conduct. This includes banning recording devices, prohibiting entry/exit while a vulnerable witness is speaking, or requiring observers to turn off their video feeds in a virtual environment.

Article 9. Preservation of Voluntary Consent and Party Autonomy

9.1 Prohibition of Coercive Settlement Practices

The arbitral tribunal may invite the parties to explore an amicable settlement at appropriate stages of the proceedings. However, the tribunal shall strictly refrain from exerting undue pressure, using aggressive scheduling, or hinting at negative outcomes to force a settlement.

9.2 Informed Decision-Making

The tribunal shall ensure that both parties have adequate time, resources, and legal consultation to thoroughly evaluate any settlement proposal. A vulnerable party must never be rushed into signing an agreement during a high-stress hearing or while experiencing acute emotional distress.

9.3 Separability of Roles and Restrictions on Private Ex-Parte Consultation

To preserve the strict impartiality of the proceedings and protect the psychological safety of the participants, no member of the Arbitral Tribunal shall act as a mediator or conduct private, unilateral caucus sessions with a single party. This restriction may only be waived if all parties execute explicit, separate, and informed written consent.

9.4 Protection of Confidentiality

If the parties choose to attempt mediation with a third-party mediator, the tribunal shall pause the arbitration proceedings and establish a strict confidentiality firewall. No positions, concessions, or emotional expressions shared during settlement talks may be introduced as evidence if the arbitration resumes.

9.5 Screening for Coercion

Before encouraging or facilitating direct settlement discussions, the tribunal shall assess the power dynamics between the parties. If there is a severe imbalance of power, systemic intimidation, or a

history of abuse, the tribunal shall mandate that negotiations occur entirely through legal counsel or via safe, indirect communication channels.

9.6 Review for Fairness and Coercion

If the parties reach a settlement agreement and request the tribunal to record it as an Award on Agreed Terms, the tribunal may conduct a brief inquiry to verify that the agreement was entered into freely, voluntarily, and without systemic coercion or distress.

9.7 Trauma-Informed Settlement Conferences

If the tribunal is actively assisting the parties in exploring settlement options during a case management conference, it shall structure the session to maximize safety. This includes utilizing separate virtual breakout rooms, scheduling frequent cooling-off periods, and allowing support persons to remain present.

9.8 Non-Prejudicial Right of Withdrawal from Negotiations

The tribunal shall explicitly remind the parties at the outset of any settlement discussion that they maintain the absolute right to withdraw from negotiations at any moment and return to the formal arbitral process without prejudice or penalty.

Article 10. Restraint in Drawing Adverse Inferences

10.1 Evaluation of Procedural Non-Compliance and Adverse Inferences

The Arbitral Tribunal shall exercise heightened scrutiny before drawing an adverse inference against a participant who fails to produce requested documentation, declines to answer a specific question, or fails to attend a scheduled hearing. Prior to drawing any such inference, the Tribunal shall evaluate whether the non-compliance may be rationally attributed to trauma-induced avoidance, psychological paralysis, or resource constraints, ensuring that procedural deficiencies are not conflated with a concealment of material facts.

10.2 Inquiry Into the Causes of Non-Compliance

Before entering any negative conclusion or adverse finding regarding a participant's procedural omission, the Arbitral Tribunal shall conduct an explicit inquiry into the underlying causation of the non-compliance. The Tribunal shall evaluate whether the default was materially influenced by acute emotional distress, a well-founded fear of retaliation, trauma-induced psychological paralysis, or an unconscionable risk of re-traumatization.

10.3 Mandatory Notice and Opportunity to Explain

The Arbitral Tribunal shall not draw an adverse inference without first issuing a formal written notice to the non-complying party. This notice must explicitly identify the specific negative conclusion or evidentiary penalty the Tribunal is considering, and shall accord the party a reasonable, designated opportunity to show cause or present a psychological or systemic justification before any final determination is made.

10.4 Confidential and Protected Explanations for Non-Compliance

A participant may request an in-camera session, or submit a confidential, sealed written statement, to establish the psychological or systemic barriers underlying their non-compliance. To safeguard the participant's privacy and prevent the exposure of sensitive vulnerabilities, the Arbitral Tribunal may direct that such disclosures be subject to strict protective orders; including restricting access exclusively to the opposing party's legal counsel on a confidential basis, or utilizing redacted summaries, thereby balancing participant security with procedural fairness.

10.5 Tactical Abuse of Protective Frameworks

To preserve the fundamental fairness of the proceedings, the Arbitral Tribunal shall carefully distinguish between genuine, trauma-induced procedural boundaries and bad-faith tactical obstruction. The Tribunal retains the absolute discretion to draw an adverse inference if it is established that a party is exploiting these protective Rules as a bad-faith shield to deliberately conceal highly material, non-sensitive evidence that carries no legitimate risk of re-traumatization.

10.6 Evidentiary Criteria for Assessing Psychological Barriers

In determining whether to excuse a procedural default or a failure to produce evidence under these Rules, the Arbitral Tribunal shall evaluate a holistic range of corroborating factors. The Tribunal may consider formal clinical data, including contemporaneous medical documentation and expert forensic or psychological reports.

10.7 Evidentiary Insufficiency of Adverse Inferences

An adverse inference drawn under these Rules shall never serve as the sole or primary basis for a final determination of liability or quantum. Any negative evidentiary conclusion applied by the Arbitral Tribunal must be substantially corroborated by independent, reliable, and legally sufficient evidence elsewhere on the record, ensuring that findings of liability remain strictly grounded in substantive proof.

10.8 Scope and Proportionality of Inferences

Where an adverse inference is deemed contractually or legally justified, its application must be strictly confined to the narrow, specific factual element that was withheld or suppressed. The Arbitral Tribunal shall ensure that such inferences are never generalized or weaponized to systematically undermine the holistic credibility, reliability, or personal dignity of a vulnerable participant whose overall narrative remains cohesive.

Article 11. Allocation of Costs

11.1 Discretionary Mitigation of Disproportionate Cost Burdens

The Arbitral Tribunal shall not be bound by a presumption that costs must automatically follow the event. In determining the allocation of the costs of arbitration and legal representation, the Tribunal shall evaluate the relative financial capacities of the parties and the potential for a cost order to inflict severe, disproportionate financial hardship or unconscionable cognitive distress upon a vulnerable or significantly less-resourced participant.

11.2 Remedial Modification and Apportionment of Expenses

To prevent the systemic erosion of a participant's fundamental dignity, the Arbitral Tribunal may depart from standard cost-shifting practices by directing that each party bear its own legal fees and expenses, or by applying a substantial proportional reduction to any cost award. The Tribunal may issue such an order where a standard allocation of costs would critically threaten a vulnerable party's ongoing economic livelihood or basic financial viability.

11.3 Financial Penalties for Misconduct and Intimidation

The tribunal may shift or award extra costs against a party, regardless of the final outcome of the case, if that party or their counsel engaged in behavior that caused unnecessary psychological distress or procedural delays. This includes:

- a) Conducting deliberately hostile, repetitive, or bullying cross-examinations.
- b) Utilizing "fishing expedition" document requests intended to harass or expose private lives.
- c) Launching bad-faith, frivolous procedural applications designed to exhaust the other side's emotional and financial reserves.

11.4 Cost Implications of Uncooperative Behavior

A deliberate or persistent failure to respect the trauma-informed guidelines, directives, or hearing room protocols established by the Arbitral Tribunal under Section 8 shall constitute a material breach of procedural conduct. The Tribunal may penalize such non-compliance, including physical or virtual decorum violations, by entering an adverse or punitive cost order against the offending party, irrespective of the final determination on the merits.

11.5 Reimbursable Disbursements and Trauma-Informed Accommodations

The tribunal may include the reasonable costs of trauma-informed accommodations as part of the overall "arbitration costs" to be shared or shifted. These reimbursable expenses may include:

- a) The fees or travel expenses for an approved, non-testifying witness support person or counselor.

- b) Costs associated with modifying physical room layouts, setting up secure remote testimony rooms, or deploying specialized virtual software settings.
- c) The expenses of a tribunal-appointed expert on trauma-informed practices.

11.6 Factoring Structural Disparities

When assessing whether a party's legal fees and disbursements are reasonable, the Arbitral Tribunal shall explicitly evaluate the relative power dynamics and resource disparities between the parties. A well-resourced or institutional entity shall not be permitted to utilize an excessive, disproportionate legal expenditure as a strategic weapon to create prohibitive entry barriers or price a less-resourced, vulnerable participant out of their fundamental right to a fair hearing.

11.7 Good-Faith Settlement Efforts

In exercising its discretion over cost allocation, the Arbitral Tribunal may evaluate the parties' relative settlement postures and conduct under Section 9. The Tribunal may reduce the cost liabilities of a party that demonstrated verified, good-faith efforts to achieve an amicable resolution, and may conversely increase the cost burdens of, or issue sanctions against, a party that unreasonably rejected proportionate compromises solely to vexatiously prolong the dispute or inflict cumulative emotional exhaustion upon an opposing participant.

Article 12. Trauma-Informed Deliberation and Evidentiary Evaluation

12.1 Analytical Parameters for Evaluating Trauma-Impacted Evidence

During its internal deliberations and the assessment of the merits, the Arbitral Tribunal shall evaluate the record in strict accordance with the trauma-informed principles established under these Rules. The Tribunal shall refrain from treating non-linear memory recall, manifestations of emotional numbing, or non-material peripheral contradictions as presumptive indicators of deception, fabrication, or unreliability, recognizing that such variations frequently align with documented neurobiological responses to severe stress.

12.2 Application of Neurobiological Principles to Evidentiary Weight

The Arbitral Tribunal shall consciously incorporate expert or scientific understandings of how fear, shock, and chronic stress affect human memory encoding, ensuring that the weight assigned to testimonies reflects psychological reality.

12.3 Mitigating Stereotypical Expectations of Victim Behavior

The tribunal shall actively monitor its own discussions to prevent falling into the trap of the "perfect victim" stereotype. A party's failure to react to harm in a standard, predictable, or socially expected manner must not be weaponized to diminish the credibility of their claim.

12.4 Neutralizing Socioeconomic and Institutional Bias

The Arbitral Tribunal shall critically evaluate the presentation of evidence without assigning undue weight to professional polish. The composed articulation of an institutional party must not overshadow the defensive, non-linear, or strained testimony of a traumatized participant.

12.5 Sustainable Adjudication and Arbitrator Wellness

Recognizing that exposure to evidence of severe human suffering can induce secondary trauma, the Arbitral Tribunal shall prioritize pacing and deliberate pauses to preserve the cognitive clarity and emotional well-being of its members.

12.6 Deliberate Pauses for Cognitive Reflection

The Arbitral Tribunal shall cultivate a period of separation between the reception of distressing evidence and the final weighing of merits. Deliberations shall not commence immediately following a high-stress hearing, ensuring time for emotional equilibrium.

12.7 Scheduling Adjustments for Sensitive Evidence

The Arbitral Tribunal shall implement a paced schedule when examining graphic documentary or digital evidence. Sessions shall be punctuated by reasonable intervals to mitigate the psychological impact of the record and safeguard the integrity of the deliberative process.

12.8 Integrity and Safety of Panel Discussions

The Chair of the Arbitral Tribunal shall ensure that internal communications are conducted with mutual professional respect. Co-arbitrators shall have the absolute right to advance non-conforming opinions or interrogate systemic biases free from hostility or procedural obstruction.

12.9 Prioritization of Substantive Evaluation over Expediency

Deliberations shall be characterized by a calm, collaborative, and conscientious dialogue, prioritizing thoroughness and objective analysis. The obligation to finalize an award within established time limits must not operate to prejudice a rigorous and trauma-informed assessment of the record evidence.

Article 13. Awards, Interim and Final

13.1 Dignified Language in Written Decisions

The Arbitral Tribunal shall ensure that the text of all interim and final awards is characterized by objective, professional, and dignified prose. The Tribunal shall meticulously avoid any judgmental, dismissive, or gratuitously harsh language when detailing a participant's emotional reality, trauma, or history.

13.2 Narrative Contextualization of Trauma

The Arbitral Tribunal is permitted to incorporate objective descriptions of a party's psychological distress or socio-environmental hardships within its findings of fact. Such recitals shall not be construed as an indicator of bias or a violation of the principle of equal treatment.

13.3 Anonymization and Redaction of Awards

Where the record contains highly sensitive medical, psychological, or personal data, the Arbitral Tribunal possesses the authority, *sua sponte* or upon motion, to issue a pseudonymized or redacted award. The tribunal shall ensure that such formatting preserves the anonymity of vulnerable participants while maintaining the structural validity of the final instrument.

13.4 Safeguarding Privacy in Public Records

In the event of publication or enforcement proceedings before a court of competent jurisdiction, the Arbitral Tribunal shall issue a redacted variant of the award. Such redactions shall encompass non-essential biometric, medical, residential, and trauma-related data, without prejudice to the legal validity of the instrument.

13.5 Protocol for the Notification and Transmission of Awards

The Arbitral Tribunal shall issue a notification of intent prior to transmitting any interim or final award, specifying the exact date and hour of release. Except under exceptional circumstances, transmission shall occur strictly within the core business hours of the seat of arbitration.

13.6 Executive Summaries in Complex Awards

In proceedings yielding voluminous or highly complex final awards, the Arbitral Tribunal shall append an executive summary to the operative opening of the text. The summary must explicitly state the final disposition of claims, findings of liability, and allocation of remedies, without prejudice to the detailed legal reasoning that follows.

13.7 Interim Measures for the Protection of Persons

Pursuant to its authority to direct the proceedings, the Arbitral Tribunal may, upon application or *sua sponte*, issue interim orders or partial awards to safeguard the physical or psychological integrity of a party or witness. Authorized measures comprise:

- a) Formal stay-away or modified communication directives *pendente lite*;

- b) Interim injunctions restraining adverse operational or institutional practices; or
- c) Orders for the sequestration of sensitive data or the deletion of prejudicial digital assets.

13.8 Acceleration of Emergency and Protective Proceedings

Applications for interim or conservatory measures filed pursuant to Article 13.7 shall be adjudicated on an expedited basis. The Arbitral Tribunal shall abridge standard procedural timelines to prevent impending psychological or physical harm and to mitigate ongoing risk to the moving party.

13.9 Legal Enforceability and Certainty of Awards

The Arbitral Tribunal shall formulate relief in precise, self-executing terms capable of recognition and enforcement under the New York Convention. The Tribunal shall not grant equitable or mandatory injunctions that require continuous judicial supervision or compel high-friction, inter-party compliance mechanisms.

13.10 Non-Pecuniary and Structural Relief

Pursuant to the applicable substantive law and arbitral mandate, the Arbitral Tribunal possesses the authority to grant equitable, behavioral, or structural relief. Permissible remedies encompass directives for mandatory training on trauma-informed methodologies, institutional policy revisions, or formal declarations of factual findings.

Article 14. Post-Proceedings Care and Systemic Closure

14.1 Managing Post-Hearing De-escalation and Transition

Upon the conclusion of any live hearing or the publication of an award, the Arbitral Tribunal shall retain jurisdiction to issue specific procedural directives governing the safe, orderly, and dignified transition of all participants out of the arbitral environment.

14.2 Mitigating the Risk of Physical Confrontation

To mitigate the risk of post-hearing confrontation or Tribunal-Acquired Harm, the Tribunal, in coordination with the Secretariat, shall mandate a staggered departure protocol for physical attendees. Unless otherwise ordered, the initiating party or vulnerable participants shall be permitted to vacate the premises twenty (20) minutes prior to the opposing party.

14.3 Virtual Adjournment and Secure Breakout Environments

For virtual proceedings, the Arbitral Tribunal shall ensure that digital platforms are configured to instantly sever direct interactive communication between adverse parties upon adjournment, while maintaining separate, secure virtual breakout environments for parties requiring immediate stabilization or administrative debriefing.

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