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## **RULES FOR THE RESOLUTION OF DISPUTES BETWEEN EMPLOYEES AND EMPLOYERS**

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### **1. EFFECT.**

These policies and procedures will govern the resolution of disputes between parties to agreements that require dispute resolution pursuant to the Rules of The Halcyon Group For Workplace Dispute Resolution, LLC (The Halcyon Group). These Rules establish and explain the process for the resolution of covered disputes between employees and employers by ombuds services, mediation and arbitration.

### **2. SUBMISSION TO MEDIATION AND ARBITRATION.**

Parties to agreements or in employment relationships subject to these Rules agree to submit all covered disputes to mediation and arbitration, to mediate in good faith, to be bound by any arbitration award that may result, and to the entry of judgment on arbitration awards in any appropriate court.

### **3. EXCLUSIVITY.**

To the fullest extent permitted by law, the process provided by these Rules will be the exclusive means for resolving all covered disputes and related claims between participating employers and employees. If applicable law prohibits parties from submitting a particular dispute or issue to binding arbitration, as to that issue alone, the procedures required by these Rules will apply to ombuds services and mediation, but will terminate following the mediation process. With respect to matters not subject to arbitration, the parties may agree to advisory arbitration of such matter, in which case the arbitrator award will be advisory only, and not subject to judicial enforcement.

### **4. COVERED DISPUTES.**

These Rules are intended to serve as the exclusive procedure for the resolution of covered disputes, as defined by agreement or as established as a term and condition of employment. Unless otherwise agreed between the parties previously, covered disputes are defined as: all alleged violations of federal, state, or local law and regulations applicable to the employment relationship, but excluding matters within the sole jurisdiction of government agencies, such as worker compensation and unemployment claims; and, any alleged violation or misapplication of applicable employment policies and rules.

## **5. PARTIES.**

These Rules apply to, and will be used by, employees and employers, as defined by agreement or as established as a term and condition of employment. Unless otherwise agreed or established between the parties previously, the parties to a covered dispute are: all employees; and the employer.

## **6. PURPOSES.**

These Rules provide an effective, fair and objective resolution process that benefits the mutual interests of the parties to a covered dispute. Under these Rules, dispute resolution procedures will be applied in an efficient, cost effective manner, with a minimum of delay. Such purposes will guide the interpretation and application of these Rules.

## **7. CONDUCT OF THE PARTIES.**

The parties will act in good faith and conduct themselves in a professional, cooperative, and constructive manner intended to create a complete and accurate factual record, and to achieve a just and equitable result in accordance with applicable law.

## **8. COMPLETION OF PROCESS.**

All disputes subject to these requirements will be concluded in a timely and expedited manner, specifically within one hundred eighty (180) days of submission of the dispute to The Halcyon Group unless good cause exists to extend such period. The Presiding Arbitrator of The Halcyon Group, or his/her designee, will exercise the sole and exclusive authority to determine if such good cause exists.

## **9. AUTHORITY TO INTERPRET.**

The Presiding Arbitrator of The Halcyon Group, or his/her authorized designee, will exercise the exclusive authority to interpret and apply these Rules, until an Arbitrator has been designated and assigned to a specific matter. At any time during the mediation or arbitration process, the designated Mediator or Arbitrator, or a party to a mediation or arbitration, may request that the Presiding Arbitrator issue an interpretation of these Rules, which will be binding and not subject to further review.

## **10. OMBUDS SERVICES.**

### **10.1. Ombuds Purposes and Authorities.**

An Ombuds is a qualified, independent, impartial professional, who is available to assist in the resolution of employee complaints. The Ombuds will receive and review employee complaints, and assist the employee in resolving the complaint privately, confidentially, and informally. The Ombuds will have the authority to request information and materials from the employer and employee, which is relevant to the matter under review, and necessary to his/her functions.

### **10.2. Availability of Ombuds.**

Any employee may request the assistance of the Ombuds with respect to any complaint or problem related to, or arising from, the employment relationship, and regardless of whether such matter is a covered dispute or the subject of legal requirements. The Ombuds will have sole discretion in determining whether the complaint falls within the proper scope of ombuds authority. If the Ombuds declines to participate, or if the employee decides not to use the services of the Ombuds, the employee will have the right to proceed directly to mediation, as provided by these Rules.

### **10.3. Functions of the Ombuds.**

Following an appropriate review of an employee complaint, the Ombuds will advise and counsel the employee concerning methods for resolving the issue(s). At the request of the employee, the Ombuds may: conduct informal mediation sessions with any other employee involved or employer representatives; investigate the problem further; report the problem to the employer for further resolution; and/or assist the employee in working with the employer to develop a satisfactory resolution.

### **10.4. Confidentiality.**

All communications between the Ombuds and the employee will be confidential. The Ombuds will not disclose such information to any third party without the written consent of the employee. The Ombuds will not maintain any records on behalf of the employer or the employee, and all Ombuds records related to a particular matter will be destroyed as a matter of policy and practice.

### **10.5. Notice to Employer.**

Communication between an employee and the Ombuds will not constitute an employee's notice to the employer of the existence of any problem, complaint or legal matter, and will not constitute notice with respect to any of the time limitations or filing requirements set forth in these Rules, any agreement between employer and employee, or statute or other law.

## **11. REQUEST FOR DISPUTE RESOLUTION BY MEDIATION OR ARBITRATION.**

### **11.1. Initiation of Request.**

Any party may initiate a mediation process or arbitration with respect to a covered dispute by delivering a written request for mediation or arbitration resolution services to The Halcyon Group with a copy to the other party. All such requests will be delivered by: hand delivery; certified mail; return receipt requested; private delivery services; confirmed fax transmission; or confirmed email communication.

### **11.2. Contents and Form of Request.**

A written request for mediation or arbitration services will contain the following information: (A) name, address, telephone numbers, and email addresses (if available) of the parties; (B) a description of the dispute between the parties, including, a detailed statement of the factual information, employment policies, and terms related to the dispute; and, (C) A statement indicating whether the party is requesting mediation or arbitration services with respect to the dispute.

## **12. PRELIMINARY RELIEF AND ORDERS.**

### **12.1. Initiation of Request.**

At any time following the submission of a request for mediation or arbitration pursuant to these Rules, but before the designation of an Arbitrator for the matter, either party may submit a request to the Presiding Arbitrator for preliminary relief. Following the designation of an Arbitrator, such requests will be made to that Arbitrator.

### **12.2. Standards for Preliminary Relief.**

Preliminary relief may be issued by the Presiding Arbitrator or the designated Arbitrator (Arbitrator), upon a showing of good and reasonable cause, and that irreparable injury will likely occur without the requested relief. Such relief may be granted if it is necessary to protect an important legal right, conserve property, prevent misuse or disclosure of confidential information or trade secrets, maintain the interests of the parties until a final resolution is achieved, or otherwise protect an important interest of either party.

### **12.3. Contents and Form of Request.**

A written request by a party for preliminary relief will contain the following information: (A) name, address, telephone numbers, and email addresses (if available) of the parties; (B) a description of the dispute between the parties; (C) a detailed explanation of the preliminary relief requested; (D) a detailed description of the basis upon which the party believes he/she is entitled to such relief, including a statement of good cause supporting the request, and the injury that will likely occur if the request is not granted; and, (E) a statement explaining the order requested.

### **12.4. Resolution of Request.**

Immediately upon receipt of a Request for Preliminary Relief, the Presiding Arbitrator or the Arbitrator will meet with the parties to review the request. If appropriate, or upon the request of a party, the Presiding Arbitrator or Arbitrator may conduct a hearing concerning the resolution of the relief request, including issues related to material facts. The Presiding Arbitrator or Arbitrator will determine if the standards for granting such relief have been satisfied, and, in the Arbitrator's sole and exclusive judgment, grant or deny the request in whole or part.

### **12.5. Preliminary Orders.**

If appropriate, the Presiding Arbitrator or Arbitrator will issue an order directing one or both of the parties to provide specific relief. The Presiding Arbitrator or Arbitrator may require a party to do, or to refrain from doing, certain acts by preliminary and temporary Order, including that a party disclose or submit documents relevant to an arbitration, reveal or not reveal information, not dispose of property, information or materials, and/or, modify or not modify the terms of employment.

## **13. MEDIATION.**

### **13.1. Scheduling and Location of Mediation.**

Within five (5) business days of receipt of a request for mediation services, The Halcyon Group will provide the employee and the employer with the names of at least three (3), qualified, impartial mediators. Within three (3) days of receiving such list of mediators, each party will reject one (1) name, and the remaining Mediator will be assigned to the dispute. Within five (5) days of assigning a Mediator, The Halcyon Group and/or the Mediator will conduct a scheduling conference with the parties to fix the time and place of mediation, which will be scheduled to occur no more than fifteen (15) business days from the date of such conference, unless a party presents a compelling reason to delay the mediation for a short period.

### **13.2. Mediator Functions.**

The function of the Mediator is to assist the parties in reaching a joint and voluntary resolution of all issues related to the dispute. The Mediator has no authority to impose any resolution or require any concession. The Mediator may also help the parties identify mutually acceptable arbitrators, if arbitration should become necessary.

### **13.3. Mediation Memorandum of Understanding.**

If the parties reach agreement concerning any or all issues related to the dispute, within two (2) business days of such agreement, the Mediator will prepare a non-binding Memorandum of Understanding that summarizes the terms of such agreement. Upon receipt of the Memorandum of Understanding, the parties will take all reasonable steps, and make a good faith and timely effort, to prepare and accept a binding dispute resolution agreement concerning the terms set forth in the Memorandum of Understanding. Only the parties or their attorneys can prepare and accept a binding agreement based on the Memorandum.

### **13.4. End of Mediation/Declaration of Impasse.**

In the event that the Mediator determines that the mediation process cannot produce further progress toward resolution of the dispute, or, upon the written request of a party after eight (8) hours of mediation sessions, the Mediator will declare an impasse and end the mediation. Following the declaration of an impasse, either party may submit the dispute to arbitration pursuant to these Rules.

### **13.5. Confidentiality.**

All communications between the Mediator and the parties will be confidential. The Mediator will not disclose such information to any third party without the written consent of the parties. The Mediator will not maintain any records on behalf of the parties, and all Mediator records related to a particular matter will be destroyed as a matter of policy and practice.

## **14. ARBITRATION/INITIATION OF ARBITRATION.**

### **14.1. Arbitration Submission Deadline.**

To initiate arbitration, the party seeking arbitration must submit a request for arbitration within the applicable statute of limitations period. Requests for arbitration received after the expiration of such time periods will not be accepted under these Rules, unless a compelling reason for the failure is shown by the party seeking arbitration. The Presiding Arbitrator of The Halcyon Group, or his/her designee, will exercise the sole and exclusive authority to determine if such a compelling reason has been presented.

#### **14.2. Statement of Claims and Relief.**

Within ten (10) business days following receipt of a request for arbitration by The Halcyon Group, each party will submit to The Halcyon Group and the opposing party a written Statement of Claims, describing and explaining in detail: (A) the dispute between the parties, including a detailed statement of all relevant factual information concerning the dispute; (B) all claims against the other party; (C) all legal and statutory obligations the opposing party is alleged to have violated; and, (D) all relief and remedies requested.

#### **14.3. Permitted Answers to Statement of Claims/Counter Claims.**

Within seven (7) business days of receipt of the opposing party's Statement of Claims, a party may, but is not required to, submit an Answer to the Statement of Claims to The Halcyon Group and the opposing party, which may include counter-claims. Claims and counter-claims not answered will be considered denied.

#### **14.4. Designation of Arbitrator.**

Within ten (10) business days following receipt of a request for arbitration, The Halcyon Group will provide the parties with a list, containing the names of not less than seven (7) professional, impartial arbitrators. In conference with the Presiding Arbitrator or his/her designee, the parties will alternately reject names on such list until one name remains, and that remaining Arbitrator will be assigned to the case. The parties may agree to arbitration by any previously assigned and acceptable Mediator. The designated Arbitrator will act in accordance with, and be bound by, these Rules.

#### **14.5. Arbitrator Authority.**

The designated Arbitrator will have all legal and equitable authority that may be exercised by a court of competent jurisdiction, as well as such other authority granted by these Rules and the agreement between the parties.

### **15. ARBITRATION PREPARATION/DISCOVERY.**

#### **15.1. Discovery Conference.**

Within ten (10) business days of the designation of an Arbitrator, the parties will meet with the Arbitrator for a pre-arbitration discovery conference, which will be held in person, by telephone conference call, or by videoconference. Throughout the arbitration process, the parties will make a good faith effort to cooperate concerning the disclosure and exchange of information and materials in all respects.

### **15.2. Discovery Requests/Statements of Evidence.**

At the discovery conference, each party will provide two (2) copies of a written Discovery Request Statement, which lists and identifies all: (A) persons requested to be deposed; (B) documents requested from the other party; and, (C) other discovery requests.

Each party's Discovery Request Statement will explain specifically how each request for information and materials will lead to information relevant to the subject(s) of the arbitration. In addition, each party will provide at the discovery conference two (2) copies of a written Statement of Evidence to be offered at the arbitration, which specifically lists and identifies all: (A) documents to be presented to the Arbitrator relevant to the dispute; (B) witnesses to be presented to the Arbitrator, as well as a complete summary of the testimony to be presented from each witness; and, (C) other evidence to be presented to the Arbitrator.

### **15.3. Pre-Hearing Memorandum and Preliminary Orders.**

Within five (5) business days of the discovery conference, the Arbitrator will issue a Pre-Hearing Memorandum containing binding decisions with respect to pre-arbitration discovery, and other pre-hearing matters requested by the parties or identified by the Arbitrator.

### **15.4. Extent of Discovery.**

Each party will be entitled to take the deposition of no more than three (3) witnesses, and such depositions will not exceed a total of eight (8) hours in length. Each party will also be entitled to require the opposing party to answer up to thirty (30) interrogatories; up to twenty (20) requests to admit relevant facts concerning the dispute; and, up to twenty (20) document production requests. Such discovery requests will be answered by the opposing party within fifteen (15) business days of receipt. In the event that a party objects to specific discovery requests, within seven (7) business days of receiving the request that party will submit a statement explaining the objection to the Arbitrator and the opposing party. The Arbitrator will then review the objection and issue an order enforcing or denying the request, in whole or part. The Arbitrator will exercise jurisdiction throughout the pre-hearing period to monitor and enforce compliance with the Pre-Hearing Memorandum, and to assist the parties in resolving any pre-hearing issues that may arise. The decisions and orders of the Arbitrator with regard to such matters will be final, and not subject to further review.

### **15.5. Supplemental Discovery Requests.**

Upon the submission of a written application, a party may request supplemental discovery beyond the specified discovery allowed in these Rules. In order to receive supplemental discovery rights, a party must show a compelling reason that such additional depositions, interrogatories, admission requests and/or document requests are necessary and appropriate. Such requests must specifically describe and identify: (A) each supplemental discovery request; (B) the compelling reason(s) that the party supports the request(s); and, (C) the specific persons sought to be deposed, the substance of the interrogatories to be answered, and/or the nature of the documents or other materials sought.

### **15.6. Duty to Provide Discovery Responses/Sanctions.**

Each party is required and obligated to make, supplement, and correct all discovery responses in a timely manner, and to disclose fully and accurately all information and materials requested. Information or materials not identified, or insufficiently explained, in a party's Statement of Evidence or discovery responses may be rejected by the Arbitrator in whole or part. In addition, the Arbitrator in his/her sole discretion may impose appropriate sanctions where a party has failed to respond to an authorized discovery request, or failed to provide a full and accurate discovery response. Such sanctions may include any penalty and corrective action authorized by law; and any penalty and corrective action necessary to avoid or minimize prejudice or harm to the requesting party.

### **15.7. Expert Reports.**

Upon the request of a party or the Arbitrator, and a finding of a clear and compelling reason, the Arbitrator in his/her sole discretion may appoint one or more impartial experts to review issues related to the arbitration and to provide an objective report concerning such issues. Expert reports may be relied upon by the Arbitrator with respect to the arbitration decision and award. The arbitrator may allot or apportion the costs of such experts to one or both parties in a fair and equitable manner, and may deduct such costs from an award.

## **16. ARBITRATION HEARINGS.**

### **16.1. Pre-Hearing Conferences and Orders.**

Within sixty (60) days of the issuance of the Arbitrator's Pre-Hearing Memorandum, and at any other time identified by the Arbitrator, the parties will meet with the Arbitrator to: adjust and finalize the hearing date and location; and address any other pre-hearing matters raised by a party or the Arbitrator, including the resolution of discovery and hearing evidence issues. Following a pre-hearing conference, the Arbitrator may issue additional pre-hearing memoranda containing binding decisions and/or agreements with respect to any arbitration process and hearing matters. The decisions and orders of the Arbitrator with regard to such matters will be final, and not subject to further review.

### **16.2. Factual Stipulations.**

During a pre-hearing conference and/or during the hearing, the Arbitrator will review with the parties all factual stipulations proposed by a party or the Arbitrator. During such conference(s), the parties will cooperate fully with the Arbitrator to identify and record all mutually accepted facts relevant to the dispute, in order to clarify and limit the factual information to be presented at the hearing.

### **16.3. Subpoenas.**

An attorney for a party, a party representing himself/herself, or the Arbitrator may issue one or more subpoenas to compel the attendance of specific witnesses, and/or the production of documents or other items. The opposing party may request that the Arbitrator quash the subpoena. After considering the issue, the Arbitrator will either quash the subpoena, or deny the request.

### **16.4. Arbitration Adjournments.**

The Arbitrator will have the sole authority and discretion to grant a party's request to postpone or adjourn a scheduled arbitration hearing. If granted, such postponements or adjournments will be permitted only upon a showing of good and reasonable cause. Postponement or adjournment requests made by the parties jointly will be granted.

### **16.5. Hearing Location and Time.**

Unless otherwise agreed by the parties and the Arbitrator, hearings will occur at such times and locations as the Arbitrator, in consultation with the Presiding Arbitrator, will designate. Hearings will continue on consecutive business days until concluded, unless scheduled otherwise by the Arbitrator.

### **16.6. Failure to Attend Hearing.**

If a party has received actual notice of an arbitration hearing, and declines to attend, the Arbitrator may, upon the request of an opposing party and notice to the absent party, proceed without the absent party and: take evidence; otherwise conduct and conclude the hearing; decide the case; and issue an appropriate award and decision.

### **16.7. Arbitrator Authority to Conduct and Govern Hearings.**

The Arbitrator will have the sole, exclusive, and complete authority to conduct and control the arbitration hearing. The Arbitrator will determine all matters concerning the conduct of the hearing without limitation and including: the order of presentations; sequestration of witnesses; admissibility of evidence; limitations regarding the testimony and documents received as evidence; appropriateness of additional subpoenas; compliance with subpoenas; exclusion of persons from the hearing room; necessity of hearing stenographic transcripts or other records; sanctions concerning a party's failure to comply with these Rules; allocation of costs related to the hearing; necessity and schedule for post-hearing briefs; and, any other matters concerning the hearing and or the arbitration.

### **16.8. Evidence.**

The Arbitrator will have sole and exclusive authority to determine the admissibility of evidence and the weight to be accorded evidence. While legal rules of evidence may be considered, such evidence rules will not control the acceptance and consideration of evidence. The Arbitrator will make evidentiary rulings based on his/her assessment of the probative value of the offered evidence, and the Arbitrator may exclude from evidence testimony or exhibits that are not relevant, or otherwise will not assist the Arbitrator in deciding the case. The Arbitrator will not permit any Ombuds or Mediator involved in the dispute to be called as a witness, and will not permit the records of such Ombuds or Mediator to be subpoenaed or presented at the hearing.

### **16.9. Arbitration Decision Standards.**

The Arbitrator will apply the same legal standards that a judge or other decision maker would apply had the dispute been resolved in a court or government agency proceeding. The parties are obligated to advise the Arbitrator of all relevant law that may apply to the resolution of the issues in the dispute.

## **17. MEDIATION DURING ARBITRATION PROCESS.**

Upon the joint request of the parties, the Arbitrator may mediate any issues related to the dispute. Alternatively, the parties jointly may request that a Mediator, who was previously involved in resolving the dispute, resume mediating the case or, that The Halcyon Group appoint another Mediator. If such mediation is initiated, the mediation will not delay the arbitration for more than two (2) days, unless the parties settle and resolve all issues, or agree in writing to a further delay related to the mediation effort. The joint request by the parties that the Arbitrator mediate any issue will constitute a waiver of any claims that the arbitration has been compromised by information heard by the Arbitrator during the mediation.

## **18. ARBITRATION AWARD.**

### **18.1. Form and Content of Award.**

Following closure of the hearing and the record, the Arbitrator will prepare a written Arbitration Award resolving all issues related to the dispute. The Award will include the reasons for the Award, the terms of the Award, and, the relief or remedies awarded, if any.

### **18.2. Issuance of Award.**

The Halcyon Group will make all reasonable efforts to issue the Arbitrator's award within twenty (20) business days following conclusion of the arbitration hearing, or receipt of post-hearing briefs or memoranda from the parties, whichever is later.

### **18.3. Remedies and Sanctions.**

The Arbitrator will have power to grant all legal and equitable remedies and sanctions on a provisional, conditional, or final basis, including such relief as a trial court of competent jurisdiction could grant in similar situations or cases. For the purpose of judicial enforcement, interim Decisions and Awards granting provisional remedies will be deemed as final.

## **19. FINALITY OF ARBITRATION AWARD.**

The award of the Arbitrator is the final, complete, binding resolution of a dispute subject to these Rules. A request by a party to reopen the hearing will only be considered prior to the issuance of the Award. Any such request must be in writing with a copy to the opposing party. The Arbitrator in his/her sole discretion may grant the request, or a portion thereof, where the Arbitrator determines that: (A) new or previously undiscovered evidence was unavailable to the requesting party until after the hearing was closed, and such evidence would probably alter the arbitration decision; (B) fraud, misrepresentation, or other misconduct of an adverse party; (C) controlling law has been overlooked or misapplied, which would probably alter the decision; or, (D) any other substantial reason justifying reopening of the hearing.

## **20. IMMUNITY.**

To ensure independence of judgment and fairness, the Ombuds, the Mediator, the Arbitrator, and The Halcyon Group and its representatives and employees, will have, and be accorded by the parties, full immunity and privileges, including all common-law and statutory immunities and privileges granted to judges in civil and criminal courts. As part of this immunity and privilege, all records, files, materials, personnel, agents and representatives of the Ombuds, Mediator, Arbitrator, and The Halcyon Group will not be subject to subpoena or other disclosure.

**21. CONFERENCES.**

The Halcyon Group, its managers, the Presiding Arbitrator, designated Mediators and/or Arbitrators, may, at a party's request or on their own initiative, conduct conferences with the parties in order to effectuate the purposes of these Rules. Such conferences may be held by telephone conference, videoconference or in person meeting.

**22. CONFIDENTIALITY OF RESOLUTION PROCESSES.**

The Mediator, the Arbitrator, and the parties to a dispute shall maintain the confidentiality of the resolution process. The Presiding Arbitrator or the Arbitrator shall have the authority to make appropriate rulings to safeguard that confidentiality, unless the parties agree otherwise, or the law provides to the contrary.