

CORRESPONDENCE—STEPPED NEGOTIATION—MEDIATION- ARBITRATION

- Any party may initiate negotiation proceedings by writing a certified or registered letter to the other party setting forth the particulars of the dispute, the term(s) of the contract that are involved and a suggested resolution of the problem.
- The recipient of the letter shall respond within ten (10) days to the proposed solution. The recipient shall either agree to the proposed solution or explain any disagreement.
- If correspondence does not resolve the dispute, the authors of the letters or their representatives shall meet on at least one occasion and attempt to resolve the matter. The meeting should be at a place selected by the parties, or if they cannot agree, then at the nearest office of the American Arbitration Association.
- If meeting(s) do not produce a resolution within ten (10) days, [current CEO of one party] and [current CEO of the other party] or their successors will meet and confer in person, in a good-faith attempt to resolve the matter.
- If this step does not produce resolution within ten (10) days of the first meeting, the parties agree to commence mediation immediately, before [name a mediator]
- If mediation does not produce resolution within thirty (30) days of the first mediation session, the parties agree to submit their disagreement(s) forthwith to final, binding arbitration before Edward J. Costello, and pursuant to the [choose Rules if administered arbitration is desired]. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction to do so.

[Comment: Correspondence frequently tends to shed more heat than light on a dispute. This clause is useful mostly where the disputes are technical in nature and soluble by scientific/engineering inquiry. Otherwise, going straight into negotiation by principals or into mediation may be more likely to lead to resolution.]