

DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD

P.G.DIPLOMA IN ALTERNATIVE DISPUTE RESOLUTION
2019 – 2020

Take Home - Annual Exams (August, 2020)

PAPER I- 1.1. Alternative Dispute Resolution Systems

TOTAL MARKS: 100

INSTRUCTIONS TO CANDIDATES

- a) Please mention your name, ID No. and Subject name on the Answer Sheet.***
- b) Only typewritten answers will be accepted.***
- c) Clearly indicate the question numbers while answering them.***
- d) Answer all the questions given below.***
- e) The word limit is mentioned to give an approximate idea about the length of the answer.***
- f) Cut and paste of any material either from reading material or from internet will result in rejection of answer-sheet, which means a failure with zero marks. No plagiarism.***
- g) Do not consult other students as that has every chance of coming within the purview of plagiarism.***

I. Multiple Choice Questions - (10X 2 marks each = 20 marks)

1. When parties choose an impartial third party to hear and decide the dispute, it is called
 - A. Arbitration
 - B. Neutral evaluation
 - C. Negotiation
 - D. Mediation
2. When parties choose a neutral third party to assist the disputing parties in reaching a settlement of their dispute
 - A. Arbitration
 - B. Neutral evaluation
 - C. Negotiation
 - D. Mediation
3. The conciliation proceedings shall be terminated:
 - A. by signing of the settlement agreement by the parties, on the date of agreement
 - B. by written declaration of the parties and the conciliator to terminate the conciliation proceedings on the date of declaration
 - C. by written declaration of the parties addressed to the conciliator to the effect that conciliation proceedings are terminated, on the date of declaration
 - D. all of the above.
4. Conciliation law is adopted on the pattern of:
 - A. ICADR Rules, 1996
 - B. Arbitration (Protocol and Convention) Act, 1937
 - C. UNCITRAL Rules, 1980
 - D. None of the above

5. The conciliation proceedings:
 - A. can be used as evidence in any judicial proceedings
 - B. can be used as evidence only in the arbitral proceedings
 - C. can be used as evidence only on the discretion of the judge or arbitrator
 - D. cannot be used as evidence in any arbitral or judicial proceedings.
6. BATNA means
 - A. Best ADR that needs affirmation
 - B. Best alternative to a negotiated agreement
 - C. Begin a talk not agitation
 - D. Break all the negotiation assumptions
7. Mediation is _____ negotiation
 - A. Not
 - B. Facilitation
 - C. Evaluative
 - D. Dispute
8. Which of the following laws do not provide for mediation of disputes
 - A. Code of Civil Procedure, 1908
 - B. Foreign Exchange Management Act, 1999
 - C. Companies Act, 2013
 - D. Commercial Courts Act, 2015
9. When negotiating the services of a mechanic, you are probably using a _____ bargaining strategy
 - A. Closed
 - B. Simulated
 - C. Distributive
 - D. Open
10. In business, integrative negotiations tend to occur at these times:
 - A. During the structuring of complex, long term partnerships or other collaborations
 - B. When the deal involves many financial and non-financial terms
 - C. Between professional colleagues, or superiors and direct subordinates whose long-term interests benefit from the other's satisfaction
 - D. Wage negotiations between business owners and their union employees.

II. Hypothetical

1. Frame open ended questions for information gathering from the below hypothetical **(10 marks)** World Limit 200 – 250
2. From the below hypothetical, list the positions of 'Party1' and 'Party 2' and analyze the potential interests of the party. **(5 marks)** Word Limit 100 - 150

Scenario Royal Matunga Cruiseline v Won4Toff Ltd

Royal Matunga Cruiseline is a cruise ship company who cater to the wealthy tourists in the western part of India. Their customers are exclusively the rich and famous and can expect to pay upwards of INR 5,00,000 for a 5 Day holiday. Because of the elite nature of the cruises, customers expect every detail to be perfect.

Royal Matunga Cruiseline entered into a contract with Won4Toff Ltd, which specialise in organic and smoked meat while operate throughout western India. Won4Toff has agreed to provide Royal Matunga Cruiseline with all of their meat throughout their cruise dates. The two companies agreed in advance that fresh produce would be provided two to three times per week, depending on the specific requirements of that ship.

Two months ago, Royal Matunga Cruiseline had a small cruise, catering to 50 guests. The price for the cruise was INR 2,50,000. Won4Toff Ltd agreed to provide produce before the ship left Bekal, and they would provide two further supplies of produce throughout the trip, one in Karwar and the other in Malpe.

Won4Toff Ltd provided a fresh supply at the stop in Karwar, however it was not until chef began to prepare the meals for that evening that they noticed the meat had gone off and could not be used. As a result all the guests on board were all provided with the vegetarian menu option.

Royal Matunga Cruiseline felt humiliated by this slip-up. As a result of the sub-standard produce provided by Won4Toff Ltd, they were forced to issue guests with apology vouchers entitling them to 20% off their next Royal Matunga Cruise, a potential cost of INR 50,00,000. (1,00,000 x 50 guests). If every guest on board took advantage of this offer, Royal Matunga Cruiseline could lose a significant amount of profit. Royal Matunga Cruiseline is claiming that this loss is a direct result of Won4Toff Ltd's failure to properly care for their produce during transport. Royal Matunga Cruiseline and Won4Toff Ltd have agreed to meet in Mumbai to discuss the issue. A mediator has been hired from Centre for Mediation and Conciliation as a subject matter expert.

A discussion is required on whether Won4Toff Ltd should contribute to Royal Matunga Cruiseline's losses and how the working relationship should continue in future.

Party One: Royal Matunga Cruiseline

Party Two: Won4Toff Ltd

- III. What is separating the person from the problem? Give examples of separating person from problem from day to day professional life. **(15 marks)** Word Limit: 300 - 400
- IV. Essay question: Do you think online ADR in India will succeed? What are the main practical difficulties in implementation? Give suggestions for successful implementation and promotion. **(25 marks)** Word Limit: 500 - 700
- V. Answer the following questions on ADR methods:
- What is expert determination and what are some of its features? **(6 marks)** Word Limit: 150
 - What is a Dispute Resolution Board? Explain its use and its features. **(6 marks)** Word Limit: 150
 - Explain what is ODR? Explain its benefits and its potential use **(3 marks)** Word limit: 100
 - What are the various Hybrid models of ADR that can be used? Explain its features and uses. **(10 marks)** Word limit: 300