

# NEGOTIATING MULTI-TIERED CLAUSES: BALANCING ON THE EDGE?

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FIRST BRNO ARBITRATION CONFERENCE

# GOAL OF MTDR

- To ensure that the **possible** disputes will be resolved **smoothly** and in as **efficient** way as possible

# DISPUTE RESOLUTION CLAUSES

# MIDNIGHT CLAUSES

- Drafting or negotiating of champagne clauses

# SOME POORLY DRAFTED CLAUSES

- *“Disputes shall be submitted to arbitration according to the Rules of Conciliation and Arbitration of the ICC... ; disputes which may be resolved by conciliation shall be submitted first to conciliation”*
- *The parties shall mediate so long as one party believes settlement through mediation is possible, after which the parties shall submit the dispute to binding arbitration.*

# TWO GOLDEN RULES

- keep dispute resolution agreements as simple as possible
- use the model clauses whenever possible



# BASIC COMPONENTS OF DRC

submission of disputes to the chosen form of **final** dispute resolution

important variables: place, language, and rules of arbitration

optional 'bells and whistles'

any requirement to attempt mediation/ negotiation

# THANK YOU FOR YOUR ATTENTION

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