

SECURITIES INVESTOR DISPUTE ARBITRATION RULES

R-1. Agreement of parties and designation of applicable AAA rules

- (a) The Parties shall be deemed to have made these rules (the “Rules”) a part of their arbitration agreement whenever they have provided for arbitration: by the American Arbitration Association (“AAA”); under AAA’s Securities Investor Dispute Arbitration Rules; or, by the AAA regarding a Securities Investor Dispute¹ without specifying particular AAA rules. If a Party establishes that an adverse material inconsistency exists between the Parties’ arbitration agreement and these Rules, the arbitrator shall apply these Rules.
- (b) Unless Parties or AAA determine otherwise, the Fast Track procedures found in R-38 of the Rules shall apply in any case in which the Claimant requests an expedited proceeding and are at least sixty-five years of age and/or are seriously ill.
- (c) The Parties may agree to change these Rules. If the parties agree to change the Rules, they must agree in writing. If the Parties want to change these Rules after the appointment of the arbitrator(s), any changes may be made only with the approval of the arbitrator(s).

R-2. AAA As Administrator of the Arbitration

When parties agree to arbitrate under these Rules, or when they provide for arbitration by the AAA and an arbitration is initiated under the Securities Investor Dispute Arbitration Rules, they hereby authorize the AAA to administer the arbitration. The authority and duties of the AAA are prescribed in these rules, and may be carried out through such of the AAA’s representatives as it may direct. The AAA may, in its discretion, assign the administration of an arbitration to any of its offices.

R-3. Initiation of Arbitration

Arbitration shall be initiated in the following manner:

- (a) The parties may submit a joint request for arbitration.
- (b) In the absence of a joint request for arbitration:
 - i. *Filing of a Demand for Arbitration:*
 - a. The initiating Party (“the Claimant”) shall file with the AAA a Securities Investor Dispute Demand for Arbitration Form (“Demand Form”), the

¹ A “Securities Investor Dispute” is a dispute between a customer of a broker-dealer or registered investment advisory firm (or any associated person, representative, employee, or agent thereof) that involves any product, investment, or investment strategy that is purchased, sold, or implemented through or recommended by the broker-dealer, registered investment advisory firm, or any associated person, representative, employee, or agent thereof.

administrative filing fee, a Statement of Claim, and a copy of the applicable arbitration agreement from the parties' contract which provides for arbitration. Filing of the Demand Form, as well as any other filings by any Party, may be accomplished through the use of AAA WebFile, located at www.adr.org or by filing the demand with any AAA office.

- ii. The Claimant shall simultaneously provide a copy of the Demand Form, Statement of Claim, and the applicable arbitration agreement to the opposing Party ("the respondent"). Service shall be acceptable upon the opposing Party's registered agent via certified U.S. Mail or other physical delivery service that can confirm delivery.
- iii. The Demand Form shall include:
 - (a) The name of each Party;
 - (b) The address for each Party including (if known) telephone and fax numbers and email addresses; and
 - (c) If applicable, the names, addresses, and fax numbers and, if known, email address of the known representative for each Party.
- iv. The Statement of Claim shall include:
 - (a) A statement setting forth the nature of the claim including the relief sought, the relevant facts, remedies requested, and the amount involved. The Claimant may include any additional documents supporting the Statement of Claim.
 - (b) The locale requested, which shall be the county of Claimant's residence or a AAA hearing location closest to the Claimant's residence at the time of the events giving rise to the dispute.
 - (c) In the event the Claimant resides internationally, the hearing locale shall be the location nearest the Claimant's international residence at the time of the events giving rise to the claim.
 - (d) The AAA shall provide notice to the Parties (or their representatives if so named) of the receipt of a demand when the administrative filing requirements have been satisfied. The date on which the filing requirements are satisfied shall establish the date of filing the dispute for administration, however any disputes in connection with the AAA's determination may be decided by the arbitrator. If a filing does not satisfy the Filing Requirements set forth above, the AAA shall acknowledge to all named parties' receipt of the incomplete filing and inform the parties of the filing deficiencies. If the deficiencies are not cured by the due date specified by the AAA, the filing may be returned to the filing Party.

R-4. Answer, Counter-Claim

- (a) The Respondent must file an Answer with the AAA within 21 days after the date of the letter from AAA acknowledging receipt of the Demand and shall simultaneously provide a copy to the Claimant. The Answer shall provide the Respondent's response to the claim and issues presented, including a statement of the relevant facts and available defenses to the Statement of Claim. The Respondent may include any additional documents supporting the Answer to the Statement of Claim.
- (b) The Answer to the Statement of Claim may include any counterclaims against the Claimant, cross-claims against other Respondents, or third-party claims, specifying all relevant facts and remedies requested, as well as any additional documents supporting such claim.
- (c) If Respondent's answer includes a third-party claim, the Respondent must serve the third-party with the answer containing the third-party claim and all documents previously served by any Party, or sent to the parties by AAA, by service in accordance with these Rules. Responses to third-party claims are governed by R-6 of these Rules.
- (d) If a Respondent or third-party Respondent does not answer within the time period specified in this section, the arbitrator(s) may, upon motion, bar that party from presenting any defenses or facts at the hearing, unless the time to answer was extended in accordance with the Rules. The Party who failed to file a timely Answer may also be subject to Default Proceedings under R-43 of these Rules.
- (e) If a Party answers a claim that alleges specific facts and contentions with a general denial, or fails to include defenses or relevant facts in its answer that were known to it at the time the answer was filed, the arbitrator(s) may bar that Party from presenting the omitted defenses or facts at the hearing.

R-5. Answering Counter-Claim

- a. The Claimant may file an Answer with the AAA within 21 days after the date of service of the Answer and Counterclaims filed by Respondent. The Answer shall provide the Claimant's response to the counter-claims and issues presented, including a statement of the relevant facts and available defenses to the Counterclaim. The Claimant may include any additional documents supporting the Answer to the Counter-Claim. The Claimant shall make its filing in duplicate with the AAA and simultaneously shall send a copy of the Answer to the Respondent. If no answering statement is filed within the

stated time, Claimant will be deemed to deny the counterclaim. Failure to file an answering statement shall not operate to delay the arbitration.

R-6. Answering Third-party Claims

- a. A third-party may file an Answer with the AAA within 21 days after the date of service of the Answer and third-Party claims filed by Respondent. The Answer shall provide the Claimant's response to the counter-claims and issues presented, including a statement of the relevant facts and available defenses to the third-Party claim. The third-Party may include any additional documents supporting the Answer to the Third-Party-Claim. The third-Party shall make its filing in duplicate with the AAA and simultaneously shall send a copy of the Answer to all parties. If no answering statement is filed within the stated time, the third-Party will be deemed to deny the third-party claim. Failure to file an answering statement shall not operate to delay the arbitration. Filing an Answer to a third-Party claim shall constitute an appearance requiring submission to this forum under these Rules.
- b. The answer to the third-party claim may also include any counterclaims, cross claims, or third-party claims, specifying all relevant facts and remedies requested. the Third-Party answer may also include any additional documents supporting the Third-Party claims. If the third-party answer contains a third-party claim, the third-party Respondent shall make its filing in duplicate with the AAA and simultaneously shall send a copy of the Answer to all parties.
- c. If the answer to the third-party claim contains any counterclaim, cross claim or third-party claim, the Party must also pay all required filing fees.

R-7. Form of Filings

The form of any filing under these rules shall not be subject to technical pleading requirements found in either state or federal rules of civil procedure.

R-8. Changes of Claim

Before the appointment of the arbitrator(s), if any Party desires to offer a new or different claim or counterclaim, such Party must do so in writing by filing a written statement with the AAA and simultaneously provide a copy to the other Party(ies), who shall have 15 days from the date of such transmittal within which to file an answer with the AAA. After the appointment of the arbitrator(s), a Party may offer a new or different claim or counterclaim only at the discretion of the arbitrator.

R-9. Jurisdiction

- a. The arbitrator(s) shall have the power to rule on their own jurisdiction, including any objections with respect to the existence, scope or validity of the arbitration agreement, subject to Rule R-1.

b. The arbitrator(s) shall have the power to determine the existence or validity of a contract of which an arbitration clause forms a part. Such an arbitration clause shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitrator(s) that the contract is null and void shall not for that reason alone render invalid the arbitration clause.

c. A Party must object to the jurisdiction of the arbitrator or to the arbitrability of a claim or counterclaim no later than the filing of the answering statement to the claim or counterclaim that gives rise to the objection. The arbitrator may rule on such objections as a preliminary matter or as part of the final award.

R-10. Number, Qualifications and Appointment of Neutral Arbitrators

a. If the arbitration agreement does not specify the number of arbitrators or the Parties do not agree otherwise, the dispute shall be heard and determined by one arbitrator.

b. Qualifications

- i. Neutral arbitrators serving under these rules shall have no personal or financial interest in the results of the proceeding in which they are appointed and shall have no relation to the underlying dispute or to the parties or their counsel that may create an appearance of bias.
- ii. The roster of available arbitrators will be established on a non-discriminatory basis, diverse by gender, ethnicity, background, and qualifications. There is no requirement that any neutral have any particular experience.
- iii. AAA will require any neutral arbitrator available for Securities Investor Disputes to complete the Securities Investor Dispute Training.²

c. Appointment

- i. For cases involving one arbitrator, the arbitrator selection list shall have ten arbitrators, with each party allowed to strike up to four from the list, ranking the remainder in order of preference, with “one” being the most preferred and “ten” being least preferred, subject to the number of strikes used. Each neutral’s resume will be included with the ranking list.
- ii. For cases involving three arbitrators, the arbitrator selection list shall have fifteen arbitrators, with each Party allowed to strike up to six from the list, ranking the remainder in order of preference, with “one” being most preferred and “fifteen” being the least preferred subject to the number of strikes used. Each neutral’s resume will be included with the ranking list.

² NOTE: The Securities Investor Dispute Training needs to be created.

- iii. No matter how many arbitrators are to be appointed to the particular case, Parties maintain the right to challenge any particular candidate for cause. “Cause” shall be defined to mean that the candidate has a business or social relationship with a Party, or the financial instrument(s) at issue, or otherwise has acted in such a way that their neutrality can be credibly challenged. AAA staff shall have the exclusive right to rule upon challenges for cause. Such challenges shall be made before the rankings are due to be returned by the Parties. In the event of a challenge, Parties’ rankings are not due until a point in time 21 days after the AAA issues its ruling on the challenge and – if appropriate – provides a replacement arbitrator candidate.
 - iv. Parties’ responses to the arbitrator selection lists must be filed with AAA within 21 days of AAA’s service of the lists upon the Parties. The Parties’ responses are confidential and shall not be shared between the Parties absent their consent.
 - d. The AAA may, upon request of a Party within the time set to return their list or upon its own initiative, supplement the list of proposed arbitrators with persons from the Securities Investor Dispute Roster, to allow the AAA to respond to the particular need of the dispute.

R-11. Appointment of Arbitrators and Chairpersons

- a. AAA will consolidate each parties ranking sheets and tally the ranking of each arbitrator. The highest-ranked arbitrator will be worth the total number of arbitrators ranked and the lowest ranked arbitrator will be worth one point. AAA will tally the total points per arbitrator and invite the highest-ranking arbitrator(s) to serve on the panel. If the invited arbitrator is unable to serve, AAA will invite the next highest-ranked arbitrator.
- b. In the event, there are no mutually ranked agreeable arbitrators, AAA will generate a new list and the process will start again.
- c. For cases with three arbitrators, the appointed arbitrators will be asked to select the Chairperson amongst them. In the event the appointed arbitrators cannot agree, then the parties may stipulate to select a Chairperson. In the event the parties cannot agree, the AAA will administratively appoint a Chairperson.

R-12. Disclosure

- a. Any person appointed or to be appointed as an arbitrator shall disclose to the AAA any circumstance likely to give rise to justifiable doubt as to the arbitrator’s impartiality or independence, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their representatives. Such obligation shall remain in effect throughout the arbitration.

- b. Upon receipt of such information from the arbitrator or another source, the AAA shall communicate the information to the parties and, if it deems it appropriate to do so, to the arbitrator and other arbitrators.
- c. In order to encourage disclosure by arbitrators, disclosure of information pursuant to this section is not to be construed as an indication that the arbitrator considers that the disclosed circumstance is likely to affect impartiality or independence.

R-13. Disqualification of Arbitrator

- a. Any arbitrator shall be impartial and independent and shall perform his or her duties with diligence and in good faith, and shall be subject to disqualification for:
 - i. partiality or lack of independence,
 - ii. inability or refusal to perform his or her duties with diligence and in good faith, and
 - iii. any grounds for disqualification provided by applicable law.
- b. Upon objection of a Party to the continued service of an arbitrator, or on its own initiative, the AAA shall determine whether the arbitrator should be disqualified under the grounds set out above, and shall inform the parties of its decision, which decision shall be conclusive. In the event the AAA decides to disqualify an arbitrator, it shall first review the Parties' ranking forms to determine whether the next ranked neutral is available to serve. In the event that neutral is not available, the AAA will provide a list of five new candidates who did not appear on the Parties' original rank/strike list. The Parties and AAA shall proceed consistent with R-10(c)(1) and R-11 to rank/strike/select the neutral candidates.

R-14. Communication with Arbitrator(s)

No Party and no one acting on behalf of any Party shall communicate *ex parte* with an arbitrator or a candidate for arbitrator concerning the arbitration. Otherwise, the parties may stipulate with the arbitrator(s) to engage in direct communications about the arbitration, but only if the parties and the arbitrator(s) all agree.

R-15. Vacancies

- a. If for any reason an arbitrator is unable to perform his or her duties, the AAA may, on proof satisfactory to it, declare the office vacant. Vacancies shall be filled by first, the AAA reviewing the parties' ranking forms to determine whether the next ranked neutral is available to serve. In the event that neutral is not available, then the AAA will contact the parties and advise them that a new list of ten neutral arbitrators will be provided to the parties to rank a new arbitrator consistent with R-10(c)(1) and R-11.
- b. In the event of a vacancy in a panel of neutral arbitrators after the evidentiary hearings have commenced, the remaining arbitrator or arbitrators may continue with the hearing and determination of the controversy, unless the parties agree otherwise.

- c. In the event of the appointment of a substitute arbitrator, the panel of arbitrators shall determine in its sole discretion whether it is necessary to repeat all or part of any prior hearings or for the substitute arbitrator.

R-16. Representation

Any Party may be represented by legal counsel. For parties without representation, the AAA may, upon request, provide reference to institutions which might offer assistance. A Party who intends to be represented shall notify the other Party and the AAA of the name and address of the counsel at least 10 days prior to the date set for the hearing or conference at which that person is first to appear. If a counsel files a Demand or an Answer, the obligation to give notice of legal representative status is deemed satisfied. Except for services provided by registered Law School Legal Clinics, non-attorney representatives are forbidden under these Rules.

R-17. Simplified Arbitration

Arbitrations involving \$50,000 or less exclusive of interest, expenses, attorneys' fees, costs, or punitive damages, will be decided on the pleadings and other materials submitted by the Parties unless the Claimant requests a hearing. Except as otherwise provided for in this Rule, all other Rules apply to such arbitrations.

R- 18. Initial Document Exchange

- a) The arbitrator(s) shall manage any necessary initial exchange of documents among the parties with a view to achieving an efficient and economical resolution of the dispute, while at the same time promoting equality of treatment and safeguarding each Party's opportunity to fairly present its claims and defenses.
- b) Unless otherwise agreed to by the Parties or ordered by the arbitrator(s), within 45 days of the date that the Answer to the Statement of Claim is due, or, for parties added by amendment or third-party claim, within 45 days of the date that their answer is due, parties must either:
 - i. Produce to all other parties all documents in their possession, custody, or control that are set forth on the applicable Securities Investor Document Exchange Lists;
 - ii. Identify and explain the reason that specific documents set forth on the applicable Securities Investor Document Exchange Lists cannot be produced within the required time and state when the documents will be produced; or
 - iii. Object to the production, setting forth a substantive justification for each failure to produce the specific documents set forth on the applicable Securities Investor Document Exchange Lists.

- c) In addition to the foregoing, with the exception of privileged documents and/or documents constituting attorney work product, the parties are required to exchange at least 21 days in advance of the evidentiary hearing all documents in their possession, custody, or control on which they intend to rely during the course of the evidentiary hearing.

R-19. Additional Party Discovery

- a) The Parties may conduct additional discovery as may be agreed to by all the Parties provided, however, that the arbitrator(s) may place such limitations on the conduct of such discovery as the arbitrator(s) shall deem appropriate. If the Parties cannot agree on production of documents and other information, the arbitrator(s), consistent with the expedited nature of arbitration and these rules, may establish the extent of the discovery.
- b) The arbitrator(s) shall have the authority to order the production of additional discovery, by way of requests for documents or requests for information, as the arbitrator considers necessary to a full and fair exploration of the issues in dispute, consistent with the expedited nature of arbitration. The AAA does not require notice of discovery related matters and communications unless a dispute arises. At that time, the Parties should notify the AAA of the dispute so that it may be presented to the arbitrator(s) for determination.

Such additional discovery requests may be served on the Claimant, or any Respondent named in the initial Statement of Claim, 45 days or more after the Statement of Claim has been filed with the AAA and served on the Respondent; and on any Party subsequently added to the arbitration, 45 days or more after the statement of claim is served on that Party.

- c) Any request for documents or information not set forth in the applicable Securities Investor Document Exchange Lists³ should be specific and relate to the matter in controversy. Such requests should be reasonable in number and not require narrative answers or fact finding. Requests for information are generally limited to the identification of individuals, entities, and time periods related to the dispute. To be clear, standard interrogatories or requests for admission are not permitted.
- d) Unless otherwise agreed to the by the parties or ordered by the arbitrator(s), the Party receiving the additional discovery requests must within 60 days of the receipt thereof either:
 - i. Produce all responsive documents or information that are within their possession, custody, or control;
 - ii. Identify and explain the reason that requested documents or information cannot be produced within the required time and state when the documents will be produced; or
 - iii. Object to the production, setting forth substantial justification for each failure to produce the specific documents requested.

³ Note: The Securities Investor Document Exchange List needs to be created.

- e) Notwithstanding the foregoing, the time period for Claimant to respond to additional discovery requests propounded by another Party shall not begin to run until the date on which the Party issuing the additional discovery has served its Answer.

R-20. Third-Party Discovery

- a) The parties may seek to obtain documents that are specific and relate to the matter in controversy from third parties by way of subpoena.
- b) The arbitrator shall have the authority to issue a subpoena for documents to a third-party upon motion by any Party. The motion must include a draft subpoena and must be served on each other Party.
- c) If a Party receiving a motion and draft subpoena objects to the scope or propriety of the subpoena, that party shall have 10 days to object to the issuance of the requested subpoena. The Party requesting the subpoena shall then have 10 days to respond to the objections. Thereafter, the arbitrator shall rule promptly on the issuance and scope of the subpoena.
- d) If the arbitrator issues a subpoena, the Party requesting the subpoena must serve the subpoena on the non-party to whom the subpoena is addressed by any legal means.
- e) Any Party that receives documents in response to a subpoena served on a non-party shall provide such documents to all other parties within five days of receipt of the documents.

R-21. Depositions

- a. As a general matter, absent an agreement among the parties, the Parties shall not be entitled to take any depositions. In exceptional cases, however, at the discretion of the arbitrator(s), upon good cause shown and consistent with the expedited nature of arbitration, the arbitrator(s) may order depositions to obtain the testimony of a person who may possess information determined by the arbitrator to be relevant and material to the outcome of the case under very limited circumstances, including:
 - i. To preserve the testimony of ill or dying witnesses;
 - ii. To accommodate essential witnesses who are unable or unwilling to travel long distances for a hearing and may not otherwise be required to participate in the hearing;
 - iii. To expedite large or complex cases; and
 - iv. If the arbitrator determines that extraordinary circumstances exist.
- b. The arbitrator(s) may allocate the cost of taking such a deposition.

R-22. Pre-Hearing Exchange of Documents and Witness Lists

- a. Documents and Other Materials. At least 20 days before the first scheduled evidentiary hearing date, all parties must provide all other parties with copies of all documents and other materials in their possession or control that they intend to use at the hearing that have not already been produced.
- b. Witness Lists. At least 20 days before the first scheduled hearing date, all parties must provide each other Party with the names and business affiliations of all witnesses they intend to present at the hearing.
- c. Exclusion of Documents or Witnesses. Parties may not present any documents or other materials not produced and or any witnesses not identified in accordance with this rule at the hearing, unless the panel determines that good cause exists for the failure to produce the document or identify the witness. Good cause includes the need to use documents or call witnesses for rebuttal or impeachment purposes based on developments during the hearing. Documents and lists of witnesses in defense of a claim are not considered rebuttal or impeachment information and, therefore, must be exchanged by the parties.

R-23. Discovery Enforcement Powers of the Arbitrators

- a) The arbitrator(s) shall have the authority to issue any orders necessary to enforce the provisions of any of the foregoing discovery rules (R-18 through and R-21) and to otherwise achieve a fair, efficient, and economical resolution of the case, including, without limitation:
 - i. conditioning any exchange or production of confidential documents and information, and the admission of confidential evidence at the hearing, on appropriate orders to preserve such confidentiality;
 - ii. imposing reasonable search parameters for electronic and other documents;
 - iii. in the case of willful non-compliance with any order issued by the arbitrator(s), issuing sanctions including, but not limited to, drawing adverse inferences, excluding evidence and other submissions, striking claims, counterclaims, crossclaims, and/or defenses, and/or making special allocations of costs or an interim award of costs arising from such non-compliance; and,
 - iv. issuing any other enforcement orders which the arbitrator(s) is empowered to issue under applicable law.
- b) If a discovery dispute arises, the parties may file motions to compel discovery. Regarding such motions to compel, the following rules shall apply.

- i. For cases involving 3-member arbitration panels, unless otherwise requested by a Party, the Chairperson shall decide motions to compel through a written order.
- ii. Before the filing of any motion to compel, the filing Party shall first meet and confer with the other Party and make an effort to resolve the matter that is the subject of the motion.
- iii. All motions to compel must include a description of the efforts made by the moving Party to resolve the matter before making the motion.
- iv. Parties to whom motions to compel are directed shall have 10 business days from the receipt of the motion to respond to the motion, unless the moving Party agrees to an extension of time, or the arbitrator orders otherwise.
- v. Parties filing motions to compel shall have 5 business days from the receipt of a response to a motion to reply to the response unless the responding Party agrees to an extension of time, or the arbitrator orders otherwise. Replies to responses must be served on each other Party.

R-24. Dispositive Motions

- a) Dispositive Motions are discouraged, and Claimants are presumptively entitled to an evidentiary hearing.
- b) The following requirements govern Motions to Dismiss made prior to the completion of the presentation of evidence by the Claimant(s) at the final hearing:
 - i. Motions to Dismiss may be made by a Respondent(s) only in two circumstances:
 - A. The misidentification of a Respondent; or,
 - B. A claim at issue has been previously settled, released, or adjudicated.
 - ii. A Motion to Dismiss must be filed, in writing, at least 90 days prior to a final evidentiary hearing, and a Response to the Motion is due 30 days thereafter. A hearing on the Motion will be held telephonically or otherwise, and the Motion will be decided by the arbitrator(s) prior to the final evidentiary hearing.
 - iii. The decision to grant a Motion to Dismiss must be unanimous if more than one arbitrator has been assigned to the arbitration, and the Order will contain a written explanation.
 - iv. Arbitrator compensation and forum fees related to the Motion to Dismiss shall be borne by the moving Party.

- v. The arbitrator(s) may impose sanctions on the moving Party or award reasonable attorney's fees if the arbitrator(s) determine that the Motion to Dismiss was filed frivolously or in bad faith.

R-25. Date, Time, and Place (the physical site of the hearing within the designated locale) of Hearing

- a) As agreed to by the parties or ordered by the arbitrator, hearings may be held in-person or remotely and shall be scheduled for the number of days reasonably demanded by the Claimant or so stipulated to by the parties.
- b) The arbitrator(s) shall set the date, time, and place for each hearing. Generally, the arbitrator(s) should select the hearing location closest to the Claimant's residence at the time of the events giving rise to the dispute, unless the hearing location closest to the Claimant's residence is in a different state, in which case the Claimant may request a hearing location in the Claimant's state of residence at the time of the events giving rise to the dispute.
- c) The arbitrator(s) may change the hearing location upon agreement of the parties or upon motion of either Party. The parties shall respond to requests for hearing dates in a timely manner, be cooperative in scheduling the earliest practicable date, and adhere to the established hearing schedule. The AAA shall send a notice of hearing to the parties at least 10 days in advance of the hearing date, unless otherwise agreed by the parties.

R-26. Attendance at Hearings

- a) The parties and their representatives are entitled to attend all hearings. Absent persuasive reasons to the contrary, expert witnesses should be permitted to attend all hearings. The arbitrator(s) shall have the authority to exclude witnesses, other than a Party or expert witness, from the hearing during the testimony of any other witness. The arbitrator(s) also shall have the authority to decide whether any person who is not a witness may attend the hearing.
- b) An attorney for a non-party witness may attend a hearing while that non-party witness is testifying. Unless otherwise authorized by the panel, the attorney's role is limited to the assertion of recognized privileges, such as attorney-client and work-product privileges, and the privilege against self-incrimination.

R-27. Evidence Used at Hearing

- a) The arbitrator(s) shall decide what evidence to admit and adjudge the relevance of any evidence so admitted. The arbitrator(s) is not required to follow state or federal rules of evidence.

- b) Production of documents or information in discovery does not create a presumption that the documents or information are admissible at the hearing. A Party may state objections to the introduction of any document or information as evidence at the hearing to the same extent that any other objection may be raised in arbitration.

R-28. Closing of Hearing

- a) The arbitrator(s) shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies or if satisfied that the record is complete, the arbitrator shall declare the hearing closed.
- b) Absent good cause or an agreement of the parties, post-hearing briefing shall not be ordered. If the Arbitrator(s) order post-hearing, the hearing shall be declared closed as of the final date set by the arbitrator(s) for the receipt of post-hearing briefs.

R-29. Reopening of Hearing

The hearing may be reopened by the arbitrator(s) upon the arbitrator's initiative, or upon application of a Party for good cause shown, at any time before the award is made. If reopening the hearing would prevent the making of the award within the specific time agreed on by the parties in the contract(s) out of which the controversy has arisen, the matter may not be reopened unless the parties agree on an extension of time. When no specific date is fixed in the contract, the arbitrator may reopen the hearing and shall have 30 days from the closing of the reopened hearing within which to make an award.

R-30. Waiver of Oral Hearing

The parties may provide, by written agreement, for the waiver of oral hearings. If the parties are unable to agree as to the procedure, upon the appointment of the arbitrator(s), the chair arbitrator shall specify a fair and equitable procedure.

R-31. The Award

- a) The award shall be made promptly by the arbitrator(s) and, unless otherwise agreed by the parties or specified by law, no later than 30 days from the date of closing of the hearing or, if oral hearings have been waived, from the date of the AAA's transmittal of the final statements and proofs to the arbitrator(s). Three additional days are provided if briefs are to be filed or other documents are to be transmitted pursuant to R. 28.
- b) The award shall be in writing and shall be signed by a majority of the arbitrators when more than one arbitrator is appointed. The award may, but is not required to, provide the written reasons for the award. Upon the Parties' joint request, the award shall include a reasoned opinion. The award shall be executed in the manner required by applicable law.

- c) The arbitrator(s) may grant any remedy or relief that is equitable or would have been available to the parties had the matter been heard in court including awards of attorney's fees and costs, in accordance with applicable law..
- d) If the parties settle their dispute during the course of the arbitration and mutually request, the arbitrator(s) may set forth the terms of the settlement in a consent award.

T

- e) The arbitrator's award shall be final and binding and are not subject to review or appeal except as allowed by applicable state or federal law regarding the grounds upon which an arbitration award may be vacated.
- f) All monetary awards shall be paid within 30 days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. An award shall bear interest from the date of the award if it is not paid within 30 days of receipt, if the award is subject of a motion to vacate which is denied, or as specified by the panel in the award. Interest shall be assessed at the legal rate, if any, then prevailing in the state where the award was rendered, or at a rate set by the arbitrator(s).
- g) The award will be made publicly available and posted by AAA in a searchable format within 30 days of the award's issuance.

R-32. Modification of Award

- a) Within 20 days after the transmittal of an award, any Party, upon notice to the other parties, may request the arbitrator to correct any clerical, typographical, technical, or computational errors in the award. The arbitrator(s) is not empowered to redetermine the merits of any claim already decided. The other parties shall be given 10 days to respond to the request.
- b) The arbitrator(s) shall dispose of the request within 20 days after transmittal by the AAA to the arbitrator of the request and any response thereto. If applicable law requires a different procedural time frame, that procedure shall be followed.

R-33. Fees due when a Claim is Filed

- (a) At the time of the filing of the Demand Form, the Claimant shall pay a non-refundable filing fee of \$350.
- (b) All other fees and expenses shall be borne by Respondent in accordance with the Fee schedule set forth in the AAA Consumer Fee Schedule.

R-34. Administrative Fees

As a not-for-profit organization, the AAA shall prescribe filing and other administrative fees to compensate it for the cost of providing administrative services. The AAA administrative fee schedule in effect at the time the demand for arbitration or submission agreement is received shall be applicable. AAA fees shall be paid in accordance with R-33. Costs of Arbitration section. The

AAA may, in the event of extreme hardship on any Party, defer or reduce the administrative fees. (To ensure that you have the most current information, see our website at www.adr.org).

R-35. Neutral Arbitrator's Compensation

Arbitrators shall charge a rate consistent with the arbitrator's stated rate of compensation. If there is disagreement concerning the terms of compensation, an appropriate rate shall be established with the arbitrator by the AAA and confirmed to the Parties. Any arrangement for the compensation of a neutral arbitrator shall be made through the AAA and not directly between the parties and the arbitrator. Payment of the arbitrator's fees and expenses shall be made by the AAA from the fees and moneys collected by the AAA for this purpose. Arbitrator compensation shall be borne in accordance with the Costs of Arbitration section.

R-36. Deposits

The AAA may, in accord with R-33, require deposits in advance of any hearings such sums of money as it deems necessary to cover the expenses of the arbitration, including the arbitrator's fee, if any, and shall render an accounting and return any unexpended balance at the conclusion of the case.

R-37. Notice of Default Award for Non-Payment

- (a) If arbitrators have been appointed, and the arbitrator compensation or administrative charges have not been paid in full, then the Respondent shall be in default, and Claimant may move for entry of a default award against Respondent. Prior to ruling on default, the Claimant must ensure its motion for entry of default award is served upon Respondent, providing Respondent with fourteen days to pay all outstanding arbitrator compensation or administrative charges owed, thus curing the default. After a default award has been executed, Claimant must serve the default award upon Respondent and provide them fourteen days to cure. If Respondent fails to pay the arbitrator compensation or administrative charges owed, then Claimant may seek to enforce the default arbitration award as a judgment, pursuant to applicable law.
- (b) If Respondent fails to pay an initial deposit charged by AAA to begin the administration of the arbitration proceeding, then Claimant may pay the charge which Respondent will be ordered to pay upon appearance. If Respondent fails to appear and pay the administrative fees owed prior to arbitrator appointment, then AAA shall order the Respondent in default. Said default will be subject to a default award entered by an arbitrator appointed specifically to determine whether grounds exist for entry of a default award pursuant to **R. 43** of these Rules.

R-38. Fast Track Procedures.

In the event Claimant requests Fast Track proceedings as applicable under R-1(b), the following Fast Track procedures shall apply:

- (a) The Arbitrator(s) shall schedule the arbitration hearings within six months of the initial scheduling call; and,
- (b) In order to facilitate scheduling the arbitration hearing within six months of the initial scheduling call, the Arbitrator(s) shall be empowered to amend any deadline set forth by these Rules to ensure compliance with this six-month requirement.

R-39. Hedge Clauses and Choice of Law Clauses

Hedge clauses (including any contractual language that attempts to limit or avoid the Respondent's liability for various types of conduct or omissions) and choice of law clauses are prohibited. The applicable substantive law shall be the law of the state of the Claimant's residence at the time of the dispute, which shall include all applicable federal laws.

R-40. Publicly Disclosable Information

Information Made Publicly Available: The following information surrounding the arbitration process shall be made publicly available by the AAA in a reasonably searchable format: (i) all final arbitration awards issued under these Rules and (ii) the number of customer complaints brought against the Respondent.

R-41. Multiple Claimants

One or more parties may join multiple claims together in the same arbitration if the claims contain common questions of law or fact and: (a) the claims assert any right to relief jointly and severally; or (b) the claims arise out of the same transaction, investment or occurrence, or series of transactions or occurrences.

R-42. Sanctions

The Arbitrator(s) may sanction a Party for failure to comply with any provision in the Rules, or any order of the panel or single arbitrator authorized to act on behalf of the panel. Unless prohibited by applicable law, sanctions may include, but are not limited to:

- a. Assessing monetary penalties payable to one or more Parties;
- b. Precluding a Party from presenting evidence;
- c. Making an adverse inference against a Party;
- d. Assessing postponement and/or forum fees;
- e. Assessing attorneys' fees, costs and expenses; and,
- f. Dismissing a claim, counterclaim, crossclaim, defense, or arbitration with prejudice after prior sanctions failed.

R-43. Default Procedures

- a. Applicability of Rule. A Claimant may request default proceedings against any Respondent that fails to file an answer or otherwise appear within the time provided by R-5: or For failing to pay required fees pursuant to R-33, R-34, and R-35.
- b. Initiating Default Proceedings

- i. To initiate default proceedings against one or more respondents that fail to file a timely answer or fail to timely pay any fees as outlined in **R. 37**, the Claimant must serve the notification on all other parties and file a written notification simultaneously with the AAA and Arbitrator.
 - ii. If the Arbitrator receives written notice from the claimant and determines that the requirements for proceeding under this Rule have been met, the Arbitrator will:
 - 1. Notify all parties that the claim against the defaulting respondent will proceed under this rule; and
 - 2. Consider the statement of claim and other documents presented by the claimant.
- c. Hearings. No hearing shall be held. The arbitrator may request additional information from the Claimant before rendering an award, and may request Claimant to tender a brief and affidavit(s) in support of the motion for default.
- d. Awards:
 - i. The arbitrator may not issue an award based solely on the nonappearance of a Party. Claimants must present a sufficient basis to support the making of an award. The arbitrator may award damages in an amount greater than the damages requested in the statement of claim, if the evidence submitted supports such an award.
 - ii. The default award shall have no effect on any non-defaulting Party.
- e. Respondent's Ability to Cure Default. If a defaulting Respondent files an answer, or pays all outstanding fees due, after the Arbitrator has notified the parties that the claim against that Respondent will proceed under this rule but before an award has been issued, the proceedings against that respondent under this rule will be terminated and the claim against that Respondent will proceed under the regular provisions under these Rules.