RULES AND PROCEDURES FOR
NON-ADMINISTERED ARBITRATIONS
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RULES FOR NON-ADMINISTERED ARBITRATIONS

PREAMBLE

These Rules are to be used by any party who wishes to have a set of Arbitration Rules (Rules) to be utilized where there is no ADR Administration Company specified in a contract or agreement or if the parties wish to have an independent arbitrator serve as an arbitrator to settle a dispute requiring arbitration as the ADR process to settle their disputes.

These Rules will be updated periodically by Construction Dispute Resolution Services, LLC. (CDRS) Any questions related to these rules should be addressed to the CDRS Senior Case Administrator.

R-1. APPLICATION OF RULES.

1.1. These Rules shall apply where the parties have agreed in writing that these Rules shall be utilized for this specific arbitration.

1.2. The parties may enter into an agreement requiring the parties and/or other persons involved in the arbitration to maintain confidentiality of any or all matters relating to the proceedings, or any party may seek a protective order from the arbitrator requiring confidentiality. The arbitrator, however, is obligated to maintain confidentiality of all matters relating to the proceedings, unless such confidentiality has been expressly or impliedly waived by the parties. The arbitrator's duty of confidentiality shall survive termination of the arbitration proceeding.

1.3. For purposes of these Rules:

(a) "Party" shall include a party's counsel or other representative.

(b) "Claimant" shall include a third-party claimant, and shall include multiple claimants and third-party claimants.

(c) "Respondent" shall include a third-party respondent, and shall include multiple respondents and third-party respondents.

R-2. NO WAIVER OF STATUTORY RIGHTS. These Rules do not preempt or waive any rights under any statute, treaty, or other law that governs arbitration procedures or enforcement of arbitration awards in the applicable jurisdiction, including but not limited to the Federal Arbitration Act, the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 ("New York Convention"), and state arbitration acts (collectively "Arbitration Laws").

R-3. INITIATION OF ARBITRATION PROCEEDINGS.

3.1. By Written Submission. Arbitration under these Rules may be commenced by a written submission agreement signed by all parties setting forth the claims subject to the arbitration and that these Rules shall apply to the arbitration.

3.2. By Request of a Party. Any party seeking to initiate arbitration under these Rules (the "Claimant") may do so by sending a written request to the other party or parties (the "Respondent") that identifies the parties to the dispute, their contact information, the arbitration agreement, provision or clause, and the factual and legal basis of the claim. The request shall also provide the amount/relief/remedy sought, and a demand that the arbitration be conducted in accordance with these Rules.

3.3. Commencement Date.

(a) Arbitration initiated by written submission will be deemed commenced on the last date the submission is signed by all parties (the "Commencement Date").

(b) If these Rules are specified in the arbitration agreement, the Commencement Date will be the date the request for arbitration is transmitted to the Respondent.

(c) If these Rules are not specified in the arbitration agreement, each Respondent shall notify the Claimant within 20 calendar days whether it consents to arbitration under these Rules. If all parties consent to arbitration under these Rules, the Commencement Date will be the date the last Respondent notifies Claimant of its consent. If any party does not consent, the Commencement Date will not be set until further agreement of the parties or order of a court of competent jurisdiction.

R-4. RESPONSES TO CLAIMS AND COUNTERCLAIMS.

4.1. Response to Request for Arbitration. Within 20 calendar days after the Commencement Date, or on a date agreed to by the parties, a Respondent (or a Third-Party Respondent) may submit to Claimant (or a Third-Party Claimant) and the arbitrator, if one has already been chosen, a response setting forth all defenses to the claims, any counterclaims, and any objection to the arbitration proceedings.

4.2. Counterclaims. Unless otherwise permitted by the arbitrator, any counterclaims shall be submitted in the response to the request for arbitration or, if no response is submitted, within 20 calendar days of the Commencement Date or on a date agreed to by the parties. All counterclaims shall state the factual and legal bases of such counterclaim and the amount/relief/remedy sought. Claimant may file a response to the counterclaims within 20 calendar days of receipt of the counterclaim or on a date agreed to by the parties.

4.3. Manner of Submission and Service. All submissions in the arbitration shall be served electronically on each party, with a copy to the arbitrator.

4.4. Amendment of Claims and Counterclaims. Any amendment to a claim or counterclaim or the addition of a new claim or counterclaim may only be submitted either: (a) based on stipulation of the parties; or (b) absent stipulation of the parties, with approval of the arbitrator.

R-5. APPOINTMENT OF ARBITRATOR.

5.1. Sole Arbitrator.

(a) Where a sole arbitrator is to be appointed and not designated in the arbitration agreement or clause, the parties shall have 10 calendar days after receipt by all other parties of a proposal for the appointment of a sole arbitrator to agree upon the selection of the arbitrator, including the arbitrator's fees and related costs.

(b) If the parties are unable to reach agreement on the arbitrator, either party may request that a court of competent jurisdiction appoint a sole arbitrator

(c) Unless all parties have agreed that multiple arbitrators are to be appointed, a single arbitrator shall be appointed pursuant to this Rule.

5.2. Multiple Arbitrators.

(a) If three arbitrators are to be appointed, each principal party shall appoint one impartial arbitrator based on their experience and arbitrator fees and expenses. The two party-appointed arbitrators shall choose a third impartial arbitrator who will act as the presiding arbitrator of the arbitral panel. If the two party-appointed arbitrators cannot agree on an impartial third-party arbitrator, any party may request that a court of competent jurisdiction appoint the third arbitrator.

(b) Each party will have 10 calendar days from the filing of the Respondent's response, or Claimant's response if a counterclaim is filed, to notify the other party of its selection of arbitrator. If a party fails to appoint an arbitrator within the time provided under these Rules, then the one party-appointed arbitrator will select an impartial arbitrator to serve as the second arbitrator, and the two arbitrators will appoint a third, impartial, arbitrator who will act as the presiding arbitrator of the arbitral panel. The time period for selection of arbitrators may be extended by agreement of the parties.

(c) All references to "arbitrator" in these Rules shall include the arbitral panel if there is more than one arbitrator, unless otherwise specified.

5.3. Disclosures, Challenges, and Replacement of Arbitrator.

(a) The parties shall provide a list of potential witnesses, experts, parties, and party representatives, including attorneys, to any person approached in connection with his or her possible appointment as an arbitrator. The parties have an ongoing obligation to disclose to the arbitrator all additional potential witnesses, experts, parties, and party

representatives, including attorneys, as soon as possible after their potential participation in the arbitration has been determined.

(b) The arbitrator or potential arbitrator shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence or that would potentially provide a basis for removal or disqualification under the governing Arbitration Laws and codes of ethics. This disclosure obligation is continuing. An arbitrator, from the time of his or her appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties and the other arbitrators unless they have already been informed by him or her of these circumstances.

(c) Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence or would potentially provide a basis for removal or disqualification under the governing Arbitration Laws and codes of ethics. A party may challenge its party-appointed arbitrator only for reasons of which it becomes aware after the appointment has been made or because the party-appointed arbitrator is unable to perform his or her functions as arbitrator.

(d) Any challenge to an arbitrator shall be made by written notice within 15 calendar days after a party has been notified of the appointment of the challenged arbitrator, or within 15 calendar days after the circumstances for the challenge became known to that party. If a party fails to give notice within 15 calendar days after the circumstances became known to the party, the party waives any such challenge. The notice of challenge shall be in writing and set forth the reasons for the challenge. If all parties agree that the challenged arbitrator should be removed, or if the arbitrator withdraws based on the challenge, the arbitrator shall be removed, and the parties will proceed to select a replacement arbitrator in accordance with the provisions of Rules R-5.1 or R-5.2. If an arbitrator is removed or withdraws, the arbitrator shall be compensated for services rendered.

(e) If, within 10 calendar days from the date of the notice of challenge, all parties do not agree to the challenge or the challenged arbitrator does not withdraw, the party making the challenge may elect to pursue the challenge before a court of competent jurisdiction within 20 calendar days or it is deemed waived. Should the court disqualify the arbitrator, a replacement arbitrator shall be selected as per the procedures specified in Rules R-5.1 or R-5.2, as applicable.

5.4. Liability of Arbitrator. The arbitrator and any administrative assistant shall have the same immunity from civil liability as is afforded a judge of the court. This arbitral immunity supersedes and supplements any immunity under any other law.

5.5. Compensation of the Arbitrator and Deposits.

(a) Within 10 calendar days after the arbitrator has been selected, the parties and the arbitrator may execute a written engagement agreement setting forth the arbitrator's compensation based on the arbitrator's prior submission of arbitrator fees and expenses.

Any oral or written agreement as to compensation and expenses for each arbitrator shall be fully disclosed to all arbitrators and the parties.

(b) The arbitrator may request that the parties deposit in advance amounts to pay administrative costs and arbitrator compensation in accordance with Rule R-36. If such deposits are not made within the time required, the arbitrator may cancel any scheduled hearings or proceedings or take other action in accordance with Rule R-40.

5.6. Acknowledgment of Arbitrator. By accepting appointment as arbitrator, the arbitrator acknowledges that he or she has made all necessary disclosures and will conduct the arbitration in a fair and equitable manner and in accordance with these Rules.

R-6. AUTHORITY OF THE ARBITRATOR.

6.1. The arbitrator shall have the power to hear and rule on his or her jurisdiction, including hearing and ruling on any objection to or the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim.

6.2. The arbitrator shall have the power to determine the existence, validity, or scope of the contract of which the arbitration clause is a part. The arbitration clause shall be treated as an agreement independent of and separable from the agreement of which such clause is a part. A decision by the arbitrator that the contract is null and void shall not, for that reason alone, render the arbitration clause invalid or deprive the arbitrator of jurisdiction.

6.3. Any objection to the jurisdiction of the arbitrator or to the arbitrability of any claim or counterclaim (including any amended claim or counterclaim) must be made no later than the filing of a response to the claim or counterclaim giving rise to the objection. Where no response is filed, any such objection must be made within 30 calendar days from the submission of such claim or counterclaim, the next scheduled conference with the arbitrator, or the next written submission to the arbitrator by the objecting party, whichever is first.

6.4. Unless otherwise provided for in the arbitration agreement of the parties, the arbitrator shall also have the authority to conduct the arbitration process and arbitration hearing in any manner that will afford the parties with a fair opportunity to present evidence in an expeditious and efficient manner, including the authority to act in accordance with these Rules.

6.5. The arbitrator may extend any deadline in the arbitration agreement or set by the arbitrator for good cause.

R-7. CONSOLIDATION OF ARBITRATION PROCEEDINGS AND JOINDER OF PARTIES.

7.1. Two or more arbitration proceedings arising from the same or a related legal relationship may be consolidated by:

(a) Order of a court of competent jurisdiction; or

(b) Agreement of all parties, either in the arbitration agreement or subsequently, and approval of all arbitrators appointed in the proceedings, provided that all parties agree on the arbitrator to be appointed in the consolidated proceeding and that these Rules will govern the consolidated proceeding.

7.2. Any person or entity involved in a dispute arising from the same or a related legal relationship that is the subject of the arbitration may be joined as a party upon agreement of all parties, including the person or entity to be joined, and approval of the arbitrator.

R-8. REPRESENTATION OF PARTIES. To the extent permitted by applicable law, each party may be represented by persons chosen by that party or may participate without representation (*pro se*). The names, addresses, and email addresses of any party representative, including attorneys, must be communicated to all parties and the arbitrator in accordance with Rule R-5.3(a), but in no event later than seven calendar days prior to the date set for the hearing at which that representative is first to appear, provided that no additional notice is required if the representative initiates an arbitration or files an initial response for a party. The arbitrator may set an earlier date by which such notice must be provided prior to the hearing. If a party fails to submit timely notice of a party representative, the arbitrator may continue the hearing, assess costs, or take any other action that the arbitrator deems appropriate and beneficial to the process.

R-9. COMMUNICATION WITH AND SUBMISSIONS TO THE ARBITRATOR. Communication with, including submissions to, the arbitrator by a party, representative, or witness without the presence of all other parties (*ex parte* communications) is prohibited, except as is necessary to secure or obtain payment for the arbitrator's services or assure the absence of conflicts, or for any other administrative matter the arbitrator deems necessary or appropriate. The parties may communicate directly with the arbitrator by email or other written means as long as copies are simultaneously forwarded to all other parties or their representatives.

R-10. DELEGATION OF AUTHORITY TO ADMINISTRATIVE ASSISTANT. The arbitrator may, in his or her discretion, delegate administrative tasks to an administrative assistant. Such tasks may include communication between the arbitrator and the parties regarding scheduling or the form of submission of documents, secretarial tasks such as organizing and maintaining the arbitrator's file, booking of hearing facilities, organizational tasks relating to the hearing, word processing, proofreading, or editing any scheduling order or award issued by the arbitrator, and invoicing and collection of payment for the services of the arbitrator. An individual acting as administrative assistant or case manager must disclose any relationships that would impede his or her ability to handle the administrative tasks impartially. *Ex parte* communications regarding administrative matters between a party and the administrative assistant shall be permitted.

R-11. CASE MANAGEMENT CONFERENCES AND SCHEDULING ORDERS.

11.1.After the appointment of the arbitrator, a preliminary case management conference, in person or by video or phone conference call, shall be held if requested by a party, or

may be held in the arbitrator's discretion. The matters to be discussed at such conference may include a case schedule, applicable Rules and law, the scope and schedule of discovery, joinder or consolidation of additional parties or claims, and other preliminary matters. The arbitrator shall give proper notice to the parties of the date and time of the conference. The arbitrator may request short submissions from the parties in advance of the case management conference in order to streamline the discussion.

11.2.Upon completion of the preliminary conference, the arbitrator shall issue a scheduling order setting forth the matters agreed to and ordered during the preliminary conference. If the parties have agreed to a proposed scheduling order in the absence of a preliminary conference, the parties shall submit such proposed order for the arbitrator's approval.

11.3.The arbitrator may schedule other case management conferences on his or her own initiative or at the request of one or more of the parties if the arbitrator deems it reasonably necessary and beneficial to the process.

R-12. LOCATION, DATE, AND TIME OF THE ARBITRATION HEARING.

12.1 Unless the arbitration agreement specifies a locale for the arbitration hearing, the arbitrator shall have the authority to make a final determination regarding the location, date, and time of the arbitration hearing, subject to any contractual requirements. If the hearing is held at more than one location and the seat of the arbitration is not specified in the arbitration agreement, the hearing and award shall be deemed to have been made at the location designated by the arbitrator. In either case, the arbitrator will endeavor to set the hearing at locations, dates and times that are convenient for all parties, and will attempt to accommodate any reasonable request by a party.

12.2 The arbitrator may conduct special hearings at other locations for document production, to hear a third-party witness, or for the convenience of the parties and witnesses if the arbitrator deems it reasonably necessary and beneficial to the process.

R-13. DISCOVERY.

13.1.Scope of Discovery.

(a) Unless otherwise provided by the parties' agreement, the arbitrator may permit discovery as he or she determines appropriate in the circumstances and reasonably necessary and beneficial to the process.

(b) In determining the appropriate scope of discovery, the arbitrator shall ensure that permitted discovery is proportional to the issues at stake and the relief sought in the arbitration.

(c) The arbitrator may allocate the cost of discovery between or among the parties.

(d) In the event a party commits any discovery abuse or spoliation of evidence, the arbitrator may impose such sanctions as he or she deems appropriate, including making negative inferences, refusing to admit evidence, and imposing monetary sanctions.

13.2.Discovery Disputes. If the parties cannot, after conferring, eliminate disputes concerning discovery, the dispute shall be presented to the arbitrator for determination.

R-14. SITE AND PROPERTY INSPECTION

14.1.If any party or the arbitrator believes a site or property inspection is necessary, the party shall inform the parties. If agreement cannot be reached on the procedure for the inspection, the arbitrator may convene a status conference to determine the procedure. All parties have a right to be present at any site or property inspection unless otherwise determined by the arbitrator, and the arbitrator may permit experts or others to attend and for video recording of the inspection upon good cause shown.

14.2.At the arbitrator's discretion, a site or property inspection may include testimony to the extent the arbitrator determines such procedure is reasonably necessary and beneficial to the process, subject to any contractual requirements.

14.3.The parties shall ensure that the site or location of the property is safe and properly marked, identifying all safety and/or health hazards.

R-15. NON-DISPOSITIVE MOTIONS. The arbitrator may hear motions that will assist in the resolution of the dispute or narrow the issues in dispute. A party who wishes to file a motion must first confer with the other party, and the moving party must certify such conference has occurred. The arbitrator may direct the parties to address specific issues in their motion papers. The arbitrator may allow the opposing party to file a response to the motion, and may, in the arbitrator's discretion, schedule a hearing on the motion. The arbitrator has the sole discretion to hear or not hear any non-dispositive motion.

R-16. DISPOSITIVE MOTIONS. The arbitrator may allow the submission of and rule upon motions that dispose of some or all of the issues, provided that the submission of and potential ruling on such motions reduces rather than adds to the time and cost of an ultimate resolution of the entire case. Before a party may submit such a motion, that party must submit a short statement demonstrating why such motion is appropriate under the circumstances and that its submission will reduce rather than add to the time and costs of the proceeding. If the arbitrator grants leave to file the dispositive motion, the arbitrator shall set a briefing schedule and may, in the arbitrator's discretion, schedule a hearing on the motion. Any ruling on such a motion that does not dispose of all claims and counterclaims shall not be deemed a final award, but rather an interim order. The arbitrator has the sole discretion to hear or not hear any dispositive motion.

R-17. EMERGENCY MEASURES.

17.1.Where emergency relief is necessary before the arbitrator is selected, the party seeking relief may do so in a court of competent jurisdiction unless otherwise provided in the parties' agreement.

17.2 Once the arbitrator is selected, any request for emergency relief shall be decided by the arbitrator. The arbitrator shall assume jurisdiction over any request for emergency relief then pending in any court upon order of the court referring the matter to arbitration.

17.3 A request for emergency relief made to a court shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate.

R-18. INTERIM MEASURES.

18.1.At any time after the arbitrator is confirmed, any party may apply to the arbitrator for interim relief, including injunctive relief, measures for the protection or conservation of property or evidence, or disposition of perishable goods.

18.2.Relief sought on an interim basis before the final award must be requested in a separate motion from the request for arbitration, stating with particularity the relief sought, the reason such relief is needed before the final award, and the proposed security to be posted for such relief, if appropriate.

18.3 The arbitrator may enter a partial final award granting or denying the motion for interim relief, which would be subject to immediate review by a court of competent jurisdiction.

18.4.Unless entered as a partial final award, any interim relief ordered shall be in the form of an interim order. The arbitrator shall retain jurisdiction over an interim order for all purposes, and may modify or vacate the interim order, until such time as the final award is issued. Upon issuance of the final award, any interim orders shall be merged into and become part of the final award unless vacated by the arbitrator prior to the final award.

18.5.The arbitrator may require security for a partial final award or an interim order in such form and amount as the arbitrator deems appropriate.

R-19. PREHEARING SUBMISSIONS.

19.1.Unless the arbitrator directs otherwise, parties shall exchange exhibit lists and the documents identified herein at least 14 calendar days prior to the arbitration hearing.

(a) Exhibit lists shall include a list of all exhibits intended to be offered at the arbitration hearing, distinguished by common identifier (e.g., Bates range), and copies shall be submitted of all anticipated exhibits that were not previously disclosed to the opposing party.

(b) The parties are required to confer and pre-mark as many exhibits as possible to avoid duplication and minimize evidentiary disputes during the arbitration hearing.

(c) The arbitrator may require the parties to confer and submit any stipulated statements of fact.

19.2. Unless the arbitrator directs otherwise, parties shall submit witness disclosures and expert reports to be offered into evidence as soon as possible, but not less than 14 calendar days prior to the arbitration hearing. Nothing in the preceding sentence prevents the arbitrator from ordering earlier disclosures or otherwise affects the parties' disclosure obligations pursuant to R-5.3.

(a) Witness disclosures shall include the following for each witness a party intends to call at the arbitration hearing: name, address, and a short description of the witness's anticipated testimony. A party may only complain that a fact witness disclosed is not called if that party has cross-designated the fact witness within seven calendar days of the designation.

(b) Expert reports shall include each expert witness's name, address, qualifications, and a detailed statement of all opinions and bases therefor.

19.3.The arbitrator may request that each party submit a concise, written prehearing brief setting forth the position of the parties and any other matters identified by the arbitrator. Unless the arbitrator directs otherwise, the prehearing brief shall be submitted at least seven calendar days prior to the arbitration hearing and shall include the facts the party intends to prove at the arbitration hearing, a presentation of law applicable to the dispute, and the party's bases for the relief requested.

19.4 The arbitrator has the discretion to require any additional prehearing submissions not identified in this rule if the arbitrator determines that such submissions will assist in the resolution of the dispute.

R-20. ARBITRATION HEARING. The arbitrator shall conduct a fair hearing during which the parties are treated equitably. Each party shall be given a reasonable opportunity to present its case and has the right to be heard. The arbitrator shall conduct the proceedings in such a way as to expedite resolution of the dispute. It is within the arbitrator's discretion to vary any procedure set forth in Rules R-21 through R-31 so long as the foregoing requirements are satisfied.

R-21. ATTENDANCE OF PARTIES, EXPERTS, AND WITNESSES AT HEARING. Subject to the arbitrator's discretion, arbitration hearings shall be private unless required by applicable law to be made public. Only those persons with a direct interest in the arbitration and their representatives are entitled to attend hearings, along with witnesses to the extent permitted by the arbitrator. Objection to the attendance of any person, including any fact or expert witnesses, shall be made promptly, and the arbitrator has the authority to decide such objection.

R-22. PRESENTATION OF EVIDENCE.

22.1.The parties may offer evidence that is relevant and material to the dispute to be decided. All evidence shall be submitted in the presence of the arbitrator and the parties unless a party has waived its right to be present.

22.2. The arbitrator shall decide the admissibility and the weight of the evidence, taking into consideration applicable Rules of privilege. Absent agreement of the parties, courtroom Rules of evidence are not applicable."

22.3. All documentation, discovery evidence, pictures, video, and other physical testimony that a party intends to use during witness examinations shall have been disclosed prior to the hearing, with the exception of material used solely for impeachment or demonstrative purposes. For good cause, the arbitrator may allow testimony or evidence that has not been previously disclosed to be admitted, provided that the opposing party has a fair opportunity to respond to such testimony or evidence. In allowing the admission of previously undisclosed testimony or documentary evidence, the arbitrator may continue the hearing, impose sanctions, or take such other action as the arbitrator deems necessary and appropriate.

22.4. Testimony may be accepted through any means approved by the arbitrator, so long as each party is given the opportunity to present relevant and material evidence and no party's right to cross-examine is impinged, subject to Rule R-23.3.

R-23. WITNESS EXAMINATION.

23.1. The arbitrator shall determine the manner in which witnesses are to be examined, and may require witnesses to testify under oath. The arbitrator may direct that witnesses submit to questions from the arbitrator.

23.2. Each party shall be permitted to cross-examine witnesses called by another party, subject to Rule R-23.3.

23.3. The arbitrator may receive and consider the evidence of witnesses by declaration or affidavit, and shall give it such weight as the arbitrator deems appropriate. If the arbitrator accepts evidence by declaration or affidavit, the party presenting the declaration or affidavit must, at the request of any other party, make the witness available for cross-examination, unless the arbitrator determines it is not necessary under all the circumstances.

23.4. The scope of re-direct and re-cross examination is within the discretion of the arbitrator and may be limited by the arbitrator to promote efficiency, provided that each party has a fair opportunity to present its case.

R-24. SUBPOENAS FOR DOCUMENTS AND WITNESSES. Upon request of a party, the arbitrator may issue a subpoena for documents or witnesses in conformity with applicable law if the arbitrator deems it appropriate. The parties are responsible to prepare, serve, and enforce the subpoena.

R-25. ARBITRATION HEARING IN CASES OF FAILURE TO ATTEND. The arbitrator may proceed with the arbitration hearing if one of the parties to the arbitration fails to attend the arbitration, so long as the arbitrator is satisfied and makes a finding that the absent party

received adequate notice of the arbitration hearing pursuant to these Rules. The arbitrator may not render an award on the basis of the default alone, but instead must require the attending party to submit evidence demonstrating that the attending party is entitled to the relief sought.

R-26. RECORDING OF DEPOSITIONS AND HEARING.

26.1.Any party who wishes to have an audio or stenographic recording transcript of a deposition or hearing may, at the party's own expense, make arrangement for such recording and notify the other party and the arbitrator at least three calendar days in advance of the deposition or hearing. If any other party wishes to have a copy of the recording, that party must share equally in the cost thereof.

26.2.If the recording is agreed by the parties or determined by the arbitrator to be the official record of the proceeding, no other recordings will be permitted. The cost of the official record shall be shared equally by the parties, and the arbitrator shall receive a copy of the recording at no charge.

26.3.Video recording and photographing of a hearing is not permitted unless otherwise agreed by the parties and the arbitrator. The arbitrator may conduct an audio recording of a conference or hearing for the arbitrator's own use, provided that the arbitrator notifies the parties at least three calendar days in advance of the conference or hearing. Any party may object to such audio recording, and the arbitrator will determine whether to conduct the recording after considering the objection

R-27. INTERPRETERS. Any party wishing to introduce evidence which is in a language other than that of the proceeding shall initially bear the cost of translation, subject to apportionment in the final award. If a party or the arbitrator objects to the accuracy of a translation, the arbitrator may retain its own translator, determine which party or parties shall initially pay the cost thereof, and apportion the cost thereof in its award.

R-28. POST-HEARING SUBMISSIONS. The arbitrator shall determine whether post-hearing submissions shall be permitted or required and, if so, the timing, length, and content of such submissions.

R-29. INTERIM ORDERS.

(a) The arbitrator may issue interim orders at any time prior to the final award, and such order shall not affect the arbitrator's continuing jurisdiction over the matter. The arbitrator shall have the authority to modify or vacate any interim order; provided, however, that if such order is not vacated or modified, the interim order shall be addressed in or incorporated into the final award.

(b) If, after the hearing, an interim order on the merits is issued which leaves open any claim of entitlement to and/or the amount of any costs or attorneys' fees that may be awarded, the parties shall follow the procedure set forth in Rule R-31.

R-30. THE FINAL ARBITRATION AWARD. The final award shall be dated and signed by the arbitrator, and shall include the following as the arbitrator deems appropriate:

(a) The identity of the parties, any party representatives, and the arbitrator;

(b) The date(s) and location of the hearing, and the identity of the persons attending the hearing;

(c) A description of the claims and any counterclaims of the parties;

(d) The type of award, which shall be a standard award, unless the parties agreed to or the arbitrator orders upon request of a party either a reasoned award (which must include the reasoning supporting the award), or findings of fact and conclusions of law;

(e) The relief awarded and, if requested by either party, an itemized statement of any damages awarded, along with the date(s) by when payment must be made or other action must be taken;

(f) The amount of any costs or attorneys' fees awarded;

(g) Whether pre- and/or post-award interest is awarded and, if so, the basis for the award, the method of computation, and the amount awarded; and

(h) The award shall include a statement that it is a final award that resolves all claims, counterclaims, and defenses that were or could have been raised in the arbitration, and that all other relief sought in the arbitration is denied.

R-31. PROCEDURE FOR AWARD OF COSTS, ATTORNEYS' FEES, AND INTEREST.

(a) If the arbitrator allows evidence to be presented during the hearing on any claims for entitlement to and the amount of any costs, attorneys' fees, and/or the imposition of pre-award or post-award interest, the arbitrator shall rule on the claims and include any amount of such costs, attorneys' fees, and/or interest in the final award.

(b) If the arbitrator issues an interim order on the merits which leaves open any claims of entitlement to an award of costs, attorneys' fees, and/or interest, or finds entitlement but does not determine the amount of such award, the arbitrator shall set the procedure for determining those claims. The final award, including any award of costs, attorneys' fees, and/or interest, shall be issued within a reasonable time after disposition of these claims.

R-32. ISSUANCE OF AWARD.

32.1.The arbitrator shall close the hearing at such time as all evidence, arguments, and post-hearing submissions on all issues, including costs, attorneys' fees, and interest, have been submitted for decision. Nothing submitted after the arbitrator has closed the

arbitration hearing shall be considered by the arbitrator, provided, however, that the arbitrator may re-open the hearing for good cause.

32.2. The final arbitration award shall issue within 30 calendar days after the hearing is closed. The arbitrator may extend the deadline by 30 calendar days so long as no previous extensions have been granted.

R-33. CORRECTION OR CLARIFICATION OF AWARD. A party may file a motion to correct the award solely based upon a computational, typographical, or similar error, or to clarify an award, within 10 calendar days after receipt of the award. Any response to such motion is due within 10 calendar days after receipt of the motion, and the arbitrator shall rule on the motion within 14 calendar days of receipt of the response. Upon resolution of such motion, a corrected or clarified final award shall be issued if appropriate.

R-34. ARBITRATION AWARD APPEALS AND VACATING. There shall be no appeals to the arbitrator of any final arbitration award. A partial final or final arbitration award may be modified, confirmed, or vacated by a court of competent jurisdiction in accordance with the process set forth in the applicable Arbitration Laws.

R-35. ARBITRATION COSTS.

35.1. Arbitration Costs include the following:

(a) Arbitrator compensation and expenses;

(b) The costs of the arbitrator's administrative assistant, if any;

(c) The costs of expert advice and other assistance engaged by the arbitrator;

(d) The costs of stenographers and transcripts or recordings;

(e) The costs of depositions;

(f) The costs of producing electronically stored information;

(g) The costs of interpreters;

(h) The costs of meeting and hearing rooms; and

(i) Other costs associated with conducting any proceeding relating to the arbitration.

35.2. The allocation of Arbitration Costs is set forth in Rule R-37.

35.3. The term "Arbitration Costs" does not include the fees and expenses of attorneys and experts or others retained by the parties ("Attorneys' Fees and Expenses"). The allocation of Attorneys' Fees and Expenses is set forth in Rule R-38.

R-36. Deposits.

(a) Any deposits paid to the arbitrator pursuant to Rule R-5.5(b) shall be held in an account other than the arbitrator's personal or general business operating account until payable to the arbitrator in accordance with the parties' compensation arrangement with the arbitrator.

(b) Upon request of any party submitted not more often than quarterly, the arbitrator shall provide the parties with an itemization of all disbursements of deposits. Remedies for nonpayment of deposits are set forth in Rule R-40.

(c) The arbitrator shall return any unexpended or unearned balance of deposits to the parties within 15 calendar days after the conclusion of the arbitration process.

R-37. ALLOCATION OF ARBITRATION COSTS. If authorized by applicable law or the parties' agreement, the arbitrator may allocate the costs of arbitration between or among the parties in the final award, including the return of any unexpended or unearned deposits, in such manner as the arbitrator deems reasonable, unless prohibited by the parties' agreement or otherwise specified in these Rules.

R-38. ALLOCATION OF ATTORNEYS' FEES AND EXPENSES. If authorized by applicable law or the parties' agreement, the arbitrator may allocate attorney's fees between or among the parties in the final award.

R-39. INTEREST. The arbitrator may, consistent with applicable law and the parties' agreement, award pre-award and/or post-award interest, simple or compound, as deemed appropriate.

R-40. REMEDIES FOR NONPAYMENT. If any deposit or other payment required by the arbitrator is not made when required, the arbitrator shall inform the parties of the non-payment and may take one or more of the following actions:

(a) Suspend the proceedings until all payments are received;

(b) Accept payment from any other party of the non-paying party's payment obligations;

(c) Allow the proceedings to go forward upon such terms as the arbitrator deems reasonable;

(d) Terminate the proceedings after continuing nonpayment; and/or

(e) Withhold issuance of the final award until full payment has been made by any party.

CLARIFICATION OF RULES AND PROCEDURES: Should CDRS be requested to provide a clarification of these Rules, there many be a charge to the parties as determined by the CDRS Senior Case Administrator.