

## RESOLUTIONS, LLC's GUIDE TO DISPUTE RESOLUTION

### Streamlined Arbitration Rules and Procedures

#### 1. Scope of Rules

The RESOLUTIONS, LLC Streamlined Arbitration Rules and Procedures ("Rules") govern binding Arbitrations of disputes or claims that are administered by RESOLUTIONS, LLC and in which no disputed claim or counterclaim exceeds \$250,000, not including interest.

#### 2. Party-Agreed Procedures

The Parties may agree on any procedures not specified herein that are consistent with the applicable law. The Parties will promptly notify the RESOLUTIONS, LLC Case Administrator of any Party-agreed procedures and will confirm these procedures in writing. The Party-agreed procedures will be enforceable as if contained in these Rules. These Rules will control any matters not changed by the Party-agreed procedures.

#### 3. Amendment of Rules

RESOLUTIONS, LLC may amend these Rules. The Rules in effect on the date of the commencement of an Arbitration (as defined in Rule 5) will apply to that Arbitration, unless the parties have specified that another version of the Rules apply.

#### 4. Conflict with Law

If any of these Rules, or a modification of these Rules agreed on by the Parties, is discovered to be in conflict with a mandatory provision of applicable law, the provision of law will govern, and no other Rule will be affected.

#### 5. Commencing an Arbitration

A RESOLUTIONS, LLC Streamlined Arbitration is commenced by either:

(A) the submission to RESOLUTIONS, LLC by all Parties of a fully-executed RESOLUTIONS, LLC Arbitration Agreement;

(B) the submission to RESOLUTIONS, LLC of a pre-dispute written contractual provision requiring the Parties to arbitrate the dispute or claim, along with either written evidence of the intent of all Parties to comply with the requirement or a written demand by one Party that the other Party(ies) comply with the requirement; or

(C) the oral agreement of all Parties to participate in an Arbitration conducted pursuant to these Rules.

The Arbitration process is considered commenced when RESOLUTIONS, LLC confirms in writing the receipt of the documents described above and the agreement of all Parties to participate in the Arbitration and to be bound by its results. The date of commencement of the Arbitration is the date of RESOLUTIONS, LLC's confirmation letter.

In the event of an oral agreement to participate in an Arbitration, even if the Arbitration is commenced with the issuance of a RESOLUTIONS, LLC confirmation letter, the Arbitration Hearing will not take place until all Parties have executed a RESOLUTIONS, LLC Arbitration Agreement.

If a Party that is a signatory to a pre-dispute written contractual provision fails to respond to a demand for Arbitration or fails to participate in the Arbitration process, RESOLUTIONS, LLC will confirm in writing the failure to respond or participate and, pursuant to Rule 17, will schedule, and provide appropriate notice of, a Hearing or other opportunity for the Party demanding the Arbitration to demonstrate its entitlement to relief.

## 6. Preliminary Conference

Unless the following matters have been determined during the process by which RESOLUTIONS, LLC obtained the agreement of all Parties to participate in the Arbitration, the Case Administrator<sup>1</sup> will conduct a Preliminary Conference with the Parties, by telephone, within seven (7) calendar days after the date of commencement of the Arbitration, to discuss Arbitrator selection, the location and scheduling of the Arbitration Hearing, and other procedural issues. At any subsequent time, the Case Administrator may convene, or the Parties may request, additional conferences to discuss administrative or procedural matters.

## 7. Notice of Claims

(A) If a matter has been submitted for a RESOLUTIONS, LLC Streamlined Arbitration after a litigation has been commenced in court regarding the same claim or dispute, the pleadings in the court case, including the Complaint and Answer (with affirmative defenses and counter or cross claims) will be provided to RESOLUTIONS, LLC and will be considered part of the record of the Arbitration. It will be assumed that the existence of such pleadings constitutes appropriate notice to the Parties of the claims, counter or cross claims and affirmative defenses that each has. If necessary, such notice may be supplemented pursuant to Rule 7 (b).

(B) If a matter has been submitted prior to or in lieu of the filing of the case in court or prior to the filing of an Answer, the Parties must give each other notice of all

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claims, counter or cross claims and affirmative defenses that each has. Such notice may be provided by the service upon the other Party(ies), and provision to RESOLUTIONS, LLC, of either an appropriate pleading (in the form of either a Complaint or Answer) or a letter. The letter should include a short statement of the factual basis for the claim, counter or cross claim or affirmative defense. Such notice should be exchanged simultaneously within seven (7) calendar days of the date of commencement of the Arbitration, or by such other date or in such other sequence as the Parties may agree, but in no event later than seven (7) calendar days before the Arbitration Hearing.

(C) No claim, counter or cross claim and affirmative defense will be considered by the Arbitrator in the absence of prior notice to the other Party(ies), unless all Parties agree that such consideration is appropriate notwithstanding the lack of prior notice.

(D) If any Party fails to respond to a claim or fails to reply to a counter or cross claim, that Party will be deemed to have denied the claims, counter or cross claims made against it but to have waived the right to assert other claims or challenges to jurisdiction.

#### 8. Interpretation of Rules Jurisdiction

Once appointed, the Arbitrator will resolve disputes about the interpretation and applicability of these Rules, including disputes relating to the duties of the Arbitrator and the conduct of the Arbitration Hearing. The resolution of the issue by the Arbitrator is final. The Arbitrator will also determine jurisdictional disputes such as disputes over the existence, validity, interpretation or scope of the agreement under which Arbitration is sought.

Disputes arising before the appointment of the Arbitrator will be resolved by the Case Administrator, but only those disputes relating to jurisdiction and the conduct of the Hearing are subject to subsequent review by the Arbitrator.

#### 9. Representation

The Parties may be represented by attorneys or others. Each Party will promptly notify the Case Administrator and the other Party(ies) of the name, address and telephone and fax numbers of its representative. The representative of a Party may act on its behalf in complying with these Rules.

#### 10. Withdrawal from Arbitration

No Party may terminate or withdraw from an Arbitration after it commences (as defined in Rule 5) except by written agreement of all Parties to the Arbitration.

11. Ex Parte Communications

No Party will have any ex parte communication with the Arbitrator regarding any issue related to the Arbitration. Any necessary ex parte communication with RESOLUTIONS, LLC, whether before or after the Arbitration Hearing, will be conducted through the Case Administrator.

12. Arbitrator Selection and Replacement

(A) RESOLUTIONS, LLC Streamlined Arbitrations will be conducted by one neutral Arbitrator.

(B) Unless the Arbitrator has been previously selected by agreement of the Parties, the Case Administrator at the Preliminary Conference will recommend appropriate Arbitrator candidates who have been pre-screened by RESOLUTIONS, LLC for potential conflicts of interest. The Case Administrator will attempt during the Preliminary Conference to reach agreement among the Parties regarding the selection of the Arbitrator. Any disclosures that are mandated by applicable law regarding the Arbitrator candidates will be made at this time.

(C) If the Parties do not agree on an Arbitrator within seven (7) calendar days of the Preliminary Conference, the Case Administrator will send the Parties a list of Arbitrator candidates, who have been pre-screened by RESOLUTIONS, LLC for potential conflicts of interest, numbering one more than the number of Parties in the dispute. Any disclosures that are mandated by applicable law regarding the Arbitrator candidates will be made at this time, and RESOLUTIONS, LLC will also provide each Party with a brief description of the background and experience of each Arbitrator candidate. Any Party may challenge an Arbitrator candidate for cause and the Case Administrator will rule on such challenges. If a challenge for cause is upheld, a replacement name will be sent to the Parties.

Within seven (7) calendar days of the sending of the final list of names, each Party may strike one name from the final list, and will rank the other Arbitrator candidates in order of preference. If each Party strikes a different candidate, the remaining Arbitrator candidate will become the Arbitrator. If there is more than one candidate remaining after the Parties strike, the candidate with the highest total ranking by the Parties will become the Arbitrator. If a Party fails to respond in a timely manner to the list of Arbitrator candidates, the Case Administrator will deem that Party to have accepted all of the Arbitrator candidates.

If this procedure does not result in the selection of an Arbitrator, RESOLUTIONS, LLC will designate the Arbitrator.

(D) If for any reason the Arbitrator who is selected is unable to fulfill the Arbitrator's duties, a successor Arbitrator will be chosen in accordance with this Rule.

(E) The Arbitrator will execute an oath of office before being called on to make any determinations in the Arbitration proceeding and, in any event, before the taking of evidence in the Arbitration Hearing.

### 13. Exchange of Information

(A) The Parties will cooperate in good faith in the voluntary, prompt and informal exchange of all non-privileged documents and information relevant to the dispute or claim, including copies of all documents in their possession or control on which they rely in support of their positions or which they intend to introduce as exhibits at the Arbitration Hearing, the names of all individuals with knowledge about the dispute or claim and the names of all experts who may be called upon to testify or whose report may be introduced at the Arbitration Hearing. The Parties and the Arbitrator will make every effort to conclude the document and information exchange process within fourteen (14) calendar days after all pleadings or notices of claims have been received but in no event later than seven (7) calendar days before the Arbitration Hearing.

(B) Upon the request of any Party, the Arbitrator will promptly conduct a conference for the purpose of determining whether any additional information should be exchanged. If the Arbitrator determines that the requesting Party has a reasonable need for the requested information, and that the request is not overly burdensome on the opposing Party, the Arbitrator may order the additional information exchange. The producing Party will promptly comply with any directive of the Arbitrator by the date specified by the Arbitrator which in no event will be later than seven (7) calendar days before the Arbitration Hearing.

(C) As they become aware of new documents or information, including experts who may be called upon to testify, all Parties remain under a continuing obligation to provide relevant, non-privileged documents, to supplement their identification of witnesses and experts, and to honor any informal agreements or understandings between the Parties regarding documents or information to be exchanged. Documents which have not been previously exchanged, or witnesses and experts not previously identified, will not be considered by the Arbitrator at the Hearing, unless agreed by the Parties.

(D) The Parties will promptly notify the Case Administrator when an unresolved dispute exists regarding discovery issues. The Case Administrator will attempt to facilitate an informal resolution of the dispute by the Parties themselves. If the dispute is not informally resolved, the Case Administrator will arrange a conference with the Arbitrator, either by telephone or in person, and the Arbitrator will decide the dispute.

### 14. Scheduling and Location of Hearing

Unless previously agreed to by the Parties, the Arbitrator, after consulting with the Parties, will determine the location, date and time of the Arbitration Hearing. In determining the location of the Hearing, the Arbitrator will take into account such factors as the convenience of the Parties and witnesses, as well as the relative resources of the

Parties. Absent unusual circumstances, the Arbitration Hearing will begin within sixty (60) calendar days of the commencement of the Arbitration. The Arbitrator and the Parties will attempt to schedule consecutive Hearing days if more than one day is necessary.

#### 15. Pre-Hearing Submissions

(A) For complex cases or in unusual circumstances, the Arbitrator may require a pre-Hearing conference for the purposes of narrowing the focus of the Arbitration Hearing by stipulations of fact or joint statements of issues to be determined and of resolving any outstanding issues relating to the conduct of the Hearing. The pre-Hearing conference may be conducted by telephone.

(B) At least seven (7) calendar days before the Arbitration Hearing, the Parties will exchange a list of the witnesses they intend to call, including any experts, along with a short description of the anticipated testimony of the witness. In addition, at least seven (7) calendar days before the Arbitration Hearing, the Parties will exchange copies of all exhibits intended to be used at the Hearing. The list of witnesses and the copies of all exhibits that the parties intend to use at the Hearing should also be provided to RESOLUTIONS, LLC for transmission to the Arbitrator. The Parties should pre-mark exhibits and should attempt themselves to resolve any disputes regarding the admissibility of exhibits prior to the Hearing.

(C) The Parties may submit, and in complex cases or in unusual circumstances the Arbitrator may require that all Parties submit, concise written statements of position. The statement should not exceed ten (10) pages in length, and should be submitted to the Arbitrator, and provided to the other parties, at least seven (7) calendar days before the Hearing date. Rebuttal statements may be permitted or required at the discretion of the Arbitrator.

#### 16. Securing Witnesses for the Arbitration Hearing

At the request of another Party, all other Parties will produce for the Arbitration Hearing all witnesses in their employ or under their control and without need of subpoena. The Arbitrator may issue subpoenas for the attendance of witnesses or the production of documents. In the event a Party or a subpoenaed person objects to the production of a witness or other evidence, the Party may file an objection with the Arbitrator, who will promptly rule on the objection, weighing both the burden on the producing Party and the need of the proponent for the witness.

#### 17. The Arbitration Hearing

(A) The Arbitrator will require witnesses to testify under oath if requested by any Party.

(B) The Arbitrator will determine the order of proof, which will generally be similar to that of a court trial.

(C) The Arbitrator will consider evidence that he or she finds relevant and material to the dispute, including evidence presented in the form of affidavits, giving the evidence such weight as he or she determines is appropriate. The Arbitrator may be guided in that determination by the Federal Rules of Evidence or by any other applicable judicial rules of evidence; however, strict conformity to such rules of evidence is not required, except that the Arbitrator will apply the law relating to privileges and work product. The Arbitrator may limit testimony to exclude evidence that would be immaterial or unduly repetitive, provided that all Parties are afforded the opportunity to present material and relevant evidence.

(D) The Arbitrator may receive and consider witnesses' deposition testimony recorded by transcript or videotape, provided that the other Parties have had the opportunity to attend and cross-examine. The Arbitrator may in his or her discretion consider witness affidavits or other recorded testimony, but will give that evidence only such weight as the Arbitrator deems appropriate.

(E) The Parties will not offer as evidence, and the Arbitrator will neither admit into the record nor consider, prior settlement offers by the Parties or statements or recommendations made by a mediator or other person in connection with efforts to resolve the dispute being arbitrated.

(F) When the Arbitrator determines that all relevant and material evidence and arguments have been presented, the Arbitrator will declare the Hearing closed. Post-Hearing briefs will not be allowed, unless the Parties and the Arbitrator agree that they are necessary. If post-Hearing briefs are to be submitted, the Hearing will be deemed closed upon receipt by the Arbitrator of such briefs.

(G) The Arbitrator may proceed with the Hearing in the absence of a Party who, after having executed the Arbitration Agreement and after having received reasonable notice of the Hearing, fails to attend. The Arbitrator may not render an Award solely on the basis of the default or absence of the Party, but will require any Parties who are present to submit such evidence as the Arbitrator may require for the rendering of an Award. If RESOLUTIONS, LLC reasonably believes that a Party will not attend the Hearing, the Arbitrator may receive the evidence necessary to render an Award either by a telephone conference or by affidavit.

(H) Any Party may request that a stenographic or other record be made of the Hearing, provided that the requesting Party bear the cost of such stenographic record and that the original of the record be maintained by the reporting service so that the other Party(ies) has equal access to it. If a stenographic or other record is made of the Hearing, the requesting Party(ies) will provide a copy to the Arbitrator.

18. Waiver of Hearing

The Parties may agree to waive oral Hearing and submit the dispute to the Arbitrator for an Award based on written submissions and other evidence upon which the Parties agree.

19. The Award

(A) Absent good cause for an extension, the Arbitrator will render the Award within fourteen (14) calendar days after the date of the closing of the Hearing or, if an Arbitration Hearing has been waived, within fourteen (14) calendar days after the date of the Arbitrator's receiving all materials specified by the Parties.

(B) Unless the Parties specify a different standard, in determining the Award the Arbitrator will be guided by principles of law and equity as applied to the facts found at the Arbitration Hearing, including those facts relating to custom and agreement between the Parties.

(C) The Arbitrator is authorized to Award any remedy allowed by the applicable law, including multiple damages, pre or post-judgment interest and attorneys' fees and expenses, and to grant final or interlocutory relief, including injunctive relief, unless the Parties have agreed to a narrower scope of permissible relief. Notwithstanding this authority, the Arbitrator may not Award punitive damages unless previously agreed by the Parties or unless punitive damages are required by law to be an available remedy in such cases. In the Award, the Arbitrator may also assess Arbitration fees and expenses in favor of either Party if provided by agreement of the Parties, or in favor of RESOLUTIONS, LLC in the event that the Arbitrator finds that fees or expenses are due RESOLUTIONS, LLC .

(D) The Award will consist of a written statement signed by the Arbitrator regarding the disposition of each claim and the relief, if any, Awarded as to each claim. Unless all Parties agree otherwise, the Arbitrator will also provide a concise written statement of his or her reasons for the Award, but this statement will not become part of the Award nor be admissible in any judicial proceeding to enforce or vacate the Award.

(E) Within seven (7) calendar days after issuance of the Award, any Party, with written notice to all other Parties, may request that the Arbitrator correct any computational, typographical or similar error in an Award, or the Arbitrator may correct such errors in the Award on his or her own initiative. The Arbitrator will make any necessary and appropriate correction to the Award within seven (7) calendar days of receiving a request, provided that the other Party(ies) has a reasonable opportunity to respond.



20. Enforcement of the Award

Proceedings to enforce, confirm, modify or vacate an Award will be controlled by and conducted in conformity with the Federal Arbitration Act, 9 U.S.C. Sec 1 et. seq. or applicable state law. The prevailing Party(ies) in any such proceeding will recover from the non-prevailing Party(ies) all reasonable costs, including attorneys fees and expenses incurred in connection with the judicial proceeding.

21. Confidentiality and Privacy

(A) The Parties, the Case Administrator, and the Arbitrator will maintain the confidential nature of the Arbitration proceeding and the Award, including the Hearing and the written explanation of the Award, except as necessary in connection with a judicial challenge to or enforcement of an Award, or unless otherwise required by law or judicial decision.

(B) The Arbitrator may issue orders to protect the confidentiality of proprietary information, trade secrets or other sensitive information.

(C) Subject to the discretion of the Arbitrator or agreement of the Parties, any person having a direct interest in the Arbitration may attend the Arbitration Hearing. The Arbitrator will have the discretion to exclude any non-Party from any part of a Hearing.

22. Waiver Of Objection

If a Party becomes aware of a violation or failure to comply with these Rules and fails promptly to object in writing, the objection will be deemed waived, unless the Arbitrator determines that waiver will cause substantial injustice or hardship.

23. Settlement and Consent Award

(A) The Parties may agree, at any stage of the Arbitration process, to submit the case to RESOLUTIONS, LLC for mediation. The RESOLUTIONS, LLC mediator assigned to the case will not be the Arbitrator, unless the Parties so agree pursuant to Rule 23 (B).

(B) The Parties may also agree to seek the assistance of the Arbitrator in reaching settlement. However, the Arbitrator's assistance in such settlement efforts will not disqualify the Arbitrator from serving as Arbitrator if settlement is not reached nor will such assistance be argued to a reviewing court as the basis for vacating or modifying an Award.

(C) If the Parties inform the Case Administrator in writing that they have reached a settlement, the Arbitration will be deemed terminated. If the Parties request, the Arbitrator will set forth the terms of the agreed settlement in an Award which will be referred to as a Consent Award and will be binding on the Parties.

#### 24. Sanctions

The Arbitrator may Award appropriate sanctions for failure of a Party to comply with its obligations under any of these Rules. These sanctions may include, but are not limited to, assessment of costs, prohibition of certain evidence, or in extreme cases ruling on an issue submitted to Arbitration adversely to the Party who has failed to comply.

#### 25. Disqualification of the Arbitrator and Exclusion of Liability

The Parties will not call the Arbitrator, the Case Administrator or any other RESOLUTIONS, LLC employee as a witness or as an expert in any pending or subsequent litigation or other proceeding involving the Parties and relating to the dispute which is the subject of the Arbitration. The Arbitrator, Case Administrator, and other RESOLUTIONS, LLC employees are also disqualified as witnesses or experts. The Parties will defend the Arbitrator, Case Administrator and RESOLUTIONS, LLC from any subpoenas from outside Parties arising from the Arbitration. Neither the Arbitrator, Case Administrator nor RESOLUTIONS, LLC is a necessary Party in any litigation or other proceeding relating to the Arbitration or the subject matter of the Arbitration, and neither the Arbitrator, Case Administrator nor RESOLUTIONS, LLC, including its employees or agents, will be liable to any Party for any act or omission in connection with any Arbitration conducted under these Rules.

#### 26. Fees

(A) Each Party will pay its pro-rata share of RESOLUTIONS, LLC 's fees and expenses as set forth in the RESOLUTIONS, LLC Fee Schedule in effect at the time of the commencement of the Arbitration, unless the Parties agree on a different allocation of fees and expenses. The allocation of such fees and expenses will not be disclosed to the Arbitrator. RESOLUTIONS, LLC 's agreement to render services is not only with the Party, but also with the attorney or other representative of the Party in the Arbitration.

(B) RESOLUTIONS, LLC may require that the Parties deposit the fees and expenses for the Arbitration prior to the Hearing and may preclude a Party that has failed to deposit its pro-rata or agreed-upon share of the fees and expenses from offering evidence at the Hearing. RESOLUTIONS, LLC may waive the deposit requirement upon a showing of good cause.

(C) The Arbitrator may Award against any Party fees that are due from it to RESOLUTIONS, LLC. In the event that one Party has not appeared and the other Party has paid the full amount of the fees, the Arbitrator may Award the defaulting Party's share of the fee obligation against it and in favor of the Party that has paid.

27. Bracketed (or High-Low) Arbitration Option

(A) At any time before the issuance of the Arbitration Award, the Parties may agree, in writing, on minimum and maximum amounts of damages that may be Awarded on each claim or on all claims in the aggregate. The Parties will promptly notify the Case Administrator and provide to the Case Administrator a copy of their written agreement setting forth the agreed upon maximum and minimum amounts.

(B) The Case Administrator will not inform the Arbitrator of the agreement to proceed with this option nor of the agreed upon minimum and maximum levels, unless all Parties agree that he or she should so inform the Arbitrator.

(C) The Arbitrator will render the Award within fourteen (14) calendar days after the date of the closing of the Hearing or, if an Arbitration Hearing has been waived, within fourteen (14) calendar days after the date of the Arbitrator's receiving all materials specified by the Parties. In rendering the Award the Arbitrator will apply the standard set forth in Rule 19 (b). The form of the final Award will be governed by Rule 19 (d).

(D) In the event that the Arbitrator's Award is in between the agreed upon minimum and maximum amounts, the Arbitrator's Award will become final as is. In the event that the Arbitrator's Award is below the agreed upon minimum amount, the final Arbitration Award issued will be at the agreed upon minimum amount. In the event that the Arbitrator's Award is above the agreed upon maximum amount, the final Arbitration Award issued will be the agreed upon maximum amount.

28. "Final Offer (or Baseball)" Arbitration Option

(A) At least seven (7) calendar days before the Arbitration Hearing, the Parties will exchange and provide to the Case Administrator written proposals for the amount of money damages they would offer or demand, as applicable, and that they believe to be appropriate based on the standard set forth in Rule 19 (b). The Case Administrator will promptly provide a copy of the Parties' proposals to the Arbitrator, unless the Parties agree that they should not be provided to the Arbitrator. Anytime prior to the close of the Arbitration Hearing, the Parties remain free to exchange revised written proposals of offers or demands, which will supersede all prior proposals. The revised written proposals will be provided to the Case Administrator who will promptly provide them to the Arbitrator, unless the Parties agree otherwise.

(B) If the Arbitrator has been informed of the written proposals, in rendering the Award the Arbitrator will select between the Parties' last proposals, choosing the proposal that the Arbitrator finds most reasonable and appropriate in light of the standard set forth in Rule 19 (B).

(C) If the Arbitrator has not been informed of the written proposals, the Arbitrator will render the Award as if pursuant to Rule 19, except that the Award will thereafter be

adjusted to conform to the closest of the last proposals and the closest of the last proposals will become the Award.

(D) The Arbitrator will render the Award within fourteen (14) calendar days after the date of the closing of the Hearing or, if an Arbitration Hearing has been waived, within fourteen (14) calendar days after the date of the Arbitrator's receiving all materials specified by the Parties. The form of the final Award will be governed by Rule 19 (D).



