



**RULES
FOR
ARBITRATION
AND
MEDIATION**

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INTRODUCTION

Federal Arbitration, Inc. (FedArb) is a private arbitration and mediation service dedicated to providing high quality decisions and assistance to parties in civil disputes of significant size. Its arbitration rules incorporate the best of federal litigation procedures and protections with the advantages of arbitration, and to implement its system through mandated deadlines and other measures that ensure efficiency. It has selected as default procedures those used in the federal courts of the United States, with which parties and counsel are familiar and which are often applied in high-stakes arbitrations. Parties may, however, vary these procedures as they choose, and arbitrators (and mediators) are required to adhere to party-selected options. All matters under FedArb administration are handled by its Participating Arbitrators and Mediators, with the assistance of FedArb personnel. Disputes concerning the FedArb Rules, and the enforcement of FedArb standards to ensure arbitrator compliance, are however entrusted to a Council, modeled on the judicial councils in the U.S. federal system. The FedArb Council is composed of distinguished former federal judges, with authority under FedArb's contracts with its Participating Arbitrators and Mediators to enforce the FedArb Rules, including party-specified deadlines. Further information about FedArb, its objectives, and its Council is available at www.fedarb.com.

RULE 1 - GENERAL PRINCIPLES

RULE 1.01

By agreeing to arbitrate or mediate under the auspices of FedArb, all parties agree to be bound by and to comply with the FedArb Rules, and to accept and abide by the authority conferred herein upon FedArb, the FedArb Council, and Participating Arbitrators and Mediators. By agreeing to arbitrate or mediate in accordance with the FedArb Rules, parties are presumed to have agreed to arbitrate or mediate under the auspices of FedArb. The FedArb Rules may be amended from time to time upon the approval of the FedArb Council, or its Board of Directors. While FedArb may from time to time adopt special rules for specific purposes or substantive fields, FedArb in general sees no need for the adoption of separate sets of rules.

RULE 1.02

The purpose of FedArb's activities is to provide parties agreeing to accept FedArb's services with dispute resolution procedures that satisfy all applicable federal and state law, including the Federal Arbitration Act, and that result in the issuance of Awards enforceable through judicial proceedings within the United States and in all other States that are Parties to the New York Convention of 1958 and other applicable international agreements to which the United States is a party. No rule or practice of FedArb, the FedArb Council, or any Participating

Arbitrator shall be construed or applied to conflict with any such applicable, governing law.

RULE 1.03

Subject to all legally required limitations, and consistent with these Rules, the parties to all FedArb proceedings are entitled to choose the place of arbitration, the arbitrator or arbitrators who act, the applicable law and procedural rules, and all other aspects of the proceedings that are discretionary. FedArb provides a private service, and its governing intent is to satisfy its customers consistent with applicable laws, ethical practices, and the contractual understandings established by these Rules and the contracts for services performed.

RULE 1.04

Unless otherwise agreed by the parties to a proceeding, the Federal Rules of Civil Procedure (FRCP) and the Federal Rules of Evidence (FRE) shall be applied in all FedArb proceedings to the extent their application is consistent with these Rules, and is feasible in the judgment of the Arbitrator or Panel of three Arbitrators (hereinafter "Panel") appointed to determine disputes. An Arbitrator or Panel may not vary any applicable time limit on any action required of that Arbitrator or Panel, and may not seek any extension of a time period from the parties to an arbitration except through FedArb. Parties may decline any request for extension of time limitations, and such decisions will be conclusive unless an extension is determined to be necessary by the FedArb Council in the interests of justice.

RULE 1.05

Where these Rules call for an action to be taken by FedArb, such action may be taken only by the FedArb Case Manager in charge of the matter, or his/her supervisor or other official authorized by FedArb to make such decisions. FedArb policies, including fee schedules and services performed, will be established by FedArb and reviewed by its Board of Directors, acting pursuant to its bylaws and applicable law. FedArb selects and nominates Arbitrators for both the trial and appellate lists of Participating Arbitrators that FedArb maintains.

The Chairman of FedArb's Board of Directors will (subject to the Board's authority) approve the nominations of Participating Arbitrators, and will designate five Participating Arbitrators to act as the FedArb Council. Participating Arbitrators will be eligible to serve as Members of the FedArb Board of Directors, and only Participating Arbitrators will be eligible to serve as Members of the FedArb Council. Service by Participating Arbitrators on the FedArb Board of Directors and/or Council shall be compensated in accordance with contracts between FedArb and such individuals, but such compensation shall not be related to the amount of work performed by them as arbitrators, nor shall they be permitted to participate in any matter bearing upon a FedArb proceeding in which they are currently serving as arbitrators either at the trial or appellate levels.

RULE 1.06

FedArb fees as defined in Rule 15 will be set by the FedArb fee schedule or by agreement.

RULE 2 - AGREEMENT TO ARBITRATE**RULE 2.01**

Parties seeking to arbitrate may do so either in advance in a contract or other agreement, or after the dispute arises. Any agreement to arbitrate disputes under the FedArb Rules will constitute an agreement to proceed in accordance with those Rules, under FedArb administration, and in accordance with the procedures, practices, and financial terms in effect at the time the dispute is commenced except as otherwise specified.

RULE 2.02

Parties wishing to agree in advance to arbitrate under the FedArb Rules, disputes that may arise between them, may do so by including the following language in their agreements for this purpose:

“The Parties to this contract agree that all disputes arising out of or in connection with, or in the application of, any of its provisions shall be finally resolved through arbitration under the administration of Federal Arbitration, Inc. and in accordance with its Rules for Arbitration.”

RULE 2.03

Parties wishing to agree to arbitrate any dispute that has arisen between them under the FedArb Rules and with FedArb administration may do so by using language identical or similar to the following:

“The Parties to this agreement acknowledge that the dispute described below has arisen between them, and that they agree to have the dispute, and all issues related to it, finally resolved through arbitration under the administration of Federal Arbitration, Inc. and in accordance with its Rules for Arbitration.”

RULE 2.04

Parties agreeing to have disputes determined under FedArb administration should attempt to agree in advance on the following questions, among others, likely to arise: the place of arbitration; the applicable law; the number of arbitrators (one or three) and their method of selection; and whether to waive the right to an appeal.

RULE 3 - COMMENCEMENT OF ARBITRATION**RULE 3.01**

A party or parties may initiate an arbitration by submitting to FedArb a Notice of Arbitration which shall include the following information:

- (a) the full names, descriptions, and addresses of the parties;
- (b) a brief description of the facts giving rise to the dispute;
- (c) the relief sought;
- (d) a request that the dispute be resolved by arbitration under the auspices of FedArb;
- (e) identification of the agreement pursuant to which arbitration is demanded, with a copy of the relevant portions of such agreement attached to each copy of the Notice of Arbitration;
- (f) a statement as Claimant's position as to the place of arbitration and the applicable law and the reasons therefore;
- (g) the fee for initiating an arbitration required by the fee schedule in effect at the time of the filing; and
- (h) such other relevant information as the party giving notice deems necessary.

RULE 3.02

Upon determining that a Claimant has satisfied all the requirements for commencing an arbitration under these rules, including payment of the required deposit, FedArb will send a copy of the Notice of Arbitration to the Respondent or Respondents named therein.

RULE 3.03

An arbitration proceeding shall be deemed to commence upon the execution by the parties and FedArb of an agreement to arbitrate under the auspices of FedArb, or in the case of a demand to arbitrate, when FedArb receives a Notice of Arbitration.

RULE 3.04

Within twenty (20) days from receipt of a Notice of Arbitration, the Respondent or Respondents named therein shall file with FedArb an Answer containing the following information:

- (a) Respondent's full name, description, and address;
- (b) A statement of Respondent's position with regard to the claims advanced in the Notice of Arbitration and particularly the arbitrability of such claims;
- (c) A statement of Respondent's position with regard to the place of arbitration and the applicable law, and the reasons therefore; and
- (d) Any Notice of Counterclaim or Responsive Pleading that Respondent wishes to file, which shall include the information required for the filing of a Notice of Arbitration; and
- (e) The filing fee required by the fee schedule in effect at the time any counterclaim is filed.

RULE 3.05

Upon determining that a Respondent has satisfied all the requirements of filing an Answer, or an Answer and Counterclaim and/or Responsive Pleading, under these Rules, FedArb shall send a copy of the Answer, and, if filed, the Counterclaim and/or Responsive Pleading, to the Claimant or Claimants named therein. Claimants may file a Reply to the Answer, or to the Answer and Counterclaim and/or Responsive Pleading, within 20 days of its service.

RULE 3.06

Service of process under these Rules shall be deemed to have been made, and notice thereby given, when the document at issue is served in accordance with the FRCP. Service of process shall be considered complete when a document is sent in writing by registered mail, courier, facsimile transmission, telex, telegram, email, electronic communication, or any other means of communication that results in a reliable record of the sending, or actual notice. All notices shall be sent to the address or electronic address specified in writing or by electronic communication by the recipient, or when no address is specified to the business or residence address of the recipient.

RULE 3.07

All time periods referred to in these Rules shall commence as of the time service of process would be complete under the FRCP.

RULE 3.08

A party may amend or supplement a claim, counterclaim, or defense to the extent allowed by the FRCP and applicable law, except that no amendment shall be allowed that would fall outside the scope of the agreement to arbitrate unless agreed to by all parties.

RULE 3.09

Parties to a FedArb proceeding agree to utilize the FedArb secure website in conducting the arbitration, unless otherwise agreed with FedArb. Secure notice of all actions taken in the arbitration will be published on the website, in the form provided in these Rules.

RULE 4 – JURISDICTION OF THE ARBITRATION PANEL**RULE 4.01**

If any party raises an issue concerning the existence, validity, or scope of the arbitration agreement, FedArb will allow the arbitration to proceed, without prejudice to the admissibility or merits of the issues, if the FedArb Panel is satisfied that a prima facie case exists that the parties have agreed to arbitrate the dispute. If the FedArb Panel concludes that no prima facie case of an agreement to arbitrate exists, the parties shall be notified that the arbitration cannot proceed, without prejudice to the right of any party to present the matter at its own expense to the FedArb Council for authoritative review, or to apply to a court having jurisdiction to determine whether the dispute is subject to an agreement to arbitrate.

RULE 4.02

If any party fails to take part in an arbitration proceeding commenced under these Rules, at any stage, the arbitration shall proceed notwithstanding such failure so long as sufficient funds are provided by the participating party or parties to cover all the costs, expenses and fees of the proceeding.

RULE 4.03

A valid agreement to arbitrate will confer jurisdiction upon FedArb to process the dispute to final resolution under its Rules, regardless of any claim that the underlying contract is invalid. The Arbitrator or Panel appointed in such cases shall determine the rights of the parties, including the validity of the underlying contract.

RULE 4.04

An agreement to have all or part of any dispute handled in the form of a class action, or a judicial order to that effect shall be sufficient to confer jurisdiction on any FedArb Arbitrator or Panel to handle the matter in the manner requested by the parties, subject to state or federal law that requires otherwise. Where no such agreement exists, or where class action procedures are precluded by the parties to an agreement, FedArb shall not consider itself as having jurisdiction to apply class action procedures in the absence of an applicable judicial ruling requiring or authorizing it to do so. Except to the extent modified by the parties, class actions will be handled by FedArb Arbitrators or Panels in the same manner as they are handled under FRCP 23, including certification, notice, and

settlement. The obligation of confidentiality will be modified during this process to the extent necessary for the procedures to be properly implemented under the circumstances, and the parties may attempt to maintain as high a level of confidentiality of such proceedings as they consider desirable, consistent with applicable law. The costs of class action certification, notice, and other related procedures will be treated in the same manner as they are by U.S. federal courts under the FRCP, and all anticipated charges shall be collected by FedArb in advance of an Arbitrator or Panel permitting each stage of such processes to commence.

RULE 5 – REPRESENTATION

RULE 5.01

Each party may be represented or assisted in any FedArb proceeding or appeal by persons of the party's choice.

RULE 5.02

Each party shall notify all other parties and FedArb in writing of the name, address, and function of each person it chooses as a representative or assistant.

RULE 5.03

Every representative or assistant of a party, by accepting such assignment, agrees to comply with the FedArb Rules and all applicable legal and ethical requirements for representatives and assistants in arbitrations.

RULE 6 - SELECTION OF ARBITRATORS

RULE 6.01

Arbitrations under the FedArb Rules shall be decided by a sole Arbitrator, or where agreed by the parties by a Panel of three arbitrators, selected in the manner provided by these Rules from FedArb's list of Participating Arbitrators. A party or parties may nominate as an arbitrator in a FedArb proceeding any person who agrees to become a Participating Arbitrator under FedArb Rules, and who is accepted as a Participating Arbitrator by FedArb or the FedArb Council. FedArb may permit any qualified person to act as an arbitrator in a FedArb administered proceeding on an ad hoc basis.

RULE 6.02

The parties shall attempt to agree on an Arbitrator or Panel of three arbitrators in the following manner:

- (a) Where a single Arbitrator is to be selected, the parties will have twenty days from the time an Answer or an Answer and Counterclaim and/or

Responsive Pleading is filed to agree on any Participating Arbitrator or other qualified person to hear and decide their claims.

- (b) Where a Panel is to be selected, the party or parties on each side of the dispute shall each designate an Arbitrator within twenty days from the time an Answer or an Answer and Counterclaim and/or Responsive Pleading is filed to serve as a neutral, party-appointed Arbitrator; the parties shall thereafter attempt to agree on a third Arbitrator during the next twenty days to serve as Chair, or shall authorize the party-appointed neutral arbitrators to do so.
- (c) In the event the parties to an arbitration cannot agree on a single Arbitrator, or on the third member of a Panel, within the time required or otherwise agreed, the Arbitrator shall be selected by the FedArb Council within twenty days thereafter from among Participating Arbitrators eligible for appointment, taking into account the views of the parties with regard to particular qualifications or experience.

RULE 6.03

Where multiple parties are involved in a matter, the multiple Claimants, and/or multiple Respondents, shall jointly propose or reject arbitrators. In the event that multiple Claimants or Respondents are unable to agree on the choice or acceptability of arbitrators within the applicable time periods, FedArb shall attempt for a period no longer than ten days to arrange a method acceptable to them, failing which the FedArb Council will act on behalf of such parties.

RULE 6.04

A party to a FedArb proceeding may consult unilaterally in advance with any potential Arbitrator to ascertain the individual's qualifications and availability to serve as a party-appointed Arbitrator in the matter. A party may also consult with its party-appointed Arbitrator to discuss the selection of the Chairman of an arbitration Panel. All communications allowed under this Rule shall be strictly restricted, however, to discussions of suitability and availability, and to a general description of the controversy and the issues presented. No substantive discussion of the merits of the issues is permitted in such exchanges. No party may contact, directly or indirectly, an individual the party or the parties wish to consider appointing as sole Arbitrator or as Chairman of an Arbitration Panel or as a member of an Appellate Panel; FedArb will undertake all necessary contacts with such individuals at the request of one or more of the parties.

RULE 7 - ARBITRATOR ETHICS AND CONDUCT

RULE 7.01

Each person appointed to act as an Arbitrator in a proceeding or an appeal under these Rules must be, and must remain throughout the arbitration or appeal, independent of the parties involved, and must act impartially on all issues.

RULE 7.02

Before accepting appointment as an Arbitrator in any matter under the FedArb Rules, each person shall sign the FedArb Statement of Independence, and shall disclose in writing to the parties any facts or circumstances of such a nature as reasonably to call into question the person's independence or impartiality. A party shall have ten days from receipt of the written disclosure to object to the nominee's appointment as an Arbitrator. Objections must be in writing, filed with FedArb, and served on the other parties, and must state the evidence and/or reasons upon which the objection is based.

The failure of a party to object to the appointment of an Arbitrator based on any facts or circumstances known to the objecting party within ten days of the party's having known of or learned of such facts or circumstances will be conclusively considered to be an acceptance by that party of the Arbitrator involved as independent and impartial.

RULE 7.03

If an Arbitrator appointed under the FedArb Rules learns of any facts or circumstances during an arbitration or an appeal conducted under these Rules, which a prospective Arbitrator would be required to disclose before appointment, the Arbitrator shall immediately upon learning of such facts or circumstances disclose them in writing to FedArb and the parties. A party may object for cause to an Arbitrator on the basis of such disclosure, or upon the discovery at any time during the proceeding of facts or circumstances warranting disqualification of the Arbitrator, in the manner provided by these Rules.

RULE 7.04

Persons serving as FedArb Arbitrators must agree to abide by the standards of conduct applicable to judges serving in the federal courts of the United States, except with regard to compulsory, non-case-related disclosure of financial interests. The parties to a proceeding shall disclose to all prospective arbitrators the companies and other persons or organizations having an interest in the outcome, including counsel. A person selected to serve as an Arbitrator must reveal in writing to FedArb and the parties any interest he/she has in, or relationship with, any of the entities or persons disclosed.

RULE 7.05

If a challenged Arbitrator voluntarily resigns, a replacement will be selected as soon as practicable in the same manner by which appointments are made under the FedArb Rules.

RULE 7.06

If a challenged Arbitrator declines to resign, the FedArb Council will determine as expeditiously as possible whether the Arbitrator should be disqualified, on the basis of such submissions and proceedings as the FedArb Council considers necessary. FedArb shall inform the parties and the Arbitrator of the Council's decision on challenges in writing no later than ten days after all evidence and argument on such matter is submitted, which decision shall be final and not appealable within FedArb or to any court, except to the extent required by controlling law.

RULE 7.07

In the event a proceeding is delayed, or is authoritatively determined to have been invalid, due to an ethical violation by an Arbitrator or any FedArb official, the sole and exclusive remedy for such delay or invalidity will be to require FedArb to provide arbitration services at its own expense that offset any delay in processing the matter.

RULE 7.08

An Arbitrator or Panel may suggest that the parties to a proceeding explore settlement, but may not do so repeatedly and may not insist upon such discussions. All exchanges concerning mediation shall be confidential, and shall be subject to the FRE provisions governing settlement discussions. Any request by a party or parties for assistance in exploring settlement and/or the appointment of a mediator shall be made to FedArb, and not to an Arbitrator or Panel serving in the matter. FedArb personnel will attempt to assist the party or parties in securing such services on separate terms.

RULE 8 – VACANCIES**RULE 8.01**

A vacancy resulting from resignation, incapacity, death, or challenge of an Arbitrator shall be promptly filled under the same rules by which appointments are originally made.

RULE 8.02

As soon as a vacancy is filled, the proceeding shall continue to the extent practicable from the point it had reached at the time the vacancy occurred. Any party may, however, request that reconsideration or rehearing of any issue or

issues is necessary for good cause. In that event, the Arbitrator or Panel will determine within 10 days of such request whether and to what extent reconsideration or rehearing is necessary to ensure a full and fair hearing of the issue or issues involved.

RULE 9 - CHALLENGES TO JURISDICTION

RULE 9.01

Any challenge to the jurisdiction of FedArb over a matter, other than challenges based on governing law that are not subject to waiver, shall be made no later than the filing of an Answer or Reply to Counterclaim and/or Responsive Pleading.

RULE 9.02

The Arbitrator or Panel appointed to decide matters in which jurisdictional objections are raised shall hear and determine all timely challenges to jurisdiction, as well as to the existence, validity, or scope of the arbitration clause of the contract or other agreement invoked as the basis for jurisdiction. For purposes of deciding jurisdiction, the arbitration clause shall be considered separable from any contract of which it forms a part.

RULE 10 - CONDUCT OF PROCEEDINGS

RULE 10.01

No party to a FedArb arbitration, and no witness or representative of or assistant to any party, shall have any ex parte communication with any Arbitrator serving in a proceeding with respect to any matter related to the proceeding.

RULE 10.02

Unless the parties otherwise agree, the place of arbitration shall be fixed by the Arbitrator or Panel. The Award shall be deemed made at the designated place of arbitration, though hearings or meetings, including conferences via telecommunications or the Internet, and the signing of the final Award, may take place wherever convenient.

RULE 10.03

All arbitrations supervised by FedArb will be conducted in English. In the event the parties desire that an arbitration be held in a foreign language but under FedArb Rules and administration, arrangements must be made with FedArb on separate terms for the necessary translations or other services associated with such a proceeding.

RULE 10.04

Unless all the parties otherwise agree, all papers, exchanges, hearings, and decisions in any FedArb proceeding shall be and shall remain confidential, except to the extent that the information has been previously disclosed, or disclosure is necessary in connection with a judicial challenge to or enforcement of an Award, or disclosure is required by law.

RULE 10.05

Within ten days of appointment to a dispute, the Arbitrator or Panel shall confer with the parties and establish a schedule for the conduct of the proceeding, consistent with the FRCP, except as varied by the parties.

RULE 10.06

The Arbitrator or Panel shall closely supervise discovery, and if necessary may appoint an Arbitration Master for that purpose, on terms acceptable to the parties and FedArb. Arbitration Masters must be approved as qualified by FedArb before being appointed to a matter, and must be acceptable to the parties. An Arbitration Master shall have authority to convene the parties, to hear discovery disputes and pre-trial motions, and to recommend to the Arbitrator or Panel the resolution of such disputes or motions in writing. The parties shall receive notice of and shall be permitted to monitor all exchanges between an Arbitration Master and the Arbitrator or Panel appointed to decide the matter.

RULE 10.07

The Arbitrator or Panel will decide all motions submitted by the parties no later than thirty days after submission, and will decide the merits of proceedings within thirty days of the closing of the record in the case, which shall not be delayed beyond the filing of the final post trial brief and any argument that is sought and agreed to by the parties. The parties may vary these deadlines as they see fit. However, no Arbitrator or Panel may seek an extension of these deadlines from the parties directly, but may do so only through the FedArb Case Manager or other FedArb personnel. FedArb will authorize extensions of time only upon the consent of all parties to the arbitration. In the event one or more parties refuse to agree to a requested extension of time that FedArb considers necessary and appropriate, FedArb may seek the extension from the FedArb Council within the applicable deadline. Upon such an application, the FedArb Council may grant the extension requested, despite the objection of one or more parties, only if the Council finds an extension is in the interests of justice, and only to the extent necessary under the circumstances.

RULE 10.08

Unless otherwise agreed by the parties, the Arbitrator or Panel shall have all the authorities available to judges of the federal courts of the United States in connection with the management of the prehearing process and the hearing,

including the authority to issue preliminary injunctions and other forms of interim measures, and to consider and decide motions to dismiss and for summary judgment, subject to jurisdictional and legal limitations.

RULE 10.09

The Arbitrator or Panel shall have the powers to sanction the parties and counsel that are conferred upon the federal courts by the FRCP, including FRCP Rule 11, unless modified by the parties. Any party or attorney upon whom a sanction is imposed may seek review of its legal propriety by the FedArb Council within 10 days of its imposition. The FedArb Council will review the legal propriety of the sanction in accordance with applicable law, and issue its decision within 10 days of the filing of all papers related to the request for review. The FedArb Council's decision will be final and not appealable within FedArb or to any court, except to the extent required by law.

RULE 10.10

The Arbitrator or Panel may issue orders or make arrangements to extend special protection for the confidentiality of proprietary information, trade secrets, or other sensitive information disclosed in discovery or otherwise.

RULE 11 - THE AWARD

RULE 11.1

The Award shall be in writing and shall describe the relief, if any, granted to the parties, and the decisions on the issues presented. Unless the parties agree otherwise, the Arbitrator or Panel shall also issue an opinion in writing that should be incorporated into the Award by reference, and that should include the findings, reasons, and conclusions upon which the Award is based. The Award shall state the date upon which it is made, which will be the date signed by the Arbitrator or the last of the Arbitrators if issued by a Panel. The Award shall also state the place of the arbitration, though that need not be the place at which the Award is signed.

RULE 11.02

The Award shall be signed by the Arbitrator, or if issued by a Panel shall be signed by at least two of the three Arbitrators on the Panel. Awards issued by a Panel may be accompanied by a dissenting opinion, which may be filed with or after the filing of the Award, but which shall not constitute part of the Award.

RULE 11.03

Draft copies of the proposed Award shall be provided to FedArb through the FedArb Case Manager for review within thirty days of the closing of the record in a case, unless an extension of time is agreed by the parties or granted by the FedArb Council, subject to the limitations provided in Rule 1.04 and 10.7.

FedArb shall review the Award and suggest any changes that may be necessary or desirable as to its form. The Award shall be returned to the Arbitrator or Panel with FedArb's recommendations concerning the form of the Award within five days of receipt by FedArb of the draft. Executed copies of the Award shall thereafter be delivered by the Arbitrator or Panel to FedArb, which shall send them to the parties after all amounts due for FedArb services, arbitrator compensation, and expenses have been received by FedArb.

RULE 11.04

Within ten days of receipt of the Award, or of the discovery within one year of the Award of facts necessary to ascertain errors in the Award, any party may request the Arbitrator or Panel or FedArb Case Manager to correct any ministerial errors in the Award, such as typographical or computational mistakes. Any dispute concerning the propriety of any correction to an Award shall be presented to the original Arbitrator or Panel for final decision, or if they are unavailable, to the FedArb Council. The parties to FedArb proceedings agree that FedArb shall have continuing jurisdiction to correct ministerial errors in Awards.

RULE 12 - ARBITRATION APPEALS

RULE 12.01

The parties to arbitration under the FedArb Rules have the right to an appeal within the FedArb system unless they agree in writing to waive this right. Appeals from the Award of an Arbitrator or Panel are commenced by filing with FedArb a timely notice of appeal in accordance with the Federal Rules of Appellate Procedure (FRAP). The FRAP and applicable law shall govern the FedArb appellate process unless the Appellate Panel appointed to decide the appeal determines the FRAP cannot practically be applied in a particular situation, or all the parties agree on another rule. The FedArb system shall provide for interlocutory appeals or actions in the form of mandamus or other special reviews, only when specifically agreed to by all the parties to a particular proceeding.

RULE 12.02

The Appellate Panel shall be chosen from the FedArb list of Participating Arbitrators in the same manner provided in these Rules for the selection of arbitration panels.

RULE 12.03

The Appellate Panel shall, within ten days of its being formed, establish time periods for the filing of briefs by the Appellant and Respondent, and for oral argument, consistent with any schedule agreed to by the parties. If the parties cannot agree on a schedule for briefing and oral argument, the Appellate Panel's schedule shall provide for the filing of all briefs within ninety days of its

scheduling order. Appeals will be decided in an opinion issued no later than thirty days after oral argument, or after the final brief submitted, whichever is later.

RULE 12.04

The Appellate Panel may approve the Award issued by the Arbitrator or Panel, or may correct any aspect of the Award that would be within the power of a U.S. Court of Appeals to correct. Unless otherwise agreed, errors of law will be subject to correction to the same extent as in the federal courts of the U.S., and fact findings will be subject to correction when they are found to be clearly erroneous. The Appellate Panel's opinion shall instruct the Arbitrator or Panel as to corrections that should be made in the original Award, if any, or as to further proceedings that are necessary on remand.

RULE 12.05

The Arbitrator or Panel shall implement the instructions of the Appellate Panel as soon as practicable after the issuance of the appellate decision, but unless otherwise agreed by the parties in not more than thirty days thereafter. An Award issued pursuant to such instructions shall be submitted to FedArb for its approval as to matters of form, and shall become final as soon as it is issued in the form approved by FedArb. FedArb shall provide the Award to the parties only after receipt by FedArb of all amounts due for fees and services. Further appeals may be taken within the FedArb system, to the same extent and in the same manner as are allowed in the U.S. courts, or as agreed by the parties, until the Award becomes final.

RULE 13 - FAILURE TO COMPLY AND DEFAULT

RULE 13.01

If a party fails to comply with any order of an Arbitrator, Panel, Appellate Panel, or the FedArb Council, the entity making the order may fix a period for compliance not to exceed seven days, and thereafter in the event of noncompliance shall impose appropriate remedies, including costs, attorneys' fees, and/or an Award on default. Absent good cause, a party that fails to comply with any order issued pursuant to these Rules agrees to pay and shall be required to pay all the costs, fees, and damages caused by its failure to comply.

RULE 13.02

Prior to the entry of an Award based on noncompliance or default, the Arbitrator, Panel, or Appellate Panel having jurisdiction shall require the non-defaulting party or parties to support their contentions by producing relevant evidence and legal argument, and shall award such relief as is warranted by all the circumstances. The process provided for in this rule shall take no more than 90

days from the determination of noncompliance or default, unless otherwise agreed by the non-defaulting parties.

RULE 14 – IMMUNITY

RULE 14.01

Unless otherwise mandated by governing law, Participating Arbitrators, FedArb and its personnel, and the FedArb Council, shall have the same immunity on account of acts or omissions related to FedArb proceedings and appeals that the law provides to federal judges of the United States and their administrative personnel.

RULE 14.02

No immunity shall be afforded to any individual with regard to his/her deliberate and knowing misconduct.

RULE 15 – FEES, COSTS, & EXPENSES

RULE 15.01

FedArb's fees, costs, and expenses for arbitrations and arbitration appeals shall be based upon these Rules and/or other agreements between FedArb and the parties. Costs shall include the filing fee, fees of Participating Arbitrators and Masters, the FedArb administrative fee, and reimbursable expenses incurred by Participating Arbitrators, Masters and FedArb.

RULE 15.02

FedArb will allocate the administrative costs of a proceeding among the parties thereto in accordance with any agreement of the parties, or otherwise in the manner required by these Rules, the FRCP and applicable law.

RULE 15.03

To the extent the allocation of costs and/or fees is necessary, the Arbitrator or Panel shall determine the costs, expenses and attorneys' fees incurred by the parties. Tribunal costs and/or expenses shall include costs and/or expenses associated with discovery, hearings, and appeals, including expert, reporter, and rental fees, travel expenses, and all other costs and/or expenses recoverable in federal proceedings. Attorneys' fees shall include such amounts incurred by parties as reasonable and necessary fees for attorneys in the course of the proceeding.

RULE 15.04

Tribunal costs, expenses, and attorneys' fees shall be allocated in accordance with any applicable agreement of the parties. To the extent the parties provide

that costs, expenses or fees shall be allocated to the prevailing party, the Arbitrator or Panel shall allocate all such costs, expenses and fees they determine to have been properly incurred against the losing party (or in appropriate proportion based on the outcome of all the issues considered), or as agreed by the parties. The Arbitrator or Panel shall allocate such costs, expenses and fees by exercising discretion according to the standards and practices followed in the U.S. federal courts on such issues. In the event the parties fail to specify how the costs, expenses and/or fees shall be allocated, each party shall bear its own costs, expenses and fees.

RULE 15.05

Filing Fee. FedArb will charge a filing fee. The filing fee is nonrefundable after an Arbitrator or Mediator is appointed, unless otherwise stated in the FedArb contract. (*Refer to FedArb Arbitration Price Schedule for filing fee.*)

RULE 15.06

Administration Fee. FedArb will charge an administration fee, unless otherwise stated in the FedArb contract. (*Refer to FedArb Arbitration Price Schedule for administration fee.*)

RULE 15.07

Arbitrator Fees & Expenses. The fees of Participating Arbitrators shall be based upon the hourly rate set by each Participating Arbitrator. Fee information will be available to the parties before the arbitrators are selected for possible appointment. The parties will be deemed to have accepted responsibility for the fees of the Participating Arbitrators appointed to serve in their matters, at the rates specified by them, unless some other rate is agreed. Participating Arbitrators may, unless otherwise agreed with FedArb or the parties, charge for all the hours they reasonably spend in connection with matters in which they are appointed to serve, including hours at hearings, during conferences, reading materials filed, doing research, writing decisions, and the actual time spent traveling to and from hearings. They shall maintain and supply FedArb, and if requested, the parties, with an account of the hours billed, describing the work performed on each day for which hours are recorded.

The parties shall also be responsible for the expenses reasonably incurred by Participating Arbitrators, including travel (at business class fares for all trips in excess of 500 miles), hotel bills and meals. Participating Arbitrators shall supply proof of expenses to FedArb, and to the parties if requested. FedArb will collect the bills for fees and expenses of Participating Arbitrators, shall review them for compliance with this Rule, shall collect the funds required from the parties, and shall disburse the funds to the arbitrators involved. This Rule is also applicable to the fees and expenses of Mediators, Masters and other personnel whom the parties in a matter agree may be retained to assist the Arbitrator or Panel.

RULE 15.08

Fees for Special Services. FedArb may assist parties in obtaining special supplementary services. Special services include, for example, arranging for video teleconferencing, meeting rooms, reporting, assistance in enforcing Awards, and providing digital processing and communications of arbitral proceedings and administration. These and other special services will be provided on terms and conditions agreed between the parties and FedArb. Where a matter is submitted to the FedArb Council, FedArb will in general allocate costs and fees to a party or parties seeking or causing such review.

RULE 15.09

Collection of Fees and Expenses. FedArb may, in the event a party or parties fail to pay any fees and/or expenses in a timely manner, suspend proceedings in the matter involved, or withhold the issuance of an Award, until all amounts due have been paid or adequately secured. If any party fails to pay its share of charges due, another party may do so. In such cases, the Award shall be modified to give full credit for the amount paid on behalf of the defaulting party, with interest from the time of payment, calculated at LIBOR plus 3%, compounded on a monthly basis.

RULE 15.10

Deposits. The parties shall at the time of filing a case or within 30 days of the filing of an Answer, submit to FedArb an initial deposit calculated to cover the costs, fees, and administrative expenses expected to be incurred in the course of the arbitration or mediation, or such amount as FedArb and the parties agree is sufficient for an initial deposit. FedArb will charge and the parties will pay such additional amounts as FedArb concludes will be necessary to cover all such costs at any later stage in the proceeding. Parties pursuing an appeal within the FedArb system will be required to make a deposit to cover the appeal.

RULE 16 – EXPEDITED DISPOSITION**RULE 16.01**

Parties to any arbitration may seek to agree with FedArb on the terms of an expedited disposition. In the event a matter is filed for processing under the auspices of FedArb, pursuant to the terms of an agreement by which the parties and FedArb arrange for an expedited disposition, FedArb's obligation to perform will depend on the strict compliance by the parties with the terms to which they agree.

RULE 16.02

The FedArb Rules will apply to all proceedings held before an Arbitrator, Panel, or Appellate Panel pursuant to an agreement for expedited disposition, except as expressly or implicitly modified by the agreement's terms. The fees for an

expedited disposition shall be agreed in advance and paid in accordance with the agreement.

RULE 16.03

Any dispute related to or arising from an agreement for an expedited disposition shall be presented to the FedArb Council for final disposition on an expedited basis, with filings to be complete within ten days of the declaration by a party that a dispute exists that cannot otherwise be resolved. The decision of the FedArb Council shall be issued within ten days thereafter, unless otherwise agreed, and shall be final.

Rule 16.04

The sole remedy for a failure of performance by a party or parties, or by FedArb, of an agreement for expedited disposition shall be:

- (a) if the failure of performance is by a party or parties, the remedy shall be payment of the costs of arbitration and other services improperly caused to be provided beyond those originally agreed; and
- (b) if the failure of performance is by FedArb, or its participating arbitrators the remedy shall be the provision without charge of such additional services as are found to be required by the agreement in order to complete the arbitration.

RULE 17 – FIXED PRICE ARBITRATION™

Rule 17.01

Parties seeking FedArb services may obtain agreement on both the cost and duration of the arbitration process by entering into an agreement for Fixed Price Arbitration™. This service is provided by FedArb on a case-by-case basis, or by contract for groups of similar cases.

Rule 17.02

Each Fixed Price Arbitration™ Contract entered into between parties and FedArb will specify the payment to be made, the date upon which the Award is due, and the services to be provided, including: number of arbitrators; names of arbitrators where chosen; place of arbitration and services or facilities to be provided by FedArb; pre-hearing activities covered by the agreement; number of hearing days required; post-hearing activities covered by the agreement, including form of opinion and/or findings to be issued; and cost of appeal if utilized.

Rule 17.03

Alterations sought by the parties in the schedule established in a Fixed Price Arbitration™ contract, or in the services to be provided by FedArb pursuant to

such contract, will be permitted as requested for additional charges agreed upon between the Parties and FedArb. Any alteration in schedule or change in services must be in writing to be considered enforceable in the event of any dispute.

Rule 17.04

Refunds on Fixed Price Arbitration[™] contracts that are not completed due to settlement or other change brought about by the parties will not be made, unless the parties and FedArb otherwise agree in such contracts or by written amendment.

Rule 17.05

Any dispute related to or arising from an agreement for Fixed Price Arbitration[™] shall be presented to the FedArb Council for final disposition on an expedited basis, with filings to be complete within ten days of the declaration by a party that a dispute exists that cannot otherwise be resolved, and the decision of the FedArb Council to be issued within ten days thereafter, unless otherwise agreed, and shall be final.

RULE 18 - MEDIATION SERVICES

RULE 18.01

FedArb provides parties with the services of experienced mediators from its list of Participating Mediators, or as recommended to FedArb by the parties and included on that list. Mediators will be selected by agreement of all the parties, or designated by FedArb with the consent of all the parties.

Rule 18.02

FedArb Rules for Mediation. FedArb mediations will be conducted in accordance with the ethical rules for mediators promulgated by applicable law, ethical codes, and by FedArb, including requirements concerning disclosure and actual or apparent conflict. Mediations shall be conducted for the purpose of securing genuinely consensual settlement in accordance with the procedural rules applicable to arbitrations except that, unless otherwise agreed:

- mediations will be conducted by a single Mediator acceptable to the parties;
- each party will pay its own fees and expenses, and the parties will share equally the common expenses, including those of FedArb; and
- Mediators may consider and utilize appropriately all relevant information conveyed to them by the parties regardless of admissibility for such information as evidence.

Rule 18.03

Supplemental Mediation. Parties to FedArb arbitration contracts may utilize mediation services at any point in the arbitral process, including the period during which appeals are being conducted, until the issuance of the Final Award and thereafter. The parties to a FedArb arbitration should inform the Arbitrator or Panel hearing their proceeding in the event that they plan simultaneously or intermittently to engage in mediation. The Arbitrator or Panel may not participate in any manner or to any extent in the mediation process without a written request signed by all the parties, and approved by FedArb, seeking the Arbitrator's or Panel's participation, specifying the scope of such involvement, and confirming that such involvement will not prevent the Arbitrator or Panel from completing the arbitration in accordance with the FedArb Rules and/or any agreement between the parties and FedArb.

Rule 18.04

Effect of Mediated Settlements during Arbitration. Parties who engage in mediation during the course of a FedArb arbitration shall inform the Arbitrator or Panel conducting the arbitration of any partial or complete settlement reached by or among any of the parties. The Arbitrator or Panel shall implement any such settlement in accordance with its terms, and shall continue conducting the arbitration with regard to issues not settled by the parties. Parties who reach partial or complete settlements through mediation may obtain from the Arbitrator or Panel a partial or final Award incorporating the terms of the settlement.

Rule 18.05

Mediation Fees. FedArb's fees, costs, and expenses for mediations shall be based upon these Rules and/or other agreements between FedArb and the parties. Costs shall include the filing fee, fees of Participating Mediators, the FedArb administrative fee, and reimbursable expenses incurred by Participating Mediators, and FedArb, unless stated in the FedArb contract. (*Refer to FedArb Mediation Price Schedule for mediation fee*).

Rule 18.06

Mediation Deposits. The parties shall at the time of filing a case, submit to FedArb an initial deposit calculated to cover the costs, fees, and administrative expenses expected to be incurred in the course of the mediation, or such amount as FedArb and the parties agree is sufficient for an initial deposit. FedArb will charge, and the parties will pay, such additional amounts as FedArb concludes will be necessary to cover all such costs at any later stage in the proceeding.

Rule 1 - General Principles	Rule 2 - Agreement to Arbitrate	Rule 3 - Commencement of Arbitration	Rule 4 - Agreement to Arbitrate
Rule 5 - Representation	Rule 6 - Selection of Arbitrators	Rule 7 - Arbitrator Ethics and Conduct	Rule 8 - Vacancies
Rule 9 - Challenges to Jurisdiction	Rule 10 - Conduct of Proceedings	Rule 11 – The Award	Rule 12 - Arbitration Appeals
Rule 13 - Failure to Comply and Default	Rule 14 - Immunity	Rule 15 - Costs, Expenses and Attorney's Fees	Rule 16 – <u>Expedited Disposition</u>
Rule 17 – <u>Fixed Price Arbitration™</u>	Rule 18 – <u>Mediation Services</u>		