

2020
ARBITRATION RULES, PROCEDURES & PROTOCOLS
OF DISPUTE PREVENTION & RESOLUTION, INC.

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Table of Contents

- **INTRODUCTION**
- **THE SERVICES OF DISPUTE PREVENTION & RESOLUTION, INC.**
- **ARBITRATION RULES, PROCEDURES & PROTOCOLS OF DISPUTE PREVENTION & RESOLUTION, INC.**
 - I. DPR FEES & COSTS**
 - II. ADVANCE DEPOSITS & REFUNDS**
 - III. EXEMPTION FROM LIABILITY**
 - IV. DPR ARBITRATION PROCEDURAL RULES**
 - 1. Applicability of DPR Rules**
 - 2. DPR's Administrative Duties and Responsibilities**
 - 3. Submission of Matters to DPR**
 - 4. Representation in Arbitration**
 - 5. Validity of Agreement to Arbitrate**
 - 6. Consolidation**
 - 7. Establishing the Venue of the Arbitration Proceedings**
 - 8. Composition of Arbitration Panel**
 - 9. Selection and Appointment of Neutral Arbitrator(s)**
 - 9A Disclosure Process for All Neutral Arbitrator(s)/Disqualification of Arbitrator(s)**
 - 10. Selection and Appointment of Party-Appointed Arbitrators**
 - 11. Incapacity of Arbitrator**
 - 12. Communication with the Arbitrator(s)**
 - 13. Prehearing Conference and Preliminary Hearing**
 - 14. Notice of Arbitration Hearings**
 - 15. Attendance at Arbitration Proceedings**
 - 16. Continuances**
 - 17. Demands, Claims, Counterclaims, Crossclaims & Answering Statements**
 - 18. Conduct of the Arbitration Proceedings**
 - 19. Subpoenas**
 - 20. Depositions, Discovery and Protective Orders**
 - 21. Electronic Communications**
 - 22. Ex Parte Arbitration Proceedings**
 - 23. Site Inspection**
 - 24. Provisional and Interim Remedies**
 - 25. Post-Hearing Submissions**
 - 26. Close of Arbitration Hearings**
 - 27. Reopening of Arbitration Hearings**
 - 28. Deadline for Issuance of Award of Arbitrator(s)**
 - 29. Form and Service of the Award of Arbitrator**
 - 30. Scope of Award of Arbitrator(s)**
 - 31. Change of Award by the Arbitrator(s)**
 - 32. Record of the Arbitration Proceeding**
 - 33. Proper Service of Notice**
 - 34. Extensions of Time**
 - 35. Application of DPR Rules**

INTRODUCTION

The Arbitration Rules, Procedures and Protocols (Rules) of Dispute Prevention & Resolution, Inc. (DPR), are designed to provide a flexible, streamlined and effective set of procedures to govern the arbitration process. The Rules govern all arbitration proceedings which are administered under the auspices of DPR, except those cases in which the parties have provided for another set of established rules or created their own customized arbitration rules and procedures. Unless the parties agree in writing to some other governing law such as the United States Arbitration Act), these Rules are to be interpreted and applied pursuant to and in conjunction with *Hawaii Revised Statutes Section §658A, the Revised Uniform Arbitration Act or RUAA*. Parties to an existing controversy or dispute may submit the dispute to DPR for resolution by creating their own submission agreement or by utilizing the submission language that can be found on the DPR web site www.dprhawaii.com.

SERVICES PROVIDED BY DISPUTE PREVENTION & RESOLUTION, INC.

DPR is a full service ADR firm which designs and implements a wide variety of dispute avoidance, prevention and resolution processes together with administrative, financial and case management services for a range of dispute avoidance and adjudication processes, including: Partnering, Neutral Evaluation, Mediation, Non-Binding Arbitration, Binding Arbitration (standard arbitration, baseball arbitration, high/low, etc.), Discovery Master, Special Master as well as ADR Trial Procedures (Binding Arbitration with managed discovery). DPR offers clients the unique opportunity to obtain the full range of dispute prevention and resolution services through a single ADR firm providing the following benefits:

CHOICES among many ADR processes and from a panel of highly skilled neutrals;

CONFIDENTIALITY is strictly maintained in all matters to the extent permitted by law;

ECONOMY is realized through predictable and cost-effective fees;

EXPERIENCED and efficient case management from a service-minded staff;

EXPERTISE is assured through the DPR Distinguished Panel of Neutrals;

FACILITIES are centrally located, spacious, comfortable and private;

FLEXIBILITY to help identify and utilize the most appropriate ADR process;

FULL-SERVICE organization from prevention to final resolution of disputes;

INTEGRITY through an unwavering pledge to impartial and ethical conduct.

DPR maintains a steadfast commitment to excellence, integrity, and impartiality through the delivery of quality service, highly skilled and professional neutrals, and user-friendly

procedures. DPR's professional staff and Distinguished Panel of Neutrals bring a high degree of professionalism and decades of ADR experience to the service of DPR's clients. Accordingly, DPR reserves the right to decline undertaking any matter that DPR believes will undermine this commitment.

All parties and counsel participating in a DPR process are required to cooperate with DPR through compliance with their obligations under the DPR arbitration agreement, these rules together with their professional treatment of DPR's personnel, neutrals, opposing parties and counsel. All parties and their representatives shall act with courtesy and civility towards all others involved in the arbitration proceeding. Conduct which by its nature degrades the intelligence, ethics, morals, integrity, or personal behavior of a party, a party's representative, witnesses, DPR's case administrator or staff is unacceptable and accordingly, if, the parties or their representatives engage in conduct that materially undermines the arbitration proceeding, then in such event DPR may, in its sole and absolute discretion, withdraw as the Arbitration Administrator in which case it shall refund to all parties the unused portion of their deposit of fees. The failure of any party or its representative to comply with their obligations or the mistreatment of any of DPR's personnel or neutrals may result in DPR's withdrawal as the administrator of an arbitration as well as the Arbitrator's withdrawal as the Arbitrator.

ARBITRATION RULES, PROCEDURES & PROTOCOLS OF DISPUTE PREVENTION & RESOLUTION, INC.

I. DPR FEES & COSTS

Dispute Resolution Fees-Arbitration In most cases, DPR and the appointed DPR neutral charge a single hourly rate. In order to assure the highest degree of objectivity and independence, DPR negotiates and administers all arrangements for compensation between the parties and the appointed DPR neutral (except in those cases in which one or more of the panel members is party-appointed and prior arrangements have been made between the party(s) and their appointed panel member). The hourly fee covers (a) the compensation of the appointed neutral, (b) the administrative costs of DPR, (c) the hearing room charges, and (d) other expenses normally associated with an ADR proceeding (e. g., phone and fax charges, copying, etc.). In keeping with its mission, DPR strives to provide parties with ADR forums which are both cost-effective and economically predictable. Any out of pocket expenses incurred by the DPR appointed neutral (e. g., air fare, lodging, meals) in conjunction with a DPR proceeding are to be borne equally by the parties and shall be paid to the appointed neutral from funds deposited by the parties with DPR for that purpose. DPR will assess the required Hawaii General Excise Tax for all professional services rendered by DPR and DPR appointed neutrals.

II. ADVANCE DEPOSITS & REFUNDS

DPR policy requires that each party submit advance deposits toward the anticipated fees and expenses of DPR and the DPR appointed neutral on an equal or pro rata basis. DPR may require the parties to submit additional deposits during the pendency of the arbitration proceeding based on the expected duration of the matter. DPR and the appointed DPR neutral reserve the right to suspend their services for non-payment of the initial deposit or an additional deposit by any

party. In the event of inadequate or non-payment of requested deposits by a party, DPR may request that the other party(s) involved in the proceeding submit the non-paying party's deposit to assure that an adequate sum is available to compensate DPR and the appointed DPR neutral. If, after a period of one (1) month, any party has failed to cure their non-payment of a deposit and no other party has submitted the deposit, DPR may, in its sole discretion, terminate its administration of the arbitration and close its file.

Any unexpended funds remaining at the conclusion of the arbitration shall be refunded to the parties.

III. EXEMPTION FROM LIABILITY

Neither DPR, its staff and/or employees, nor the DPR appointed neutral are necessary parties to any arbitral, judicial or administrative proceeding which arises from or relates to any DPR arbitration proceeding or the parties thereto. By agreeing to these Rules, the parties acknowledge that neither DPR nor the DPR neutral appointed is or shall be liable for any act or omission that occurs in relation to the administration and/or conduct of any arbitration proceeding commenced pursuant to these Rules.

IV. DPR ARBITRATION PROCEDURAL RULES

1. Applicability of DPR Rules

The Arbitration Rules, Procedures and Protocols (Rules) of Dispute Prevention & Resolution, Inc. (DPR) shall govern all arbitration matters which are administered by DPR pursuant to an agreement of the parties unless the parties agree to adopt and utilize another set of arbitration rules and procedures. The parties may modify the DPR Rules, by written agreement, provided that such modifications are consistent with the parties' agreement to arbitrate and with the laws of the State of Hawaii, and it is the duty of the parties, not DPR to ensure such consistency. Absent a change in the laws of the State of Hawaii, the DPR Rules in effect at the time a matter is submitted to DPR shall govern the proceeding.

2. DPR's Administrative Duties and Responsibilities

As a full-service ADR firm, DPR shall provide complete administrative services to the parties who agree to arbitrate their disputes in accordance with the DPR Rules. DPR shall serve in an impartial capacity and shall undertake to manage the administrative, logistical, and financial aspects of all arbitration matters submitted to it.

3. Submission of Matters to DPR

The arbitration process may be initiated as follows:

- a) In those matters in which the disputants wish to submit an existing dispute to arbitration under the auspices of DPR they may do so by filing a fully executed DPR Submission to ADR form with the DPR office. The disputants may also submit an existing dispute by way of a jointly signed submission letter. E-mail or a customized ADR submission agreement.
- b) In those matters in which the parties have provided for arbitration in a contract or agreement in written or electronic form, which designates DPR Rules and/or DPR administration, the initiating party shall give written notice to all other signatories to the agreement of its intention to arbitrate. Such arbitration action shall be commenced by serving a Demand for Arbitration or a detailed letter pleading which sets forth: the nature of the dispute; the preferred number of Arbitrators to be appointed (if not stated in the agreement); the remedy or relief sought; and the requested venue of the arbitration proceedings on the named Respondent(s) and all parties to the contract or agreement either by hand delivery, via U.S. Mail, first class postage pre-paid or electronic mail.. A copy of the Demand for Arbitration (or detailed letter pleading) together with two copies of the parties' contract or agreement containing the arbitration provision together with the contact information of the Respondents and all parties to the contract or agreement containing the arbitration provision, shall be filed with DPR at the same time as it is served on the Respondent(s). Thereafter, DPR will provide, either by hand delivery, U.S. Mail, first class postage pre-paid or electronic mail, written notice of the arbitration proceeding to all parties, and assign a case number to the arbitration proceeding. The respondent(s) shall have 14 calendar days from the date that DPR gives written notice of the arbitration proceeding within which to file an answering statement and/or assert a counterclaim, if any. If a counterclaim is filed, it should be filed in a manner which is consistent with subsection 3(b) above. If the respondent(s) elect not to submit an answering statement or counterclaim, it will be deemed as a denial of the claim(s) asserted in the Demand for Arbitration. Once the parties have responded to the notice of the arbitration, DPR and the parties may use electronic means for all communications, which is the DPR preferred method.

4. Representation in Arbitration

Every party in an arbitration proceeding has the right to be represented by legal counsel or if they are an individual, by themselves as pro se. However, any attorney not licensed to practice in Hawaii must secure the written approval of the arbitrator or, if there are multiple arbitrators, a majority of the arbitrators to appear pro hac vice in the arbitration proceeding. The details of what the petition to appear must contain and what materials must be submitted with it can be found in subsection (b) of Supreme Court Rule 1.9A(b). Counsel are urged to carefully review Supreme Court Rule 1.9A and submit their petition to appear as soon as the arbitrator(s) has been confirmed. In addition, except in limited circumstances, corporations, partnerships, limited liability companies and other entities must be represented by licensed attorneys.

Any legal representative who will be participating in an arbitration proceeding must enter an appearance in writing with DPR and the other party(s) at least thirty (30) days before the commencement of the arbitration hearing. Any person who becomes counsel during the

pendency of an arbitration proceeding must notify DPR and the other party(s) in writing before making an appearance at any proceeding relating to the arbitration. Once a party's representative has entered an appearance, DPR will only communicate with the party's representative, until such time as that party has discharged that representative, and the discharge has been made known to DPR in writing by the party.

5. Validity of Agreement to Arbitrate

Issues of arbitrability such as whether a valid agreement to arbitrate exists, whether a contract containing a valid agreement to arbitrate is enforceable, and other related issues shall be handled pursuant to the RUAA, Section 6.

6. Consolidation

Under the RUAA, Section 10, a party may file a motion with the court to order consolidation of separate arbitration proceedings.

7. Establishing the Venue of the Arbitration Proceedings

If the written agreement to arbitrate names a site to conduct the arbitration, such site shall be the venue for the arbitration, unless all parties agree otherwise. In the absence of a designated or agreed venue, the venue of all arbitration proceeding shall be Honolulu, Hawaii, subject, however to the authority of the Arbitrator to change the venue pursuant to a motion to change the venue made by any of the parties within a reasonable time after the deadline to file an answering statement and/or assert a counterclaim.

8. Composition of Arbitration Panel

Unless the agreement to arbitrate provides for the appointment of more than one arbitrator, or the parties mutually agree in writing to the appointment of more than one arbitrator, only one arbitrator shall be appointed to hear and determine the dispute.

9. Selection and Appointment of Neutral Arbitrator(s)

If the written agreement provides for a specific Arbitrator(s) selection procedure, that procedure shall be followed by DPR and the parties. If the written agreement is silent or provides no Arbitrator(s) selection methodology, the Arbitrator(s) shall be appointed as follows: DPR shall provide the parties with a list of proposed Arbitrators and the parties shall have seven calendar days within which to attempt to agree to the appointment of the Arbitrator(s). If the parties fail to stipulate to the appointment of the Arbitrator(s) within the time specified, DPR will then proceed with the ranking selection process for choosing the Arbitrator(s). The parties will be given notice by DPR that they have three (3) business days to submit a confidential list of fifteen (15) DPR Panel Members ranked in order of that party's preference with 1 being the most preferred panel member. The Panel Member who receives the lowest combined (the most preferred) score from the parties shall be the selected Arbitrator. In the event the selected Arbitrator is unable or unwilling to serve, the Panel Member who received the second lowest combined score from the

parties shall be the selected Arbitrator. Any party who, after notice from DPR, fails to participate in the ranking selection process shall be deemed to have waived the right to participate in the ranking selection process and the Panel Member with the lowest score from the ranking list(s) returned by the other party(s) shall be the selected Arbitrator. The selected Arbitrator(s) is subject to confirmation as hereafter provided for.

9A Disclosure Process for All Neutral Arbitrator(s)/Disqualification of Arbitrator

1. In order to assure an unbiased and impartial arbitration proceeding, DPR is committed to a disclosure process that promotes timely, accurate and complete Arbitrator disclosures. Therefore, the selection of an Arbitrator and the Arbitrator's acceptance of that selection is subject to either the parties' approval of the Arbitrator's disclosure, or DPR's overruling of a party's timely objection to the continued service of the Arbitrator as the result of a disclosure.

2. Unless otherwise specified by the parties or their arbitration agreement, all Arbitrators appointed pursuant to these Rules shall be neutral Arbitrators. All Arbitrators appointed pursuant to these Rules shall disclose in writing any circumstance, situation, or event which is likely to affect their ability to be impartial. Arbitrators must disclose, in reasonable detail, and have a continuing obligation to so disclose, any past or presently existing relationship with any of the parties, witnesses, insurers, counsel or another Arbitrator including any potential personal bias, any financial or personal interest in the result of the arbitration, as well as any known fact that a reasonable person would consider likely to affect the impartiality of the Arbitrator in the proceeding.

3. To promote the completeness of the Arbitrator's disclosure, the parties should, as soon as practical after the Arbitrator's acceptance of the appointment, or as soon as ordered by the Arbitrator provide the names of all of the then known anticipated witnesses to the Arbitrator so the Arbitrator may include matters related to these witnesses in the Arbitrator's disclosure. The Arbitrator shall then prepare a disclosure or a supplement to an existing disclosure and submit it to DPR, whereupon, DPR shall immediately provide the disclosure, or any supplement thereof to the parties. DPR shall afford the parties an opportunity to comment in writing. The purpose of the foregoing is not intended to provide a basis to exclude witnesses for non-disclosure, but instead to avoid unnecessarily late disclosures of known anticipated witnesses whose involvement in the proceeding may cause the recusal or disqualification of an Arbitrator.

4. Should any party believe that the disclosure is insufficient, unclear or if a party is aware of an undisclosed relationship or circumstance, including the identity of any known anticipated witness, they *shall*, within five (5) business days of being provided with the Arbitrator's disclosure seek a supplemental disclosure about any such relationship or circumstance by submitting their comments and/or question(s) directly to DPR. In order to ensure that no bias arises by reason of the request for a supplemental disclosure or information, DPR shall not inform the Arbitrator of the identity of the party or attorney who has sought the supplemental disclosure or information (and shall advise the Arbitrator not to inquire as to the identity of said party or attorney). The failure of a party to submit either an approval of the Arbitrator's disclosure or an objection to the continued service of the Arbitrator shall be deemed

an approval of the Arbitrator's disclosure and a waiver of the right to object to the continued service of the Arbitrator based on the contents of the Arbitrator's disclosure. If no party objects to the continued service of the Arbitrator, the Arbitrator's disclosure shall be deemed approved by all parties and the Arbitrator's appointment shall be deemed confirmed.

5. Should any party seek supplemental information or a supplemental disclosure, then, upon the receipt of an Arbitrator's responsive supplemental disclosure, DPR shall immediately provide the same to the parties. The parties shall, within five (5) business days submit in writing their approval of the Arbitrator, or their objection to the Arbitrator's continued service. The failure of a party to submit either an approval of the Arbitrator's supplemental disclosure or an objection to the continued service of the Arbitrator shall be deemed an approval of the Arbitrator's supplemental disclosure and a waiver of the right to object to the continued service of the Arbitrator based on the contents of the Arbitrator's supplemental disclosure. If no party objects to the continued service of the Arbitrator, the Arbitrator's supplemental disclosure shall be deemed approved by all parties the Arbitrator's appointment shall be confirmed.

6. If the Arbitrator determines that it is necessary to make a supplemental disclosure at any time after the Arbitrator's appointment has been confirmed, DPR shall immediately provide the same to the parties. The parties shall, within five (5) business days submit in writing their approval of the Arbitrator's supplemental disclosure, or their objection to the Arbitrator's continued service. The failure of a party to submit either an approval of the Arbitrator's supplemental disclosure or an objection to the continued service of the Arbitrator shall be deemed an approval of the Arbitrator's supplemental disclosure and a waiver of the right to object to the continued service of the Arbitrator based on the contents of the Arbitrator's supplemental disclosure. If no party objects to the continued service of the Arbitrator, the Arbitrator's supplemental disclosure shall be deemed approved by all parties the Arbitrator's appointment shall be confirmed.

7. Should any party, after being given an opportunity to review an Arbitrator's disclosure, including any supplemental disclosure, submit an objection to the continued service of the Arbitrator, DPR shall, after reviewing the parties' contentions, issue a binding determination as to whether the Arbitrator is to be disqualified or confirmed as the Arbitrator. Notwithstanding the foregoing, once an Arbitrator has been confirmed and has issued any substantive ruling on any claim or defense based on the merits of the dispute, DPR shall not entertain any further objection to the continued service of the Arbitrator.

8. No party shall circumvent the disclosure process by failing to advise DPR of a known, but undisclosed fact or circumstance concerning the Arbitrator that the party believes merits disclosure prior to the confirmation of the Arbitrator and any such failure shall constitute a waiver of that party's right to seek disqualification of the Arbitrator or otherwise attack an Arbitrator's award. Further, no party shall engage substitute counsel, nor name or call a previously undisclosed witness for the purpose of creating a basis to seek the disqualification of an Arbitrator.

10. Selection and Appointment of Party-Appointed Arbitrators

If the parties' agreement provides for them to directly appoint one Arbitrator, the parties must make their appointment within the time specified in the agreement. If any party fails to make such an appointment within the time specified in the agreement or, if no time is specified, then within 14 calendar days from the date DPR gives notice of the initiation of arbitration proceedings, DPR shall appoint the Arbitrator. The parties may request that DPR provide a list of proposed Arbitrators from which the party(s) may select a party-appointed Arbitrator. Each party shall notify the other party(s) and DPR in writing of the appointment of its party-appointed Arbitrator and shall provide the name, business affiliation, address, e-mail address, phone number (including a mobile telephone number, and facsimile number for their appointed Arbitrator.

The party-appointed Arbitrators may request a list of proposed Arbitrators from DPR from which the third Arbitrator may be appointed. If the agreement provides a period of time within which the third Arbitrator is to be appointed and the party-appointed Arbitrators fail to make the appointment within the time specified, DPR shall appoint the third Arbitrator. The third Arbitrator shall, in all cases, serve as the chairperson of the arbitration panel and shall be considered a neutral arbitrator, subject to the provisions of Rule 9A.

Unless the parties' arbitration agreement reasonably restricts the parties' right to receive disclosures from the Arbitrators under RUAA 12, party-appointed Arbitrators shall disclose in writing any circumstance, situation, or event which is likely to affect their ability to be impartial. Party-appointed Arbitrators must disclose any past or presently existing relationship with the parties, their witnesses, and their counsel including any personal bias or any financial or personal interest in the result of the arbitration. DPR shall immediately provide the parties with any disclosure given by a party-appointed Arbitrator under these Rules and shall afford the parties an opportunity to comment in writing. However, unless specifically authorized by the agreement or by stipulation of the parties, DPR shall not have the discretion nor the authority to remove a party-appointed Arbitrator for cause, however, DPR is entitled to withdraw as the Arbitration Administrator if it believes, in its sole and absolute discretion, that a party appointed Arbitrator is so fundamentally biased that it taints the arbitration process.

11. Incapacity of Arbitrator

If for any reason either the appointed sole Arbitrator or a member of a panel of arbitrators becomes unable, withdraws or refuses to perform the functions and duties of Arbitrator (collectively referred to as "Incapacitated"), DPR shall proceed as follows:

A. DPR shall first look to and follow the parties' agreement with respect to the replacement of the arbitrator who has become Incapacitated.

B. If the parties' agreement is silent on the issue, DPR shall, in the case of an Incapacitated sole arbitrator, have the authority to appoint a qualified Arbitrator from its panel of neutrals or elsewhere.

C. If the parties' agreement is silent on the issue, DPR shall, in the case of an Incapacitated arbitrator who sits on a panel of arbitrators as a result of being chosen by the

parties' appointed arbitrators, the remaining members of the panel shall appoint a replacement arbitrator within thirty (30) days of being notified that an arbitrator has been Incapacitated and shall they fail to do so, DPR shall have the authority to appoint a qualified Arbitrator from its panel of neutrals or elsewhere.

D. If the parties' agreement is silent on the issue, DPR shall, in the case of an Incapacitated arbitrator who sits on a panel of all party appointed neutral arbitrators, the parties shall appoint a replacement arbitrator within thirty (30) days of being notified that an arbitrator has been Incapacitated and shall they fail to do so, DPR shall have the authority to appoint a qualified Arbitrator from its panel of neutrals or elsewhere.

E. If the Incapacity of an Arbitrator on a panel of arbitrators occurs during the pendency of the arbitration proceeding, the parties may agree to reduce the panel from multiple Arbitrators to either a smaller panel of an odd number of neutral arbitrators or a single neutral Arbitrator.¹

12. Communication with the Arbitrator(s)

Unauthorized ex parte communication with the Arbitrator concerning any matter related to the Arbitration is forbidden. Except at prehearing conferences, preliminary hearings, and arbitration hearings, communications relating to the arbitration proceeding shall be in writing and shall be directed to the neutral Arbitrator through DPR, with copies sent simultaneously to the other party(s). The Arbitrator may authorize communication directly with the Arbitrator by email or other written means if copies are simultaneously forwarded to DPR and all other Parties.

Unless the agreement provides otherwise, the parties shall not have ex parte communications with their party-appointed Arbitrator(s) after they have been officially appointed under the terms of the agreement and/or these Rules. All written and oral communications relating to the arbitration proceeding shall be directed to the party-appointed Arbitrators through DPR, with copies sent simultaneously to the other party(s).

The parties are encouraged to use electronic communications for all communications and submissions relative to any arbitration proceeding.

13. Prehearing Conference and Preliminary Hearing

At the request of any party or by direction of the Arbitrator(s), a prehearing conference may be scheduled with the parties and/or their representatives in order to address any the issues; related to the arbitration. The Arbitrator(s) may schedule a preliminary hearing with the parties and/or their representatives prior to the commencement of the arbitration hearing during which the Arbitrator(s) may: establish a pre-arbitration hearing schedule; require the advance filing of exhibits; encourage and/or direct the parties to produce relevant documents and other information; direct the parties to identify any witnesses to be called; and establish the schedule for the arbitration hearing.

14. Notice of Arbitration Hearings

Except in expedited proceedings, the Arbitrator shall set the date, time, and location for the arbitration hearing held in conjunction with the agreement and under these Rules. DPR shall provide written electronically transmitted notice to the parties at least seven calendar days in advance of the initial arbitration hearing date. Pursuant to the RUAA, Section 9(b), unless a party objects for lack or insufficiency of notice before the beginning of the hearing, by appearing at the hearing, the party waives any such objection. In cases where a party has no means to receive electronic communications, DPR will mail the notice which shall be deemed given when deposited in the U.S. Mail, 1st class postage prep paid.

15. Attendance at Arbitration Proceedings

Any party or representative who has a direct interest in the arbitration shall have the right to attend all arbitration related hearings. At any evidentiary hearing, the Arbitrator(s) shall have the authority to exclude or sequester any witness or other person who is not a party to the arbitration.

16. Continuances

Any party who wishes to postpone any hearing must initially seek the agreement of the other party(s), and if the other party(s) do not join in the postponement request, the party seeking the continuance must petition the Arbitrator(s) in writing. The Arbitrator(s) may continue any hearing upon a showing of good cause by a party. The Arbitrator(s) may schedule a (telephonic or in person) prehearing conference for the purpose of hearing oral argument concerning the continuance request from the parties.

17. Demands, Claims, Counterclaims, Cross Claims & Answering Statements

All demands, claims, counterclaims, cross claims and answering statements shall be made in writing and shall be filed with DPR and simultaneously served on the other party(s). The parties should not file demands, claims, counterclaims, cross claims, or answering statements directly with the Arbitrator(s) unless specifically directed to do so by the Arbitrator(s). A party shall have 14 calendar days following receipt by DPR of a demand, claim, counterclaim, cross claim, or answering statement within which to file a written response with DPR. Thereafter, the Arbitrator(s) may establish a cut-off deadline after which no new or different claims may be asserted in the arbitration without the express permission of the Arbitrator(s).

18. Conduct of the Arbitration Hearing

The Arbitrator(s) may structure the format of the hearing in any fashion which affords all parties a complete and thorough opportunity to present all evidence, testimony, exhibits, argument and other material which are deemed to be relevant to the arbitration. To the greatest extent possible the order of the arbitration hearing shall be discussed and agreed to during the prehearing conference. The Arbitrator(s) have the discretion to vary the order of the proceeding in the event of unforeseen scheduling problems.

Pursuant to the RUAA, Section 15(b), the Arbitrator(s) may decide a request for summary disposition of a claim or issue if the parties agree or if the requesting party gives adequate notice and the other party(s) has reasonable opportunity to respond.

The Arbitrator(s) shall determine the weight and relevance of all evidence offered by the parties. Unless the parties' agreement otherwise provides for, the Arbitrator(s) shall not be required to apply the Rules of Evidence in the arbitration, however, any party has the right to object to the introduction of evidence offered by another party. The Arbitrator(s) may, at the request of a party and upon a showing of good cause, enforce a privilege which is asserted by a party or a witness. The Arbitrator may on his/her own initiative or upon motion by a party establish an "in camera" procedure for reviewing certain documents for which a privilege or other protection is being asserted.

The Arbitrator(s) may receive evidence by affidavit and/or via telephone, video conference or other electronic means of communication, however, the Arbitrator(s) shall assign to such evidence the weight that the Arbitrator(s) deem appropriate after due consideration of any objection lodged by any other party.

The Arbitrator(s) shall require all witnesses to testify under oath administered by the Arbitrator(s) or by another duly authorized person.

19. Subpoenas

The Arbitrator(s) is empowered by law to subpoena witnesses or documents to any arbitration hearing and may do so either upon the request of a party or on his/her own initiative. Any person, party, or entity who wishes to object to a subpoena must do so in writing with a copy of the written objection sent to DPR, and to the other party(s). Thereafter, the Arbitrator(s) shall issue a conclusive determination on the objection. Under the RUAA, Section 17(g), if the witness is in another state and if that state has adopted the RUAA, the party may take the subpoena from the Arbitrator(s) directly to the out-of-state court for enforcement.

20. Depositions, Discovery and Protective Orders

Under the RUAA, Section 17(b), the Arbitrator(s) may permit a deposition of a witness to be taken for use as evidence at a hearing. Under Section 17(c), the Arbitrator(s) may also permit such discovery as the Arbitrator(s) decides is appropriate in the circumstances. Under Section 17(e), the Arbitrator(s) may issue protective orders to prevent the disclosure of privileged or confidential information.

21. Electronic Communication and Signatures

For all communications under these Rules, the use of electronic communications is acceptable and the preferred method of communications with DPR. The parties are not required to serve physical copies of any documents that have been electronically transmitted except for convenience or legibility purposes. Electronic signatures shall be considered original signatures for all purposes.

22. Ex Parte Arbitration Proceedings

The Arbitrator(s) may proceed with any arbitration hearing in the absence of any party or representative who fails to appear and/or fails to request a continuance. Before proceeding the Arbitrator(s) shall determine whether proper notice under these Rules was provided and, if so, shall make an Award based upon the evidence, testimony, exhibits and arguments offered by the party(s) who is present. If the Arbitrator(s) determine that the notice of the hearing was insufficient he/she shall continue the hearing to a new date and time and DPR shall issue written notice to all parties pursuant to these Rules. No arbitration awards shall be made by way of default.

23. Site Inspection

Any party may request, and the Arbitrator(s) may direct that an inspection of the site, premise or project which is the subject of the arbitration take place. The Arbitrator(s) shall set the date, time and place of the site inspection and DPR shall issue written notice to the parties. The Arbitrator(s) shall advise the parties in advance as to whether the site inspection is to be treated as an extension of the Arbitration hearing during which testimony and other evidence will be received and considered or whether the site inspection is limited to a field inspection only. In either case, the parties and their representatives have the right to be present during the site inspection on the same basis as any other portion of the arbitration hearing.

24. Provisional and Interim Remedies

If the Arbitrator(s) appointment has not yet been confirmed, and if a party to an arbitration proceeding files a motion with the court, upon sufficient cause shown by a party, a court may order injunctive relief pursuant to the RUAA, Section 8.

If the Arbitrator(s) appointment has been confirmed, the Arbitrator(s) may, upon sufficient cause shown by a party, order injunctive relief including interim awards to maintain the status quo or protect the property which is the subject of the arbitration until the Award of Arbitrator(s) is rendered or the controversy is otherwise resolved to the same extent and under the same conditions as if the controversy were the subject of a civil action. Any determination rendered by the Arbitrator(s) shall be without prejudice to the rights of the parties or to the final determination of the dispute. The Arbitrator(s) may issue an interim order or decision regarding the interim relief ordered and is/are authorized to require security for the costs of measures ordered pursuant to these Rules.

Otherwise, pursuant to the RUAA, Section 8(b)(2), a party to an arbitration proceeding in which the Arbitrator(s) has been appointed may request a provisional remedy only if the matter is urgent and the Arbitrator(s) is not able to act timely or cannot provide an adequate remedy.

25. Post-Hearing Submissions

Parties may be directed by the Arbitrator(s) to file post-hearing documents and other evidence with DPR for transmittal to the Arbitrator(s). Unless otherwise directed by the Arbitrator(s), all post-hearing submissions shall be sent directly to the other party(s).

26. Close of Arbitration Hearings

The Arbitrator(s) shall formally declare the arbitration hearing closed on (a) the final day of the arbitration hearing after the party(s) have rested their respective cases or (b) on the date that the Arbitrator(s) set receipt of the final post-hearing submission. The Arbitrator(s) through DPR shall notify the parties in writing of the date upon which the arbitration hearing was closed.

27. Reopening of Arbitration Hearings

The Arbitrator(s) shall have the discretion to reopen the arbitration hearing on his/her own initiative, or upon petition by a party, at any time prior to the issuance of the Award of Arbitrator(s). If the Arbitrator(s) determines that reopening the arbitration hearing is appropriate, he/she shall have an additional 30 days from the closing of the re-opened arbitration hearing within which to issue the Award of Arbitrator(s).

The Arbitrator(s) may not reopen the hearings after the issuance of the Final Award of Arbitrator(s) unless specifically authorized to do so by the parties or unless directed to do so by an appropriate court.

28. Deadline for Issuance of Award of Arbitrator(s)

Unless all parties agree or their' agreement specifies otherwise, the Arbitrator(s) shall issue the Final Award of Arbitrator(s) no later than 30 days following the latter of the date of the formal close of the arbitration hearing or the Arbitrator's receipt of the final briefs.

29. Form and Service of the Award of Arbitrator

Any Award of Arbitrator(s) shall be in writing and shall be signed or e signed by the Arbitrator. Any Award which, by its nature is to be recorded in the Bureau of Conveyances shall bear the original signature of the Arbitrator(s) acknowledged before a notary public, and shall be delivered to the parties or the parties' attorneys personally or by First Class Mail, postage pre-paid. If the Arbitrator(s) provides the parties with an oral decision, the terms of the oral decision shall be reduced to writing in accordance with these Rules.

If the Arbitrator(s) awards punitive damages or other exemplary relief, the Arbitrator(s) shall include in the Award of Arbitrator(s) the basis in fact justifying and the basis in law authorizing the Award and state separately the amount of the punitive damages or other exemplary relief, as specified in the RUAA, Section 21(e).

30. Scope of Award of Arbitrator(s)

Unless the parties' agreement provides otherwise, the Arbitrator(s) must determine all issues submitted to arbitration by the parties and may grant any and all remedies that the Arbitrator(s) determine to be just and appropriate under the law. In the Final Award of Arbitrator(s) the Arbitrator(s) shall issue a determination on the issue of the allocation of all of the parties' arbitration-related fees and costs, together with the Arbitrator(s)' compensation and expenses; DPR's fees and expenses; and, if provided for in the parties' agreement or the Submission to Arbitration, or authorized by law in a civil action involving the same claim the parties' attorney fees and costs.

The Arbitrator(s) may award punitive damages or other exemplary relief if the conditions of the RUAA, Section 21 are met.

The Arbitrator(s) shall have the authority, during the arbitration proceeding, to issue Interim Rulings, Orders, and/or Partial Final Awards as necessary. Notwithstanding the foregoing, and except as otherwise provided by law, no Interim Ruling, Order and/or Partial Final Award shall be considered a final award subject to being confirmed pursuant to RUAA 22 and entered as a judgment by a court of competent jurisdiction pursuant to RUAA 25 nor vacated, modified and/or corrected pursuant to the provisions of RUAA 23 and 24.

Any and all Interim Rulings, Orders, Partial Final Awards, and Award of Arbitrator(s) in matters in which three Arbitrator(s) have been appointed shall be by a majority of the arbitration panel.

In the event the parties enter into a settlement at any time before the Arbitrator issues the Final Award, the parties may request that the Arbitrator(s) enter a Stipulated Award of Arbitrator(s) which sets forth the terms of their settlement.

31. Change of Award by the Arbitrator(s)

Parties may apply to the Arbitrator(s) to modify, correct or clarify an Award, pursuant to the procedures specified in the RUAA, Section 20.

32. Record of the Arbitration Proceeding

A. Any party may retain the services of a court reporter to maintain a stenographic record of the arbitration hearing. The party requesting a court reporter must notify the other parties in writing no later than 72 hours before the date and time set for the commencement of the arbitration hearing, that such a request has been made and must pay the cost of the court reporter. The parties may agree to share the cost of the court reporter.

B. If the parties stipulate or if the Arbitrator(s) determine that the transcript is also the official record of the arbitration hearing, a complete copy of the transcript must be made available to all parties and to the Arbitrator(s). Under these circumstances the parties shall pay the cost of the official record equally. If all parties and the arbitrator(s) agree, the parties may

tape record or video tape the arbitration hearing. Any audio recording or video tape of the proceeding is not considered to be the official record of the proceeding.

C. DPR and the Arbitrator do not maintain an official record of the arbitration proceeding. Any submissions (either electronic or hard copy) to the Arbitrator and/or DPR will only be retained for thirty (30) calendar days following the conclusion of the Arbitration.

D. Parties are required to maintain copies of all submissions made during the Arbitration. Should a party desire the return of any submission, a written request must be made to DPR within thirty (30) calendar days of the submission of the document. The request must specify the date of submission to DPR, and the name/title of the document.

E. Should the parties have special requirements for the retention and/or maintenance of the DPR arbitration file and/or submissions made during the Arbitration, the special requirements must be agreed to in writing by the Parties and DPR prior to the first submission (work on this), including the costs and fees imposed by DPR for implementing the special requirements.

33. Proper Service of Notice

All notices may be served upon the parties electronically via e-mail or fax to the last known e-mail address or fax number of the party or its designated representative. In cases where the parties or their representatives have informed DPR that they do not have access to either e-mail or facsimile communications, the Arbitrator(s) and/or DPR may also utilize delivery via U.S. Mail to the last known physical address of the parties and/or their representatives.

34. Extensions of Time

Prior to the expiration of any deadline established by these Rules, the Arbitrator or DPR may grant reasonable extensions of time for any deadline established hereunder. Notwithstanding the foregoing, the failure to object to any failure to adhere to the deadlines established hereunder shall constitute a waiver of the right to object to any such failure.

35. Interpretation and Application of DPR Rules

These Rules shall be interpreted and applied in conjunction and conformity with the applicable arbitration law. Unless specified otherwise, the duly appointed Arbitrator(s) shall have the authority to interpret and apply the meaning and intent of these Rules. In the case of any conflict between these Rules and the RUAA, the provisions of the RUAA shall control. In the case of any conflict between these Rules and the agreement of the parties, the agreement of the parties shall control, unless the provision conflicts with the RUAA in which case the provisions of the RUAA shall control.