



SPECIALIZING IN MEDIATION & ARBITRATION & DISPUTE REVIEW BOARDS

PO BOX 8029  
Santa Fe, NM 87504

CONSTRUCTION DISPUTE RESOLUTION SERVICES, LLC

New Mexico: 505-473-7733 Toll Free: 888-930-0011  
Fax Phone: 505-474-9061 Email: [cdrs@cdrsllc.com](mailto:cdrs@cdrsllc.com)  
Website: [www.constructiondisputes-cdrs.com](http://www.constructiondisputes-cdrs.com)

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March 15, 2016

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## **ACCELERATED ARBITRATION RULES AND PROCEDURES**

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**THE CDRS ACCELERATED ARBITRATION PROGRAM IS DESIGNED TO PROVIDE AN EXPEDITIOUS, SIMPLIFIED AND INEXPENSIVE PROCESS FOR THOSE WHO HAVE BINDING ARBITRATION SPECIFIED AS THE DISPUTE RESOLUTION PROCESS TO SETTLE A CONSTRUCTION-RELATED DISPUTE OR FOR THOSE WHO ARE INTERESTED IN UTILIZING THE ACCELERATED BINDING ARBITRATION PROCESS TO SETTLE A CONSTRUCTION-RELATED DISPUTE.**

**THESE RULES AND PROCEDURES SHALL GOVERN THE CDRS ACCELERATED ARBITRATION PROCESS AND SHALL TAKE A PRECEDENT POSITION OVER THE GENERAL CDRS ARBITRATION RULES AND PROCEDURES. ANY RULE OR PROCEDURE NOT COVERED IN THESE ACCELERATED RULES AND PROCEDURES SHALL BE GOVERNED BY THE APPLICABLE CDRS GENERAL ARBITRATION RULES AND PROCEDURES.**

### **Rule AA1 – INITIATION OF THE ACCELERATED ARBITRATION PROCESS**

Any party to an Agreement to Arbitrate or any Party wishing to utilize the Accelerated Arbitration (AA) process may complete a *Request for Dispute Resolution Services* and submit it to CDRS along with the appropriate filing fee. The Party initiating the AA process shall be called the Claimant. This AA process is available if and only if there are no more than two Parties involved in the dispute. There is no minimum or maximum dollar amount required to utilize the AA process as long as both Parties have mutually agreed to use the process. The AA process is not available if a tri-partite (three person) arbitration panel is required.

### **RULE AA2 – RESPONSE TO THE REQUEST FOR DISPUTE RESOLUTION SERVICES**

The Party responding to the *Request for Dispute Resolution Services* shall be called the Respondent. The Respondent shall have up to seven (7) days to respond to the claims as specified by the Claimant in the *Request for Dispute Resolution Services* and must specify any counter claims along with their response to the claims of the Claimant.

If either Party then has additional claims prior to the arbitration hearing, those claims will follow the same rules and procedures only if both of the Parties and the arbitrator agree to add those claims to the AA process.

### RULE AA3 – SCOPE OF THE ACCELERATED ARBITRATION PROCESS

The scope of the AA process shall be limited to conducting an arbitration to handle any of the issues that are specified as claims in the *Request for Dispute Resolution Services* and any additional issues that are specified by the respondent as counterclaims in the response to the *Request for Dispute Resolution Services* or as specified according to Rule AA2. Only those issues specified and agreed to by the Parties and the arbitrator shall be handled by the AA process and other issues not specified may go on to standard arbitration, litigation or any other dispute resolution process as specified or agreed to by the Parties or as specified in the appropriated contract or document that stipulates the dispute resolution process to handle any dispute between the Parties.

### RULE AA4 – SELECTION OF THE AA ARBITRATOR

There shall be one arbitrator selected by mutual consent of the Parties within seven (7) days of the receipt of the copy of the *Request for Dispute Resolution Services* by the Respondent. If the Parties can not mutually agree on an arbitrator, the CDRS Case Administrator shall select and appoint the arbitrator.

### RULE AA 5 – DATE AND LOCATION OF ARBITRAITON HEARING

The arbitration hearing shall be scheduled no longer than 15 days after the arbitrator has been selected and/or appointed. The arbitration hearing shall take place at the location of the construction project that is the subject of the dispute unless both Parties mutually agree to hold the arbitration hearing at a different location, with the approval of the arbitrator.

### RULE AA 6 – DISCOVERY

There shall be limited discovery. The Discovery process shall be completed by the parties no less than seven (7) days prior to the arbitration hearing. All information submitted to CDRS by the parties for the arbitrator to review prior to the arbitration hearing shall be submitted to CDRS via email no less than seven (7) days prior to the arbitration hearing. There shall be no hard copies submitted to CDRS for arbitrator review. There shall be no interrogatories permitted, depositions requested or conducted and no requests for subpoenas.

### RULE AA7 – RESPONSIBILITES OF THE AA ARBITRATOR

The arbitrator shall be responsible to conduct an Accelerated Arbitration according to these Rules and Procedures utilizing the CDRS General Arbitration Rules and Procedures, when applicable. The arbitrator shall also have the responsibility to render an unreasoned arbitration award within fourteen (14) days after the closing of the arbitration hearing. A “Certified Copy” of the arbitration award shall be issued by CDRS according to the terms and conditions as specified in the CDRS General Arbitration Rules and Procedures. The issuance of the award may be delayed according to Rule A-20(i).

### RULE AA8 – POST HEARING BRIEFS

Post hearing briefs may be requested by the arbitrator. Those briefs must be submitted to CDRS via email within seven (7) days of the close of the hearing. Those post hearing briefs will be forwarded to the arbitrator by CDRS. The fourteen (14) day period for the arbitrator to render his/her award shall commence on the day that the arbitrator receives the final post hearing brief(s) from CDRS.

### RULE AA9 – JOBSITE VISITS

If a jobsite visit is requested by both of the Parties involved in the Arbitration, that jobsite visit shall be conducted prior to the arbitration hearing at a time agreeable to the arbitrator and both Parties. Both Parties or their representatives must be present at the time of the jobsite visit. Under no circumstances shall a jobsite visit be conducted after the arbitration hearing has concluded.

### RULE AA10 – RESPONSIBILITIES OF THE PARTIES

The Parties shall have the following responsibilities:

1. The Parties shall follow these AA Rules and Procedures and all time tables as specified in these Rules and Procedures.
2. The Parties shall be responsible to follow all General CDRS Arbitration Rules and Procedures that are not covered in these Accelerated Arbitration Rules and Procedures.
3. The Parties shall notify CDRS within seven days of the initiation of the AA process or receipt of notification of the AA process if they have selected any individuals or firms to represent them in the AA process along with their contact information including their email address. All communications shall be via email.
4. The Parties shall be responsible to remit their appropriate share of the costs of the AA process to CDRS according to the agreed upon terms and conditions and as directed by the CDRS case administrator.

### RULE AA11 – PRE-HEARING CONFERENCE

Upon request from one or both of the Parties, the CDRS case administrator will contact both Parties and the arbitrator to set up a telephone or personal Pre-hearing conference to be held within seven (7) days of the appointment of the arbitrator to review and establish the rules and procedures to be followed during the AA process including but not limited to:

1. Establishing the dates to begin the hearing and the anticipated ending date of the accelerated arbitration hearing (See Rule AA10)
2. Establishing the rules and limitations on the presentation of evidence
3. Establishing the number of witnesses and individuals who will testify during the hearing
4. Establishing limitations on the discovery to be allowed
5. Establishing the specifics of the opening and closing statements
6. Establishing other special rules and procedures necessary to conduct the Accelerated Arbitration Process

The Pre-hearing conference may be held in person or by telephone at the discretion of the arbitrator.

### RULE AA12 – PROCESS RULINGS

At any time prior to the arbitration hearing, the arbitrator may rule that the arbitration can not be conducted according to the AA procedures if he/she determines that the AA procedure would not allow both of the Parties the opportunity to properly present their case or if the arbitrator determines that he/she would not be able to render a fair and equitable Arbitration Award at the conclusion of the AA hearing. After the arbitration hearing has commenced, the arbitration shall continue until its conclusion. If the arbitrator decides to discontinue the AA process, the Parties may then decide to continue with a standard arbitration process utilizing the CDRS General Arbitration Rules and Procedures, using the same arbitrator or may choose to terminate the arbitration process with CDRS. If the decision of the Parties is to terminate the arbitration with

CDRS, all fees and expenses up to the termination shall be due and payable to CDRS as specified in General Arbitration RULE-A33.

#### RULE AA13 – CORRECTION OR MODIFICATION OF THE AWARD

After receiving a certified copy of the arbitration award from CDRS, any Party to the arbitration may request to the CDRS case administrator that a correction or modification to the award be made concerning typographical, computational, grammatical or any other similar correction that may be necessary to the award. A copy of that request shall also be sent to the other Party by certified mail. That request must be submitted to CDRS within seven (7) days after receiving a copy of the Arbitration Award from CDRS. The other Party will also have seven (7) days to respond to the request for the modification indicating their acceptance or objection to the correction or modification. No response from the other Party shall be considered an acceptance of the proposed correction or modification to the Arbitration Award. After the seven (7) day response period has expired, the arbitrator will be notified of the request and will respond to the CDRS case administrator within seven (7) days of receiving a copy of the request as to whether to allow the correction or modification. If there is a modification or correction to the original Arbitration Award, there will be a new Arbitration Award issued by CDRS.

#### RULE AA14 - SEVERABILITY

If any of these AA Rules and Procedures are deemed to be contrary to applicable law or are declared to be void by any court or through any legal process, all other AA Rules and Procedures shall remain in force and only that AA Rule or Procedure that is contrary to applicable law or voided shall be severed from these Rules and Procedures.

#### RULE AA15 – RULES AND PROCEDURES CHANGES, ADDITIONS AND DELETIONS

The arbitrator, in order to conduct an expedited arbitration process that is fair for both Parties, has the authority to interpret, modify or change any of these rules and procedures as he/she deems to be appropriate