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OCTOBER 1, 2006

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## **ACCELERATED ARBITRATION RULES AND PROCEDURES**

October 1, 2006

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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 STANDARD CDRS ARBITRATION RULES AND PROCEDURES. ANY RULE OR PROCEDURE NOT COVERED IN THESE ACCELERATED RULES AND PROCEDURES SHALL BE GOVERNED BY THE APPLICABLE CDRS STANDARD 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 agreed to use the process.

### **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 fourteen (14) 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. The Claimant will then have up to fourteen (14) days to respond to the counter claims of the Respondent.

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 within seven (7) days after the initial seven day selection period has expired that was available to the Parties. The AA process is not available if a tripartite (three person) arbitration panel is required.

If this is a Home Warranty or Home Inspection related arbitration, and the parties had the option to select another ADR Provider other than CDRS and have selected or agreed to use the services of CDRS, the arbitrator will be selected and appointed by the CDRS Senior Case Administrator based on the subject matter of the case keeping in mind other issues such as arbitrator proximity to the residence or building involved in the dispute.

### RULE AA5 – RESPONSIBILITIES OF THE AA ARBITRATOR

The arbitrator shall be responsible to conduct an Accelerated Arbitration according to these Rules and Procedures utilizing the CDRS Standard 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 Standard Arbitration Rules and Procedures. The issuance of the award may be delayed according to Rule A-20(i).

### RULE AA6 – POST HEARING BRIEFS

Post hearing briefs may be requested by the arbitrator. Those briefs must be submitted to CDRS within fourteen (14) 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 from CDRS.

### RULE AA7 – 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 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 AA8 – 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 standard 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.
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.

## RULE AA9 – PRE-HEARING CONFERENCE

As soon as the arbitrator has been selected and appointed, the CDRS administrator will contact both Parties and the arbitrator to set up a telephone or personal Pre-hearing conference to be held within seven 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 the number of depositions to be utilized, if requested by the Parties
5. Establishing limitations on the discovery to be allowed
6. Establishing the specifics of the opening and closing statements
7. Establishing the need and number of subpoenas if necessary
8. Establishing other special rules and procedures necessary to conduct the Accelerated Arbitration

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

## RULE AA10 – ARBITRATION HEARING DATE

The date for the arbitration hearing shall be set no later than thirty (30) days after the pre-hearing conference.

## RULE AA11 – 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 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 utilizing the CDRS Standard Arbitration Rules and Procedures, using the same arbitrator, may mutually select a new CDRS 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.

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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 the certified 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.

RULE AA13 - 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 AA14 – RULES AND PROCEDURES CHANGES, ADDITIONS AND DELETIONS

Any changes, additions and deletions to these AA Rules and Procedures shall be stipulated in the “Supplemental Arbitration Rules and Procedures” until they are incorporated into these Rules and Procedures at the next revision. The CDRS administrator will notify the Parties if there are any supplemental rules in effect at the commencement of the AA process.