



The Cincinnati Bar Association Board of Trustees has adopted several changes and additions to the CBADR Arbitration Rules on November 16, 2022. The revised rules will be effective for all new arbitrations, following the rule's adoption. Here, for your convenience, is a summary:

RULE 12. SELECTION AND APPOINTMENT OF ARBITRATOR The original rule stated that CBADR would provide a list of up to ten arbitrators for the parties to rank. The revision removes the numeric restriction with a provision for "an appropriate number." This provides the CBA with flexibility to provide more potential arbitrators when appropriate. Additional language clarifies that each party may strike no more than two potential arbitrators from the list and that any failure to rank a candidate will be counted as a strike.

RULE 22. EXCHANGE OF INFORMATION AND DISCOVERY GENERALLY (A) The revision provides that in cases where there is a panel of three arbitrators, the panel, with the consent of the parties, may designate one of its members to decide any or all discovery-related disputes.

RULE 21. PRELIMINARY CONFERENCE (13)

The list of matters to be considered at the Preliminary Conference was augmented to address decisions regarding the designation of one member of a panel to rule on discovery disputes as provided in Rule 22(A)(above).

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ARBITRATION RULES



RULE 1. APPLICABILITY

The Cincinnati Bar Alternative Dispute Resolution Service Arbitration Rules (“CBADR Rules”) shall apply to all arbitrations where the parties have provided for arbitration before the Cincinnati Bar Alternative Dispute Resolution Service (“CBADR”) or arbitration administered by the Cincinnati Bar Association Arbitration Services (“CBAAS”) or the Cincinnati Bar Association (“CBA”). The parties shall also be deemed to have made the CBADR Arbitration Rules a part of their arbitration agreement whenever they have provided in such agreement for arbitration by CBADR, CBAAS, or the CBA. Unless otherwise agreed, the version of CBADR Arbitration Rules, including all amendments, shall be applied in the form posted on the CBA website at the time CBADR receives a Demand for Arbitration.

RULE 2. INTRODUCTION

CBADR Arbitration consists of the voluntary submission of a dispute to an impartial neutral arbitrator or panel of neutral arbitrators for final and binding determination in accordance with these Rules. The CBA has established CBADR as a service to the community because arbitration has proven to be a fair and effective method to resolve disputes privately, expeditiously and economically. The mission of CBADR is to provide superior administration services for cases entrusted to it at significantly lower cost than the services available from alternative providers. As part of this mission, CBADR has established a Roster of Arbitrators consisting of the region’s leading dispute resolution professionals to serve as arbitrators.

RULE 3. PROGRAM DIRECTOR

The Board of Trustees of the CBA shall appoint a Program Director, who shall be a member of the CBA and who may also be a member of the Roster of Arbitrators. In the event the Program Director is appointed or serving as an arbitrator for any arbitration that requires action by the Program Director or otherwise has a conflict of interest, the CBA Executive Director shall appoint another qualified individual to serve in his or her stead.

RULE 4. ARBITRATORS

- A. CBADR shall establish and maintain a Roster of Arbitrators available for CBADR Arbitrations. Such arbitrators shall be members in good standing of the CBA. The CBADR Service Committee (“Committee”), which is appointed by the CBA’s Board of Trustees, shall establish standards and qualifications for arbitrators on the Roster of Arbitrators and shall vet and approve applicants for inclusion on the Roster of Arbitrators based on review of their experience and knowledge of legal disputes and arbitration proceedings, including professional reputation.
- B. Arbitrators on the Roster of Arbitrators shall annually provide their rates for service and any updated or additional information concerning their background and qualifica-

tions. CBADR will include biographies and rates for all arbitrators on the Roster of Arbitrators on the CBA website.

RULE 5. INITIATION OF CBADR ARBITRATION

- A. A CBADR Arbitration may be initiated by the filing of a Demand for Arbitration with CBADR, along with the documents required by this Rule and payment of the filing fee then indicated on the CBA website. Filing may be made either by delivery to the offices of the CBA at 225 E. Sixth Street, Cincinnati, Ohio 45202-3209, or electronically on the CBA website.
1. Arbitration under an arbitration provision in a contract shall be initiated by the Claimant, the initiating party, by the filing of a Demand for Arbitration along with a copy of the applicable arbitration provision in the parties’ contract and payment of the filing fee.
 2. Arbitration pursuant to a court order shall be initiated by the Claimant by the filing of a Demand for Arbitration along with a copy of the court order and payment of the filing fee. If the court order requires a party other than the Claimant to pay the filing fee, such party shall pay the filing fee within the time set by the court or within such time set by the Program Director.
 3. Parties to an existing dispute who have not previously agreed to arbitration under the CBADR Arbitration Rules may initiate an arbitration under these Rules by the Claimant’s filing a Demand for Arbitration along with a Submission Agreement signed by all parties and payment of the filing fee.
- B. Any Demand for Arbitration must contain the following information:
1. A completed Demand for Arbitration form available on the CBA website.
 2. The requested place for the Final Hearing, unless specified in the parties’ arbitration agreement;
 3. The names and addresses of known potential witnesses or persons and entities involved in the dispute that may suggest a potential conflict of interest or lack of independence or impartiality for the Arbitrator.
- C. Upon filing a Demand for Arbitration with CBADR (unless the Demand is accompanied by a Submission Agreement), the Claimant shall immediately serve a copy of the Demand for Arbitration on all other parties to the arbitration. Service may be completed by personal delivery, certified or registered mail, reputable delivery service (e.g., FedEx and UPS), or by any other means by which notices are to be sent as specified in the parties’ agreement. The Claimant shall also promptly file with CBADR a certificate of service, along with any available proof of delivery, showing the date and place of service of the Demand for Arbitration upon each Respondent.



- D. Upon its receipt of a Demand for Arbitration for which the filing requirements are satisfied, CBADR shall send via regular mail, fax, or email a copy of the Demand for Arbitration, along with any accompanying documents filed by the Claimant, and a letter acknowledging commencement of the arbitration to all parties and their respective attorneys or representatives named in the Demand for Arbitration. In the event any Demand for Arbitration or Submission Agreement is deficient for any reason, CBADR will send notice to that effect to the party or parties filing the defective document and their respective attorneys or representatives by ordinary mail, fax, or email.
- E. An arbitration is deemed to have been commenced upon CBADR's receipt of a Demand for Arbitration for which all filing requirements are satisfied, including payment of the filing fee.

RULE 6. ADMINISTRATIVE FEES

- A. The CBA shall publish on its website a schedule of its arbitration fees. The schedule of fees includes filing fees, room rental fees, catering fees, and other administrative service fees. The schedule of fees does not cover arbitrator compensation or expenses or costs for reporting services if required by the parties. The filing fees are not refundable. A party submitting a counterclaim must also pay the applicable filing fee with respect to the counterclaim. Any party may pay the filing fee(s) on behalf of any other party who has not paid its filing fee in a timely manner, such fee(s) being subject to being reallocated by the Arbitrator in the final award.
- B. As provided in the schedule of fees, CBADR shall also charge administrative fees assessed as a percentage of the fees of the arbitrator, which fees will be deducted from the fees charged by and paid to the Arbitrator.

RULE 7. ANSWERS

- A. A party against which a claim has been brought in a Demand for Arbitration shall be referred to as a Respondent.
- B. A Respondent may, but is not required to, file with CBADR an Answer to a claim within fourteen (14) days after it first received notice of the filing of a Demand for Arbitration with CBADR. The Respondent must send a copy of its Answer to the Claimant and all other parties at the time of such filing with CBADR. If no Answer is filed, the Respondent will be deemed to deny the claim, and the arbitration will proceed on that basis.

RULE 8. COUNTERCLAIMS

In addition to its Answer, a Respondent may file a Counterclaim against the Claimant with CBADR within fourteen (14) days

after it first received notice of the filing of a Demand for Arbitration with CBADR. A Counterclaim must include a statement setting forth the nature and description of the claim, including the monetary and other relief sought, and must be accompanied by the required additional filing fee. The Counterclaim should also contain the names and addresses of known potential witnesses or persons and entities involved in the dispute that may suggest a conflict of interest for the Arbitrator. The failure to file a Counterclaim within the foregoing period does not preclude a Respondent from later filing a Counterclaim as provided in Rule 10.

RULE 9. SERVICE OF PAPERS AFTER COMMENCEMENT

After service of the Demand for Arbitration, the party filing any papers with CBADR shall also simultaneously serve such papers on all other parties or their attorney or other representative by ordinary mail, fax, or email. After the Preliminary Conference, service of papers will proceed in the manner directed by the Arbitrator. Each paper served shall include a certificate stating the date and manner of service upon all other parties.

RULE 10. AMENDMENT OF CLAIM IN DEMAND FOR ARBITRATION AND COUNTERCLAIM

- A. A Claimant may amend its claim in its Demand for Arbitration and a Respondent may file an Answer or a Counterclaim or amend its Answer or Counterclaim as a matter of course at any time up to the Preliminary Conference and thereafter with leave of the Arbitrator by filing an amended document and serving it upon all other parties.
- B. The Arbitrator, on his or her own initiative or at the request of a party, may at the Preliminary Hearing order the parties to file a detailed Statement of Claim, Statement of Defense, and/or Statement of Counterclaim setting out, point by point, their respective factual contentions and legal theories supporting their claims and counterclaims. If such statements are filed, they shall be deemed to amend and supersede the previously filed Demand for Arbitration, Answer and Counterclaim in the case.

RULE 11. ADMINISTRATIVE CONFERENCE

At the request of any party or upon CBADR's initiative, the CBADR Program Director or a CBA employee designated by the Program Director may at any time prior to the selection of the Arbitrator conduct an administrative conference, in person or via telephone, with the parties and/or their counsel or representatives. The conference may address such issues as arbitrator selection, the required qualifications of potential arbitrators, mediation of the dispute, the nature and amounts of the claims and any counterclaims, any time requirements for completion of hearings or issuance of an award and any other administrative matters.

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RULE 12. SELECTION AND APPOINTMENT OF ARBITRATOR

- A. Unless agreed otherwise, there shall be a single arbitrator appointed to conduct the arbitration. All arbitrators are independent contractors of the CBA and CBADR and are not employees, representatives or agents of the CBA or CBADR.
- B. CBADR shall provide parties with a list of an appropriate number of arbitrators for ranking purposes. After striking any individuals, each party shall rank the list of all remaining arbitrators in the order of their preference, with the number one (1) being the highest ranking and return the list with strikes and rankings to CBADR by the date specified by CBADR, ordinarily ten (10) days. The arbitrator candidate with the averaged highest ranking shall be appointed as Arbitrator (unless such person does not accept appointment, in which case the candidate with the next highest ranking shall be appointed). In the event of a tie, the Program Director shall make the determination from the highest ranked individuals. If the chosen Arbitrator is disqualified or otherwise unable to serve, the parties shall be able to choose the next highest ranking arbitrator or receive a new list from which to select. Each party may strike no more than two (2) potential arbitrators from the list. Any failure to rank a candidate will be counted as a strike.
- C. If the parties' agreement requires a panel of three or more arbitrators, the same selection procedure shall be followed for all panel members. The arbitrator with the highest ranking shall serve as chair of the arbitration panel and the other members shall be those having the next highest rankings. When a panel of arbitrators is employed, any reference in these Rules to an Arbitrator shall be deemed to refer to and apply to the panel. All members of the panel are to be neutral and impartial, and therefore serve as independent and impartial arbitrators. Reference to an award or decision of the Arbitrator shall apply to the majority of the panel.
- D. In lieu of the arbitrator selection procedures set forth in this Rule, the parties may agree on any other procedure of their choice regarding selection of the Arbitrator or panel of arbitrators, such procedure to be reflected either in their arbitration agreement or their Submission Agreement. The parties also may agree to an Arbitrator or members of a panel of arbitrators not on the CBADR Roster of Arbitrators, provided, however, that the appointment of any arbitrator not on the CBADR Roster of Arbitrators must be confirmed by CBADR and any such arbitrator must agree to the arbitration being administered by CBADR in accordance with the CBADR Arbitration Rules and to allow the CBADR administrative fees to be deducted from the fees due him or her.

- E. Upon selection of a sole Arbitrator or a panel of Arbitrators, CBADR shall issue and deliver to the Arbitrator(s) and the parties a notice of appointment, and the Arbitrator, or each Arbitrator in the case of panel of three Arbitrators, shall confirm in writing his or her acceptance of appointment.

RULE 13. DISCLOSURE

- A. Any person known to be considered as an arbitrator or selected as an Arbitrator, as well as the parties and their representatives, shall disclose to CBADR any and all circumstances reasonably likely to give rise to justifiable doubt as to the prospective arbitrator's impartiality or independence, including without limitation any bias or any financial or personal interest in the result of the arbitration or any past or present personal or professional relationship with the parties, their counsel or other representatives and any potential witness that reasonably could give rise to such justifiable doubt.
- B. Upon receipt of such information from the Arbitrator, a party or any other source, CBADR shall communicate the information to the parties and, if it deems it appropriate to do so, to the Arbitrator. Disclosure of information pursuant to this Rule is not an indication that the Arbitrator considers that the disclosed information is likely to affect his or her impartiality or independence.
- C. The parties have a continuing duty during the pendency of the arbitration to provide a complete disclosure of any information that may give rise to justifiable doubt as to the Arbitrator's impartiality or independence. Any doubt should be resolved in favor of disclosure.

RULE 14. DISQUALIFICATION AND REMOVAL OF ARBITRATOR

- A. Any Arbitrator shall be impartial and independent and shall perform his or her duties with diligence and in good faith, and shall be subject to disqualification and removal for:
1. partiality or lack of independence;
 2. inability or refusal to perform the arbitrator's duties with diligence and in good faith; and
 3. any grounds for disqualification provided by applicable law.
- B. Upon timely objection of a party to the continued service of an Arbitrator, or on his or her own initiative, CBADR Program Director shall determine whether the Arbitrator should be disqualified and removed under the grounds set forth above, and shall inform the parties of his or her decision, which decision shall be conclusive, final, and binding on all parties.



- C. Any objection to the continued service of an Arbitrator shall be filed with CBADR at the earliest reasonable opportunity and served promptly on all other parties and the Arbitrator. Failure on the part of a party or representative to present an objection or challenge to an arbitrator within fourteen (14) days after becoming first aware of grounds for such objection or challenge shall constitute a waiver of the right to object to or otherwise challenge any Arbitrator.

RULE 15. DISQUALIFICATION OF ARBITRATOR AS WITNESS; EXCLUSION FROM LIABILITY

- A. The CBA, CBADR, the CBADR Program Director and CBADR arbitrators (collectively “CBADR Parties”) are not necessary parties to any legal action based on the arbitration or any arbitration award. If any of the CBADR Parties are named in any such action, they shall be entitled to recover costs and attorney fees against the party naming them. Moreover, by commencing or participating in an arbitration under these Rules, the parties agree that none of the CBADR Parties shall be liable for any act or omission arising out of or relating to the conduct of any arbitration proceeding under these Rules or administered by CBADR.
- B. No CBADR Arbitrator or any CBA or CBADR personnel shall be called as a witness in any proceeding relating to the claims in any CBADR arbitration, nor shall any notes, exhibits or other materials relating to the arbitration by subject to subpoena or discovery in any proceeding. By commencing or participating in any arbitration under these Rules, the parties to any arbitration conducted under these Rules or administered by CBADR agree that the Arbitrator, the CBA, CBADR and the CBADR Program Director shall have the same immunity from liability for any act or omission in connection with the arbitration as judges would have under applicable state and federal law.

RULE 16. COMMUNICATION WITH ARBITRATOR

No party and no one acting on behalf of a party, including attorneys and other representatives, shall communicate ex parte with an Arbitrator or a candidate for arbitrator concerning the arbitration prior to his or her appointment, except as permitted under the American Bar Association’s Code of Ethics for Arbitrators in Commercial Disputes in effect at the time. In the course of administering an arbitration, the parties shall direct all communications and submissions with the Arbitrator through CBADR unless other arrangements are specifically ordered by the Arbitrator. CBADR may initiate communications with any party or anyone acting on behalf of the parties, either jointly or individually. Unless otherwise instructed by CBADR or by the Arbitrator, any submission or other kinds of documents submitted by any party to CBADR or the Arbitrator shall simultaneously be provided to the other party or parties to the arbitration. When the Arbitrator has

allowed the parties to submit documents directly, the party submitting any document directly to the Arbitrator shall also simultaneously submit the document to CBADR.

RULE 17. VACANCIES

- A. If for any reason an Arbitrator is unwilling or unable to perform the duties of the position, the CBADR Program Director may, on satisfactory proof, declare the position vacant. Vacancies shall be filled in accordance with the selection procedures in Rule 12.
- B. In the event of a vacancy on a panel of Arbitrators after any hearing has commenced, the remaining Arbitrator(s) may continue with the hearing and determination of the controversy, unless the parties agree otherwise. In the event of the selection of a substitute arbitrator on a panel, the panel shall determine in its sole discretion whether it is necessary to repeat all or part of any prior hearings.

RULE 18. JURISDICTION

- A. The Arbitrator shall have the power to rule on his or her jurisdiction, including any objections with respect to the existence, scope or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim.
- B. The Arbitrator shall have the power to determine the applicability of the Supplemental Employment Case Procedures.
- C. The Arbitrator shall have the power to determine the existence or validity of a contract that includes an arbitration clause. Such an arbitration clause shall be treated as an agreement independent of the other terms of the contract. A decision by the Arbitrator that the contract is null and void shall not for that reason alone render invalid the arbitration clause.
- D. A party must object to the jurisdiction of the Arbitrator or to the arbitrability of a claim or counterclaim not later than fourteen (14) days after receipt of the claim or counterclaim that gives rise to the objection. Failure to object in a timely manner to the jurisdiction of the Arbitrator shall constitute a waiver of any such objection and consent to the Arbitrator’s jurisdiction. The Arbitrator may rule on any objection to his or her jurisdiction as a preliminary matter or as part of the final award.

RULE 19. INTERPRETATION AND APPLICATION OF RULES.

The Arbitrator shall interpret and apply the CBADR Arbitration Rules insofar as they relate to the Arbitrator’s powers and duties. When there is more than one arbitrator and a difference arises among them concerning the meaning or application of these Rules, such difference shall be decided by a majority vote. All

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Rules other than Rules relating to the Arbitrator's powers and duties shall be interpreted and applied by the CBADR Program Director upon request of the Arbitrator or any party, whose decision shall be final.

RULE 20. FIXING OF PLACE AND SEAT OF THE ARBITRATION

The parties may mutually agree on the place and legal seat of the arbitration. In absence of an agreement otherwise, the legal seat of the arbitration is at the place specified in the parties' arbitration agreement, which place may be in Ohio or any other place agreed by the parties. In the absence of agreement of the parties, the seat of the arbitration shall be Cincinnati, Ohio. Any dispute regarding the place of the Final Hearing shall be decided by the Arbitrator. The preferred place for Final Hearing is the CBA, which has available hearing rooms and catering. In addition, the Arbitrator has authority to conduct special hearings for purposes of taking testimony, receiving document production or any other proper reason at locations other than at the place specified for the Final Hearing whether inside or outside of Ohio if reasonably necessary and beneficial to the process.

RULE 21. PRELIMINARY CONFERENCE

- A. The Arbitrator should schedule a Preliminary Conference as soon as practicable after he or she has been appointed, irrespective of the size and complexity of the arbitration. The Preliminary Conference may be conducted in person or by telephone, although an in person conference is preferred. Whenever reasonably possible, all parties, in addition to legal counsel or other representative, if any, should attend or otherwise participate in the Preliminary Conference.
- B. CBADR shall give reasonable notice to the parties of the scheduling of the Preliminary Conference. With such notice, CBADR will provide to each party or its legal counsel or other representative a template of the Preliminary Conference Order that contains provision regarding each of the matters to be addressed at the Preliminary Conference set forth below in Part (C) of this Rule. The parties shall confer at least three (3) days prior to the Preliminary Conference and endeavor to agree on each of the items referenced in the template order. Claimant shall thereafter be responsible for submitting the template order containing all agreed provisions to CBADR no later than 48 hours prior to the scheduled Preliminary Conference.
- C. At the Preliminary Conference, the parties and Arbitrator, subject to his or her discretion, should address and discuss the procedures for achieving a fair, efficient, and economical resolution of the dispute, including each of the following specific matters:
1. the possibility and timing of other methods of dispute resolution, including mediation;

2. whether the parties should submit more detailed statements of claims, counterclaims, or defenses;
3. whether there are anticipated amendments or supplements to the parties' claims, counterclaims, or defenses;
4. which arbitration rules (i.e., Expedited Arbitration Rules, Expedited Arbitration Rules 7. Employment Case Procedures or rules other than CBADR Arbitration Rules) and what, procedural law and substantive law are to be applied;
5. whether any threshold issues can be efficiently decided on motion prior to the Final Hearing without the need for considering the entire case, including, without limitation, issues such as:
 - a. any preconditions that must be satisfied before proceeding with the arbitration;
 - b. whether any claim falls outside the Arbitrator's jurisdiction;
 - c. limitations periods;
 - d. consolidation of the claims with another arbitration; and
 - e. bifurcation of the proceedings;
6. the manner of presenting witness testimony, including how the substance of such evidence will be disclosed in advance of the Final Hearing (e.g., written witness summaries and/or limited oral depositions) and whether written witness statements should replace direct testimony at the Final Hearing;
7. the voluntary exchange of documents, including electronically stored information ("ESI"), on which each party intends to rely;
8. the general nature of any expected written requests for production of documents by each party seeking production of documents from another party, including the kinds of documents to be requested and whether a search of ESI should be required, the relevance and materiality of the ESI sought, and whether the cost of such production is proportional to the amount in controversy in the case;
9. whether any oral depositions are required and, if so, the number and duration of such depositions;
10. additional procedures needed to obtain information relevant and material to the outcome of the disputed issues, including interrogatories;
11. how costs for searches for requested information should be borne;
12. whether any protective or confidentiality order is required;
13. where there is a panel of three arbitrators, whether the parties consent to the panel's designation of one of its members deciding each discovery-related dispute;
14. the schedule, with binding deadlines, for:
 - a. identifying all witnesses, including expert witnesses;



- b. completing all document production and any allowed oral depositions;
 - c. completing the Initial Discovery Protocols in employment cases;
 - d. disclosing the substance of each fact witnesses' evidence by written summary or witness statement;
 - e. disclosing the substance of each expert witnesses' opinions by providing either a written summary or formal report containing all opinions that each expert will express and the basis and reasons for such opinions along with a listing of all facts or data considered by the expert in forming such opinions; and any exhibits that will be used to summarize or support the opinions;
 - f. exchanging marked exhibits and submitting exhibit binders to the Arbitrator;
 - g. filing pre-hearing briefs, if any;
15. whether additional pre-Final Hearing conferences or any preliminary hearings should be scheduled, including setting the specific issues or matters to be addressed at such pre-hearing conference or conferences;
16. set the date, time and place of the Final Hearing;
17. determine whether testimony will be presented in person or may be presented via telephonic or videoconferencing (e.g., Zoom, WebEx or Skype), or by other means;
18. determine whether a stenographic transcript of the Final Hearing is needed, who will arrange for it, and who will pay for it;
19. whether subpoenas need to be issued;
20. whether post-hearing briefs will be filed and, if so, deadlines for such briefs;
21. whether the award will be a summary award or a reasoned decision;
22. stipulations of facts, and deadlines for submitting stipulations;
23. identify each element of damages sought by any party and the approximate amount thereof;
24. identify any equitable relief sought by any party;
25. schedule deadline for the Arbitrator's decision; and
26. any other appropriate matter.
- D. The Arbitrator shall issue a Preliminary Conference Order memorializing the decisions made, the agreements reached, the case schedule, including all deadlines, and the place and dates for the Final Hearing.
- defenses. In cases where there is a panel of three arbitrators, the panel, with the consent of the parties, may designate one of its members to decide each specific discovery-related dispute.
- B. The number and subject matter of all document requests and interrogatories are to be addressed at the Preliminary Conference. The Arbitrator in exercise of discretion shall appropriately limit any document requests and interrogatories so that they are in proportion to the complexity of the issues in dispute and the amount at stake in the arbitration. The limitations on document requests and interrogatories shall be included in the scheduling order issued after the Preliminary Conference.
- C. The taking of oral discovery depositions is disfavored unless the parties agree otherwise or the party or parties seeking to take discovery depositions shows that the requested deposition or depositions are appropriate and necessary to the party's ability to present its case. Accordingly, the Arbitrator in exercise of discretion may authorize a limited number of discovery depositions where the complexity of the issues in dispute and the amount at stake in the arbitration warrant such discovery or depositions are required to obtain evidence from witnesses who will be unavailable at the Final Hearing. Moreover, in lieu of depositions, the parties must make reasonable disclosure of the substance of all witness' expected direct testimony by other means as ordered by the Arbitrator in the Preliminary Conference order, such as detailed summaries and written witness statements exchanged in advance of the Final Hearing.
- D. Upon request of a party and a showing of good cause, the Arbitrator may enter one or more protective orders to maintain the confidentiality of documentary or other evidence sought or obtained through discovery. In cases where the Supplemental Employment Case Procedures apply, the Arbitrator shall issue the Model Protective Order in the form set out with the CBADR Employment Case Initial Discovery Protocols unless a party for good cause shows that the circumstances of the case require a modified protective order or that no protective order is appropriate. The Arbitrator in his or her discretion may also allocate between or among the parties costs of production of documents, including costs related to production of ESI.

RULE 22. EXCHANGE OF INFORMATION AND DISCOVERY GENERALLY

- A. The Arbitrator shall manage any exchange of information among the parties with a view toward achieving an efficient and economical resolution of the dispute, while at the same time promoting equality of treatment and safeguarding each party's opportunity to fairly present its claims and

RULE 23. ENFORCEMENT POWERS OF THE ARBITRATOR

The Arbitrator shall have the authority to issue any orders necessary to enforce the exchange of information to achieve a fair, efficient and economical resolution of the case, including allocating the costs of production of ESI documents. In the case of willful non-compliance with any order issued by the

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Arbitrator, the Arbitrator may draw adverse inferences, exclude evidence, and/or make special allocations of costs or enter an interim award of costs arising from such non-compliance. After giving reasonable prior notice and an opportunity to respond, the Arbitrator may impose appropriate sanctions, including monetary sanctions for legal fees and expenses, where a party fails to comply with its obligations under these Rules or an order of the Arbitrator.

RULE 24. INTERIM MEASURES

The Arbitrator is authorized to enter any order necessary for the interim protection of a party, including protective orders relating to discovery of evidence and injunctive relief to prevent irreparable harm or to protect property. The Arbitrator may condition such relief on the provision of adequate security from the party requesting such relief. Nothing in this Rule shall preclude a party from seeking interim injunctive relief or enforcement of an interim order or award in court, and an application by a party for such relief shall not be considered a waiver of the right to arbitrate or the jurisdiction of the Arbitrator to decide the merits of the case.

RULE 25. DATE, TIME AND PLACE OF HEARINGS

At the Preliminary Conference, the Arbitrator shall set the date, time and place for any further pre-hearing conferences or preliminary hearings and for the Final Hearing at the Preliminary Conference. The Final Hearing shall be scheduled on consecutive business days unless agreed otherwise by the parties. The parties shall respond to requests for hearing dates in a timely manner, be cooperative in scheduling the earliest practicable date, and adhere to the hearing schedule established by the Arbitrator.

RULE 26. HEARINGS

- A. The Arbitrator and CBADR shall maintain the privacy of the hearings unless the law provides to the contrary. Any person having a direct interest in the arbitration is entitled to attend hearings, provided, however, that the Arbitrator shall have the power to require the exclusion of witnesses, other than a party or other essential person, during the testimony of another witness, and, unless the parties otherwise agree, the Arbitrator may also exclude any other person from the hearing in order to preserve confidentiality of the proceedings
- B. Upon reasonable advance request of a party (including the listing of such witnesses in any pre-hearing disclosure), the opposing party shall make available all requested witnesses within their employ or control at the Final Hearing unless excused by the Arbitrator. The Arbitrator may issue subpoenas pursuant to applicable law and may require any witness to testify under oath. In the Arbitrator's sole discretion, parties may be permitted to present testimony

by written witness statement and by affidavit, subject to the Arbitrator's determination as to the weight any such evidence shall be accorded and whether such witness is available for and subject to cross-examination at the Final Hearing.

- C. The Ohio Rules of Evidence or other rules of evidence shall be utilized as guidelines only and applied as the Arbitrator in his or her discretion determines appropriate. The Arbitrator shall be the judge of the relevance and materiality of the evidence offered by the parties and shall resolve all evidentiary, procedural, and substantive issues.
- D. The Arbitrator shall conduct the proceedings with a view to expediting the resolution of the dispute in a fair, efficient, and economic fashion, providing all parties a reasonable opportunity to be heard and present its case. The Arbitrator also may direct the order of proof, bifurcate the proceedings, and direct the parties to focus on dispositive issues. When deemed appropriate under the circumstances, the arbitrator in exercise of his or her discretion may allow for the presentation of evidence or the conduct of the Final Hearing by telephonic or videoconferencing (e.g., Zoom, WebEx or Skype). The Arbitrator may also entertain dispositive motions that seek to finally resolve all or part of the case or any claim or defense when it appears likely that such a motion will expedite the proceedings and reduce costs. In addition, the Arbitrator may make preliminary rulings, enter interlocutory orders, and a partial or final award during the course of the arbitration prior to the Final Hearing as he or she in exercise of discretion may find appropriate.
- E. The Final Hearing may proceed in the absence of any party or representative of a party who, after due notice, fails to appear or failed to obtain a continuance. An award shall not be entered solely on the default of a party and may only be based on such evidence as the Arbitrator may require for the making of an award.
- F. At the conclusion of the Final Hearing, the Arbitrator shall declare the hearing closed, unless the Arbitrator orders or the parties mutually agree that the hearing shall remain open for the submission of additional evidence or briefs. When additional evidence or briefs are to be submitted, the hearing shall be deemed closed as of the final date set by the Arbitrator for receipt of such evidence and/or briefs.

RULE 27. DEPOSITS AND COSTS

- A. CBADR may require the parties to make one or more deposits of money sufficient to cover the estimated expenses of the arbitration, including the fees and expenses due the Arbitrator. Ordinarily, CBADR will invoice each party for its proportionate share of the total estimated fees and expenses



as determined at the Preliminary Conference (or as may be adjusted thereafter), which invoice may be for the entire estimated amount or may be divided into installments, with the final installment due not later than thirty (30) days prior to the date set for commencement of the Final Hearing. All invoices for deposits for fees and expenses shall be due and payable in full fourteen (14) days from their date of issuance.

- B. If all of the invoiced fees and expenses are not timely paid in full by their due date, CBADR shall inform the parties and the Arbitrator of such non-payment, identifying the party or parties which have not made timely payment. If all invoiced fees and expenses are not paid in full within twenty-one (21) days of their due date, the Arbitrator may suspend proceedings until such fees and expenses are paid. After three (3) months, the Arbitrator may order that the arbitration be terminated if all past due fees and expenses have not by then been paid in full.
- C. Upon receipt of a notice of non-payment of fees or expenses, the party or parties not in default may advance the amount due from the defaulting party or parties. If a party advances invoiced fees and/or expenses due from another party that has failed to pay such amounts, the Arbitrator, upon application by the party advancing the past due fees and providing the defaulting party an opportunity to respond, may immediately enter a partial final award against the defaulting party for the amount of fees and expenses advanced.
- D. In the event of a party's default in paying invoiced fees and expenses, the Arbitrator, upon application of any other party with notice and an opportunity to be heard, may to the extent permitted by applicable law, limit in whole or part the defaulting party's presentation of witnesses and evidence at the Final Hearing.
- E. The Arbitrator may include in any award an allocation of the costs and expenses of the arbitration, including filing fees, arbitrator fees, and expenses incurred by the parties and any monetary sanctions previously granted.

RULE 28. AWARD

- A. Any interim, preliminary or final award shall be in writing and signed by the Arbitrator (or where there is a panel of arbitrators, a majority of the arbitrators).
- B. The final award shall be final and binding and a judgment thereon may be entered by any court of competent jurisdiction in accordance with applicable law. Where so stated by the Arbitrator, a partial award shall also be final and binding with respect to any claim or counterclaim determined in the partial award and a judgment thereon may

be entered. Unless the parties have mutually requested a reasoned award not later than the Preliminary Conference, the Arbitrator need not, but in his or her discretion nevertheless may, provide a reasoned opinion as a basis for any award.

- C. In an award, the Arbitrator may grant any remedy or relief he or she deems just and within the scope of the parties' arbitration agreement, including without limitation all types of monetary damages, equitable and injunctive relief, and specific performance. If the parties have agreed or applicable law provides that legal fees and expenses incurred with respect to one or more of the claims or counterclaims are recoverable, the Arbitrator may include all or part of such fees and expenses in the award.
- D. Whenever the Arbitrator determines that legal fees and expenses should be included in an award, the Arbitrator may initially issue a preliminary award determining all claims and counterclaims other than claims for legal fees and expenses. In such preliminary award, the Arbitrator shall direct the parties to make submissions regarding entitlement for and the amount of legal fees and expenses. Any such preliminary award is not final and binding.
- E. Unless otherwise agreed by the parties and provided that all invoiced fees and expenses have been paid, the final award shall be issued not later than thirty (30) days of the close of the hearing, which shall be the later of the conclusion of the Final Hearing or the final submission of supplemental evidence and/or post-hearing briefs after the close of the Final Hearing. However, a preliminary award issued in accordance with Part D of this Rule above within thirty (30) days of the close of the hearing shall extend the time for issuance of the final award by an additional thirty (30) days.
- F. Within fourteen (14) days after the transmittal of an award, any party, upon simultaneous notice to the other parties, may apply to the Arbitrator to correct any clerical, typographical, technical, or computational error in the award. The Arbitrator may not re-determine the merits of any claim already decided. Once a modification request is made by a party, any other party shall have seven (7) days to respond. The Arbitrator must rule on the request within fourteen (14) calendar days after receipt of the request for modification or it shall be deemed denied.
- G. Upon mutual request of the parties, the Arbitrator may set forth the terms of a settlement in a consent award. A consent award shall be final and binding and a judgment thereon may be entered as if it were a final award issued on the merits of the dispute. Any consent award shall not be released to the parties until all invoiced fees and expenses are fully paid.