JAMS Class Action Procedures

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Rule 1. Applicability

(a) These Class Action Procedures (“Procedures”) shall apply to any dispute arising out of an agreement that provides for arbitration pursuant to any of the JAMS Arbitration Rules where a party submits a dispute to arbitration on behalf of or against a class or purported class, and shall supplement any other applicable JAMS Rules. These Procedures shall also apply whenever a court refers a matter pleaded as a class action to JAMS for administration, or when a party to a pending JAMS arbitration asserts new claims on behalf of or against a class or purported class.

(b) Where inconsistencies exist between these Procedures and other JAMS Rules that apply to any dispute, these Procedures shall control. The Arbitrator has the authority to resolve any inconsistency between any agreement of the parties and these Procedures and in doing so shall endeavor to avoid any prejudice to the interests of absent members of a class or purported class.

Rule 2. Construction of the Arbitration Clause

Once appointed, the Arbitrator shall determine as a threshold matter whether the applicable arbitration clause permits the arbitration to proceed on behalf of or against a class. In construing the applicable arbitration clause, the Arbitrator shall not consider the existence of these Supplementary Rules to be a factor either in favor of or against permitting the arbitration to proceed on a class basis.

The Arbitrator may set forth his or her determination in a partial final award subject to immediate court review.

Rule 3. Class Certification

(a) Prerequisites to a Class Arbitration.

The Arbitrator shall determine whether the arbitration should proceed as a class action, provided that:

(i) the Arbitrator is satisfied that the arbitration clause permits the arbitration to proceed as a class arbitration, as provided in rule 2; or

(ii) a court has ordered that an Arbitrator determine whether a class arbitration may be maintained.

In making that determination, the Arbitrator shall consider the criteria enumerated in this Rule 3 and any law or agreement of the parties that the Arbitrator determines applies to the arbitration. The Arbitrator also shall determine whether one or more members of a class may act in the arbitration as representative parties on behalf of all members of the class described. The Arbitrator shall permit a class member to serve as a representative only if all of the following conditions are met:

1. the class is so numerous that joinder of all members is impracticable,
2. there are questions of law or fact common to the class,
3. the claims or defenses of the representative parties are typical of the claims or defenses of the class, and
4. the representative parties will fairly and adequately protect the interests of the class.

(b) Class Actions Maintainable. An action may be maintained as a class action if the prerequisites of subdivision (a) are satisfied, and in addition:

1. the prosecution of separate actions by or against individual members of the class would create a risk of (A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or (B) adjudications with respect to individual members of the class that would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or

2. the party opposing the class has acted or refused to act on grounds generally appli-
cable to the class, thereby making appropri-
ate final injunctive relief or corresponding
declaratory relief with respect to the class as a
whole; or

(3) questions of law or fact common to
the members of the class predominate over
any questions affecting only individual mem-
ers, and a class action is superior to other
available methods for the fair and efficient
judication of the controversy. The matters per-
tinent to the findings include: (A) the interest
of members of the class in individually con-
trolling the prosecution or defense of sepa-
rate actions; (B) the extent and nature of any
litigation concerning the controversy already
commenced by or against members of the
class; (C) the desirability or undesirability of
concentrating the arbitration of the claims in
a single forum; (D) the difficulties likely to be
encountered in the management of a class
action.

(c) In the discretion of the Arbitrator, his
or her determinations with respect to the mat-
er of Class Certification may be set forth in a
partial final award subject to immediate court
review.

Rule 4. Notice of Class Determination
The Arbitrator shall direct that class members
be provided the best notice practicable under
the circumstances (the “Notice of Class Deter-
mination”). The Notice of Class Determination
shall be given to all members who can be identi-
tified through reasonable effort. The Notice
of Class Determination must concisely and
clearly state in plain, easily understood lan-
guage:

(1) the nature of the action;
(2) the definition of the class certified;
(3) the class claims, issues, or defenses;
(4) that a class member may enter an ap-
pearance through counsel if the member so
desires, and may attend the hearings;
(5) that the Arbitrator will exclude from
the class any member who requests exclusion,
with information about when and how mem-
bers may elect to be excluded;
(6) the binding effect of a class award
on class members; and
(7) the identities of, and biographical in-
formation about, the Arbitrator, and the class
representative(s) and class counsel that have
been approved by the Arbitrator to represent
the class.

Rule 5. Final Award
The final award on the merits in a class arbi-
tration, whether or not favorable to the class,
shall be reasoned and shall define the class
with specificity. The final award shall also
specify or describe those to whom the notice
provided in Rule 4 was directed, those whom
the Arbitrator finds to be members of the class,
and those who have elected to opt out of the
class.

Rule 6. Settlement, Voluntary
Dismissal, or Compromise

(a) (1) Any settlement, voluntary dis-
missal, or compromise of the claims, issues, or
defenses of an arbitration filed as a class arbi-
tration shall not be effective unless approved
by the Arbitrator.

(2) The Arbitrator must direct that no-
tice be provided in a reasonable manner to all
class members who would be bound by a pro-
posed settlement, voluntary dismissal, or com-
promise.

(3) The Arbitrator may approve a settle-
ment, voluntary dismissal, or compromise that
would bind class members only after a hear-
ing and a finding that the settlement, volun-
tary dismissal, or compromise is fair, reason-
able, and adequate.

(b) The parties seeking approval of a
settlement, voluntary dismissal, or compromise
under this Rule must submit to the Arbitrator
any agreement made in connection with the
proposed settlement, voluntary dismissal, or
compromise.

(c) The Arbitrator may refuse to approve
a settlement unless it affords a new opportu-
nity to request exclusion to individual class
members who had an earlier opportunity to
request exclusion but did not do so.

(d) Any class member may object to a
proposed settlement, voluntary dismissal, or
compromise that requires approval under this
Rule. Such an objection may be withdrawn
only with the approval of the Arbitrator.