



Mediation and Civil Arbitration, Inc d/b/a RapidRuling

# COMMERCIAL ARBITRATION RULES

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212-321-5144



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# Commercial Arbitration Rules (hereinafter, "Rules")

## Rule 1. Agreement of Parties

The parties shall be deemed to have made these Rules a part of their arbitration agreement whenever they have provided for arbitration by Mediation and Civil Arbitration, Inc. d/b/a RapidRuling (hereinafter, "RapidRuling") within such arbitration agreement or if the parties have subsequently agreed to arbitrate their dispute in writing. RapidRuling may amend these Rules at any time. The prevailing Rules as of the initial claim filing date shall apply to the claim submitted. The parties by written agreement, or by stipulation, may vary the procedures set forth in these Rules.

## Rule 2. Name of Arbitration Panel

Any Arbitrator or tribunal constituted by the parties for the disposition of their dispute under these Rules shall be called the Commercial Arbitration Panel.

## Rule 3. Administrator and Delegation of Duties

When parties agree and/or designate RapidRuling as the arbitral forum, such parties agree to arbitrate under these Rules. When arbitration is initiated under these Rules, such parties authorize RapidRuling to exclusively administer the arbitration. The authority and duties of RapidRuling are prescribed in the agreement of the parties and in these Rules and shall be administered by RapidRuling pursuant to these Rules, as amended from time to time. The Arbitrator shall be empowered to interpret and determine the application of all provisions under these Rules, including the issue of arbitrability, and take appropriate action to obtain compliance with any ruling. The Chief Administrator shall be charged with the administration of cases arbitrated under these Rules, and the Chief Administrator may appoint Case Administrators as needed.

## Rule 4. Panel of Arbitrators

RapidRuling shall establish and maintain a Panel of Arbitrators and shall appoint Arbitrators as provided in these Rules.

**Rule 5. Initiating Arbitration by Demand; Answer; Counterclaim**

Arbitration shall be initiated in the following manner:

5.1 The initiating party (hereinafter, “**Claimant**”) shall, within the time period, if any, specified in the arbitration agreement, give written notice to the other party (hereinafter, “**Respondent**”) of its demand to arbitrate (hereinafter, “**Demand**”), which Demand shall contain a statement setting forth the nature of the dispute, the monetary amount involved, if any, and any other relief sought.

5.2 The written notice requirement of Rule 5.1 shall be fulfilled by Claimant filing the Demand with RapidRuling via RapidRuling’s eFile portal located at <https://efile.rapidruling.com> (hereinafter, “**eFile Portal**”) together with a copy of the agreement providing for arbitration, a detailed statement of Claimant’s claim and factual allegations supporting Claimant’s position, any other documents substantiating Claimant’s claim, all information required to register and use the eFile Portal, and the appropriate filing fee as provided for in the Schedule of Fees set forth herein.

5.3 The use of the eFile Portal for electronic filing and service of documents in an arbitration is required unless RapidRuling or the Arbitrator instructs the Parties to file or serve documents in a different manner. Every document filed with the eFile Portal shall be deemed to have been signed by the person who submits the document to the eFile Portal.

5.4 If an electronic filing and/or service via the eFile Portal does not occur due to technical defects/issues, RapidRuling or the Arbitrator may permit the document to be filed and/or served *nunc pro tunc* to the date it was first attempted to be filed electronically. In such cases a Party shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right, duty or other act must be performed

5.5 RapidRuling shall give notice of such filing to the Respondent or Respondents within three (3) business days of receipt via e-mail as provided herein.

5.6 A Respondent may file an answering statement with RapidRuling at the eFile Portal within fourteen (14) calendar days after notice from RapidRuling of the claim, together with any counterclaim Respondent may want to assert, and the appropriate filing fee as provided for in the Schedule of Fees set forth herein.

5.7 If a counterclaim is asserted, it shall contain a statement setting forth the nature of the counterclaim, factual allegations supporting Respondent’s position, the monetary amount involved, if any, and any other relief or remedy sought.

5.8 If no answering statement is filed within the time provided for under these Rules, Respondent shall be deemed to be in default, and all allegations shall be deemed admitted. Failure to file an answering statement shall not operate to delay the arbitration. An award pursuant to this Rule 5.8 may be requested by the Claimant by filing a Motion, including a proposed award, at the eFile Portal and paying the required Arbitrator Fees, if any.

5.9 A party's failure to pay the appropriate Arbitrator fee requested by RapidRuling, or filing fee as provided for in the Schedule of Fees, shall constitute a default and the defaulting party's claim, answer, counterclaim, answer to counterclaim, or other filing shall not be considered; a default Award may be entered against the party that has failed to pay the appropriate Arbitrator fee requested by RapidRuling, or filing fee as provided for in the Schedule of Fees.

5.10 A Claimant may file a reply to the counterclaim by filing a statement of Claimant's position with respect to the counterclaim within fourteen (14) calendar days after notice from RapidRuling is received at the eFile Portal. If a reply to the counterclaim is not filed, the Claimant shall be deemed to deny the allegations of the counterclaim and Respondent's right to any relief thereto.

5.11 Actions and/or entry of a Confession of Award pursuant to New York Consolidated Laws Civil Practice Law & Rules (hereinafter, "**NY CPLR**") §7508 shall be initiated by filing with RapidRuling at the eFile Portal the Demand and a copy of the agreement providing for arbitration, a detailed statement of Claimant's claim and factual allegations supporting Claimant's position which shall include a legend on the first page thereof that the Action intends to rely upon NY CPLR §7508, and any other documents substantiating Claimant's claim together with the appropriate filing fee as provided for in the Schedule of Fees set forth herein. Any action initiated pursuant to NY CPLR §7508 shall be arbitrated in the same manner and under the same time constraints as any other Action but shall be determined without hearing pursuant to the procedures herein unless good cause is shown as to why a hearing should occur.

## **Rule 6.** Initiating Under a Submission

Parties to any existing dispute may commence an arbitration under these Rules by filing with RapidRuling at the eFile Portal a written submission to arbitrate under these Rules, signed by the parties. The submission shall contain a statement of the matter in dispute, the monetary amount claimed, if any, any other relief or remedy sought, factual allegations supporting the Claimant's position and Respondent's position, together with the appropriate filing fee (or fees if a counterclaim is filed) as provided in the Schedule of Fees herein.

**Rule 7. Change of Claims**

After filing of a claim if either party desires to make any new or different claim or counterclaim, the claim or counterclaim shall be made in writing by filing with RapidRuling at the eFile Portal. The other party shall have a period of fourteen (14) calendar days from the date RapidRuling notifies the other party of such amendment which to file an amended answer with RapidRuling at the eFilePortal. Any amendment must be accompanied by the appropriate filing fee as provided for the Schedule of Fees herein. A party may only amend their pleading once within fourteen (14) calendar days after its filing with RapidRuling. After the Arbitrator is appointed, however, no new or different claim may be submitted except with the Arbitrator's consent.

**Rule 8. Number of Arbitrators**

Where the claim or counterclaim is \$1,500,000.00 or less there shall be one Arbitrator. Where the claim or counterclaim exceeds \$1,500,000.00 there shall be three Arbitrators upon request of a party pursuant to Rule 10.2.

**Rule 9. Qualifications of an Arbitrator**

Arbitrators shall be fair and impartial. An Arbitrator shall disclose to RapidRuling any circumstances which may affect impartiality, bias or any financial or personal interest in the arbitration or any personal relationship with the parties, their witnesses or counsel. Arbitrators shall be appointed from RapidRuling's panel of Arbitrators, subject to recusal or disqualification. The Chief Administrator may serve as Arbitrator. In the event the parties request and consent to the appointment of an Arbitrator who is not on RapidRuling's panel, such Arbitrator shall first qualify for appointment pursuant to RapidRuling rules for Arbitrators then in effect and agree to comply with RapidRuling Rules and procedures. Notwithstanding such qualification RapidRuling reserves the right not to appoint the Arbitrator requested by the parties.

The term "Arbitrator" in these Rules refers to the arbitration panel, whether composed of one or more Arbitrators.

**Rule 10. Appointment of Arbitrators**

10.1 Expedited Arbitration Involving Disputes no greater than \$ 1,500,000.00 exclusive of attorneys' or other professional fees - Where neither a claim nor counterclaim seeks monetary damages exceeding \$1,500,000.00 a single arbitrator shall be selected by RapidRuling and designated to conduct the arbitration proceeding. RapidRuling shall notify the parties of the designation of the single arbitrator and the parties shall have three (3) days in which to notify RapidRuling of their objection for cause requesting the disqualification of the designated Arbitrator in which event RapidRuling shall, at the discretion of the Chief

Administrator, select another arbitrator to conduct the arbitration. RapidRuling reserves the right to determine if the objection is sufficient to disqualify the Arbitrator.

10.2 Arbitration's Involving Disputes greater than \$ 1,500,000.00 - Upon the filing of the Demand or counterclaim where the amount sought is greater than \$1,500,000.00, RapidRuling shall select a single arbitrator. Within seven (7) calendar days after Respondent's filing of an Answer with RapidRuling, if any, either party may, by writing delivered to RapidRuling and all parties to the proceeding together with any fees required pursuant to the Schedule of Fees, demand that the claim be heard by a panel of three (3) arbitrators and, upon receipt of such demand, RapidRuling will appoint two additional arbitrators to the panel and the parties shall have three (3) business days in which to notify RapidRuling of their objection for cause requesting the disqualification of the any of the designated Arbitrators in which event RapidRuling shall, at the discretion of the Chief Administrator, select alternate arbitrator(s) to sit on the panel. RapidRuling reserves the right to determine if the objection is sufficient to disqualify the Arbitrator.

#### **Rule 11. Vacancies**

If for any reason an Arbitrator is unable to perform the duties of the office, RapidRuling may declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of these Rules for selection of Arbitrators. In the event of a vacancy in a panel of three Arbitrators after the hearings have commenced, the remaining Arbitrator or Arbitrators may continue with the hearing and determination of the controversy, unless all parties agree otherwise and request that a new panel be appointed pursuant to Rule 10.2, in which event the Arbitrators who had previously been selected will again submit to the selection process. Upon consent of all parties Arbitrators serving in the matter may continue without submitting to the selection process and only the vacancy will be filled and the hearing continued.

#### **Rule 12. Date, Time and Place of Hearing**

Hearings will occur via telephone or video conference at the discretion of the Arbitrator unless good cause is shown for such hearing to occur in-person. In the event a hearing is scheduled, the Arbitrator shall set the date, time, and place for each hearing. RapidRuling shall send a notice of hearing to the parties at least ten (10) days in advance of the hearing date. Hearings that take more than one session shall, at the Arbitrator's discretion, be conducted day to day until completed. Hearings may take place using a telephone conference line, GoogleMeet or Zoom, as directed by RapidRuling or the Arbitrator. All RapidRuling arbitrations are deemed to take place in New York, New York.

**Rule 13. Violations of Rules and Procedures**

Should a party or a party's representative violate these Rules, fail to comply with an Arbitrator's order, and/or engage in offensive conduct or any other conduct not conducive to respectful and productive proceedings, the Arbitrator may issue sanctions, and that party may, at the Arbitrator's discretion or RapidRuling's discretion, be disallowed from further participation in a hearing. In such a case where a party is disallowed from participation in a hearing, that party would still be given an opportunity to submit testimony via a written statement within three (3) business days following the hearing, and, at the Arbitrator's discretion, may also be given an opportunity to answer Arbitrator questions.

**Rule 14. Discovery Proceedings**

14.1 Where neither a claim nor counterclaim seeks monetary damages exceeding \$1,000,000.00, discovery proceedings that are available in NY CPLR Article 31 may be available to the parties upon good cause shown by filing a motion with RapidRuling at the eFile Portal, and at the discretion of RapidRuling or the Arbitrator, if one has been appointed, and upon such conditions as RapidRuling or the Arbitrator shall impose, but discovery shall not without good cause unduly delay the hearing schedule.

14.2 In any arbitration involving a claim or counterclaim in which the amount in controversy exceeds \$1,000,000.00 the parties shall be entitled to conduct discovery proceedings that are available in NY CPLR Article 31, subject to such conditions and schedule as RapidRuling or the Arbitrator shall direct.

**Rule 15. Stenographic Record**

Any party desiring a stenographic record of the hearing shall make arrangements at least seven (7) days in advance of a hearing for a stenographer to make such record. The requesting party or parties shall pay the cost of the stenographic record. If the transcript is agreed by the parties to be, or determined by the Arbitrator to be, the official record of the proceeding, a copy must be given to the Arbitrator and the other parties must be given the opportunity to inspect the transcript, at a date, time, and place determined by the Arbitrator. The parties may agree that the cost of the stenographic record may be allocated by the Arbitrator in the award. Audio and video recordings are not permitted at any time. RapidRuling does not maintain a record of the hearings or any documents filed in a matter.

**Rule 16. Interpreters**

Any party requiring an interpreter shall make all arrangements directly with the interpreter and shall assume the costs of the service. RapidRuling and the Arbitrator must be made aware

of the interpreter at least three (3) business days in advance of any hearing. An attorney may not act as interpreter and attorney for the same witness without consent of the Arbitrator.

#### **Rule 17. Attendance at Hearings**

The Arbitrator shall maintain the privacy of the hearings unless the law provides to the contrary. Only parties, officers of corporations and their counsel are entitled to attend hearings. The Arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the Arbitrator to determine the propriety of the attendance of any other person.

#### **Rule 18. Postponements**

The Arbitrator for good cause shown may postpone any hearing upon the request of a party or upon the Arbitrator's own initiative.

#### **Rule 19. Non-Party Participation**

Upon submission of an order to show cause to RapidRuling via the eFile Portal, a non-party to an arbitration may be permitted to intervene upon consent of all parties and the Arbitrator's finding that the intervention will not unduly delay the determination of the arbitration or prejudice the substantial rights of any party.

#### **Rule 20. Awards**

20.1 A single Arbitrator shall render the award. Where there is more than one Arbitrator, the award of the Arbitrators must be by a majority unless the concurrence of all is expressly required by the arbitration agreement or by law.

20.2 No award shall be rendered by RapidRuling or any Arbitrator if any party to a claim fails to pay the appropriate Arbitrator fee requested by RapidRuling, or filing fee as provided for in the Schedule of Fees.

#### **Rule 21. Order of Proceedings and Communication with Arbitrator**

21.1 Prior to commencement of a hearing, the parties shall have filed their respective claim, answer, counterclaim, answer to counterclaim, or pursuant to these Rules waived the filing of such papers, and paid all appropriate fees.

21.2 Disputes where no claim or counterclaim exceeds \$1,000,000 will be decided on the papers submitted to the eFile Portal, and without a hearing, provided however that any party may request a hearing by filing a request and paying the appropriate fee in the Schedule

of Fees. In a dispute decided on the papers only, the Arbitrator may give the parties an opportunity to upload additional evidence or statements to be further heard on issues that Arbitrator cannot rule on the papers previously submitted. In addition, in a dispute decided on the papers only, the parties will be given an additional opportunity to submit a reply to any answers filed. RapidRuling or the Arbitrator will provide the parties with a notice of deadlines in a dispute decided on the papers only. Upon consent of the parties and the Arbitrator, the Arbitrator may decide a dispute where the claim or counterclaim exceeds \$1,000,000 on submission of documents only and without a hearing, provided however that RapidRuling or the Arbitrator shall obtain consent of the parties or their counsel in writing that they waive a hearing and that the matter shall be decided on submission of documents only.

21.3 A telephone or video arbitration hearing shall commence with the Arbitrator noting and recording the names of the parties and their counsel and the claim number.

21.4 The Arbitrator may request or permit opening statements by the parties in a telephone or video arbitration hearing. A party represented by counsel shall participate only through counsel except as permitted by the Arbitrator.

21.5 The Arbitrator in a telephone or video arbitration hearing shall then hear testimony from the witnesses in the following order: the claimant presenting its case first, respondent's defense, claimant's rebuttal, respondent's counterclaim, claimant's answer, respondent's rebuttal. The order of testimony may be modified with the Arbitrator's consent. All parties shall be given the full opportunity to present all material and relevant evidence. Each witness shall be subject to cross examination by all parties and the Arbitrator shall be permitted to question the witness directly.

21.6 Upon the conclusion of testimony in telephone or video arbitration hearing, the Arbitrator may request or permit closing statements and the filing of post hearing memoranda of law or such other evidence the Arbitrator deems appropriate.

21.7 There shall be no direct communication between the parties and the Arbitrator other than at hearings unless the parties and the Arbitrator agree otherwise. Any other oral or written communication from the parties to the Arbitrator shall be directed to RapidRuling for transmittal to the Arbitrator through the eFile Portal.

## **Rule 22. Arbitration in the Absence of a Party**

22.1 Unless the law provides to the contrary, the arbitration may proceed in the absence of any party who, after due notice pursuant to these Rules, fails to appear at a hearing or is otherwise unable or unwilling to participate in the hearing. The Arbitrator shall require the party who is present to submit such evidence as the Arbitrator may require for the making of an award.

22.2 When a Respondent has failed to appear, plead, or participate in a hearing, or when RapidRuling or an Arbitrator orders a dismissal for any other neglect to proceed, the Claimant may seek an uncontested award against Respondent. If the Claimant's claim is for a sum certain or for a sum which can by computation be made certain, application may be made to RapidRuling within one year after the default. RapidRuling, upon submission of the requisite proof, shall issue a final award, subject to Rule 20.2, for the amount demanded in the Demand, plus costs and interest. When a Respondent has failed to participate in a hearing, or RapidRuling or an Arbitrator orders a dismissal for any other neglect to proceed, the Respondent may make application to RapidRuling within one year after the default and RapidRuling, upon submission of the requisite proof, shall issue a final Award for costs. An award pursuant to this Rule 22.2 may be requested by a party by filing a Motion, including a proposed award, at the eFile Portal and paying the required Arbitrator Fees, if any. A party opposing a Motion seeking an uncontested award may file an opposition with RapidRuling at the eFile Portal within seven (7) calendar days after notice from RapidRuling of the Motion seeking an uncontested award.

### **Rule 23. Evidence**

23.1 The parties may offer such evidence as is relevant and material to the dispute and shall produce such evidence as the Arbitrator may deem necessary to an understanding and determination of the dispute. An Arbitrator or other person authorized by law to subpoena witnesses or documents may do so upon the request of any party or independently.

23.2 The Arbitrator shall be the judge of the relevance and materiality of the evidence offered, and conformity to rules of the evidence shall not be necessary, unless the arbitration agreement provides that the rules of evidence and substantive laws of a particular jurisdiction shall be observed and enforced, subject to the interests of substantial justice and economy of the arbitration proceedings. An Arbitrator may receive affidavits of witnesses and papers certified by counsel as true copies into evidence. All testimonial evidence shall be taken in the presence of the Arbitrator and all of the parties, except where a party is in default in appearing, has waived the right to be present, or otherwise pursuant to these Rules.

23.3 When there is more than one Arbitrator RapidRuling shall appoint an arbitration chairman who shall rule on matters of procedure and evidence and whose rulings shall govern unless the majority of Arbitrators request a different ruling on a particular matter, which request must be made at the time of the initial ruling.

**Rule 24. Evidence by Affidavit or Other Evidence**

24.1 The Arbitrator may receive and consider the evidence of witnesses by affidavit but shall give it only such weight as the Arbitrator deems it entitled to after consideration of any objection made to its admission.

24.2 If the parties agree or the Arbitrator directs that documents or other evidence be submitted to the Arbitrator after the hearing, the documents or other evidence shall be filed with RapidRuling for transmission to the Arbitrator unless directed otherwise by the Arbitrator. All parties shall be afforded an opportunity to examine such documents or other evidence.

24.3 Motions for any relief may be submitted to RapidRuling at the eFile Portal and may be made only on consent of RapidRuling or the Arbitrator, if one has been appointed, and on such conditions as RapidRuling or the Arbitrator may impose. Motions shall be decided by RapidRuling or the Arbitrator, if appointed. A party opposing a motion may file an opposition with RapidRuling at the eFile Portal within seven (7) calendar days after notice from RapidRuling of the motion.

24.4 Upon request of a party or witness and with consent of RapidRuling, or the Arbitrator if one has been appointed, a witness unable to join in a video conferenced hearing may appear at hearing by telephone, on such conditions as RapidRuling or the Arbitrator shall direct. Prior to such witness testimony, a true copy of such witness's driver's license or other government-issued identification shall be delivered to the Arbitrator and all other parties. The witness shall be sworn in by the Arbitrator, be examined and cross examined, and the Arbitrator shall give such weight to the testimony as the Arbitrator shall deem appropriate. A request to appear by telephone by a witness must be made at least seven (7) days prior to the hearing on notice to adverse parties. A witness must have real-time access to electronic mail communication or a telecopier available to receive documents while testifying by telephone appearance. Witnesses appearing by telephone shall be responsible for telephone connection arrangements acceptable to the Arbitrator and any expense in connection with such appearance. A witness contesting the authenticity of a document or a signature on a document may not appear by telephone.

**Rule 25. Inspection**

An Arbitrator may, either in-person or via video conference and at their discretion, make an inspection of the business premises, personal or real property or any other physical evidence after notifying RapidRuling and parties of the date, time and place of the inspection. The Arbitrator shall furnish copies of a report of the inspection to all parties. The parties shall be entitled to be present or participate in any video conference (as the case may be) when the inspection is made and to file with the Arbitrator comments to the report.

**Rule 26. Interim and Injunctive Relief**

26.1 **Interim Relief.** Upon request of a party, the Arbitrator may issue such interim orders as may be deemed necessary and equitable to maintain the *status quo* of the parties and safeguard the property that is the subject-matter of the arbitration, without prejudice to the rights of the parties or to the final determination of the dispute. A party who fails to comply with such interim order shall be deemed in default in the arbitration proceeding and the arbitration hearing may take place without such defaulting party's participation, or upon such other conditions the Arbitrator deems appropriate.

26.2 **Injunctive Relief.** Upon the commencement of the arbitration proceeding either party may seek emergency injunctive relief. If an Arbitrator has not yet been appointed in the proceeding the Chief Administrator shall designate and appoint an Interim Arbitrator who shall have all of the powers of an Arbitrator in the case and shall continue to serve as single Arbitrator until an Arbitrator is appointed pursuant to Rule 10 of these Rules. The Interim Arbitrator may qualify as Arbitrator if appointed pursuant to Rule 10. If an Arbitrator has been appointed in the case then the application for emergency injunctive relief shall be made to the Arbitrator.

26.3 **Enforcement of Interim Relief.** A party who is awarded Interim Relief may enforce the Interim Award by seeking additional relief, including payment of attorney fees and monetary damages for a party's failure to comply with an Interim Award. A party may also seek enforcement of an Interim Award, including injunctive relief, by application to a court of competent jurisdiction. A court award shall include an award of attorney fees for the emergency application to the Arbitrator and for enforcement in court, and appropriate damages for a party's failure to comply with an Interim Award. A party's failure to comply with an Interim Award shall constitute contempt and the appropriate award for such contempt may be made by the Arbitrator or Court before whom the application is made.

**Rule 27. Closing of Hearing**

The hearings shall be deemed closed upon the completion of the testimony and filing of any post memoranda or papers permitted by the Arbitrator.

**Rule 28. Reopening of Hearing**

28.1 Any time prior to rendering the award, the Arbitrator may reopen a hearing to receive additional testimony or evidence *sua sponte*, or upon request of a party for good cause shown and upon such other conditions the Arbitrator deems appropriate. A request to reopen a hearing made by a party shall be filed with RapidRuling at the eFile Portal and must be filed with the appropriate filing fee as provided in the Schedule of Fees herein to be considered. If reopened, a hearing shall be deemed closed upon the closing of the reopened hearing.

28.2 Any time after the rendering the award on the default of a non-appearing party, the Arbitrator may reopen a hearing to purge the default upon request of a non-appearing defaulting party for good cause shown and upon such other conditions the Arbitrator deems appropriate. A request to reopen a hearing made by a non-appearing defaulting party shall be filed with RapidRuling at the eFile Portal and must be filed with the appropriate filing fee as provided in the Schedule of Fees herein to be considered. If reopened, a hearing shall be deemed closed upon the closing of the reopened hearing.

#### **Rule 29. Waiver of Oral Hearing**

A waiver of oral hearing in any case shall occur in the event of a filing pursuant to Rule 21.2, or in the event the parties shall agree via written agreement for such waiver of oral hearing in which case the Arbitrator may make an award based on written submission by the parties deemed acceptable and satisfactory by the Arbitrator. Additionally, in the event a Respondent fails to appear in the proceeding, or a party who has appeared thereafter defaults, the Arbitrator may make an award based on such written papers, including affidavits from parties with personal knowledge of the facts, as the Arbitrator deems appropriate.

#### **Rule 30. Waiver of Rules**

Any party who proceeds with the arbitration after knowledge that any provision or requirement of these Rules has not been complied with and who fails to state an objection in writing to RapidRuling promptly shall be deemed to have waived the right to object.

#### **Rule 31. Extensions of Time**

The parties, with consent of RapidRuling or the Arbitrator, if one has been appointed, and upon such conditions as RapidRuling or the Arbitrator may impose, may modify any period of time by mutual agreement of the parties. RapidRuling or the Arbitrator may for good cause extend any period of time established by these Rules. A request to extend time by a party shall be filed with RapidRuling at the eFile Portal and must be filed with the appropriate filing fee as provided in the Schedule of Fees herein to be considered. RapidRuling shall notify the parties of any extension. Notwithstanding the foregoing, any party may file a Motion to receive a one-time automatic extension of time of any period of time under Rule 5, not to exceed a three day extension.

#### **Rule 32. Serving Notices and Papers**

32.1 Each party shall be deemed to have consented that any papers, notices, or process necessary or proper for the initiation or continuation of an arbitration under these Rules; for any court action in connection therewith; or for the entry of judgment on any award made under these Rules may be served on a party by e-mail addressed to the party or its counsel at

the address filed by that party with RapidRuling, the e-mail address designated under the agreement to arbitrate, or the last known address or by FedEx Priority Overnight, UPS Next Day Air, or personal service, in or outside the state where the arbitration is to be held.

32.2 RapidRuling and the parties may also use facsimile transmission, e-mail, or other written forms of electronic communication compatible with the eFile Portal to give the notices required by these Rules.

32.3 Any papers filed by a party with RapidRuling outside of the eFile Portal must show by affidavit or certification by counsel that service has been made on the other parties.

### **Rule 33. Time of Award**

33.1 The award shall be made promptly by the Arbitrator and, unless otherwise agreed by the parties, specified by law, or extended by RapidRuling in its sole discretion and without notice to the parties, no later than fourteen (14) days from the date of closing the hearing, or, in a document-only arbitration, from the date of RapidRuling's transmittal of the final statements and proofs to the Arbitrator if no party's claim or counterclaim exceeds more than \$300,000 or no later than twenty one (21) days from the date of closing the hearing, or, in a document-only arbitration, from the date of RapidRuling's transmittal of the final statements and proofs to the Arbitrator if a party's claim or counterclaim exceeds \$300,000.

33.2 At RapidRuling's discretion, no award shall be made until all fees owed RapidRuling and the Arbitrator(s) have been paid.

### **Rule 34. Form of Award**

The award shall be in writing and shall be signed by the single Arbitrator or, if more than one, a majority of the Arbitrators. The signature requirement may be satisfied by the Arbitrator by e-signing the award with their typed name.

### **Rule 35. Scope of Award**

The award may include monetary as well as equitable relief so as to achieve substantial justice. The award shall not include relief specifically prohibited by the arbitration agreement or the law of the jurisdiction in which the arbitration is venued, or the law of the jurisdiction governing the arbitration if other than the jurisdiction of the venue, or stipulation of the parties. Notwithstanding the foregoing, the Arbitrator shall be permitted to award to a party counsel fees, expert witness fees, RapidRuling and arbitration fees and expenses incurred in the arbitration for costs and disbursements in connection with discovery or the hearing.

**Rule 36. Award upon Settlement**

36.1 If the parties settle their dispute during the course of the arbitration, the Arbitrator may, upon request of the parties by filing a Motion including a proposed award at the eFile Portal and paying the required Arbitrator Fees, reduce the stipulation to an award.

36.2 If a stipulation is not reduced to an award, the Arbitrator will retain jurisdiction over the claim until the parties fulfill the obligations of their settlement, and the Arbitrator may issue an Award at any time which will replace the settlement, for up to 2 years from the date of notification to RapidRuling of the settlement.

**Rule 37. Delivery of Award to Parties and Confirmation of Award**

Parties shall accept as legal delivery of the Award the placing of the award or a true copy thereof in the e-mail addressed to a party or its counsel at the last known address, personal service of the award, or the filing of the award in any other manner that is permitted by law without regard for the said transmittal being filtered to a recipient's SPAM filter or sent via the eFile Portal. The parties shall comply with the award within seven (7) days unless additional or other time is specified in the award. If a party fails to timely comply with the award, a party commencing a proceeding in a court of law to confirm or enforce the award shall be entitled to additional counsel fees for post arbitration proceedings as the court may deem appropriate. Service of process in any action or proceeding to confirm an award may be made by electronic mail or United States Postal mail, postage paid, addressed to the attorney appearing for any party in the arbitration proceeding or addressed to the party at the address designated in the arbitration agreement, or by any other manner of service authorized by the law of the jurisdiction, or by using the eFile Portal.

**Rule 38. Release of Documents for Judicial Proceedings**

RapidRuling does not maintain an official record of the documents filed other than documents submitted to the eFile Portal, which are retained for thirty (30) calendar days following the issuance of the Award or conclusion of the Arbitration. RapidRuling shall, upon the written request of a party, furnish to the party, at the requesting party's expense and provided that all fees due to RapidRuling are paid, copies of any papers in RapidRuling's possession, if any, that may be required in judicial proceedings relating to the arbitration.

**Rule 39. Applications to Court and Exclusion of Liability**

39.1 No judicial proceeding by a party relating to the subject matter of the arbitration shall be deemed a waiver of the party's right to arbitrate unless the law of such jurisdiction deems voluntary participation in judicial proceedings to be a waiver of the right to arbitrate.

39.2 Neither RapidRuling nor any Arbitrator in a proceeding under these Rules is a necessary or appropriate party in judicial proceedings relating to the arbitration. The Arbitrator, RapidRuling and its employees are not competent to testify as witnesses in any such proceeding.

39.3 Parties to these Rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof.

39.4 Neither RapidRuling nor any Arbitrator shall be liable to any party for any act, error or omission in connection with any arbitration conducted under these Rules, including, but not limited to, any disqualification of or recusal by the Arbitrator.

39.5 The parties shall indemnify and hold RapidRuling and the Arbitrator harmless from and against any claim, cause of action, expense, including counsel, expert witness fees and expenses, relating to the arbitration proceeding and/or defense of any action.

#### **Rule 40. Administrative Fees**

40.1 RapidRuling shall prescribe filing and other administrative fees and service charges to compensate it for the cost of providing administrative services. The fees in effect when the fee or charge is incurred shall be applicable.

40.2 All fees advanced by the parties are subject to final apportionment by the Arbitrator in the award.

40.3 RapidRuling may, in the event of extreme hardship on the part of any party, if required by law, defer or reduce the administrative fees in its sole discretion.

40.4 Administrative fees are for each claimant and each counterclaimant. Claims or counterclaims setting forth multiple claims or theories of causes of action for the same relief are not considered separate claims for fee purposes.

#### **Rule 41. Schedule of Fees**

Filing fee for claim:

If the claim or counterclaim is:		
over	but not over	The filing fee is:
\$0	\$50,000	\$275
\$50,000	\$500,000	\$475
\$500,000	\$1,000,000	\$750

\$1,000,000	\$1,250,000	\$1,200
\$1,250,000	\$1,500,000	\$1,500
\$1,500,000	.....	Contact RapidRuling

Filing fee for Answer:

If the claim or counterclaim is:		
over	but not over	The filing fee is:
\$0	\$500,000	\$75
\$500,000	\$1,000,000	\$100
\$1,000,000	\$1,500,000	\$150
\$1,500,000	.....	Contact RapidRuling

Filing fee for Answer with Counterclaims:

If the claim or counterclaim is:		
over	but not over	The filing fee is:
\$0	\$50,000	\$350
\$50,000	\$500,000	\$550
\$500,000	\$1,000,000	\$850
\$1,000,000	\$1,250,000	\$1,350
\$1,250,000	\$1,500,000	\$1,650
\$1,500,000	.....	Contact RapidRuling

Request for a hearing in a claim where no  
Claim or counterclaim exceeds \$1,000,000..... \$500.00

**Motions:**

Request for Uncontested Award or So Ordered..... \$25.00  
Good Cause Application..... \$350.00  
Reopen Closed Hearing..... \$475.00  
Oppositions..... \$50.00  
All Other Motions..... \$100.00

Arbitrator Time and expenses ..... \$300.00+ per hour

If, at any time, any Party has failed to pay fees or expenses in full, RapidRuling may order the suspension or termination of the proceedings. RapidRuling may so inform the Parties in order that one of them may advance the required payment. If one Party advances the payment owed by a non-paying Party, the proceedings shall proceed, and the Arbitrator may allocate

the non-paying Party's share of such costs. An administrative suspension shall toll any other time limits contained in these Rules or the Parties' agreement.

#### **Rule 42. Expenses**

The expenses of witnesses and interpreters for such witness shall be paid by the party producing or requesting such witnesses. All other expenses of the arbitration, including a hearing room, required travel and other expenses of the Arbitrator, RapidRuling representatives, and any witness and the cost of any proof produced at the direct request of the Arbitrator, shall be borne equally by the parties, unless they agree otherwise or unless the Arbitrator during the arbitration in the award assesses such expenses or any part thereof against any specified party or parties.

#### **Rule 43. Arbitrator's Compensation**

Arbitrators shall receive compensation as set forth herein. An Arbitrator shall charge a rate consistent with the Arbitrator's stated rate of compensation. The amount charged by each Arbitrator shall be specified with the assignment of the Arbitrator. Arbitrators shall be compensated for all time dedicated to the claim, including, but not limited to preparation, review, research, writing and hearing time. Invoicing the parties and collecting the Arbitrator's compensation shall be performed by RapidRuling. Any disputes regarding an Arbitrator's compensation shall be determined by RapidRuling, which determination shall be conclusive.

#### **Rule 44. Deposits**

RapidRuling may require the parties to deposit in advance of any hearing such sums of money as RapidRuling deems necessary to cover the expense of arbitration, including the Arbitrator's fee and shall render an accounting to the parties and return any unexpended balance at the conclusion of the case. Failure to pay the deposit shall constitute a default. In any instance where a hearing is scheduled pursuant to these Rules and not at the request of a party for good cause shown, the deposit shall be borne equally by the parties.

#### **Rule 45. Interpretation and Application of Rules**

45.1 The Arbitrator shall interpret and apply these Rules insofar as they relate to the Arbitrator's powers and duties. When there is more than one Arbitrator, the chairman shall make the ruling, subject to overruling by both of the other two Arbitrators. Any dispute which cannot be resolved by the Arbitrator shall be referred by the Arbitrator or the parties to RapidRuling for final interpretation and resolution. All other Rules shall be interpreted and applied by RapidRuling.

45.2 If any of these Rules, or modification of these Rules agreed to by the Parties, is determined to be in conflict with a provision of applicable law, the provision of law will govern over the Rule in conflict, and no other Rule will be affected.

**Rule 46.** Notice by Telephone and/or Electronic Mail

The parties shall accept all notices from RapidRuling by telephone and/or e-mail. If made via telephone, such notices by RapidRuling shall subsequently be confirmed in writing, by email. Should there be a failure to confirm in writing any notice hereunder, the proceeding shall nonetheless be valid if notice has, in fact, been given by telephone and/or e-mail. The parties are responsible for ensuring that any email transmittals from RapidRuling are directed to the appropriate "Inbox" and not diverted to "Spam". Communications via the eFile Portal shall be considered e-mail notices.

**All bankruptcy notices must be emailed to [efile@rapidruling.com](mailto:efile@rapidruling.com) and mailed to: RapidRuling, 1410 Northern Blvd #1008, Manhasset, NY 11030.**

