



Construction Arbitration Services, Inc.

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Rules for the Expedited Arbitration of Home Inspection Disputes

1. Agreement of Parties

These rules shall apply whenever the parties have agreed to utilize them or under any agreement between the parties providing for administration by Construction Arbitration Services, Inc. (CAS). These rules apply to the extent that they are not inconsistent with applicable statutes or with the agreement of the parties. The parties shall be deemed to have agreed to these rules in the form in effect when the demand for arbitration or submission agreement is received by CAS and confirmed by the participation of the parties in the CAS process.

2. Initiation of Proceedings

Expedited Arbitration is initiated by the filing of a demand for arbitration with CAS if the parties have an agreement naming CAS as the administrator or by a Submission Agreement signed by the disputing parties. After initiation of Expedited Arbitration, no new or different claim may be added without written agreement of all parties and the consent of the arbitrator.

3. Appointment of Arbitrator

Construction Arbitration Services, Inc. shall appoint a single arbitrator from its panel of persons knowledgeable in residential construction.

4. Qualifications of an Arbitrator

A person appointed as arbitrator shall disclose to CAS any circumstances likely to affect impartiality, including any bias or any financial or personal interest in the outcome of the arbitration, or any past or present relationship with the parties or their counsel. Upon receipt of such information from the arbitrator or another source, CAS shall communicate the information to the parties and, if it deems appropriate to do so, to the arbitrator. Upon objection of a party to the service of an arbitrator, CAS shall determine whether the arbitrator should be disqualified and shall inform the parties of its decision, which shall be conclusive.

5. Vacancy

Construction Arbitration Services, Inc. is authorized to appoint another arbitrator if a vacancy occurs or if an appointed arbitrator is unable to serve promptly. The arbitrator shall be subject to disqualification for the reasons specified in Section 4.

6. Time and Place of Hearing

The arbitrator shall fix the date, time and location of the hearing, notice of which must be given to the parties at least ten (10) calendar days in advance. The hearing will be held at the house site whenever possible to allow the arbitrator and the parties to consider the claimed defects. If this is not possible, the hearing will be held at such other suitable place or in such other suitable manner as the arbitrator may designate.

7. Representation

Any party to the proceeding may attend the hearing or be represented at the hearing by another person. In the case of representation by an attorney, in the interest of fairness to all parties, the party retaining counsel or their attorney must advise CAS and the other parties of the identity of their representative at least five (5) calendar days prior to the date of the hearing. Failure to follow this rule with regard to notice may result in an

adjournment of the scheduled hearing and the applicable adjournment fee being due and payable by the party failing to follow this provision.

8. Attendance at Hearings

All persons who are parties to the arbitration agreement, as well as representatives are entitled to attend hearings. Witnesses may attend the hearing subject to the Arbitrator authority to limit attendance or sequester witnesses during all or part of the hearing. The arbitrator shall determine whether any other person may attend the hearing.

9. Postponements

Hearings shall be postponed by the arbitrator only for good cause. All requests for postponements shall be communicated to the arbitrator through CAS.

10. Confidentiality

The proceedings are intended to be confidential. As an informal proceeding, there is no requirement that a stenographic record be taken of the hearing. Any party, who wishes to, may make such a provision for a certified court stenographer at that party's own expense. A copy of the transcript must be provided to the arbitrator and a copy made available for the review of the other party. The transcript is agreed by the parties to be confidential. The parties may make appropriate notes of the proceedings, but audio or video recordings are strictly prohibited.

11. Proceedings and Communication with Arbitrator

The hearing shall be conducted by the arbitrator in any manner which will permit full and expeditious presentation of the case by all parties. Normally the hearing shall be completed in one day but the arbitrator may, for good cause, schedule an additional hearing, normally within five (5) calendar days of the initial hearing date. There shall be no direct communications between the parties and the arbitrator other than at the hearing except when initiated by the arbitrator pursuant to Section 6 and limited to the time or place of the hearing. In addition, the parties agree to protect the Arbitrator from involuntary communication or testimony in any other forum. The parties or their representative may speak with any other party or that party's representative at any time.

12. Arbitration in the Absence of a Party

Unless the law provides to the contrary, the arbitration may proceed in the absence of any party or representative who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the absence of a party. The arbitrator shall require the party who is present to submit such evidence as the arbitrator may require for the making of an award.

13. Evidence

The parties may offer such evidence as is relevant and material to the controversy and shall produce such additional evidence as the arbitrator may deem necessary to an understanding and determination of the dispute. An arbitrator authorized by law to subpoena witnesses or documents may do so upon the request of any party. A party requesting a subpoena shall be responsible for its preparation and service in accordance with applicable law.

The arbitrator shall be the judge of the relevance and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of the parties, except as provided under Section 12 and Section 14. The expense of witnesses, expert witnesses or reports for either side shall be paid by the party producing such witnesses and reports.

14. Evidence by Filing of Documents

The arbitrator may receive and consider documentary evidence. Documents to be considered by the arbitrator may be submitted prior to the hearing, at the hearing or as directed by the arbitrator provided a copy is simultaneously transmitted to all other parties and to CAS for transmittal to the arbitrator.

15. Closing of Hearings

The arbitrator shall determine whether the parties have any further proofs to offer or witnesses to be heard. When satisfied that the record is complete, the arbitrator shall declare the hearings closed.

16. Waiver of Rules

Any party who proceeds and who fails to state any objections in writing before the hearing is concluded, regarding any alleged noncompliance with any requirement of these rules or of the process, shall be deemed to have waived such objections.

17. Serving of Notice

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 or any court action in connection therewith or for the entry of judgment on any award made under these rules may be served on such parties by mail addressed to the party, or the party's attorney, at the last known address or by personal service, in or outside the state where the arbitration is to be held. The mailing requirements may be met by courier service, facsimile machine, telex, telegram or other written forms of electronic communication.

18. Time of Award

The award shall be rendered promptly by the arbitrator and, unless otherwise agreed by the parties, not later than thirty (30) calendar days from the date of the closing of the hearing.

19. Scope of Award

The arbitrator may make any award that is just and equitable within the scope of the agreement of the parties or other applicable documents. If the applicable agreement of the parties so provides, the arbitrator, in the award, shall assess arbitration fees and expenses in favor of any party and, in the event that any administration fees or expenses are due to CAS, in favor of CAS. Each party shall bear its own attorney's fees unless otherwise specified in the agreement of the parties.

20. Form of Award

The award shall be in writing and shall be signed by the arbitrator. It shall be executed in the manner required by law.

21. Delivery of Award to Parties

Parties shall accept as legal delivery of the award, the placing of the award or a true copy thereof, in the mail addressed to a party or the party's attorney at the last known address, personal service or the filing of the award in any manner that may be permitted by law.

22. Modification and/or Clarification

Within twenty (20) calendar days of the date of mailing of the award, either party may request modification and/or clarification of the award. To be effective, application for modification and/or clarification must be sent to CAS for transmittal to the arbitrator and all other parties and must be accompanied with the proper administrative fee. A Request for Modification and/or Clarification must set forth the specific portion or portions of the award which are subject to the request. The arbitrator is not empowered to redetermine the merits of any claim already decided but may modify the award to correct typographical errors or ministerial omissions or clarify the award to eliminate internal inconsistencies or ambiguities. Written objections to modification and/or clarification must be delivered to CAS for transmittal to the arbitrator and simultaneously sent to all parties within ten (10) calendar days of the application. The arbitrator shall dispose of an application for modification and/or clarification within ten (10) calendar days from receipt of an objection or the expiration of time to make objections, whichever is earlier.

23. Applications to Court and Exclusion of Liability

By agreeing to these rules or proceeding in any manner under these rules, each party agrees:

- a. 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.
- b. Neither CAS nor any arbitrator in a proceeding under these rules is a necessary party in judicial proceedings relating to the arbitration.
- c. Unless the applicable law, insurance policy or another applicable document provides otherwise, the parties to these rules shall be deemed to have consented that judgment upon any arbitration award may be entered in any federal or state court having jurisdiction thereof.

- d. Neither CAS nor any arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these rules.

24. Interpretation and Application of Rules

The arbitrator shall interpret and apply these rules insofar as they relate to the arbitrator's powers and duties. All other rules shall be interpreted and applied by CAS, as administrator.

25. Arbitration Fee Schedule

a. Administration Case Fees

Arbitration Case Fee \$1350.00

This fee is inclusive of arbitrator compensation except as provided in Section (b). Complex cases may involve additional administrative services which will be billed on an hourly rate of \$125.00 per hour deductible from an advance deposit by the parties of \$5,000.00. [See also section (b)]

Arbitration case fees are due and payable when the request for arbitration is filed with CAS. No refund of the arbitration case fees will be made if the case is withdrawn.

b. Additional Fees

\$450.00 is payable by the parties for each additional day of hearing scheduled after the first day.

In the event the arbitration is more than fifty (50) miles from the arbitrator's residence, additional fees will be assessed based on travel. In addition, the arbitrator may be entitled to reimbursement for reasonable expenses incurred in connection with the arbitration.

c. Modification and/or Clarification Fee

An administrative fee of \$150.00 will be advanced by the party making application for modification and/or clarification and paid to CAS at the time the application for modification and/or clarification is transmitted to CAS.

d. Adjournment Fees

\$150.00 is payable to CAS by any party causing an adjournment of any scheduled hearing more than forty-eight (48) hours in advance. \$300.00 is payable to CAS by any party causing an adjournment at or less than forty-eight (48) hours before any scheduled hearing. Such party shall also pay any reasonably incurred expenses of the arbitrator in connection with the scheduled hearing.