



## ONLINE ARBITRATION PROCEDURES

**1. Online Platform: ZOOM.** The parties and the arbitrator agree that the hearing will be conducted via Zoom. This confirms that the hearing will be deemed to have taken place in Baltimore, Maryland. The parties acknowledge that they have made their own investigation as to the suitability and adequacy of Zoom for its proposed use for the hearing.

**2. Hearing Record and Recording.** The hearing will not be recorded in Zoom or transcribed by a court reporter. The parties and counsel agree that they will not record, via audio, video or screenshot, or permit any other person to record, via audio, video or screenshot, the hearing or any part of it. The parties and counsel will ensure that each additional attendee at the hearing for which that party is responsible also acknowledges and agrees to this prohibition on recording.

**3. Invitations to Access the Hearing.** The arbitrator will invite counsel via email to join the Zoom hearing. To protect the security of the hearing, access to the hearing will be password-protected and limited to authorized attendees only. Counsel and witnesses should not forward or share the hearing link or password.

**4. Advance Testing of System.** Each party will be responsible for testing the videoconferencing system with each of their witnesses who will be attending virtually (as opposed to in counsel's offices). The video conference shall be of sufficient quality so as to allow for clear video and audio transmission of all participants. Each participant should test their equipment to determine their best audio connection – whether by phone, through their computer speakers/microphone, and with or without a headset.

### 5. Hearing Participants.

A. Before the hearing, counsel shall disclose the names of all persons who will participate in the hearing. The parties agree that no persons will attend, participate or be allowed to listen in on the hearing without the prior consent of all parties and the arbitrator.

B. At the start of each hearing session, each attendee shall disclose who is present in the physical space with the attendee. Should an individual join the attendee after the hearing session has begun, the arbitrator shall notified as to the identity of that individual.

C. During the videoconference, participants shall always be in view of the camera. If two or more people are attending the hearing together in a room, they shall use a single camera.

D. At the arbitrator's request, unknown participants shall identify themselves by showing a piece of identification to the camera or by responding to the arbitrator's questions regarding their identity.

E. Ensuring Good Audio/Video: Hearing participants shall make best efforts to ensure that there will be clear video and audio transmission during the hearing. Participants should:

- i. establish a high-speed internet connection (*e.g.*, if possible, a hard-wired internet connection is generally preferable to a wireless internet connection);

- ii. use the computer microphone, with or without a headset, or use a phone to dial into audio portion of the platform;
- iii. eliminate any background noise;
- iv. consider camera positioning and lighting (e.g., avoid sitting near a window, positioning a light in front of instead of behind the participant);
- v. access Zoom via desktop or laptop rather than by smartphone or tablet;
- vi. ensure computing devices are adequately charged and that power cables or back-up batteries are available as may be necessary; and
- vii. not join the hearing from a public setting or using unsecured, public wifi to ensure the privacy and security of the hearing.

F. All counsel shall endeavor to speak one at a time and not while another is speaking, other than as may be required to interpose an objection or to alert other participants of technical difficulties.

G. All participants who are not actively being questioned as a witness, asking questions of a witness, defending a witness, or providing or responding to opening statements, closing arguments, or other arguments, shall maintain their audio on mute to limit potential interruptions. The arbitrator also will have the ability to mute and unmute any participant if needed.

## **6. Witnesses and Exhibits.**

A. With the exception of parties and their corporate representatives, all witnesses will log on to the Zoom platform when they are ready to testify or will be sequestered in a breakout room.

B. Witnesses should follow the below practices:

- i. A witness shall give evidence sitting at an empty desk or table, and the witness' face shall be clearly visible in the video.
- ii. To the extent possible, the webcam should be positioned at face level, relatively close to the witness.
- iii. Witnesses should not use a "virtual background." Instead, the remote venue from which they are testifying should be visible.
- iv. Witnesses should speak directly to the camera while testifying.
- v. Witnesses should avoid making quick movements.
- vi. All non-party or expert witnesses shall sign-off from the Zoom session at the conclusion of their testimony.

C. At any time, the arbitrator may ask a witness to orient his or her webcam to provide a 360-degree view of the remote venue in order to confirm that no unauthorized persons are present; any authorized persons in the room with the witness must be identified at the start of the witness' testimony.

D. The arbitrator shall instruct attendees what to do in the event of a disconnection or other technical failure.

E. Hearing exhibits:

- i. At any time, the arbitrator may ask a witness to display the exhibits and/or witness statements to verify that they do not bear any annotations. Witnesses shall not be aided by any notes, unless permitted by the arbitrator upon motion for good cause.
- ii. A separate display screen/window other than the screen/window used to display the video transmission may be used to show and display the relevant documents to the witness during the course of questioning if opposing counsel has been notified and consents without objection.

## **7. Hearing Schedule & Logistics.**

A. The hearing schedule, and the daily schedule, will take into account that extra time may be needed if there are technical problems that cause delays.

B. Upon joining the Zoom hearing, participants will be admitted to a virtual Waiting Room. The arbitrator will admit all participants to the hearing at the same time. To avoid delay and difficulty reconnecting, hearing attendees should not disconnect from the Zoom meeting during any recess.

C. The arbitrator will disable the private “chat” function. The arbitrator may use a virtual “break-out” room to confer privately. The arbitrator may also use virtual break-out rooms to facilitate private conversations between other case participants as may be appropriate (e.g., upon request, to allow members of a party’s legal team to confer with each other directly, outside of the presence of the arbitrator and witnesses).

## **8. Technical Failure.**

A. Should one party’s or participant’s videoconferencing connection fails, the arbitrator will ask counsel remaining on the videoconference to mute their audio and to turn off their video to avoid concerns regarding *ex parte* communications. Once the arbitrator sees that the dropped participant has rejoined the videoconference, the hearing will proceed.

B. If a participant is disconnected from the videoconference or experiences some other technical failure and connection cannot be re-established within a 10-minute interval:

- i. the arbitrator may take steps to “pause” the hearing, which may include moving participants into a virtual waiting room or one or more separate break-out rooms, and the parties agree to pause proceedings as needed to accommodate any reconnections or technical issues;
- ii. the parties and participants shall use telephone or text communication to indicate if any party, attorney, or witness has been dropped from the hearing due to a connection problem or other technical issue.

C. If the videoconferencing system fails to work such that the hearing cannot take place as scheduled, or if the arbitrator determines that the videoconferencing system does not allow the parties to adequately present their case, or that it would be unfair to any party to continue the hearing via videoconference, the arbitrator may reschedule the hearing or take any other steps to ensure the fairness and integrity of the proceedings.