

IN RE: The Arbitration of

XXXXX

Plaintiffs,

vs.

YYYYY

Defendants.

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LMW – 2014 0XX

STIPULATED PRE-ARBITRATION CASE MANAGEMENT and SCHEDULING ORDER

Pursuant to the Agreement to Arbitrate of (cite Agreement) and the express agreement and stipulation of the Parties, the Arbitrator finds that the following administrative procedures, actions, schedule and procedures will govern the conduct of this proceedings and it is thus hereby ORDERED:

1. SCHEDULING

1.1. STATEMENTS OF CLAIMS; ANSWERS & DEFENSES; COUNTERCLAIMS

1.1.1. Plaintiffs shall file their Statement of Claims and Damages on or before _____. All Claims asserted shall be detailed and all damages claimed shall be itemized.

1.1.2. Defendants shall file their Answers, Affirmative Defenses and Counterclaim(s) (if any) on or before _____. Any Counterclaims asserted shall be detailed and all damages claimed shall be itemized.

1.1.3. Plaintiffs shall file their Answer and Affirmative Defenses To Counterclaim on or before _____.

1.1.4. Defendants shall file their Responses to Plaintiff's Defenses to Counterclaim on or before _____.

1.2. DISCOVERY

1.2.1. **Written Discovery** : On or before _____ each Party may serve upon an opposing Party, (choose one or all) written Requests for Production of Documents, Request for Admissions, and Interrogatories as generally contemplated by the Federal Rules of Discovery subject, however to the following limitations:

1.2.1.1. (Limitations – scope, number, timing)

Responses, Answers and/or Objections shall be served on or before (30) days following service of such written discovery. The Arbitrator shall issue document subpoenas to third parties as reasonably required.

1.2.2. **Identification of Additional Fact Witnesses:** On or before _____, each party will file and serve a written Witness Disclosure and Identification Statement disclosing and identifying any known witnesses with knowledge of relevant facts that have been asserted by that Party who have not been previously disclosed in responses to interrogatories or other discovery procedures.

1.2.3. **Final Expert Disclosures** On or before _____, Plaintiffs shall file and serve their final Expert Witness Reports. On or before _____, Defendants shall file and serve their final Expert Witness Reports.

1.2.4. **Depositions** - Each party shall be entitled to take ____ depositions of fact witnesses as reasonably required prior to the fact discovery cut off date set forth below. Depositions of Expert Witnesses may be taken at any time up to the Expert Witness deposition cut off date set forth below. Parties are expected to fully cooperate with each other to make experts and fact witnesses under their respective control reasonably available for timely deposition by the opposing Party without necessity of subpoena. Upon application, the Arbitrator shall issue deposition subpoenas as the Arbitrator may deem reasonable and necessary.

1.2.5. **Close of Discovery** – On _____, all written requests for fact discovery and shall be served and filed and discovery depositions shall be completed. Expert witness depositions, however, may be taken on or before _____.

1.3. **MOTIONS**

1.3.1. All procedural, evidential, dispositive or other pre-arbitration hearing motions shall be filed and served on or before _____. Responses to motions are due within fourteen (14) days following the service of the motion. All motions will be decided solely on the basis of the pleadings filed, unless the Arbitrator, after reviewing the parties' submissions, specifically schedules oral argument.

1.4. **EXCHANGE OF PRE-ARBITRATION HEARING INFORMATION-**

1.4.1. On or before _____, the Parties shall file and serve their respective Pre-Arbitration Hearing Witness List, Pre-Arbitration Hearing Exhibit List, and Deposition Extract Lists. Deposition Extract Lists shall set forth page and line designations of the portions of any depositions either party expects to introduce into evidence as part of their respective case in chief at the Final Hearing.

1.4.2. Counter-designations of deposition extracts portions to be introduced for cross examination shall be exchanged no later than _____.

1.5. **EXCHANGE OF PRE-ARBITRATION HEARING SUBMISSIONS**

1.5.1. On or before _____, the parties shall file and serve the following Pre-Arbitration Hearing Submissions:

1.5.1.1. **Statement of Case** containing a brief summary of each Party's general position on the matters in dispute.

1.5.1.2. **Stipulated Facts** A joint statement of uncontested or stipulated facts.

1.5.1.3. **Final Witness List** setting forth the identification of each witness each Party expects to call to testify at the Final Hearing along with a concise explanation of that witness' role in the case and the substance of his or her expected testimony. For witnesses whose testimony will be presented by videotape or other electronic or remote means, the exact method by which the testimony will be presented

1.5.1.4. **Joint Exhibit List** setting forth the description of all documents and exhibits each party plans to introduce into evidence at the Final Hearing which have been sequentially numbered and indexed as described below. If separate exhibit lists are submitted, duplicate copies of the exhibits described therein are to be avoided;

1.5.1.4.1. **Copies of Exhibits** The Arbitrator shall be provided with a separate copy of the documents and exhibits to be submitted into evidence at the Final Hearing chronologically arranged and combined into an indexed three ring binder notebook.

1.5.1.5. **Legal Authorities** setting forth indexed copies of essential cases and other legal authorities which are likely to be the central focus of a party's arguments regarding disputed issues of law, or which will likely be needed by the Arbitrator in order to properly interpret the testimony and other evidence to be presented at the hearing. Materials regarding common or well settled legal standards and principles need not be provided.

2. **FINAL HEARING**

2.1. **Location** The Final Hearing in this matter will be conducted at the following location _____.

2.2. **Date**: The Parties estimate that the hearing will require ____ days of presentation at the Final Hearing. Accordingly, the Final Hearing of this matter will commence at

_____ am on _____ and, unless otherwise ruled by the Arbitrator or agreed by the Parties, shall terminate no later than _____ pm on _____.

2.2.1. **Final Hearing Sessions** Unless otherwise agreed by the Parties or directed by the Arbitrator, the Final Hearing sessions shall commence at 9:00 am terminate at 5:00 pm each day. Each Party shall be expected to fully cooperate to accommodate witness schedules.

2.3. **Final Hearing Procedures** The Final Hearing will generally follow the customary order of proof and evidential presentation typically observed for federal court bench trials. Pre-admission of all exhibits by joint stipulation will be considered on the first session day. All Exhibits which are the subject of a bona fide dispute as to authenticity should be specially tabbed and segregated from the stipulated Exhibits. Counsel are expected to confer prior to the Final Hearing in a good faith effort to resolve any such evidentiary disputes and, to the greatest extent possible, present any unresolved evidentiary issues to the Arbitrator within the time frames set forth in Section 1.3 above.

2.4. **Final Hearing Testimony** Witness testimony may be offered live, by deposition (transcript or video), via telephone, or, with agreement of counsel, in any other manner which promotes the efficient presentation of the evidence. Parties are independently responsible for making any necessary arrangements for special equipment which may be needed to facilitate the presentation of evidence during the Final Hearing - e.g. speaker-phone, VCR, TV, projectors, etc.

2.5. **Final Award** – The Final Award by the Arbitrator shall be issued as soon as practical following the completion of this Arbitration proceeding and shall be final and binding as to all Parties. The form of the Final Award shall, at the request of the Parties, be (with/without) reasoned opinion.

3. **FEE DISCLOSURE, PAYMENT SCHEDULE AND DEPOSITS FOR ARBITRATION FEES AND COSTS**

3.1. **Summary of Hourly Rates Previously Disclosed.** The hourly rate for Lawrence M. Watson's arbitration services is \$_____ per hour.

3.2. **Estimate of Fees, Allocation and Payment** – The Parties have agreed to divide and pay all arbitration fees and costs in advance The Arbitrator has estimated the total Arbitration fees and costs for this matter to be \$_____ (\$_____ each) which is intended to cover time required for all pre-arbitration motion practice, administrative matters, pre-hearing preparation, conduct of the Final Hearing as well as travel and accommodation costs. In the event that the amounts deposited or paid are insufficient to pay for time and expenses actually expended by the Arbitrator, the Arbitrator reserves the right to assess and collect a supplemental payment prior to the issuance of the Award. Subject to the "non-refundable" terms set forth herein, in the event the fees are less than estimated, any

balance remaining shall be returned to the parties. The parties have agreed to evenly divide and pay these fees as described below.

3.3. **Arbitrator's Fee and Cost Payment Schedule; Deposits** The estimated total Arbitration Fees and Costs shall be paid by the parties in three (3) advance deposits as follows;

3.3.1. \$XXX each upon the entry of this Case Management and Scheduling Order (initial deposit), and,

3.3.2. \$XXX each on _____ (second deposit) and,

3.3.3. \$XXX each on _____ (third deposit).

3.4. **Deposit Refund Upon Termination or Settlement Prior to Final Hearing-** In the event this matter is resolved by the parties or this proceeding is otherwise terminated prior to the completion of the Final Hearing for any reason other than the Arbitrator's inability or unwillingness to perform, the following refund terms will apply:

3.4.1. Termination or cancellation occurring from the date of this Order to _____ – full initial deposit paid by each party shall be refunded less actual time and costs incurred between the date of this Order and the date of such cancellation. Absent such cancellation or termination as of the close of business on _____, however, the full amount of the initial deposit made shall become nonrefundable.

3.4.2. Termination or cancellation occurring from _____ **until** _____ – full amount of second deposit paid by each party shall be refunded less actual time and costs incurred between _____ and the date of such cancellation. Absent such cancellation or termination as of the close of business on _____, however, the full amount of the second deposit made shall become nonrefundable.

3.4.3. Termination or cancellation from _____ **to** _____ - full amount of third deposit paid by each party shall be refunded less actual time and costs incurred between _____ and the date of such cancellation. Absent such cancellation or termination as of the close of business on _____, however, the full amount of the third deposit made shall become nonrefundable.

3.4.4. In the event this Arbitration proceeding is terminated by reason of the Arbitrator's inability or unwillingness to perform hereunder, all fee and cost deposits paid to the date of such termination shall be refundable less the actual time and costs incurred to the termination date.

DONE AND ORDERED on this 28th day of August, XXXX.

Lawrence M. Watson, Jr., Arbitrator