American Arbitration Association

Preliminary Hearing Scheduling Order #______________ Case 011500029239

SAMPLE

The commentary for the various sections of the Preliminary Hearing form is provided as guidance and does not supersede legal norms, provisions of the rules, codes of ethics, parties’ arbitration agreements or arbitrator’s authority. Actual circumstances may differ in real cases and therefore, may prompt arbitrators to make decisions or take actions different from those illustrated.

REPORT OF PRELIMINARY HEARING AND SCHEDULING ORDER

Pursuant to the Commercial Arbitration Rules of the American Arbitration Association (AAA), a preliminary hearing was held on ______________________, before Arbitrator(s) ______________________. Appearing at the hearing were ______________________________________________________________

By Agreement of the parties and Order of the Arbitrator(s), the following is now in effect.

Contentions of the Parties: Each party should briefly summarize its claims and defenses, to the extent not covered by prior submissions to the Arbitrator(s) by ____________.

Stipulation: Each party should separately list those issues of fact and law upon which all parties agree by ____________.

Contested Issues of Fact: Each party should separately list those issues of fact which are in dispute by ____________.

Exchange of Documents: Each party will exchange initial document requests by ____________. Each party will produce (or make available for inspection, when appropriate) any requested documents in their possession within ________ days from receipt of the request, unless the party receiving the request provides written objection to the requesting party within ____________ days. After the parties have attempted to resolve the objections, the requesting party may seek a ruling from the Arbitrator(s) as to whether the requested documents should be produced. The request must be specific as to the documents sought.

Site Inspection: Claimant will make the site available to the parties for inspection upon reasonable request.

Damages Summary: Each party who is making a claim for any affirmative relief (either equitable relief or damages) shall separately identify each element of damages sought and the approximate amount thereof or, in the case of a demand for equitable relief, shall state concisely the specific relief requested.

Witness List: Each party should separately list those persons who may be called by that party to testify during the proceedings, either live or by deposition (except for witnesses who may be called in rebuttal). The list should be divided between those who may be called in solely as “fact witnesses” and those who may be called as “expert
witnesses”. For each listed “expert witness” the witness’ area of expertise should be identified. A summary of facts to be presented by each fact witness shall follow each listed fact witness and a summary of expert opinion for each expert witness shall follow each expert witness listed. Except upon showing good cause, a party will not be permitted to call a witness who is not listed by that party. Witness lists should be exchanged between the parties not less than ten (10) days prior to the commencement of proceedings.

**Exhibit List:** Each party should separately list, by number and description, each exhibit that may be offered into evidence by that party (except those exhibits used solely for impeachment). Except upon showing good cause, exhibits which are not listed will not be admitted. All exhibits should be pre-marked and exchanged between the parties at least ten days prior to the commencement of proceedings. Listed exhibits must be in existence, and must be available for inspection by the opposing party upon request.

**Exhibit books:** On or before ____________, the parties will prepare for the arbitrators a jointly-prepared three ring binder loose-leaf notebook containing all exhibits to be used at the hearing, with each exhibit separately numbered and identified by a side tab divider. In addition, the parties will provide at the hearing an exhibit book for use by witnesses. Voluminous categories of documents can be located in a single exhibit book, at the discretion of the parties.

**Opening statement and closing argument:** There (will) (will not) be an opening statement and closing argument. Each party will be allowed _______ minutes for opening statement and _________ for closing argument.

**Communications with the arbitrator:** There will be no ex-parte communications with the arbitrator. If either party desires to convene a conference with the arbitrator, that party shall make arrangements for a conference call through the American Arbitration Association.

Hearings in this matter will commence before the Arbitrator(s) at ______________ on ______________ at ___________. The parties estimate that this case will require ___________days of hearing time, inclusive of arguments. Any and all documents to be filed with or submitted to the Arbitrator(s) outside the hearing shall be given to the AAA Manager of ADR Services for transmittal to the Arbitrator(s).

COPIES OF SAID DOCUMENTS SHALL ALSO BE SENT SIMULTANEOUSLY TO THE OPPOSING PARTY(S). There shall be no direct oral or written communication between the parties and the Arbitrator(s), except at oral hearing. On or before ______________, each party shall serve and file a prehearing brief on all significant disputed issues, setting forth briefly the party’s position and the supporting arguments and authorities.

**Form of Award:** (Circle one)

1. Standard Award
2. Reasoned Award
3. Findings of fact and conclusions of law

**Court Reporter:** (Y) (N) ____________________________

Pursuant to the direction of the Arbitrator(s), or any other preliminary matters not otherwise provided for herein shall be raised by ____________________________(date). All deadlines stated herein will be strictly enforced. After such deadline, the parties may not file such motions except with the permission of the Arbitrator(s), good cause having been shown. This order shall continue in effect unless and until amended by subsequent order of the Arbitrator(s).