

CALIFORNIA YACHT BROKERS ASSOCIATION

The California Yacht Brokers Association was established on January 29, 1975 as a non-profit, unincorporated association of yacht brokers, salespersons and others dedicated to conduct business with integrity, dignity and a high standard of professionalism in providing services to the yacht brokerage industry, as well as to protect the boating enthusiast.

As part of the continuing effort to provide such services, the California Yacht Brokers Association ("CYBA") has established this CYBA Grievance and Arbitration Manual ("Manual"), which is available to CYBA members and non-members alike. It is the purpose of this Manual to set forth the procedures and policies of arbitration for the settlement of grievances and disputes.

This Manual was prepared by the Board of Directors of the CYBA with legal assistance from attorneys Thomas A. Russell and Mark D. Holmes of Williams Woolley Cogswell Nakazawa & Russell, Long Beach, California.

California Yacht Brokers Association

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SUMMARY OF PROCEDURES

The following summary is not to be interpreted as a substitute for the detailed procedures, which are set forth in the next part of this Manual. If there are any inconsistencies or conflicts between this summary and the detailed rules, which follow, the detailed Rules shall prevail.

Disputes: Disputes can arise from a number of circumstances. For example, disputes can arise between a yacht buyer and a yacht seller, disputes between yacht buyer or seller and a yacht broker, disputes between or among yacht brokers, or disputes between competing yacht buyers. This list is by no means exhaustive. It is intended merely to provide an outline of the various types of disputes that can arise.

The Arbitration Agreement: The parties must have agreed to arbitrate in order to have a dispute settled by arbitration. The agreement to arbitrate may be set forth in the original agreement between the disputing parties, such as an Agreement for the Purchase and Sale of a Yacht, or the agreement to arbitrate may be set forth in a later writing in which the disputing parties agree to settle their dispute by arbitration. Both forms of such agreement to arbitrate are equally enforceable. If a party is in doubt as to whether arbitration is the proper method by which to settle a dispute, or if a party is in doubt as to whether the arbitration agreement is enforceable, the party should consult with legal counsel.

Nature of the Arbitration Agreement: The agreement to arbitrate may be either binding or nonbinding. An opinion rendered in nonbinding arbitration is advisory only. An opinion rendered in binding arbitration, however, has the same effect as a judgment rendered in a court of law, provided the agreement to arbitrate contains the appropriate "self executing" language. The Arbitration Award may be entered in a court of law and enforced as if the arbitration award were a judgment of that court. THE FORMS SET FORTH IN THIS MANUAL ARE FOR BINDING ARBITRATION.

Applicable Law: Definitions are to be construed as provided in appropriate California law. (California Code of Civil Procedure Section 1280 et seq.)

Timeline for Arbitration: The following schedule of key events provides a general timeline for arbitration. There are many factors that may cause the timeline to vary. Consult the Rules which follow for the specific times required.

Initiate Arbitration: - 3 copies of Complaint filed with Administrator (Art. II, l(a)). Complainant may request city where arbitration to be conducted (Art. IV, 2).

Upon receipt by administrator: Administrator notifies Respondent by serving Notice Respondent (Art.II, l(a)).

14 days after date of Notice to Respondent: Respondent has 14 days within which to file Reply or Respondent's own claim with Administrator (Art. II, l(b)). If no Reply is filed during this period, it is assumed the claim is denied.

Respondent may object to city designated by Complainant.

7 days from filing additional claim: After filing the claim the parties may make a new or new or different claim and file it with the Administrator. (Art. II, 1(c)). Other party has 7 days to file Reply. (Once Arbitration Panel is appointed, this is not possible without Arbitration Panel consent.)

14 days after submission of list: After filing the Demand or submission the Administrator shall submit to the parties a list of persons who can serve as arbitrators (Art. III, 2.) The parties have 14 days from mailing date in which to cross any names off the list, prioritize the remaining names, and return it to the Administrator. If not returned within this period, the party shall accept any Arbitrator appointed by the Administrator. (Art. III, 2.)

14 days before hearing: After arbitration Panel is appointed, Panel must deliver its estimate of Administrative Fees and Arbitration Fees to the Administrator no later than 14 days prior to the arbitration hearing. (Art. II, 4-6.)

7 days before hearing: After Arbitration Panel is appointed, and has opportunity to substitute its own estimate, party or parties making claims must deposit estimated Administrative Fees and Arbitration Fees with Administrator no later than 7 days before the arbitration hearing. (Art. I, 13.)

Time and Place: Administrator shall notify parties 30 days prior to any Hearing. (Art. IV, 5.)
Each party notifies other parties that it is represented by counsel at least 7 days prior any Hearing at which counsel will first appear. (Art. IV, 7.)

Award: The Arbitration Panel shall determine the award not later than 30 days from the date of closing of the hearings. (Art. V, 2.)

CYBA ARBITRATION RULES

ARTICLE I

GENERAL

1. **California Yacht Brokers Association Arbitration Rules:** The California Yacht Brokers Association ("CYBA") Arbitration Rules are established for the settlement of disputes among members and non-members alike. The CYBA Arbitration Rules are called the "Rules."

2. **Agreement of the Parties:** Whenever an agreement provides for arbitration by the CYBA or under the Rules, these Rules shall be deemed to be a part of the agreement. These Rules and any amendments shall apply in the form in effect at the time the arbitration is initiated.

3. **Name of the Arbitration Panel:** The arbitrator or arbitrators selected by the parties or appointed by the Arbitration Administrator for the settlement of any dispute under these Rules shall be called the Arbitration Panel.

4. **Arbitration Administrator:** When parties agree to arbitrate under these Rules, or when they provide for arbitration by the CYBA and an arbitration is initiated, they thereby constitute the CYBA the Administrator of the arbitration. The authority and obligations of the Administrator are prescribed in the agreement of the parties and in these Rules.

5. **Delegation of Duties:** The duties of the CYBA under these Rules may be carried out through the Grievance and Arbitration Committee of the CYBA, or such other officers or committees as the CYBA may direct.

6. **Selecting the Members of the Arbitration Panel:** The CYBA will maintain lists of qualified persons willing to serve as arbitrators who are located throughout the State of California. When requested by a party to an arbitration, the CYBA will identify a list of at least five (5) such persons who are located as close as possible to the geographical vicinity identified in the arbitration filing. This list will be available to all the parties to the arbitration. The parties to arbitration, however, may select their own members of the Arbitration Panel.

Nothing is to be construed in these Rules as prohibiting or restricting the parties in their ability to select an Arbitration Panel of persons that are not from the list of arbitrators provided by the Administrator.

7. **Legal counsel To The Arbitration Panel:** Legal counsel shall be provided to each CYBA Arbitration Panel by Thomas A. Russell and such counsel shall be called Legal Counsel to the Arbitration Panel.

If the parties agree that Thomas A. Russell may serve on the Arbitration Panel, Thomas A. Russell shall serve as both a member of the Arbitration Panel and Legal Counsel to the Arbitration Panel. If the parties cannot agree upon an Arbitration Panel to hear the dispute, the Administrator shall designate Thomas A. Russell to serve both as a member of the Arbitration Panel and as Legal Counsel to the Arbitration Panel.

In the event that Thomas A. Russell is unable to serve as Legal Counsel to the Arbitration Panel, or declines to serve, Thomas A. Russell shall designate other counsel to serve as Legal Counsel to the Arbitration Panel. Thomas A. Russell's designation of counsel is subject to the approval of the Administrator.

Legal Counsel to the Arbitration Panel shall attend each inspection, pre-hearing conference, preliminary hearing and arbitration hearing (each of which is hereinafter referred to as a "Hearing") at its own expense, and advise the Arbitration Panel during the course of such Hearings. After the close of the arbitration hearing, or upon final presentation of evidence in the event that no Hearings are held, Legal Counsel shall review both the evidence

presented and the applicable legal authorities. Legal Counsel shall then meet with the Arbitration Panel and advise it regarding the law applicable to the dispute. After the Arbitration Panel reaches a decision regarding the dispute, Legal Counsel shall draft the Panel's decision or award.

Legal Counsel shall be compensated for the services rendered to the Arbitration Panel in accordance with the Arbitration Fee and Refund Schedule attached as Addendum 2 to these Rules.

8. **Office of Administrator:** The office of the Administrator is the main office of the CYBA. All correspondence is to be directed through the office of the CYBA unless indicated otherwise in these Rules.

9. **Administrative Fees:** As a not-for-profit organization, the Administrator shall be compensated for the direct cost of providing administrative services in accordance with the Administrative Fee and Refund Schedule attached as Addendum 1 to these Rules.

When a matter is withdrawn or settled, a refund of the Administrative Fees shall be made in accordance with the Administrative Fee and Refund Schedule attached as Addendum 1 to these Rules.

The Administrator, in the event of extreme hardship on the part of any party, may defer or reduce the administrative fee.

10. **Expenses:** The expenses of witnesses for all parties shall be paid by the party producing such witnesses. The cost of the stenographic record, if any is made, and all transcripts thereof, shall be prorated equally among all parties ordering copies unless the parties shall otherwise agree. The costs for such stenographic record shall be paid for by the responsible parties directly to the reporting agency.

All other expenses of the arbitration, which include required traveling and other expenses of the Arbitration Panel (other than Legal Counsel in the event that Legal Counsel serves on the Arbitration Panel) and of Administrator and the expenses of any witness or the cost of any proofs produced at the direct request of the Arbitration Panel shall be borne equally by the parties, unless the Arbitration Panel, in the award, assesses such expenses or any part thereof against any specified party or parties.

11. **Arbitration Fees:** Unless otherwise provided in the Rules, Arbitration Fees will be assessed in accordance with the Arbitration Fee and Refund Schedule attached as Addendum 2 to these Rules.

When a matter is withdrawn or settled, a refund of Arbitration Fees shall be made in accordance with the Arbitration Fee and Refund Schedule attached as Addendum 2 to these Rules.

12. **Deposits:** Each party bringing a claim, cross-claim or counter-claim ("Claimant") must deposit with the Administrator no later than seven (7) days before any Hearing the estimated Administrative and Arbitration Fees in accordance with the Administrative and Arbitration Fee and Refund Schedules attached as Addendum 3 to these Rules. In the event that the Claimant fails to deposit the required fees, the Administrator shall be under no obligation to take any further action with regard to the arbitration.

13. **Disbursement of Funds Deposited with the Administrator:** The funds that a Claimant has deposited with the Administrator shall be disbursed in accordance with these Rules (1) upon delivery of the award, or (2) in the event that a Claimant fails to pay any balance of Administrative or Arbitration Fees due and owing within (30) days after the date on which the Administrator mails notice thereof to the Claimant.

ARTICLE II
INITIATING THE ARBITRATION

1. **Initiation of Arbitration Under an Arbitration Provision in a Contract:** Arbitration under an arbitration provision in a contract may be initiated in the following manner:

(a) The initiating party shall give notice to the other party of its intention to arbitrate by filing three (3) copies of a Complaint (Form 1) setting forth the nature of the dispute, the estimated amount of time required to hear the dispute, the estimated amount in dispute and the remedy sought. All copies of the Complaint shall be filed with the Administrator together with three (3) copies of the arbitration provisions of the contract. The initiating party shall ensure that the address(es) of the other party(ies) is/are complete and accurate. Neither CYBA nor the Administrator is responsible for incomplete or inaccurate addresses.

(b) The Administrator shall give notice of such filing to the other party or parties by mailing the party or parties a Notice to Respondent (Form 2) together with a copy of these Rules. If so desired, the party against whom the Complaint is filed (the "Respondent") may file a Reply (Form 3) which is an answering statement. The Reply must be filed in duplicate with the Administrator within fourteen (14) days after the date of the Notice to Respondent from the Administrator. The Respondent shall send all copies of the Reply to the Administrator, who shall send a copy of the Reply to the Complainant. If a Respondent asserts a cross-claim or counter-claim, the Respondent shall state the nature of the claim, the estimated amount of time required to hear the dispute, the estimated amount in dispute and the remedy sought. If no Reply is filed by the Respondent within the stated time, it will be assumed that the claim is denied. Failure to file a Reply shall not operate to delay the arbitration.

2. **Initiation Under a Submission:** Parties to any existing dispute may commence an arbitration under these Rules by filing with the Administrator two (2) copies of a written Agreement to Submit to Arbitration (Form 7), or a substantially similar form, under these Rules (Submission), signed by the parties. It shall contain a statement of the claims of each party, the amount of time estimated to hear each claim, the estimated amount in dispute with respect to each claim and the remedy sought.

3. **Change of Claim:** If a Claimant desires to make any new or different claim, such claim shall be made in writing and filed with the Administrator, and a copy thereof shall be mailed to the other party or parties, who shall have a period of seven (7) days from the date of such mailing within which to file a Reply with the Administrator. After the Arbitration Panel is appointed, however, no new or different claim may be submitted except with the Arbitration Panel's consent.

4. **Substitution of Claimant's Estimates By Arbitration Panel:** In the event that the Arbitration Panel objects to any Claimant's estimate of either Administrative Fees or Arbitration Fees as unreasonable, the Arbitration Panel must mail a written objection to the estimate, and a substitute estimate, to the Administrator no later than fourteen (14) days before any Hearing. Upon receiving the Arbitration Panel's objection and estimate, the Administrator shall immediately mail a copy of the objection and estimate to the Claimant. The Arbitration Panel's estimate shall be conclusive in determining the amount of Administrative Fees or Arbitration Fees that the Claimant must deposit with the Administrator.

5. **Arbitration Panel's Override of Parties' Stipulated Estimates:** In the event that the parties stipulate in writing that they waive their right to any Hearing, or stipulate that no amount is in dispute, the Arbitration Panel may deliver a written objection to the stipulation, and a substitute estimate of either the time required to hear the dispute or the amount in dispute, to the Administrator no later than fourteen (14) days before any Hearing, or before the final presentation of evidence in the event that no Hearings will be held. Upon receiving the Arbitration Panel's estimate, the Administrator shall mail a copy of the objection and estimate to the parties. The Arbitration Panel's estimate shall be conclusive in determining the amount of Administrative Fees or Arbitration Fees that the Claimant must deposit with the Administrator.

6. **Arbitration Panel's Estimate In The Event That No Hearing Necessary/No Amount In Dispute:** In the event that the parties stipulate in writing that they waive their right to any Hearing, and that no amount is in dispute, and the Arbitration Panel agrees, the Arbitration Panel must deliver its written estimate of the number of hours that Legal Counsel will work to assist the Arbitration Panel in deciding the dispute to the Administrator no later than fourteen (14) days before the parties make their final presentation of evidence. Upon receiving the Arbitration Panel's estimate, the Administrator shall immediately deliver a copy of the estimate to the parties. The Arbitration Panel's estimate shall be conclusive in determining the amount of Administrative Fees or Arbitration Fees that the Claimant must deposit with the Administrator.

ARTICLE III

SELECTING THE ARBITRATION PANEL

1. **Qualification of Arbitration Panel:** Any arbitrator appointed to the Arbitration Panel shall be neutral, subject to disqualification for the reasons specified in Section 5 of this Article. If the agreement of the parties names an Arbitration Panel or specifies any other method of appointing an Arbitration Panel, or if the parties specifically agree in writing to the appointment of the Arbitration Panel, such Arbitration Panel shall not be subject to disqualification for such reasons.

2. **Appointment from List of Qualified Arbitrators:** If the parties have not appointed an Arbitration Panel and have not provided any other method of appointment, the Arbitration Panel shall be appointed in the following manner:

(a) Immediately after the filing of the Complaint or Submission, the Administrator shall submit, simultaneously to each party to the dispute, an identical list of names of persons chosen from the list of qualified arbitrators. Each party to the dispute shall have fourteen (14) days from the mailing date in which to cross off any names objected to, number the remaining names to indicate the order of preference, and return the list to the Administrator. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists and in accordance with the designated order of mutual preference, the Administrator shall invite the acceptance of an Arbitration Panel to serve. If the parties fail to agree upon any of the persons named, or if acceptable persons selected for the Arbitration Panel are unable to act, or if for any other reason the **appointment cannot be made from the submitted lists, the Administrator shall have the power to designate Thomas A. Russell** as a member of the Arbitration Panel, and any other persons appearing on the list of qualified arbitrators with the submission of any additional list.

3. **Direct Appointment by Parties:** If the agreement of the parties names an Arbitration Panel or specifies a method of appointing an Arbitration Panel, that designation or method shall be followed. If the agreement specifies a period of time within which an Arbitration Panel shall be appointed, and any party fails to make such appointment within such period, the Administrator shall make the appointment. If no period of time is specified in the agreement and the parties fail to make an appointment within fourteen (14) days, the Administrator shall make the appointment.

4. **Notice to Member of Arbitration Panel of Appointment:** Notice of the appointment of the Arbitration Panel, whether appointed by the parties or by the Administrator, shall be mailed to the members of the Arbitration Panel by the Administrator, together with a copy of these Rules, and the signed acceptance to serve by the members of the Arbitration Panel shall be filed prior to the opening of the first hearing.

5. **Disclosure and Challenge Procedure:** A person appointed as a member of the Arbitration Panel shall disclose to the Administrator any circumstances likely to affect impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their counsel. Upon receipt of such information from such member or other source, the Administrator shall communicate such information to the parties, and, if it seems appropriate to do so, to the other members of the Arbitration Panel and others. Thereafter, the Administrator shall determine whether the member of the Arbitration Panel should be disqualified and shall inform the parties of its decision, which shall be conclusive.

6. **Vacancies:** If any member of the Arbitration Panel should resign, die, withdraw, refuse, be disqualified or be unable to perform the duties of the office, the Administrator may, on proof satisfactory to it, declare the office vacant. Vacancies shall be filed in accordance with the applicable provisions of these Rules.

In the event of a vacancy in the Arbitration Panel, the remaining members of the Arbitration Panel may continue with the hearing and determination of the controversy, unless the parties agree otherwise.

ARTICLE IV
CONDUCT OF THE ARBITRATION

1. **Number of Members of the Arbitration Panel:** If the arbitration agreement does not specify the number of members of the Arbitration Panel, the dispute shall be heard and determined by one member, unless the Administrator, in its discretion, directs that a greater number of members be appointed.

2. **Arbitration - in the Absence of a Party:** Unless the law provides to the contrary, the Arbitration Panel may proceed in the absence of any party which, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party. The Arbitration Panel shall require the party who is present to submit such evidence as the Arbitration Panel may require for the making of an award.

3. **Waiver of Hearings:** The parties may stipulate in writing that they waive their right to any Hearing, but any such waiver is subject to the approval of the Arbitration Panel.

4. **Oaths:** Before proceeding with any Hearing or with the examination of the file, each member of the Arbitration Panel may take an oath of office, and if required by law, shall do so. The Arbitration Panel has discretion to require witnesses to testify under oath administered by any duly qualified person or, if required by law or demanded by either party, shall do so.

5. **Time and Place:** The Arbitration Panel shall fix the time and address for each inspection, investigation, pre-hearing conference, preliminary hearing, or arbitration hearing ("Hearing") to be held. The Administrator shall mail to each party notice thereof at least thirty (30) days in advance of the Hearing, unless the parties by mutual agreement waive such notice.

6. **Hearing Sessions:** Each Hearing shall be divided into three-hour blocks of time, and each block of time shall be called a session. Unless the Arbitration Panel decides otherwise, morning sessions shall convene at 0900 hours and adjourn at 1200 hours. Afternoon sessions shall convene at 1300 hours and adjourn at 1600 hours. Should the Arbitration Panel attend any part of a session, the cost of an entire session shall be assessed.

7. **Representation by Counsel:** **Any party may be represented by counsel at any Hearing.** A party intending to be so represented shall notify the other party and the Administrator of the name and address of counsel at least seven (7) days prior to the date set for the Hearing at which counsel is first to appear. When an arbitration is initiated by counsel, or where an attorney replies for the other party, such notice is deemed to have been given.

8. **Stenographic Record:** Any party wishing a stenographic record of any Hearing shall make such arrangements directly with the stenographer and shall notify the other parties of such arrangements in advance of the Hearing. The requesting party or parties shall pay the cost of such record.

9. **Inspection or Investigation:** Whenever the Arbitration Panel deems it necessary to make an inspection or investigation in connection with the arbitration, the Arbitration Panel shall direct the Administrator to advise the parties of such intention. The Arbitration Panel shall set the time and the Administrator shall notify the parties thereof. Any party who so desires may be present at such inspection or investigation. In the event that one or both parties are not present at the inspection or investigation, the Arbitration Panel shall make a verbal or written report to the parties and afford them an opportunity to comment.

10. **Pre-hearing Conference and Preliminary Hearing:** At the request of the parties or at the discretion of the Administrator or the Arbitration Panel, a preliminary hearing will be scheduled with the Arbitration Panel and the parties to arrange for the production of relevant documents and other evidence, to further identify witnesses to be called, to schedule further Hearings, and to consider any other matters which will expedite the arbitration proceedings.

11. **Fixing of City or County Where Arbitration Hearing To Be Conducted:** Unless the parties have contractually agreed that the arbitration hearing will be held in a specific city or county, the initiating party may request at the time of filing the complaint that the arbitration hearing be held in a specific city. If a Respondent fails to file an objection to the city selected by the initiating party by the date the Respondent's Reply is due, the arbitration hearing shall be conducted in the city selected by the Complainant. If no city is selected or if the parties cannot agree as to the city where the arbitration hearing will be conducted, the Administrator shall have the power to determine the city. The Administrator shall give due consideration to the location of the parties, location of witnesses, location where the contract was entered into, location and availability of arbitrators and available facilities in determining the city selected for the conduct of the arbitration. The decision of the Administrator shall be final and binding.

12. **Attendance at Arbitration Hearing:** The Arbitration Panel shall maintain the privacy of the arbitration hearing unless the law provides to the contrary. Any person having a direct interest in the arbitration is entitled to attend the arbitration hearing. The Arbitration Panel shall otherwise have the power to require the exclusion of any witness, other than a party, Legal Counsel to the Arbitration Panel or other essential person, during the testimony of any other witness. It shall be discretionary with the Arbitration Panel to determine the propriety of the attendance of any other person.

13. **Adjournments:** The Arbitration Panel may take adjournments upon the request of a party or upon the Arbitration Panel's own initiative and shall take such adjournment when all of the parties agree thereto.

14. **Order of Arbitration Hearing Proceedings:** An arbitration hearing shall be opened by the filing of the oath of the members of the Arbitration Panel, where required, and by the recording of the place, time and date of the hearing, the presence of the Arbitration Panel and parties, and counsel, if any, and by the receipt by the Arbitration Panel of the statement of the claim and Reply, if any.

The Arbitration Panel may, at the beginning of each arbitration hearing, ask for statements clarifying the issues involved. The initiating party shall then present its claim and proofs and its witnesses, who shall submit to questions or other examination. Each Respondent shall then present its defense and proofs and its witnesses, who shall submit to questions or other examination.

Each Cross-Claimant or Counter-Claimant, if any, shall then present its claim and proofs and its witnesses, who shall submit to questions or other examination, and each Respondent thereto shall present its defense and proofs and its witnesses, who shall submit to questions or other examination.

The Arbitration Panel has discretion to vary this procedure but shall afford full and equal opportunity to all parties for the presentation of any material or relevant proofs.

Exhibits, when offered by any party, may be received in evidence by the Arbitration Panel. The names and addresses of all witnesses and exhibits in order received shall be made a part of the record.

15. **Evidence:** The parties may offer such evidence as is relevant and material to the dispute and shall produce such additional evidence as the Arbitration Panel may deem necessary to an understanding and determination of the dispute. An Arbitration Panel authorized by law to subpoena witnesses or documents may do so upon the request of any party, or independently.

The Arbitration Panel shall be the judge of the relevance and materiality of all the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of all the members of

the Arbitration Panel, Legal Counsel to the Arbitration Panel and all of the parties, except where any of the parties is absent in default or has waived the right to be present.

16. **Evidence by-Affidavit and Filing of Documents:** The Arbitration Panel shall receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as the Arbitration Panel deems it entitled to after consideration of any objections made to its admission.

All documents not filed with the Arbitration Panel at the arbitration hearing, but arranged for at the arbitration hearing or subsequently by agreement of the parties, shall be filed with the Administrator for transmission to the Arbitration Panel. All parties shall be afforded opportunity to examine such documents.

17. **Conservation of Property:** The Arbitration Panel may issue such orders as may be deemed necessary to safeguard the property which is the subject matter of the arbitration without prejudice to the rights of the parties or to the final determination of the dispute. Such orders may include, but are not limited to, provisional relief, injunctive relief, declaratory relief, and specific performance of a contract.

18. **Closing of Arbitration Hearing:** The Arbitration Panel shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, or if satisfied that the record is complete, the Arbitration Panel shall declare the arbitration hearing closed and minutes thereof shall be recorded. If briefs are to be filed, the arbitration hearing shall be declared closed as of the final date set by the Arbitration Panel for the receipt of briefs. If documents are to be filed as provided for in these Rules and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be the date of closing the hearings. The time limit within which the Arbitration Panel is required to make the award shall commence to run, in the absence of other agreements by the parties, upon the closing of the arbitration hearing.

19. **Reopening of Arbitration Hearing:** An arbitration hearing may be reopened on the Arbitration Panel's own motion, or upon application of a party, at any time before the award is made. If reopening the arbitration hearing would prevent the making of the award within the specific time agreed upon by the parties in the contract out of which the controversy has arisen, the matter may not be reopened, unless the parties stipulate in writing to extension of such time limit. When no specific date is fixed in the contract, the Arbitration Panel may reopen the arbitration hearing, and the Arbitration Panel shall have thirty days from the closing of the reopened arbitration hearing within which to make an award.

20. **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 objection thereto in writing, shall be deemed to have waived the right to object.

21. **Extension of Time:** The parties may modify any period of time by mutual agreement. The Administrator for good cause may extend any period of time established by these Rules, except the time for making the award. The Administrator shall notify the parties of any such extension of time and any reason therefore.

22. **Notification of Actual Fees Assessed:** Within seven (7) days after the close of the arbitration hearing, or final presentation of evidence in the event that no Hearings are held, the Administrator shall mail written notice to each Claimant of the Administrative Fees and Arbitration Fees to be assessed. In the event that the amount of Administrative Fees or Arbitration Fees assessed is less than the amount deposited, the Administrator shall include with the notice a refund of the excess amount to the Claimant. In the event that the amount of Administrative Fees or Arbitration Fees assessed exceeds the amount deposited, the Administrator shall request payment of the balance in the notice, and the Claimant shall promptly pay the balance due and owing to the Administrator. If a Claimant fails to pay any balance of Administrative or Arbitration Fees assessed within (30) days of the date of mailing of the

Administrator's notice, the monies that a Claimant has deposited with the Administrator shall be disbursed in accordance with these Rules.

23. **Communication with Arbitration Panel and Legal Counsel to Arbitration Panel and Serving of Notice:**

(a) There shall be no communication between the parties and any members of the Arbitration Panel, or Legal Counsel to the Arbitration Panel, other than at hearings. Any other oral or written communications from the parties to the Arbitration Panel or Legal Counsel to the Arbitration Panel shall be directed to the Administrator for transmittal to the Arbitration Panel.

(b) Each party to an agreement which provides for arbitration under these Rules 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 and for any court action in connection therewith or for the entry of judgment on any award made hereunder may be served upon such party by mail addressed to such party or its attorney at its last known address or by personal service, within or without the state wherein the arbitration is to be held whether such party be within or without the United States of America, provided that reasonable opportunity to be heard with regard thereto has been granted such party.

ARTICLE V
THE AWARD

1. **Majority Decision:** Whenever there is more than one member of the Arbitration Panel, all decisions of the Arbitration Panel must be by a majority vote. The award must also be made by a majority unless the concurrence of all is expressly required by the arbitration agreement or by law.

2. **Time of Award:** The award shall be made promptly by the Arbitration Panel and, unless otherwise agreed by the parties, or specified by law, no later than thirty (30) days from the date of closing the hearings, or if oral hearings have been waived, from the date that the parties make a final presentation of evidence to the Arbitration Panel.

3. **Form of Award:** The award shall be in writing (Award of Arbitrators - Form 5) and shall be signed either by the sole member of the Arbitration Panel or by a majority if there be more than one member. It shall be executed in the manner required by law.

4. **Scope of Award:** The Arbitration Panel may grant any remedy or relief which the Arbitration Panel deems just and equitable and within the scope of the agreement of the parties, including, but not limited to provisional relief, injunctive relief, declaratory relief and specific performance of a contract. The Arbitration Panel, in the award, may also assess arbitration fees and expenses in favor of any party and, in the event any Administrative Fees or Arbitration Fees are still due and owing to the Administrator, in favor of the Administrator.

5. **Award Upon Settlement:** If the parties settle their dispute during the course of the arbitration, the Arbitration Panel, upon their request, may set forth the terms of the agreed settlement in an award.

6. **Delivery of Award to Parties:** The Administrator shall not deliver the arbitration award to the parties until each Claimant has paid any and all Administrative Fees and Arbitration Fees assessed. After all fees have been paid, the parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail by the Administrator, addressed to such party at its last known address or to its attorney, or personal service of the award, or the filing of the award in any manner which may be prescribed by law.

7. **Release of Documents for Judicial Proceeding:** The Administrator shall, upon the written request of a party, furnish to such party, at its expense, certified facsimiles of any papers in the Administrator's possession that may be required in judicial proceedings relating to the arbitration.

8. **Applications to Court and Exclusion of Liability:**
 - (a) No judicial proceedings by a party relating to the subject matter of the arbitration shall be deemed a waiver of that party's right to arbitrate.
 - (b) The Administrator, any member of the Arbitration Panel and Legal Counsel to the Arbitration Panel in a proceeding under these Rules are not necessary parties in judicial proceedings relating to the arbitration.
 - (c) 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.
 - (d) The Administrator, any member of the Arbitration Panel and Legal Counsel to the Arbitration Panel shall not be liable to any party for any act or omission in connection with any arbitration conducted under these Rules, including any act or omission constituting active or passive negligence. The parties

shall hold harmless the Administrator, any member of the Arbitration Panel and Legal Counsel to the Arbitration Panel of and from any such claim, including legal fees and costs.

9. **Interpretation and Application of Rules:** The Arbitration Panel shall interpret and apply these Rules insofar as they relate to the Arbitration Panel's powers and duties. When there is more than one member of the Arbitration Panel and a difference arises among them concerning the meaning or application of any such Rules, it shall be decided by a majority vote. If that is unobtainable, either a member of the Arbitration Panel or a party may refer the questions to the Administrator for final award. All other Rules shall be interpreted and applied by the Administrator.

Arbitration Number: _____

(To be assigned by Arbitration Administrator)

COMPLAINT

To: Grievance and Arbitration Committee of the California Yacht Brokers Association

Date: _____, 20____

Complainant(s)

Respondent(s)

Name _____

Address _____

Address _____

Estimated Amount of Time Required To Hear Dispute (If Applicable. See Arbitration Fee and Refund Schedule attached as Addendum 2 to these Rules for explanation): _____

Estimated Amount In Dispute (If Applicable): \$ _____

Complaint(s) charge(s): (More than one may be checked. Add additional pages if necessary.)

_____ An alleged violation of a written contract for the purchase and sale of a yacht that Complainant alleges that the Respondent _____

_____ An alleged violation of Article(s) _____ of the Code of Ethics or other membership duty as set forth in the Bylaws of the CYBA in _____ (Article, Section).

_____ Other: (Please state in detail the nature of the complaint or charge. Add additional pages if required): _____

and alleges that the above charges are supported by the attached statement, which is signed and dated by the Complainant(s).

Unless an agreement expressly provides for the location of the arbitration, I request that the arbitration be held in the city of, _____, California.

Under penalty of perjury, I declare that to the best of my knowledge and belief, my allegations in the Complaint are true.

Complainant(s)

3 Copies (Send all copies to Administrator)

CYBA FORM 1

Arbitration Number: _____
(To be assigned by Arbitration Administrator)

COMMITTEE ON GRIEVANCE AND ARBITRATION
OF THE
CALIFORNIA YACHT BROKERS ASSOCIATION

NOTICE TO RESPONDENT

Date of Notice: _____, 20 ____

TO: Grievance and Arbitration Committee of the California Yacht Brokers Association

TO: _____, Respondent

Attached hereto is a copy of Complaint which names you as Respondent, as filed with the Committee on Grievances and Arbitration of the California Yacht Brokers Association.

Enclosed is a copy of the California Yacht Brokers Association Arbitration Procedures Manual for your reference. Your attention is drawn to ARTICLE IV, Section 7 of the Procedures Manual regarding representation by counsel.

Please be advised that under the Procedures Manual, you have fourteen (14) days from the date of this Notice in which to mail or file your reply and any cross-claim or counter-claim at the office of the Committee on Grievances and Arbitration of the California Yacht Brokers Association at the address below.

Enclosed are the appropriate Reply forms for your use. Should you wish to file a cross-claim or counter-claim, please submit the claim on a Complaint (CYBA-FORM-1) , or in a form substantially conforming to the attached Complaint (CYBA-FORM-1) , along with three copies of the claim. Submit the claim at the same time you submit your Reply.

Your Reply must be typewritten, with original and one copy for this office, signed as indicated on the document.

Very truly yours,
_____, Administrator
Committee on Grievance and Arbitration of the
California Yacht Brokers Association

Address

City State Zip

Enclosures: CYBA Arbitration Procedure Manual

Arbitration Number: _____
(To be assigned by Arbitration Administrator)

REPLY

TO: Grievance and Arbitration Committee of the California Yacht Brokers Association

DATE: _____, 20____

In the Matter of

Complainant(s)

Respondent(s)

Respondent answers the Complaint as follows: (Check one or more of the following.)

_____ Respondent denies each and every allegation of the Complaint.

_____ Respondent denies that Complainant is entitled to the damages or other relief sought but admits the following facts: _____

Respondent replies and substantiates such reply by the following facts and/or attached statement: _____

This reply is true and correct to the best of my knowledge and belief of the undersigned.

Under penalties of perjury, I declare that to the best of my knowledge and belief, the statements contained in this Reply are true and correct.

_____ Check here if you are asserting a cross-claim or counter-claim and submit the claim on a Complaint (CYBA-FORM-1), or in a form substantially conforming to the attached Complaint (CYBA-FORM-1), along with the three copies of the claim. Submit the claim at the same time you submit this Reply.

Date: _____

Address

2 Copies (Send to Arbitration Administrator)

CYBA FORM 3

Arbitration Number: _____
(To be assigned by Arbitration Administrator)

COMMITTEE ON GRIEVANCE AND ARBITRATION
OF THE
CALIFORNIA YACHT BROKERS ASSOCIATION

OFFICIAL NOTICE OF HEARING

_____ Complainant(s) _____ Respondent(s)

Above parties are hereby notified:

- (1) The Chairman of the Hearing Panel has designed _____, 20____,
_____ a.m./p.m. at _____
As the time and place for hearing the above case, which is a hearing concerning the allegation(s) set forth in a Complaint dated the _____ day of _____, 20__ and Cross-Complaint dated the _____ day of _____, 20 ____.
- (2) You are hereby notified to appear at the time and place so designated.
- (3) The members of the Arbitration Panel appointed to hear this case are: _____

(4) Either party may be represented by legal counsel, provided that notice of intention to do so is transmitted in writing to the other party and to the Hearing Panel not less than seven (7) days prior to the date of hearing.

(5) Each party shall arrange for his or her witnesses to be present at the time and place designated.

(6) Either party may file with the Administrator not less than seven (7) days prior to the date of any Hearing, written request for disqualification from the Hearing of any member of the Arbitration Panel for any reasons set forth in ARTICLE III, Section 5 of the CYBA Arbitration Procedures Manual. The parties shall not discuss the case with any member of the Arbitration Panel or Legal Counsel to the Arbitration Panel prior to any hearing or after any Hearing and prior to announcement of the decision.

(7) The parties to an arbitration proceeding may settle the issue between them but joint agreement arrived at any time prior to the hearing if written notice thereof is given to the Arbitration Panel or at any time during the hearing.

Very Truly Yours,

CYBA Arbitration Administrator, Committee on Grievance and
Arbitration of the California Yacht Brokers Association

_____ Address

_____ City State Zip

Arbitration Number: _____
(To be assigned by Arbitration Administrator)

COMMITTEE ON GRIEVANCE AND ARBITRATION
OF THE
CALIFORNIA YACHT BROKERS ASSOCIATION

AWARD OF ARBITRATORS

The undersigned arbitrator(s), who were duly appointed as the Arbitration Panel to hear and determine an equitable resolution of a dispute existing between

_____ and _____

do hereby certify that on the _____ day of _____, at the hour of _____

o'clock _____M., I/we proceeded to hear evidence of the parties to said controversy after giving the appropriate notice to each of the parties in writing of the time and place of our first meeting and having heard all of the evidence proof and arguments of the respective parties of the arbitration, I/we do hereby find and judge that:

_____ there is due and owing from the said _____

to the said _____ the sum of _____ dollars
(\$ _____) Dollars, which sum it is ordered that the said _____ pay said
_____ within _____ from this date.

_____ that such (other and further) relief is hereby ordered as follows:

Dated: _____, 20_____

_____, Chairman
_____, Member
_____, Member
_____, Member

CYBA FORM 5

ARBITRATION AGREEMENT

Contract Provision

The following when included in an agreement is a binding agreement to arbitrate any dispute arising out of the agreement.

STANDARD ARBITRATION CLAUSE

Any controversy or claim arising out of or relating to this agreement, or the breach thereof, shall be settled in accordance with the Arbitration Rules of the California Yacht Brokers Association Arbitration, as set forth in the current edition of the California Yacht Brokers Association Procedures Manual, and judgment upon the awards rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof.

AGREEMENT TO SUBMIT TO ARBITRATION

The undersigned, by executing this Agreement to Submit to Arbitration hereby agree and consent to submit to arbitration in accordance with the Arbitration Rules of the California Yacht Brokers Association the dispute as set forth on the Complaint together with any Cross-Complaints arising out of said dispute which are identified on the attached Complaint (and Reply, if appropriate).

The undersigned affirms that the submission of this dispute to arbitration is voluntary and without any coercion of any kind.

The parties hereto agree and promise to abide absolutely by the award and findings of the arbitrator(s) duly appointed, and in the event of an adverse decision to make prompt compliance and pay the fees and costs as provided for in said award.

The parties hereto understand and agree that the arbitration award is final and binding upon the parties and that a judgment of an appropriate court of law having jurisdiction may be entered upon the award.

Signed: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Signed: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Dated: _____

EXCERPTS FROM CALIFORNIA YACHT
BROKERS ASSOCIATION BYLAWS

ARTICLE XIV

GRIEVANCE AND ARBITRATION

Section 1. As a service to the yacht brokerage business and the yacht buying public, the Board of Directors may establish grievance and arbitration procedures to be administered by a Grievance and Arbitration committee of the Association to be appointed by the Board of Directors. The Grievance and Arbitration Committee of the Association will not hear grievances or arbitrations directly, but will be responsible for the administration of the procedures established by the Board of Directors and ensuring compliance with those procedures.

Section 2. There shall be three (3) members of the Grievance and Arbitration Committee which shall be appointed by the Board of Directors. Each member of the Grievance and Arbitration Committee shall serve for a three (3) year term except that the terms of the First Grievance and Arbitration Committee shall be staggered so that the term of only one member of the Committee will expire each year.

Section 3. Grievances and arbitrations to be heard will fall into one of the following categories:

- (a) Grievances between two or more Active Members of the Association. Submission of such grievance is voluntary.
- (b) Grievances involving non-members of the Association.
- (c) Grievances involving a member and another party to a transaction, or parties to a transaction involving a member.
- (d) Grievances involving a non-member and another party or parties to a transaction.

Section 4. The Grievance and Arbitration Committee will report to the Board of Directors at least monthly the number of grievances or arbitrations filed, the number of grievances or arbitrations heard, the disposition of such grievances or arbitrations and any other matters which may be of importance to the Board of Directors or may require action by the Board of Directors.

Section 5. The Board of Directors may establish a schedule of fees and charges for the purpose of conducting the grievance and arbitration procedure. Such schedule of fees and charges shall give due regard to the membership of the Association.

CALIFORNIA YACHT BROKERS ASSOCIATION

CODE OF ETHICS

CODE OF ETHICS

Section 1. It is the duty of the Broker to protect the public against fraud, misrepresentation or unethical practices in the yacht brokerage profession. Broker should endeavor to eliminate any practices which could be damaging to the public or to the dignity and integrity of the yacht brokerage profession, and assist the California Yacht Brokers Association in regulating the practices of Brokers and Salespersons in California.

Section 2. In accepting employment as agent, Broker pledges himself to protect the interests of his client. This obligation of absolute fidelity to the client's interest is paramount, but it does not relieve the Broker from obligation of dealing fairly with all parties to the transaction.

Section 3. Since the Broker may be representing one or more parties to a transaction, he should not accept compensation from more than one party under any circumstances without the full knowledge of all parties to the transaction.

Section 4. Broker, for the protection of all parties with whom he deals, should see that financial obligations and commitments regarding brokerage transactions are in writing and express the exact agreement of the parties. Copies of such agreements must be placed in the hands of all parties involved at the time the agreements are executed, or as soon thereafter as practicable.

Section 5. Broker must segregate from his own funds all monies being held for other persons. Separate special bank trust accounts should be used for this purpose.

Section 6. Broker should not be a party to the naming of a false consideration in any document. No offer should be submitted either to an owner or to a cooperating Broker, without adequate cash deposit on hand from the offeror.

Section 7. In the event that more than one more formal written offer on a specific vessel is made before the owner has accepted any offer, any other formal written offer presented to the Broker, whether by a prospective purchaser of another Broker, should be transmitted to the owner for his decision.

Section 8. Broker should neither acquire nor sell an interest in, or buy for himself, any member of his family, firm, or any entity in which he has substantial interest, vessels listed with him, or his firm, without making the true situation known to the listing owner or prospective purchaser.

Section 9. Broker should use his best efforts to ascertain all pertinent facts concerning every vessel for which he accepts the agency so that he may fulfill his professional obligation to avoid error, exaggeration, misrepresentation, or concealment of pertinent facts.

Section 10. It is the duty of the Broker to be well informed on current market conditions in order to be in a position to advise clients as to the fair market value of vessels.

Section 11. Broker should not undertake to make an appraisal or render an opinion of value on any vessel where he has a present or contemplated interest unless such interest is specifically disclosed to all parties to the transaction. Broker should not undertake to make an appraisal that is outside the field of his experience unless he obtains the assistance of an authority on such types of vessels, or unless the facts are fully disclosed to the client. In such circumstances, the authority so engaged should be identified and his contribution to the appraisal should be clearly set forth.

Section 12. Broker should always recommend the timely employment of an independent qualified marine surveyor as a condition precedent to the completion of a brokerage transaction.

Section 13. Signs giving notice of any vessels for sale, rent, lease, or exchange should not be placed on any vessel by more than one Broker, and then only if specifically authorized by the owner.

Section 14. Broker should not submit or advertise vessels, without authority and in any offering the price quoted should not be other than that agreed upon with the owner as the offering price.

Section 15. Broker in his advertising should be especially careful to present a true picture and should neither advertise without disclosing his identity, nor permit others in his brokerage identity to use individual names or telephone numbers, unless the connection with the Broker is obvious in the advertisement.

Section 16. Broker should not engage in activities that constitute the practice of law and should recommend that legal counsel be obtained when the tax liability or legal interest of either party requires it.

Section 17. Broker should cooperate with other Brokers on vessels listed with him whenever it is in the interests of the client. Negotiations concerning a vessel listed exclusively with the broker should be carried on with the listing broker, not the owner, except with the express consent of the listing broker. All shared commission agreements should be negotiated prior to submission of any offer to purchase.

Section 18. The agency of a Broker who holds an exclusive or central listing should be respected. A Broker cooperating with the listing Broker should not invite the participation of a third Broker without the express consent of the listing Broker.

Section 19. A Broker should not voluntarily disparage the business practice of a competitor, nor volunteer an opinion of a competitor's transaction. If his opinion is sought, it should be rendered with strict professional integrity and courtesy.

Section 20. A Broker should seek no unfair advantage over his fellow Brokers and should willingly share with them the lessons of his experience and study.

Section 21. In justice to those who place their interest in his care, the Broker should endeavor always to be informed regarding laws, proposed legislation, governmental order, and other essential information and public policies, which affect those interests.

Section 22. Broker should keep himself informed as to movements affecting recreation and yachting in his community, state, and the nation so that he will be better able to contribute to public thinking on matters of taxation, legislation, marine use, waterfront planning, and other issues affecting boating interests.

Section 23. A Broker should so conduct his business as to void controversies with his fellow Brokers. In the event of a controversy between Brokers who are members of the California Yacht Brokers Association, such controversy should be arbitrated in accordance with the regulations of the Association rather than litigated.

Section 24. When a Broker is charged with unethical practice, he should place all pertinent facts before the proper tribunal of the Association for investigation and judgment.

Section 25. Controversies between Brokers who are not members of the same local chapter should be submitted to the California Yacht Brokers Association Board of Directors for arbitration. The decision of this Board is final and binding upon all member brokers.

Section 26. When a dispute involves both member Brokers and non-member parties the California Yacht Brokers Association will conduct an independent investigation at the request of any interested party. All findings of the act and recommendations will be forwarded by the Association to the California Department of Boating and Waterways for appropriate action.

Section 27. It is in the best interests of society, of his associates, and of his own business that the Broker be loyal to the California Yacht Brokers Association and be active in its work.

ADDENDUM 1

ADMINISTRATIVE FEE AND REFUND SCHEDULE

I. ESTIMATE OF AMOUNTS TO BE DEPOSITED WITH THE ADMINISTRATOR.

To determine the amount of Administrative Fees to be deposited with the Administrator, any party making a claim, cross-claim or counter-claim ("Claimant") must estimate the amount of time required to hear the arbitration, which includes any pre-hearing conferences, preliminary hearings, inspection investigations or arbitration hearing ("Hearing") The minimum amount of time that a Claimant may estimate is one session, which is three hours long.

If the Arbitration Panel objects to a Claimant's estimate of time as unreasonable, it may substitute its own estimate no later than fourteen (14) days before a Hearing. If the Arbitration Panel substitutes its own estimate, the Claimant must use the estimate to determine the amount of Administrative Fees to be deposited with the Administrator.

Please note while estimating the amount of Administrative Fees to be deposited that if the Arbitration Panel attends any part of a session, the Administrative Fees for an entire session will be assessed.

Claimants may calculate the estimated Administrative Fee to be deposited with the Administrator as follows:

1	<i>SESSION</i> (3 HOURS):	150
2	<i>SESSIONS</i> (6 HOURS):	200
3	<i>SESSIONS</i> (9 HOURS):	250
4	<i>SESSIONS</i> (12 HOURS):	300
5	<i>SESSIONS</i> (15 HOURS):	350
6	<i>SESSIONS</i> (18 HOURS):	400
7	<i>SESSIONS</i> (21 HOURS):	450
8	<i>SESSIONS</i> (24 HOURS):	500

PLEASE NOTE THAT THE ACTUAL NUMBER OF SESSIONS REQUIRED TO HEAR THE ARBITRATION, NOT THE ESTIMATE OF THE CLAIMANT OR THE ARBITRATION PANEL, WILL DETERMINE THE ADMINISTRATIVE FEES ULTIMATELY ASSESSED.

II. IF HEARING IS WAIVED AND AN AMOUNT IS IN DISPUTE.

If both parties stipulate in writing that they waive their right to a hearing, and the Arbitration Panel agrees that no Hearing is necessary, the Administrative Fees to be deposited with the Administrator, and the Administrative Fees ultimately assessed shall be \$100, plus the actual costs and expenses incurred by the Administrator.

III. IF HEARING IS WAIVED AND NO AMOUNT IS IN DISPUTE.

If both parties stipulate in writing that no amount is in dispute, and no Hearing is necessary, and the Arbitration Panel agrees, the Administrative Fees to be deposited with the Administrator, and the Administrative Fees ultimately assessed shall be \$100, plus the actual costs and expenses incurred by the Administrator.

IV. IF HEARING IS NECESSARY AND NO AMOUNT IS IN DISPUTE.

If the parties stipulate that and Hearing is necessary a that no amount is in dispute, and the Arbitration Panel agrees, the Administrative Fees to be deposited with the Administrator shall be based on the amount of time required to hear the dispute calculated under Section I. PLEASE NOTE THAT THE AMOUNT ADMINISTRATIVE FEES ULTIMATELY ASSESSED WILL DEPEND ON THE ACTUAL NUMBER OF SESSIONS REQUIRED TO DECIDE THE DISPUTE, NOT THE ARBITRATION PANEL'S ESTIMATE.

V. REFUNDS OF ADMINISTRATIVE FEES DEPOSITED WITH THE ADMINISTRATO

In the event that the parties settle the dispute before the Arbitration Panel attends any Hearing, the Administrator shall refund the entire amount of the Administrative Fees deposited with the Administrator, minus a \$100 Administrative Fee, and minus all costs and expenses actually incurred by the Administrator prior and including the date of settlement.

In the event that the parties settle their dispute after the Arbitration Panel has attended a Hearing, the Administrator shall refund the entire sum deposited, minus the amount to which the Administrator is entitled pursuant to Section I of this Schedule for services provided in support of any Hearing, and minus all costs and expenses actually incurred by the Administrator prior to and including the date of settlement.

ADDENDUM 2

ARBITRATION FEE AND REFUND SCHEDULE

I. LEGAL COUNSEL COMPENSATION.

Legal Counsel shall receive \$600 as compensation for attending each session (as defined in these Rules) of any Hearing.

If Legal Counsel attends any part of a session, Legal Counsel shall receive compensation as though Legal Counsel had attended the entire session.

Legal Counsel shall also receive compensation based on the amount in dispute as follows:

<u>AMOUNT IN DISPUTE</u>	<u>COST</u>
0 - \$100,000	7% of Amount in Dispute
Over 100,000 - 500,000	7,000 + 5%
Over 500,000	27,000 + 3%

In the event that a Claimant fails to pay the balance of any Administrative or Arbitration Fees assessed within thirty (30) days of mailing of the Administrator's notice thereof to the Claimant, the Administrator shall compensate Legal Counsel in accordance with the estimates of either the parties or the Arbitration Panel, and not in accordance with the actual amount assessed. The Administrator shall assign its right in the unpaid balance of the Legal Counsel's compensation to Legal Counsel.

II. ARBITRATOR COMPENSATION.

Each arbitrator who serves on an Arbitration Panel (other than Legal Counsel to the Arbitration Panel in the event that Legal Counsel serves as an arbitrator) shall be compensated in the amount of \$50 per session (as defined in these Rules) for attending a Hearing.

If an arbitrator attends any part of a session, the arbitrator shall be compensated as though the arbitrator had attended the entire session.

In the event that a Claimant fails to pay the balance of any Administrative or Arbitration Fees assessed within thirty (30) days of mailing of the Administrator's notice thereof to the Claimant, the Administrator shall compensate each arbitrator in accordance with the estimates of either the parties or the Arbitration Panel, and not in accordance with the actual amounts assessed. The Administrator shall assign its right in the unpaid balance of the arbitrator's compensation to the arbitrator.

III. REFUNDS OF ARBITRATION FEES DEPOSITED WITH THE ADMINISTRATOR

In the event that the parties settle the dispute before any Hearing or presentation of evidence has taken place, the Administrator shall refund the entire amount of estimated Arbitration Fees deposited with the Administrator to the Claimant.

In the event that the parties settle their dispute after the Arbitration Panel has attended a Hearing, the Administrator shall refund the entire sum deposited, minus the compensation allowed Legal Counsel and the Arbitration Panel pursuant Sections I and II of this Schedule for attending each Hearing.

In the event that the parties settle their dispute after the arbitration hearing has been closed, or the parties have made a final presentation of evidence in the event that no Hearings are held, the Administrator shall refund the entire sum deposited minus the costs allowed Legal Counsel and the Arbitration Panel pursuant to Sections I and II of this Schedule for attending each Hearing (if any), and minus the compensation allowed Legal Counsel for the hours worked on the dispute, multiplied by the rate of \$195 per hour.

PLEASE NOTE THAT THE ACTUAL AMOUNT OF FEES ASSESSED MAY BE MORE OR LESS THAN THE AMOUNTS ESTIMATED ABOVE, DEPENDING ON THE NUMBER OF ARBITRATORS WHO ACTUALLY SERVE ON THE ARBITRATION PANEL.

II. IF HEARING IS WAIVED AND AN AMOUNT IS IN DISPUTE.

If both parties stipulate in writing that they waive their right to any Hearing, and the Arbitration Panel agrees that no Hearing is necessary, the Administrative and Arbitration Fees to be deposited, and the Administrative and Arbitration Fee ultimately assessed, shall be the amount in dispute as estimated by the Claimant or the Arbitration Panel, a \$100 Administrative Fee and the actual expenses and costs incurred by the Administrator.

III. IF HEARING IS WAIVED AND NO AMOUNT IS IN DISPUTE.

If both parties stipulate in writing that an amount is in dispute, and no Hearing is necessary, and the Arbitration Panel agrees, the Administrative Fees to be deposited shall be \$100. The Arbitration Fees to be deposited with the Administrator shall be based on the Arbitration Panel's estimate of the number of hours that Legal Counsel to the Arbitration Panel will work to assist the Panel in deciding the dispute, multiplied by the rate of \$195 per hour. PLEASE NOTE THAT THE ARBITRATION FEES ULTIMATELY ASSESSED WILL DEPEND ON THE ACTUAL NUMBER OF HOURS WORKED, NOT THE ARBITRATION PANEL'S ESTIMATE.

IV. IF HEARING NECESSARY AND NO AMOUNT IS IN DISPUTE.

If the parties stipulate that a Hearing is necessary and that no amount is in dispute, and the Arbitration Panel agrees, the Administrative and Arbitration Fees to be deposited with the Administrator shall be based (1) on the amount of time required to hear the dispute as calculated under Section I,A, (2) the number of arbitrators required to hear the dispute, and (3) on the Arbitration Panel's estimate of the number of hours that Legal Counsel to the Arbitration Panel will work to assist the Panel in deciding the dispute after the arbitration hearing, multiplied by the rate of \$195 per hour. PLEASE NOTE THAT THE AMOUNT OF ARBITRATION FEES ULTIMATELY ASSESSED WILL DEPEND ON THE ACTUAL NUMBER OF HOURS WORKED, NOT THE ARBITRATION PANEL'S ESTIMATE.

B. ESTIMATE IN DISPUTE.

In addition to the amount of time required to hear the dispute, a Claimant must estimate the amount in dispute.

If the Arbitration Panel objects to the Claimant's estimate of amount in dispute as unreasonable, it may substitute its own estimate no later than fourteen (14) days prior to a Hearing. If the Arbitration Panel substitutes its own estimate the Claimant must use this estimate to determine the amount of Administrative and Arbitration Fees to be deposited with the Administrator.

Claimants may calculate this component of the estimated Administrative and Arbitration Fees to be deposited with the Administrator as follows:

<u>AMOUNT IN DISPUTE</u>	<u>COST</u>
0 - \$100,000	7% of Amount in Dispute
Over 100,000 - 500,000	7,000 + 5%
Over 500,000	27,000 + 3%

PLEASE NOTE THAT THE CLAIMANT'S ESTIMATE, NOT THE AMOUNT OF DAMAGE AWARDED, WILL DETERMINE THE AMOUNT OF ARBITRATION FEES ULTIMATEL ASSESSED.

C. EXAMPLES OF THE ADMINISTRATIVE AND ARBITRATION FEES THAT THE CLAIMANT MUST DEPOSIT WITH THE ADMINISTRATOR.

The chart below illustrates the amounts that a Claimant must deposit with the Administrator, depending on the various estimates of the amount of time required to hear the dispute and amounts in dispute. For example, if the amount of time required to hear the dispute was 1 session and the amount in dispute was \$5,000, the cost of one session would be \$850, and 7% of \$5,000 would be \$350. Therefore, the estimated Arbitration Fees to be deposited with the Administrator would be \$850 + \$350 = \$1200.

AMT.	1 SESS.	2 SESS.	4 SESS.	6 SESS.	8 SESS.
5,000	1200	1950	3350	4950	6450
10,000	1550	2300	3800	5300	6800
20,000	2250	3000	4500	6100	7500
30,000	2950	3700	5200	6700	8200
40,000	3650	4400	5900	7400	8900
50,000	4350	5100	6500	8100	9600
100,000	7850	8600	10100	11200	13100
200,000	12850	13600	15800	16900	18100
500,000	27850	28600	30100	31200	33100
1,000,000	42850	43600	45100	46200	48100