**WIPO Arbitration and Mediation Center**

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| **CLAIMANT,** |  |  |
| **v.** | **WIPO No.** |  |
|  |  | **Arbitrator** |
| **RESPONDENT** |  |  |

**Procedural Order \_\_\_**

**(Order for Virtual Hearing)**

The evidentiary hearing in this matter is scheduled to commence at \_\_\_\_\_\_\_\_\_\_on\_\_\_\_\_\_\_\_\_\_ and, continue through\_\_\_\_\_\_\_\_\_\_\_. Considering the Coronavirus Pandemic and with the agreement of the Parties, the hearing will proceed using videoconferencing technology (“Virtual Hearing”).

**1. Virtual-Hearing Platform Selection/Sessions/Lost Connections**

Based on consultation with the parties and preliminary test sessions, the platform for the Virtual Hearing will be \_\_\_\_\_\_\_\_\_ and will be co-hosted by \_\_\_\_\_\_\_\_\_\_ and the Arbitrator. If the \_\_\_\_\_\_ platform becomes unavailable or fails to function properly, the platform will be switched to\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, co-hosted by \_\_\_\_\_\_\_\_\_\_ and the Arbitrator. (Collectively \_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_ are referred to as “the Platforms.”)

The Platforms will be configured to provide maximum confidentiality protections, high resolution displays, screen sharing for document presentation and breakout “rooms” for sequestration of witnesses and, if necessary, breakout discussions among counsel, parties and party representatives and witnesses.

The Virtual Hearing will take place in sessions with schedules to be determined, but generally there will be a morning session running from 9:00 AM to 12:30 PM and an afternoon session running from 1:30 PM until 5:30 PM.

In the event of a lost connection, counsel, parties, witnesses and other participants (collectively “Participants”) should text the Arbitrator on +\_\_\_\_\_\_\_\_\_\_\_\_\_\_and along with lead counsel for the Claimant, \_\_\_\_\_\_\_\_\_\_\_\_\_ on +\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and lead counsel for the Respondent, \_\_\_\_\_\_\_\_\_\_on +1 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**2. Access/Authorized Participants**

Without express authorization by the Arbitrator, the following persons (“Authorized Participants”) are the only persons authorized to participate and join in all sessions of the Virtual Hearing:

For Claimant –

[List Authorized Participants including parties, counsel and legal assistants]

For Respondent

[List Authorized Participants including parties, counsel and legal assistants]

Court Reporter

[List Court Reporter, if any]

No later than\_\_\_\_\_\_\_\_, counsel will provide email addresses and telephone numbers for Authorized Participants to the Arbitrator. The Arbitrator will provide links and credentials to Authorized Participants for joining the Virtual Hearing. These links and credentials will not be shared.

Authorized Participants will be logged on to the Platform at least five minutes in advance of the scheduled session. The session hearing will not begin until the Arbitrator is satisfied that all necessary Authorized Participants are adequately connected to the Platform.

At the outset of each session, each Authorized Participant will identify any other persons present at the Participant’s location. Each Authorized Participant has an ongoing obligation to alert the Arbitrator and other Parties if any additional person joins the Authorized Participant.

Authorized Participants will not participate or join the Virtual Hearing from a public setting or using an unsecured public Wi-Fi. Nor will Authorized Participants use virtual backgrounds.

**3. Witnesses**

The following witnesses will be regarded as Authorized Participants in the Virtual Hearing for the limited purpose of giving testimony and for this purpose will be authorized to attend the Virtual Hearing during their testimony or as may be directed by the Arbitrator.

For Claimant -

[List witnesses]

For Respondent

[List witnesses]

At the outset of each session at which a witness is to testify, the witness will identify any other persons present at the witness’ location. Each witness has an ongoing obligation to alert the Arbitrator and other Parties if any additional person joins the witness.

The platform’s “chat” function will be disabled. In addition, each witness will be required to certify that he or she has had no assistance or ex parte communication regarding his or her testimony. No later than \_\_\_\_\_\_\_\_\_\_\_\_counsel will provide email addresses and telephone numbers for their witnesses. The Arbitrator will provide links and credentials to each witness to allow the witness to join the Virtual Hearing at a time to be scheduled. These links and credentials will not be shared.

Testifying witnesses will be placed into a “waiting room” until the Arbitrator allows them into the hearing facility.

**4. Required Equipment**

Counsel will ensure Authorized Participants (as defined below) and witnesses they intend to call during the Virtual Hearing have available compatible equipment for purposes of meaningful participation during the Virtual Hearing and will notify the Arbitrator of any issue or concern pertaining to meaningful participation no later than \_\_\_\_\_\_\_\_\_\_. In the case of witnesses, meaningful participation will include the ability to review exhibits on a “shared” screen and the ability to hear and be heard by the Arbitrator and other Authorized Participants.

**5. Exhjbits for Use during Witness Examination**

Counsel are responsible for ensuring that witnesses have full and fair access to any exhibits upon which each witness is examined (or cross-examined) or to which reference is made during the witness’ examination.

**6. Objections**

Counsel may make objections as they would in a face-to-face hearing. The Arbitrator may sequester the witness during discussion of an objection by putting the witness into a waiting room.

**7. Pre-Virtual-Hearing Orientation**

Counsel for a Party intending to call a witness will conduct test sessions with witnesses in advance of the Virtual Hearing.

**8. Documents**

All exhibits have been provided to the Arbitrator. Except for documents to be offered in rebuttal, no additional documents will be offered at the Virtual Hearing absent unanticipated and exigent circumstances. The disposition of documents offered as exhibits due to unanticipated or exigent circumstances or offered in rebuttal will be determined at or following the Virtual Hearing.

**9. Oaths**

The Virtual Hearing will be regarded as taking place at the seat of the arbitration, namely\_\_\_\_\_\_\_\_\_\_\_\_\_. Counsel have stipulated that the Arbitrator may administer oaths to each witness testifying during the Virtual Hearing no matter where that witness may be at the time of his or her testimony.

**10. Privacy**

No later than\_\_\_\_\_\_\_\_\_\_, the Parties will confer regarding any laws applicable at the location of any Participant that may present an obstacle or issue of legal compliance with privacy, confidentiality, data protection and security requirements. After consulting the Parties, the Arbitrator may decide on measures, if any, to be taken to address any applicable privacy and security requirements or standards that may impact the access or connectivity of any of the Participants.

**11. Cybersecurity**

No later than\_\_\_\_\_\_\_\_\_\_\_, the Parties will confer regarding any security measures not provided by the Platform which may be required to safeguard the integrity of the Virtual Hearing or reduce the risk of cyberattacks, infiltration or other unauthorized access and will provide a report to the Arbitrator advising of arrangements made or needed. In addition, Counsel for the Parties will ensure that all co-counsel and members of Counsel’s staff together with retained court reporters, witnesses and other Participants comply with those measures. If during or after the Virtual Hearing, a Party becomes aware of any unauthorized access, that Party will immediately notify the Arbitrator and adversary counsel. After consulting with the Parties, the Arbitrator may decide what measures, if any, will be taken regarding unauthorized access.

**12.** **Recording**

The Parties have arranged for a Court Reporter to make a record of the proceedings. The Platforms include recording features, and the recording features will be activated. Nevertheless, the official record will be kept and prepared by the Court Reporter with the recording provided by the Platforms serving as a backup to be used if and when directed by the Arbitrator In addition, no Participant may record any part of the proceeding without the advance written authorization of the Arbitrator.

**13. Etiquette**

Each Participant will be expected to cooperate with and to be sensitive to the needs of the Virtual-Hearing including, but not limited to, the following:

Muting microphones except when speaking;

Identifying himself or herself when speaking (just in case there is a problem with the video function of the Platform);

Refraining from interrupting with speaking objections;

* Avoiding using equipment that interferes with the maximal functioning of the Platform; and
* Refraining from multi-tasking, except counsel may work as appropriate on matters related to the proceeding.

**14. Termination and Costs**

Additional costs are anticipated in connection with the use of the virtual platform. A decision regarding allocation of those costs will be made at the conclusion of this matter.

**15. Objections**

The Parties will have until \_\_\_\_\_ to lodge any objection to this order.

**SO ORDERED**