

JUDICATE WEST ARBITRATION & PRIVATE JUDGING **ADMINISTRATIVE PROCEDURES**

1) **Rules:**

a) Judicate West (JW) offers its own set of Commercial Arbitration Rules, referenced throughout for your convenience as "JW Rules." Parties are free to choose their own including those rules of another provider such as The American Arbitration Association or any variant thereof. (JW Rule 2.A.2) For commercial matters without agreement of the parties the JW rules apply. For tort or other non-commercial matters, if no rules are chosen, we will default to the California Rules of Court, generally Rule 3.810 et seq., California Code of Civil Procedure, section 1280, et seq.

b) The parties with assistance from the arbitrator can modify the JW Rules or devise their own rules governing the proceeding. (JW Rule 2.A.3) The only constraints imposed upon the parties are those associated with fundamental notions of procedural due process, or mandatory provisions of applicable law.

c) Should the rules specified by the parties fail to address any issue which arises during any phase of the proceeding, the parties agree to submit that dispute to the Neutral, who will decide and determine the matter according to general principles of law and equity. (JW Rule 2.A.3, 2.A.4) This includes but is not limited to discovery, continuances, motions, fees, and evidentiary rules (offer and admissibility).

d) For consumer arbitrations JW will not enforce any consumer contract matters unless agreed by mutual consent of all parties or by court order that JW administer.

2) **Fees:** JW's agreement to render services is with the attorney or representative (of any person or entity) who will attend the hearing. Unless otherwise agreed upon and reported to **JW**, at least 14 days prior to the hearing, each party is responsible for his or her pro-rata share of the costs incurred in administering and conducting all phases of the proceeding. (See JW Arbitration and Private Judging Fee Schedule)

3) **Filings:** All papers are considered filed with **JW** upon receipt and confirmation that all other parties have been served. (JW Rules 3.A, 3.B, 6.B)

4) **Initiating the JW Hearing:** Parties to any existing dispute may elect to arbitrate some or all of the issues in their dispute by submitting to Judicate West a written agreement to arbitrate. (JW Rule 4.B) When one party, unilaterally, commences arbitration (the "Claimant"), that party will serve a written Notice of Intent to Arbitrate ("NIA") on the other party(ies) (the "Respondent(s)"). (JW Rule 4.C) The Claimant is to send the NIA and file a copy with Judicate West together with payment of the applicable Judicate West administrative and/or case management fees. (JW Rule 4.C.3) A response must be filed with **JW** and served on all parties within 30 days or it will be considered a denial; the hearing will go forward with an assigned Neutral pursuant to the contract and the governing rules. (JW Rule 4.D.1)

5) **Representation by Counsel:** **JW** reserves the right to decline administration of any matter, or cease administration of any matter, where one or more parties are not represented by counsel. If for any reason any party to the arbitration ceases to be represented by counsel, the arbitrator, in his or her sole discretion, may suspend or terminate the arbitration, unless doing so would unduly prejudice a party, or unless the arbitrator determines that in the interest of justice and equity the arbitration should proceed. (JW Rule 4.A)

6) **Ex Parte** -or one-sided communication with an arbitrator-may result in disqualification of certain information as it pertains to the hearing; or at the request of the other parties, the arbitrator may recuse him/herself. All communication should be directed to **JW** for appropriate transmittal to the arbitrator unless otherwise directed by the governing rules. (JW Rule 6.A)

7) **Case management meetings and pre-conference hearings** can be set at the request of the parties by mutual consent or ordered by the Neutral. The purpose is to expedite cases by stipulating to uncontested facts, discussing hearing rules, exchanging information, etc., and often to explore opportunities for when settlement may be possible. The Neutral, if agreeable to the parties, may help 1

manage the process to ensure the matter is handled efficiently and expeditiously. In matters utilizing JW Rules the arbitrator will conduct within 20 days of appointment, an initial CMC for the planning and scheduling of the arbitral proceedings. (JW Rule 7.A, 7.B)

8) A **Disclosure** of an agreed arbitrator's work history and questionnaire regarding possible conflicts with opposing parties, if not completed by the arbitrator within 10 days of notice of appointment, can be obtained by request to **JW** to release the information currently available to them. If the parties do not respond to **JW** within 15 days of receiving disclosure, their rights to disqualify an arbitrator under CCP's 1281.9, 1281.91, and 1297.125 are deemed waived. (JW Rule 5.B.3)

B. Both JW and its neutrals depend upon your providing us with the names of all attorneys, parties, subsidiaries, parties of interest, witnesses, experts, divisions, affiliates, partners and joint venturers involved in the litigation. Names of ALL attorneys working or possibly working on the file are needed as disclosures are required at the individual level as well as the firm level.

9) **Default**: In the absence of a party or representative who fails to appear after confirming participation and without obtaining a continuance, the Neutral, at his/her discretion, may take evidence necessary to render an award. (JW Rule 13.D.1)

10) **Cancellation/Continuance**: Cases cannot be continued unilaterally. If any party objects, a written request must be filed with the Neutral. (JW Rule 12.E) A conference call with the Neutral will be utilized for oral argument if necessary and/or due to time constraints. Any cancellation/continuance fees must be agreed to with **JW** in accordance with its policies outlined on its fee schedule or it will be split and up to the Neutral to make a ruling at the appropriate time typically upon serving of the final ruling/award.

11) **Failure to Perform**: Though it is extremely rare that a Neutral has an emergency or falls ill and cannot serve, JW cannot guarantee hearing dates nor be held liable for any loss incurred by the event a case may be cancelled or postponed.

12) **Rulings & Award**: A written decision will be forwarded to all parties within 30 days following the closing of record (determined by the Neutral), provided all requisite fees have been paid by all parties. **JW** retains the right to withhold a decision from all parties until all fees have been paid in full even beyond the 30 days. (JW Rule 13.B.1)

13) **Court filings** of decisions, stipulations and any related documents remain the responsibility of the parties. (JW Rule 13.B.7)

14) **Stenographic reports** are the responsibility of the parties. Arrangements should be made by the requesting party after notifying all other parties at least 7 days prior to the hearing or during a case management conference or readiness conference. (JW Rule 7.A, 11)

15) **Waiver and Interpretation of Rules**: Participation in a **JW** hearing with knowledge that a requirement or provision of the agreed **Rules** has not been complied with, without submitting written objection, will result in a waiver of one's right to object. (JW Rule 13.D.2) **JW** will interpret any rules prior to selection of an agreed Neutral and those unrelated to the Neutral powers or duties.

16) **Privacy Policy and Compliance**: Judicate West complies with all applicable regulations regarding how we use information supplied to us, including privacy and disclosure laws and regulations. Information submitted to us remains confidential and is only for our internal use in order to provide our services to the parties of your case, except for standardized disclosures required by statute or information disclosed as required by other legal due process, such as a court order. By submitting information to us or participating in any arbitration or private judging matter administered by us you confirm consent to our terms of service and privacy policy, which may be reviewed on our public website here:

<https://www.judicategwest.com/Home/TermsOfServiceAndPrivacyPolicy>.