

CPR Privacy Dispute Resolution Rules

The CPR Privacy Dispute Resolution Rules (“Rules”) have been designed by CPR Institute for Dispute Resolution (“CPR”) for use in resolving disputes between individuals and entities alleged to have violated policies, statutes, regulations or the principles of multi-national agreements (all of which may be referred to herein as “applicable law”) protecting the privacy of personally identifiable information. The Rules are applicable to all entities that have subscribed to the CPR Privacy Dispute Resolution Process (“Process”) as a means of affording individuals the opportunity to resolve such disputes in a fair and efficient manner.

These Rules may be amended or modified by CPR at any time at its sole discretion. Any amendment to the Rules will be posted on the CPR web site (www.cpradr.org) and promptly conveyed to subscribers. Subscribers to the Process will also be posted on the CPR web site.

RULE ONE: DEFINITIONS

Parties to proceedings under these Rules are:

Complainant, an individual asserting a complaint alleging violation of a policy, statute, regulation or principle of a multi-national agreement protecting the privacy of that individual’s personal information; and

Respondent, the entity that has subscribed to the Process, and whose conduct is the subject of the proceeding; or the entity that controls the conduct of such entity.

A *Complaint* is a written statement of claim, seeking a remedy, filed by a Complainant and arising out of a Dispute.

A *Dispute* under these Rules is any claim, dispute or issue arising out of Respondent’s collection, use, disclosure or processing of Complainant’s Personal Information, including (without limitation) contractual and common law claims, as well as statutory claims for alleged violations of privacy laws (including, but not limited to, privacy standards of the Health Insurance Portability and Accountability Act, the European Data Privacy Directive), as well as unfair trade practices related to privacy. “*Disputes*” also include claims arising out of violations of principles of multi-national agreements, including (without limitation) the United States Safe Harbor Principles.

Personal Information is any information about an individual that identifies, or could reasonably be used to identify, that individual, including (without limitation) name, initials, address, date of birth, etc.

RULE TWO: NON-EXCLUSIVE REMEDY

Complainants are not required to submit their complaints to the CPR Privacy Dispute Resolution Process and may instead directly commence an action in court. In addition, Complainants that do elect to submit their complaints to the CPR Privacy Dispute Resolution Process may elect not

to be bound by any arbitration award issued pursuant to these Rules, as provided in Rules 12.3 and 24.4. Respondents must submit to the Process with respect to any Complaint submitted by a Complainant, and are bound by any award at the election of the Complainant.

RULE THREE: NOTICES

3.1. All notices to CPR shall be sent to:

CPR Institute for Dispute Resolution
366 Madison Avenue
New York, New York 10017
Attention: Privacy Program Administrator

Or by Fax to: (+1) 212-949-8859

Or electronically to: privacy@cpradr.org

3.2 Any notice shall be deemed given for the purposes of the Rules upon delivery by hand or, if mailed, by depositing the notice in a postage-paid envelope, return receipt requested, in a U.S. Postal Service deposit box regularly maintained for this purpose. Delivery by hand shall include delivery by a non-U.S. Postal Service package delivery service which provides written proof of delivery. Delivery electronically or by electronic facsimile transmission ("fax") shall include delivery by any such means that provides an electronically generated proof of transmission and receipt.

3.3 The production of (i) an affidavit of service, (ii) a signed and dated acknowledgment of receipt, (iii) a signed and dated return receipt, (iv) an electronically generated proof of electronic or fax transmission, shall be adequate proof to presume delivery.

RULE FOUR: REPRESENTATION

The parties may be represented by counsel or by any individual of their choice.

RULE FIVE: ELIGIBILITY AND ADMINISTRATIVE SUFFICIENCY

5.1 A Complaint must allege personal harm, and may not allege harm to another individual, unless the Complainant alleges the legal capacity of the individual alleged to have been harmed.

5.2 A Complaint must allege that the Complainant has submitted the issues giving rise to the Complaint to the Respondent, and has attempted in good faith but without success to resolve those issues through Respondent's internal complaint handling system.

5.3 A Complaint must include the information set forth in Rule 7.2 of these Rules.

5.4 CPR will review all Complaints for eligibility and administrative sufficiency, pursuant to Rule 7.3 of these Rules.

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RULE SIX: TIMELINESS AND DUPLICATION

6.1. A Complainant alleging violation of a statute must initiate the Process within the applicable statute of limitations. A Respondent alleging violation of a statute must assert a counterclaim within the applicable statute of limitations.

6.2 A party may not allege facts that are materially identical to those that were alleged in any Complaint previously submitted to and decided through the Process, or that are subject to prior or pending litigation or arbitration proceedings.

6.3 A Complainant must initiate the Process within ninety (90) days of the last communication with Respondent concerning the issue giving rise to the Complaint.

6.4. The failure of a Complainant to initiate the Process, or of a Respondent to assert a counterclaim, within the time limits set forth in this Article Six shall be deemed a waiver and release of that claim.

6.5 The Arbitrator shall determine all defenses based on lack of timeliness, or duplication or waiver of claims, pursuant to this Rule 6.

RULE SEVEN: INITIATION OF CPR PRIVACY DISPUTE RESOLUTION PROCESS AND COUNTERCLAIMS

7.1. To initiate the CPR Privacy Dispute Resolution Process, the Complainant shall send a written Complaint to CPR, accompanied by the fee payment set forth in Rule 14.1.

7.2. Complaints may be filed with CPR electronically, by fax or by mail. CPR prefers that Complaints be prepared in substantially the form set forth in the Model Complaint Form appearing as Appendix I to these Rules. All Complaints must include, to the extent available:

< Complainant's name, address, telephone, fax and e-mail

< Respondent's name, address, telephone, fax and e-mail

< Nature of the Personal Information at issue

< Nature of Respondent's conduct giving rise to the Complaint

< Summary of Complainant's efforts to obtain satisfaction directly from Respondent, including date of most recent communication with Respondent

< Remedy sought

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7.3 Complaints will be reviewed by CPR for eligibility and administrative sufficiency pursuant to Rule Five. Within ten (10) business days of CPR's receipt of a Complaint, CPR will (i) return an ineligible or administratively insufficient Complaint to the Complainant, with a description of the Complaint's failure to meet eligibility and administrative sufficiency requirements; or (ii) convey an eligible Complaint to the Respondent. CPR will also, at that time, send Complainant a copy of these Rules. Complainants whose Complaints are returned for administrative insufficiency may resubmit a corrected Complaint within ten (10) business days of being advised of the insufficiency.

7.4 Respondent must submit an Answer to the Complaint within fifteen (15) business days of receipt of the Complaint from CPR. Respondent's Answer may include any information that Respondent deems material with respect to any facts giving rise to the Complaint and any allegation or demand therein, but must include:

- < Respondent's representative's name, address, telephone, fax and e-mail
- < Summary of Respondent's efforts to address the issues raised in the Complaint
- < Explanation of, and all available defenses to, the allegations in the Complaint
- < Remedy or resolution offered to Complainant via Respondent's internal complaint handling system
- < Any related counterclaims then known to the Respondent.

7.5 Respondent's Answer must include a fee payment as set forth in Appendix III.

7.6 Answers will be reviewed by CPR for administrative sufficiency. Within ten (10) business days of CPR's receipt of an Answer, CPR will (i) return an administratively insufficient Answer to the Respondent, with a description of the Answer's failure to meet administrative sufficiency requirements; or (ii) convey the Answer to the Complainant. Respondents whose Answers are returned for administrative insufficiency may resubmit a corrected Answer within ten (10) business days of being advised of the insufficiency.

7.7 Respondents that fail to timely file an Answer, or that fail to timely submit a corrected Answer, or that fail to timely make the required fee payment, may be subject to sanctions pursuant to Rule 17.

7.8 The Complainant shall have ten (10) business days from receipt of Respondent's Answer to file with CPR and serve upon Respondent a Reply to Respondent's Answer and an Answer to any counterclaims.

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7.9 The Respondent shall have ten (10) business days from receipt of Complainant's Reply to file with CPR and serve upon Complainant a Response to the Reply and a Reply to Complainant's Answer to any counterclaims.

7.10 In the event that Respondent files a Reply to Complainant's Answer to counterclaims, then the Complainant shall have ten (10) business days of receipt to file with CPR and serve upon Respondent a Response to Respondent's Reply to Complainant's Answer to any counterclaims.

7.11 Claims and counterclaims may be amended before selection of the Arbitrator and thereafter with the Arbitrator's consent. Answers or Replies to amended claims or counterclaims shall be filed with CPR and served upon the other party and the Arbitrator within ten (10) business days after receipt of the amendment, or as the Arbitrator may otherwise direct.

RULE EIGHT: THE ARBITRATOR

8.1. Any Dispute will be decided by a single decision-maker, called the "Arbitrator."

8.2. The parties will attempt to agree on the selection of the Arbitrator. Unless the parties otherwise agree, the Arbitrator shall be a member of the CPR Privacy Disputes Panel. If the parties do not promptly agree on an Arbitrator, either party may request CPR in writing to nominate candidates.

8.3. Upon receiving a request pursuant to Rule 8.2, CPR shall promptly submit to the parties a list of not fewer than five candidates who have been admitted to the bar for not fewer than seven years, who have had experience in privacy law, and who have been screened for potential conflicts of interest. Such list shall include information concerning each candidate's professional background, qualifications, rate of compensation, and any facts that may give rise to reasonable doubt regarding the candidate's independence or impartiality. Within ten (10) business days of receipt of the list, each party shall number the candidates in order of preference and shall deliver the list so marked to CPR. Any party failing without good cause to return the candidate list so marked within ten (10) business days after receipt shall be deemed to have assented to all candidates listed thereon. CPR shall designate as Arbitrator the nominee willing to serve for whom the parties collectively have indicated the highest preference (i.e., by receiving the lowest combined score) and who does not appear to have a conflict of interest. If a tie should result between two candidates, CPR shall designate either candidate in its sole discretion. If this procedure for any reason should fail to result in designation of the Arbitrator, or if the Arbitrator after appointment is disqualified or becomes unable to serve, CPR shall appoint a person whom, in its sole discretion, it deems qualified.

8.4. The Arbitrator shall be independent and impartial. The Arbitrator may be challenged for cause if circumstances exist or arise that give rise to a reasonable doubt regarding the Arbitrator's

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independence or impartiality. When an Arbitrator has been challenged for cause by a party, the other party may agree to the challenge or the Arbitrator may voluntarily withdraw. If neither agreed disqualification or voluntary withdrawal occurs, the challenge shall be decided by CPR and CPR's decision shall be final and binding on the parties.

8.5. The services of CPR shall be limited to the selection of the Arbitrator in accordance with this Rule 8. If CPR declines or is unable to provide the services set forth in this Rule 8, then the parties shall agree expeditiously to substitute the services of another organization in the selection of the Arbitrator so as to effectuate the purpose and spirit of this Rule 8.

8.6. Unless the parties agree otherwise, all Disputes relating to the Complainant and the Respondent shall be submitted in the same proceeding to the Arbitrator.

8.7. The Arbitrator may hold management conferences with the parties and/or their representatives in person, by telephone, or by any other mutually agreeable means, to resolve matters that will expedite the proceedings.

RULE NINE: VENUE, MEANS AND PLACE OF HEARING

9.1. The venue of any Dispute shall be the place from which the Personal Information was transferred.

9.2. Any hearing shall be conducted in person, by telephone, or by any other mutually agreeable means.

RULE TEN: APPLICABLE LAW AND BURDEN OF PERSUASION

10.1 The principles of applicable substantive common, decisional and statutory law shall control the disposition of each Dispute.

10.2. Each party bears the burden of persuasion on any claim or counterclaim raised by that party in accordance with the principles of applicable common, decisional and statutory law.

RULE ELEVEN: ARBITRATORS' DUTIES AND POWERS

11.1. The Arbitrator shall afford each party a full and fair opportunity to present any proof relevant and material to the Dispute, to call and cross-examine witnesses and to present its argument.

11.2 The parties shall produce such evidence as the Arbitrator deems necessary to an understanding and determination of the Dispute.

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- 11.3 The Arbitrator may request additional information or comments from any party.
- 11.4 The Arbitrator may extend deadlines as he or she deems appropriate in the interest of fairness.
- 11.5 The Arbitrator shall be the judge of the relevancy, materiality and admissibility of the evidence offered, and the Arbitrator's decision on any question of evidence or argument shall be final and binding. The Arbitrator shall not be bound by formal rules governing the admissibility of evidence with the exception of applicable law with respect to attorney-client privilege, work product and compromise and offers to compromise.
- 11.6 The Arbitrator shall require all testimony to be under oath or affirmation.
- 11.7 The Arbitrator may grant summary disposition in response to a party's failure to cooperate in the proceeding.
- 11.8 The Arbitrator may approve the amendment of any of the Rules with the consent of all of the parties.
- 11.9 The Arbitrator may make administrative determinations as will further the just and efficient resolution of the Dispute.
- 11.10 The Arbitrator may not communicate with any party or any party's representative, ex parte, without the informed consent of the other party.
- 11.11 In the absence of an agreement by all parties, the Arbitrator may not (a) issue an Award affecting the rights of persons other than the individual Claimant, or (b) consolidate claims of more than one Claimant in a single proceeding.
- 11.12 Except as modified by or otherwise expressly provided in these Rules, the Arbitrator shall have all powers generally granted to arbitrators.

RULE TWELVE: THE AWARD

- 12.1 The Arbitrator shall render a decision and award (collectively the "Award") based solely on the evidence presented, the applicable law and the provisions of these Rules as interpreted by the Arbitrator.
- 12.2 The Arbitrator is expected to issue an Award within thirty (30) calendar days after the date set for the final submissions of the parties. The Award shall be in writing and signed and dated by the Arbitrator and shall contain express findings of fact (including findings on each issue of fact raised by a party), the rationale for any grant of monetary damages or other remedies and, if necessary to dispose of any issues of law, conclusions of law, discussions of legal authorities and the application of the law to the facts. The Arbitrator shall give signed

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duplicate original copies of the Award to both parties, and shall file a copy of the Award with CPR.

12.3. Any other provision of these Rules notwithstanding, the Complainant may elect not to be bound by the Award, by providing written notice to the Respondent and to CPR no more than thirty (30) calendar days after the Complainant's receipt of the Award. If the Complainant makes such an election, the Complainant may assert the claims asserted in the arbitration in a court of law having jurisdiction. Such action shall be commenced by the Complainant not more than sixty (60) calendar days from the date of the written notice to the Respondent that the Complainant elects not to be bound by the Award. The Respondent shall agree to toll any statute of limitations applicable to the claims contained in the Complaint between the time an Award is issued and the time Complainant commences an action in court, provided that the Complainant commences such action within that sixty (60) day period. In any such action the Award may be introduced in evidence and shall be accorded such weight as the court sees fit.

12.4 Except as otherwise provided herein, the Arbitrator's Award shall be enforceable as would an arbitrator's award pursuant to the applicable statute.

RULE THIRTEEN: CONFIDENTIALITY

13.1. Except as otherwise provided herein, all aspects of the Process, including without limitation the Record of Proceeding as defined in Rule 15 and all documents and information submitted to CPR or the Arbitrator, or exchanged by the parties, are confidential and shall not be open to the public or provided to any third party, except (a) to the extent both parties agree otherwise in writing, (b) as may be required in any subsequent legal or arbitral proceedings between the parties, (c) as may otherwise be required in response to a governmental agency or legal process, or (d) as required by applicable law. In the event of (c) above, the party upon whom such process is served shall give immediate notice of such process to the other party and afford the other party an appropriate opportunity to object to such process. Except as otherwise expressly provided herein, all documents shall be returned to the originating party upon closing of the proceeding.

13.2 CPR will maintain a confidential file, for some suitable period, containing the Complaint, Answer, other pleadings, Award and Appeal of all proceedings and appeals. CPR will also maintain a record of any allegation of a Respondent's failure to comply with any Rule or Award, for use in referring persistent noncompliance to appropriate government agencies, if so required by law or multi-national agreement and pursuant to Rule 17.3.

13.3 When, in the course of preparing any submission, a party chooses to withhold confidential information from the other party, such party may submit the confidential information to the Arbitrator, and submit a summary of such information for submission to the other party, sufficient to allow the other party to understand the nature of the confidential information and to respond to it. Challenges to the sufficiency and propriety of such summaries in any specific proceeding shall be determined by the Arbitrator.

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RULE FOURTEEN: EXPENSES

14.1. Respondent shall pay for the expenses of the Process, except for an amount equal to One Hundred Dollars (\$100.00), which shall be paid by the Complainant pursuant to Rule 7.1.

14.2. The "expenses of the Process," to which this Rule Fourteen refers, shall mean the expenses of the Arbitrator (such as fees and travel) and CPR's administrative fee, and shall exclude the parties' respective attorneys' fees, as well as the parties' disbursements and costs of producing any evidence.

14.3. Unless precluded by decisional or other law in the jurisdiction where venue lies for the Arbitration, the Arbitrator's rate of compensation shall be determined at the time of appointment and shall apply to all time spent in connection with the proceeding.

RULE FIFTEEN: RECORD OF PROCEEDING

15.1. If there is a hearing, a record of the hearing may be made by audio or video taping or by verbatim transcription. If the Respondent elects not to make that record, the Complainant may have a record made at Complainant's own expense. Any such record shall be made available to all parties and the Arbitrator.

15.2. The Arbitrator shall be responsible, in cooperation with the parties, for assembling the Record of the Proceeding and shall maintain possession of that record for at least one (1) year after issuing the Award, unless the parties, with the Arbitrator's consent, agree otherwise.

15.3. The Record of the Proceeding shall include at a minimum the following: (a) evidence of receipt by the Complainant of a copy of the Rules pursuant to Rule 7.3; (b) the Complaint, Answer and any other pleadings or materials required by Rule 7; (c) any evidence and argument (including any briefs) submitted pursuant to Rule 11; (d) the record of the hearing (if any) pursuant to Rule 15.1; and (e) the Award issued pursuant to Rule 12.

ARTICLE SIXTEEN: AVAILABLE REMEDIES

16.1. The Arbitrator shall have the authority to decide at any stage, at a party's request, to dismiss a claim or counterclaim, in whole or in part.

16.2. Upon a finding that a party has sustained his or her burden of persuasion, the Arbitrator shall have the same power and authority as would a judge in a non-jury court trial to grant any relief that a court could grant, as may be in conformance with applicable principles of common, decisional and statutory law in the relevant jurisdiction.

16.3. In fashioning a remedy, the Arbitrator shall grant remedies available pursuant to applicable law. Such remedies that the Arbitrator may grant may include, but are not limited to, requiring: (i) correction of inaccurate Personal Information about Complainant; (ii) deletion of Personal Information regarding Complainant; (iii) the cessation of the use or disclosure of

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Complainant's Personal Information; (iv) Respondent's changing or abandoning its policies or practices with respect to the receipt, use or sharing or otherwise processing of Personal Information about Complainant; (v) where required by applicable law, publicity for findings of Respondent's noncompliance; (vi) damages; and (vi) compliance with other remedies where the applicable law so provides.

16.4. Both parties have a duty to mitigate their damages by all reasonable means. The Arbitrator shall take into account in granting relief the extent of a party's mitigation or a party's failure to mitigate.

16.5. The Award of any damages or relief is left to the discretion of the Arbitrator, in accordance with applicable law, and may be made in a bifurcated proceeding.

RULE SEVENTEEN: SANCTIONS

17.1. The Arbitrator may award either party its reasonable attorneys' fees and costs, including reasonable expenses, upon a finding that a claim, defense or counterclaim was frivolous or asserted with the sole purpose to harass the other party.

17.2. The Arbitrator may award either party its reasonable attorneys' fees and costs upon a finding that the other party (a) engaged in unreasonable delay, or (b) failed to comply with requirements of confidentiality as set forth in Rule 13.

17.3. If so required by applicable law, CPR may refer to appropriate government agencies: (i) CPR's determination that a Complaint was eligible pursuant to Rule 3, but the Respondent failed to participate in the Process; or (ii) the Respondent's failure to timely comply with an Award.

RULE EIGHTEEN: ARBITRATION STATUTE

18.1. Any proceeding pursuant to the Process is deemed to be an arbitration subject to the Federal Arbitration Act ("FAA"), 9 U.S.C. §§1-16, if applicable, to the exclusion of any state law inconsistent therewith. If the FAA is not applicable to such a proceeding, then the law of the state of venue shall be applicable to it.

18.2. If any part of these Rules is in conflict with any mandatory requirement of applicable statutory law, the statute shall govern, and that part of these Rules shall be reformed and construed to the maximum extent possible in conformance with the applicable law. These Rules shall remain otherwise unaffected and enforceable.

18.3. The Award may be vacated or modified only on the grounds specified by the applicable statute.

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RULE NINETEEN: APPEALS BY DISCRETION AND OF RIGHT

19.1 Any party may seek to Appeal any Award.

19.2 CPR will grant an Appeal with respect to any Award that, in CPR's sole discretion, (i) presents a material question with respect to the applicable law or with respect to these Rules, or (ii) appears on its face to be highly susceptible to reversal on appeal.

19.3 A Respondent may Appeal of right any Award that provides for a remedy requiring (i) corrective action that would necessitate a material and substantial change in the Respondent's policies and practices, applicable to all or a majority of individuals from whom Personal Information is collected, or (ii) payment of money, goods or services valued in excess of Ten Thousand Dollars (\$10,000).

RULE TWENTY: FILING AN APPEAL

20.1 A party to an Award may request an Appeal of that Award by written notice to CPR, the Arbitrator and the other party pursuant to Rule 3, no later than ten (10) business days after that party's receipt of the Award. The notice may take any form, but must include (i) the issue(s) giving rise to the Appeal, (ii) whether the Appeal is sought by discretion or of right, and (iii) if by right, the basis for that qualification. The written notice must be accompanied by a copy of the full Award.

20.2 CPR will promptly determine whether the request for Appeal is well-grounded within the standards set forth in Rule 19 and will communicate its decision to the parties and the Arbitrator. In the event the Appeal is commenced, the party requesting the Appeal must file with CPR and the other party a submission setting forth the reasons supporting the Appeal within ten (10) business days of being advised of CPR's decision. The other party must file with CPR and the party requesting the Appeal an answering submission, along with any cross-Appeal, within ten (10) business days of receipt of the submission of the party requesting Appeal. The party requesting the Appeal must file with CPR and the other party any submission in response to any cross-Appeal within ten (10) business days of receipt of such cross-Appeal.

20.3 The party bringing an Appeal must convey to CPR full payment of costs of an Appeal in an amount set forth in Appendix III hereto. A party's failure to make prompt payment of such fee may result in dismissal of the Appeal.

RULE TWENTY-ONE: RECORD ON APPEAL

CPR will compile the Record on Appeal, which will consist of (i) the Record of the Proceeding, as defined in Rule 15.3, (ii) the parties' submissions with respect to the Appeal and cross-Appeal (if any), and (ii) CPR's notice of its determination that the Appeal be commenced.

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RULE TWENTY-TWO: APPOINTMENT OF APPELLATE PANEL

22.1 No later than twenty (20) business days after communication of its determination that the Appeal be commenced, CPR shall appoint a three-person Appellate Panel. The Appellate Panel shall consist of one person with substantial background and expertise in consumer protection; one person with substantial background and expertise in privacy law; and one person with substantial background and expertise in corporate management and practices. CPR shall designate a Chair of the Appellate Panel and advise the parties of the appointments.

22.2 The Appellate Panel shall be independent and impartial. CPR shall require each member of the Appellate Panel to disclose, and shall provide to all parties, sufficient information to permit CPR and the parties to determine any conflicts of interest that each member may have with respect to the parties or the proceeding. Parties must notify CPR within three (3) business days of being advised of the identity of the Appellate Panel of any factual basis to conclude that any member thereof is unable to render competent, independent and impartial services with respect to the Appeal. CPR, in the exercise of its discretion for good cause shown, will promptly withdraw the appointment and name a different member.

RULE TWENTY-THREE: APPELLATE PROCEDURE

23.1 Upon passage of time to object, or resolution of any objection, CPR shall supply each member of the Appellate Panel with the Record on Appeal. The Appellate Panel shall determine the merits of the Appeal in such fashion as it deems appropriate, with due regard to the timely and efficient resolution of the matter.

23.2 The Appellate Panel may request a conference with the parties, or oral argument, in person, by telephone, or by any other means. The Panel may not communicate with any party, or any party's representative, ex parte without the informed consent of the other party.

RULE TWENTY-FOUR: DECISION ON APPEAL

24.1 No facts or arguments that are not contained in the Record on Appeal shall be considered by the Appellate Panel unless both parties and the Panel agree otherwise.

24.2 New evidence that was not available to the parties to submit to the Arbitrator below may constitute grounds for remand, but not reversal.

24.3 The Appellate Panel shall issue a written decision no later than thirty (30) calendar days after submission to it of the Record on Appeal or the conclusion of any conference or oral argument, whichever is later. The written decision shall contain the rationale for the Appellate Panel's conclusions and shall be conveyed to CPR and to the parties. In its decision the Appellate Panel may modify any remedy awarded by the Arbitrator, and grant any remedy refused by the Arbitrator, as provided in Rule 16.

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24.4 Any other provision of these Rules notwithstanding, the Complainant may elect not to be bound by the written decision of the Appellate Panel by providing written notice to the Respondent and CPR, given not more than thirty (30) calendar days from the Complainant's receipt of the Appellate Panel's written decision. If the Complainant makes such an election, the Complainant may assert the claims asserted in the arbitration in a court of law having jurisdiction. Such action shall be commenced by the Complainant not more than sixty (60) calendar days from the date of the written notice to the Respondent that the Complainant elects not to be bound by the Appellate Panel's written decision. The Respondent shall agree to toll any statute of limitations applicable to the Complaint between the time the written decision of the Appellate Panel is issued and the time Complainant commences an action in court, if the Complainant commences such action within that sixty (60) day period. In any such action the Award or Appellate Panel's written decision may be introduced in evidence and shall be accorded such weight as the court sees fit.

RULE TWENTY-FIVE: CLOSING OF THE PROCESS

25.1 The Process is considered closed under the following circumstances:

- a. The Arbitrator has issued an Award and neither party has appealed within ten (10) business days of the issuance of the Award;
- b. CPR has denied a request for Appeal;
- c. The Appellate Panel has issued a Decision on Appeal;
- d. CPR has referred the Dispute to a government agency pursuant to Rule 17.3; or
- e. The Complainant has rejected an Award.

Upon closure of the Process each party shall return to the source of origin all copies of (i) information that the party obtained from the other party and (ii) information relating to the other party that the party obtained from CPR or any other source during the course of the proceeding.

26.2 CPR, the Arbitrator and all members of the Appellate Panel shall return or destroy all information relating to the proceeding except as provided in Rules 13.2 and 15.2.

RULE TWENTY-SEVEN: MISCELLANEOUS PROVISIONS

27.1 Nothing herein shall be construed as creating any separate duties, obligations or causes of action.

27.2 The parties to a Dispute may agree in writing to vary the Rules at any time before the Arbitrator gives copies of the Award to both parties.

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27.3 In preparing and disseminating these Rules, in designating the Arbitrator or in performing services pursuant to the Process in any other capacity, the CPR Institute for Dispute Resolution is not rendering any legal advice or opinion and is not responsible or liable to either party for the application or enforcement of the Process to specific situations. Parties agreeing to use these Rules waive any right to subpoena, or to hold liable for any act or omission relating to any proceeding hereunder, (i) CPR, its employees, officers, consultants, volunteers, delegates, subcontractors or directors, or (ii) any arbitrator or other neutral appointed or retained in connection with such proceeding.

27.4 The Rules shall be broadly interpreted and applied so as to effectuate its purpose and spirit.

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APPENDIX I

MODEL COMPLAINT FORM

Name of Complainant:

Address:

Telephone:

Fax:

E-mail:

Name of Company Complained of:

Name of Contact at Company:

Address:

Telephone:

Fax:

E-Mail:

Please describe the Personal Information that is at issue in this Complaint:

Please describe the conduct by the Company that is at issue in this Complaint:

Please describe your efforts to obtain satisfaction directly from the Company, including a description of the Company's response:

What was the date of your most recent communication with the Company?

What remedy (or remedies) do you seek?

Please supply the name of your representative, if you would prefer that further correspondence be addressed to that person:

Signed:

Date:

Please mail, fax or e-mail this Complaint to:

CPR INSTITUTE FOR DISPUTE RESOLUTION

575 Lexington Avenue

New York, New York 10022

Att: Privacy Program Administrator

Tel: (+1) 212-949-6490 Fax: (+1) 212-949-8859

www.cpradr.org e-mail: privacy@cpradr.org

APPENDIX II

ARBITRATION SUBMISSION AGREEMENT

AGREEMENT made _____, 200__ by and between
[Name] _____ of
[Address] _____
("Complainant"), represented by

_____; and
_____ of _____
("Respondent"), represented by

In brief, the Complainant's claim is as follows _____.

The Complainant seeks _____.

The Respondent's response _____.

The Complainant and the Respondent both wish to have the differences described above finally adjudicated. The parties hereby agree to arbitration of their dispute pursuant to the CPR Privacy Dispute Resolution Process (the "Process"), a copy of which is attached to this Agreement. Both parties and their representatives have read the Process. The parties hereby agree to all provisions of the Process, except as expressly modified in an exhibit appended to this Submission Agreement and initialed by the parties. The Respondent agrees to abide by and perform any award rendered by the Arbitrator. The parties acknowledge and agree that the Complainant may choose to not be bound by an award rendered by the Arbitrator.

CHOOSE ONE:

A. The procedure shall be conducted before _____, who shall serve as Arbitrator, who has agreed to serve, and whose compensation has been agreed to between the parties and the Arbitrator. Neither party knows of any circumstances which would cause reasonable doubt regarding the impartiality of the person named as Arbitrator.

B. The procedure shall be conducted by an Arbitrator selected in accordance with the provisions of the CPR Privacy Dispute Resolution Rules.

The Complainant hereby affirms that he/she is entering into this Submission Agreement voluntarily, knowingly, and after full consultation with a representative or counsel of his/her own choosing.

Signed by: _____ Date _____
Claimant or Claimant's Representative or Counsel

Signed by: _____ Date _____
Representative of or Counsel for Respondent

APPENDIX III**FEES**

1. Complainant shall submit a fee of \$100.00 upon delivery of the Complaint to CPR.
2. Respondent shall submit a fee of \$10,000.00 upon delivery of the Answer to CPR, which amount shall be placed in escrow and maintained by CPR on account of the Respondent.
3. CPR shall charge a fee of \$250.00 per hour for services that it performs in connection with any Dispute, whether before an Arbitrator or on Appeal. The Arbitrator's fee shall be an amount agreed to by the Arbitrator and the parties. Fees of members of an Appellate Panel shall be set by CPR.
4. On a monthly basis, CPR shall submit to Respondent an accounting of (i) the then outstanding CPR hourly fee, (ii) actually and reasonably incurred expenses by CPR, and (iii) the amount invoiced to CPR by the Arbitrator. Respondent shall advise CPR within ten (10) business days of any dispute with respect to that accounting. In the absence of such advice, CPR shall withdraw the amount(s) from the appropriate escrow account.
5. When and if the amount in a Respondent's escrow account falls below \$5,000.00, CPR will advise Respondent of the activity in that account and request a further amount to be added to the escrow account so as to bring the total to at least \$10,000.00.
6. Respondent may request return of the balance of its escrow account at any time so long as no Dispute is pending with respect to that Respondent. CPR shall render an accounting of the activity in the escrow account upon Respondent's demand.
7. All members of CPR may subscribe to this Process without fee. Non-members of CPR may subscribe to the Process for an annual fee of \$5,000.