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**Title Insurance Arbitration Rules of the American Land Title Association**

(Amended January 1, 2006, as a supplement to the Code of Procedure of the National Arbitration Forum. These Title Insurance Arbitration Rules are available at [www.alta.org](http://www.alta.org). The Code of Procedure of the National Arbitration Forum is available at [www.arb-forum.com](http://www.arb-forum.com).)

## **1. Introduction**

The Title Insurance Arbitration Rules, which are administered by the National Arbitration Forum effective January 1, 2006, are the rules of the American Land Title Association ("ALTA"). ALTA has responsibility for their maintenance and publication. Parties to title insurance policies providing for arbitration shall consider these rules as governing such arbitrations subject to the terms of those policies.

### **1. Incorporation of the Code of Procedure of the National Arbitration Forum**

The Title Insurance Arbitration Rules hereby incorporate by reference the Code of Procedure of the National Arbitration Forum ("NAF Code"). To the extent there is any variance between the Title Insurance Arbitration Rules and the NAF Code, the Title Insurance Arbitration Rules shall take precedence. The provisions of the NAF Code for Expedited Hearings shall not apply absent the agreement of all parties to the dispute.

## **2. Applicability**

These Title Insurance Arbitration Rules (including these Rules as they may be amended) shall apply whenever the parties' arbitration agreement refers to the Title Insurance Arbitration Rules of the American Land Title Association, the Title Insurance Arbitration Rules of the American Arbitration Association, the Title Insurance Arbitration Rules of the National Arbitration Forum, or where the parties otherwise mutually agree to use the Title Insurance Arbitration Rules.

## **3. Administration**

Unless otherwise agreed to by the parties, disputes administered in accordance with the Title Insurance Arbitration Rules are administered by the National Arbitration Forum. The parties may, by mutual agreement, decide to administer the arbitration themselves, or by a third party selected by mutual consent.

## **4. Fixing of Locale**

In cases where parties fail to mutually agree on the locale, the National Arbitration Forum shall have the power to determine the locale in the state in which the land is located.

## **5. Consolidation of Arbitrations**

Rule 19 of the NAF Code addresses Joinder, Intervention, Consolidation and Separation. With respect to consolidation of two or more arbitrations, Rule 19.C is amended as follows:

"Consolidation of two or more arbitrations, to be heard in joint proceedings under the Title Insurance Arbitration Rules, shall be had where ordered by an arbitrator if a reasonable number of the following circumstances exist:

- (a) Each of the parties to the arbitrations to be consolidated has agreed to arbitrate under the Title Insurance Arbitration Rules.
- (b) Either (i) the title insurance policies on which the arbitrations are based are linked or (ii) the parties or subject matters of the arbitrations are related in some other way so that consolidation will promote a fair, economical or efficient disposal of the issues presented in all of the arbitrations.
- (c) There exist common issues of fact that will be required to be determined in each of the arbitrations to be consolidated, the proof of which will or could be substantially the same. However, neither incomplete identify of factual issues nor varying policy terms or measures of damages shall be a reason for refusing consolidation, unless the differences are of a number and complexity that will make the determination of the liabilities by the arbitrator unwieldy or difficult."

## **6. Evidence**

The arbitrator shall not limit the rights and obligations under the policy concerning proof of loss or damage. The arbitrator must apply the attorney work product doctrine of the applicable state to prohibit the discovery of or introduction into evidence of attorney work product, irrespective of whether under the law of the particular state the attorney work product doctrine is considered to be a legal privilege or a procedural discovery rule.

## **7. Applicable Law**

The law and rules of equity of the situs of the land shall apply to every arbitration under the Title Insurance Arbitration Rules, except the arbitrator shall have the power pursuant to the pertinent rules in the NAF Code to rule on his or her own jurisdiction.

## **8. Scope of Award**

The arbitrator may grant any remedy or relief that the arbitrator determines to be just and equitable according to the applicable laws and the terms of the policy. The award may not exceed the amount of any claim or counterclaim as disclosed when filed or as later changed in accordance with the pertinent rule of the NAF Code. If the insured in an arbitration is the owner of the estate or interest covered by the title insurance policy and the estate or interest is subject to a mortgage insured by the insurer under that policy or any title insurance policy when arbitration is commenced, the arbitrator shall provide for payment of the award (or any part thereof) directly to the owner of the mortgage (and not to the insured), pursuant to written instructions signed by the insurer and received by the arbitrator prior to the closing of the hearing.

## **9. Fee Schedule for Arbitrations Under the Title Insurance Arbitration Rules**

The provisions of the NAF Code regarding the payment of fees (including compensation for arbitrators) for the arbitration shall apply subject to the modification that parties who have agreed by mutual consent to administer an arbitration themselves or with the assistance of a third party, as set forth in paragraph 3, above, shall be responsible to decide their own arrangements concerning payment of the fees for the arbitration (including compensation of the arbitrator).