

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
124 Halsey Street-5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101  
Attorney for New Jersey Division of Consumer Affairs

**FILED**

AUG 04 2009

**Division of Consumer Affairs**

By: Jeffrey Koziar  
Deputy Attorney General  
(973) 648-7819

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS

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In the Matter of

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: Administrative Action  
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SAMSUNG AMERICA, INC.  
\_\_\_\_\_  
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:  
: **ASSURANCE OF**  
: **VOLUNTARY COMPLIANCE**  
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**WHEREAS** this matter having been opened by the New Jersey Division of Consumer Affairs, Office of Consumer Protection (“Division”), as an inquiry in order to ascertain whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”) and the Regulations Governing the Servicing and Repairing of Home Appliances, N.J.A.C. 13:45A-10.1 et seq. (“Home Appliance Regulations”) have been or are being committed by Samsung America, Inc. (“Samsung”), a New York corporation with a main business address of 105 Challenger Road, Ridgefield Park, New Jersey 07660, as well as its owners, officers, directors, managers, employees, representatives, agents, servants, subsidiaries, successors and assigns;

IT IS on this 4<sup>th</sup> day of Aug., 2009 **AGREED** as follows:

The Division and Samsung (collectively, “Parties”) have hereby agreed to resolve issues raised by the Division during its inquiry by entering into this Assurance of Voluntary Compliance (“Assurance”). Samsung is entering into this Assurance solely for the purpose of settlement and nothing contained herein may be taken or construed to be an admission or concession of any violation of law, or any other matter of fact or law, or any liability or wrongdoing, all of which Samsung expressly denies. No part of this Assurance constitutes or shall constitute evidence against Samsung in any action brought by any person(s) or entity or other party of any violations of any federal or State statute or regulation or the common law, except in an action by the Division to enforce the terms of this Assurance. However, failure to comply with terms of this Assurance is prima facie evidence of a violation of the CFA, without prejudice to Samsung’s asserting any legal or equitable defenses to any alleged violation.

#### **1. EFFECTIVE DATE**

1.1 This Assurance shall be effective on the date that it is filed with the Division (“Effective Date”).

#### **2. DEFINITIONS**

As used in this Appearance, the following words or terms shall have the following meanings, which meanings shall apply wherever the words and terms appear in this Assurance:

2.1 “Additional Consumer” shall refer to any Consumer (as hereinafter defined) who submits to the Division directly or through another agency a written Consumer complaint concerning Samsung’s Home Appliance business practices.

2.2 “ADR Unit” shall refer to the Alternate Dispute Resolution Unit of the Division.

2.3 “Attorney General” shall refer to the Attorney General of the State of New Jersey and

the Office of the Attorney General of the State of New Jersey.

2.4 “CALA” shall refer to Consumer Affairs Local Assistance offices within counties and/or municipalities in the State

2.5 “Consumer” shall refer to any Person, defined in accordance with N.J.S.A. 56:8-1(d), who is offered Merchandise, defined in accordance with N.J.S.A. 56:8-1(c), for Sale, defined in accordance with N.J.S.A. 56:8-1(e).

2.6 “Home Appliance” shall be defined in accordance with N.J.A.C. 13:45A-10.1.

2.7 “Person” shall be defined in accordance with N.J.S.A. 56:8-1(d).

2.8 “Restitution” shall refer to all methods undertaken by Samsung to resolve Consumer complaints including, but not limited to, the issuance of credits or refunds or the reversal or credit card or debit card charges

2.9 “State” means the State of New Jersey.

### **3. BUSINESS PRACTICES**

3.1 Samsung shall not engage in any unfair acts or deceptive practices in the conduct of its business in the State and shall comply with all applicable State and/or Federal laws, rules and regulations, as now constituted or as may hereafter be amended, including, but not limited to, the CFA and the Home Appliance Regulations.

3.2 Samsung shall provide Consumers with all applicable Home Appliance warranties and service contracts, to the extent required by N.J.A.C. 13:45A-10.2(a).

3.3 When performing Home Appliance repairs, Samsung shall disclose to Consumers all diagnostic charges and other set fees and the methods to determine the total charge, including the charges for labor and parts, as required by N.J.A.C. 13:45A-10.2(b). These disclosure requirements

shall not apply to Samsung when it refers out of warranty Home Appliance repairs to an Independent Service Network.

3.4. Samsung shall honor all Samsung Home Appliance warranties and service contracts and shall complete all contracted for in warranty repair work, whether completed by Samsung or through an Independent Service Network.

3.5 Samsung shall make available to Consumers a toll-free Customer Service telephone number to address any post-order inquiries concerning Home Appliances, and shall clearly disclose to Consumers the telephone number, whether in the Home Appliances packing slip, invoice or in other documentation accompanying the Home Appliances.

3.6 When a Consumer contacts the toll-free Customer Service telephone number and requests to speak with a Customer Service manager and/or supervisor, Samsung shall make available such manager and/or supervisor. If a manager or supervisor is not immediately available, such manager or supervisor shall return the Consumer's telephone call at the number provided by the Consumer within seventy-two (72) hours.

3.7 Samsung shall respond to Consumer complaints or requests for refunds, credits or other adjustments within five (5) business days of Samsung's receipt of the Consumer's telephone call, e-mail or letter.

3.8 Samsung shall implement training and other programs, as necessary, to instruct its customer service representatives as to new Home Appliances and/or changes in policies and procedures including, but not limited to, those concerning billing practices.

#### **4. CONSUMER COMPLAINTS**

4.1 For a period of two (2) years from the Effective Date, the Division shall forward to Samsung copies of any Additional Consumer complaints received by the Division or forwarded to the Division by any CALA office. The Division shall forward to Samsung the Additional Consumer complaint within thirty (30) days of the Division's receipt thereof.

4.2 During this two (2) year period, the Division shall notify the Additional Consumers, in writing, of the following: (a) that the Additional Consumer complaint has been forwarded to Samsung; (b) that he/she should expect a response from Respondent within thirty (30) days; and (c) the right to refer the Additional Consumer complaint to the ADR Unit for binding arbitration if Samsung disputes the Additional Consumer complaint and/or requested relief.

4.3 Within thirty (30) days of receiving the Additional Consumer complaint from the Division, Samsung shall send a written response to each Additional Consumer, with a copy to the following: The New Jersey Division of Consumer Affairs, Office of Consumer Protection, Attention: Case Management Tracking Supervisor, 124 Halsey Street, P.O. Box 45025, Newark, New Jersey 07101.

4.4 If Samsung does not dispute the Additional Consumer's complaint and requested relief, Samsung's written response shall so inform the Additional Consumer. Samsung shall contemporaneously forward to such Additional Consumer the appropriate Restitution. Where Restitution concerns the reversal of credit or debit card charges, Samsung shall include documents evidencing that such adjustments have been made.

4.5 Within forty-five (45) days of Samsung's receipt of the Additional Consumer complaint, Samsung shall notify the Division as to whether such Additional Consumer complaint has been resolved. Such notification shall include the following:

- (a) The name and address of the Additional Consumer;
- (b) Whether or not the Additional Consumer complaint has been resolved;
- (c) An identification of any Restitution provided to the Additional Consumer;
- (d) Copies of all documents evidencing any Restitution, except to the extent that any such documents include confidential information in which case Samsung will redact such information.
- (e) In the event Samsung's written response was returned as undeliverable, the efforts Samsung had undertaken to locate the Additional Consumer; and
- (f) Confirmation that Samsung sent all mailings to the Additional Consumer as required by this Section.

Following the Division's receipt and verification that an Additional Consumer Complaint has been resolved, the Additional Consumer Complaint shall be deemed closed for purposes of this Assurance.

4.6 If within sixty (60) days of Samsung's receipt of the Additional Consumer complaint:

(a) Samsung has not notified the Division that an Additional Consumer's complaint has been resolved; (b) Samsung has notified the Division that the Additional Consumer complaint has not been resolved; or (c) Samsung has notified the Division that the Additional Consumer refuses Samsung's offer of Restitution, the Division shall forward such Additional Consumer complaint to the ADR Unit to reach a resolution of the complaint through binding arbitration Samsung agrees herein to consent to this arbitration process and to be bound by the arbitrator's decision. Samsung further agrees to be bound by the immunity provisions of the New Jersey Arbitration Act, N.J.S.A.

2A:23B-14, and the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. Samsung shall notify in writing the Additional Consumer of the referral of the complaint to the ADR Unit. Thereafter, the arbitration shall proceed in accordance with the ADR Guidelines (a copy of which is attached as Exhibit A).

4.7 If Samsung refuses to participate in the ADR program, the arbitrator may enter a default against Samsung. Unless otherwise specified in the arbitration award, Samsung shall pay all arbitration awards within thirty (30) days of the arbitrator's decision. Samsung's failure or refusal to participate in the arbitration process or to pay an arbitration award timely shall constitute a violation of this Assurance.

4.8 If an Additional Consumer refuses to participate in the ADR program, that Additional Consumer's complaint shall be deemed closed for the purposes of this Assurance.

4.9 The Parties may agree in writing to alter any time periods or deadlines set forth in this Section.

## **5. SETTLEMENT PAYMENT**

5.1 Contemporaneously with the execution of this Assurance, Samsung shall pay the amount of Sixty Four Thousand Six Hundred and 00/100 Dollars (\$64,600.00) to the Division (the "Settlement Payment"). Such payment shall be made by a certified or cashier's check made payable to "New Jersey Division of Consumer Affairs" and forwarded to:

Jeffrey Koziar, Deputy Attorney General  
State of New Jersey  
Office of the Attorney General  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street-5th Floor  
P.O. Box 45029

Newark, New Jersey 07101

5.2 From the Settlement Payment, the Division shall receive Fifty Thousand and 00/100 Dollars (\$50,000.00) pursuant to N.J.S.A. 56:8-13, to be applied to the funding of future and further Division initiatives.

5.3 From the Settlement Payment, the Division shall receive Four Thousand Six Hundred and 00/100 Dollars (\$4,600.00) as reimbursement for attorneys' fees pursuant to N.J.S.A. 56:8-19, and Ten Thousand and 00/100 Dollars (\$10,000.00) as reimbursement for investigative costs pursuant to N.J.S.A. 56:8-11.

5.4 Upon making the Settlement Payment, Samsung shall immediately be fully divested of any interest in, or ownership of, the monies paid and all interest in the monies, and any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Division pursuant to the terms herein.

## **6. GENERAL PROVISIONS**

6.1 This Assurance is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of obligations and duties imposed by this Assurance.

6.2 This Assurance shall be governed by, and construed and enforced in accordance with, the laws of the State.

6.3 This Assurance contains the entire agreement between the Parties. Except as otherwise provided herein, this Assurance shall be modified only by a written instrument signed by or on behalf of the Parties.



6.4 Except as otherwise explicitly provided in this Assurance, nothing in this Assurance shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

6.5 If any portion of this Assurance is held invalid or unenforceable by operation of law, the remaining terms of this Assurance shall not be affected.

6.6 This Assurance shall be binding upon Samsung as well as its owners, officers, directors, managers, agents, servants, employees, representatives, subsidiaries, successors and assigns, and any entity or device through which it may now or hereafter act, as well as any Persons who have authority to control or who, in fact, control and direct its business.

6.7 This Assurance shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Assurance be used to avoid compliance with this Assurance.

6.8 The Parties represent and warrant an authorized representative of each has signed this Assurance with full knowledge, understanding and acceptance of its terms and that the representative has done so with authority to legally bind the respective Party.

6.9 Unless otherwise prohibited by law, any signatures by the Parties required for entry of this Assurance may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Assurance.

## **7. RELEASE**

7.1 In consideration of the injunctive relief, payments, undertakings, mutual promises and obligations provided for in this Assurance and conditioned on Samsung making the Settlement Payment as specified in Section 5, the Division hereby agrees to release Samsung from any and all

civil claims or Consumer related administrative claims, to the extent permitted by State law, which the Division could have brought prior to the Effective Date against Samsung for violations of the CFA and/or the Home Appliance Regulations arising out of the Investigation, as well as the matters addressed in this Assurance (the "Released Claims").

7.2 Notwithstanding any term of this Consent Order, the following do not comprise Released Claims: (a) private rights of action; (b) actions to enforce this Assurance; and (c) any claims against Samsung by any other agency or subdivision of the State.

#### **8. PENALTIES FOR FAILURE TO COMPLY**

8.1 The Attorney General (or designated representative) shall have the authority to enforce the provisions of this Assurance or to seek sanctions for violations hereof or both.

#### **9. COMPLIANCE WITH ALL LAWS**

9.1 Except as provided in this Assurance, no provision herein shall be construed as:

- (a) Relieving Samsung of its obligation to comply with all State and Federal laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices prohibited by any such laws, regulations or rules; or
- (b) Limiting or expanding any right the Division may otherwise have to obtain information, documents or testimony from Samsung pursuant to any State or Federal law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right Samsung may otherwise have pursuant to any State or Federal law, regulation or rule, to oppose any process employed by the Division to obtain such information, documents or testimony.

#### **10. NOTICES UNDER THIS CONSENT ORDER**

10.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Division or Samsung pursuant to this Assurance shall be sent by United States mail,

Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides for tracking services and identification of the Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Division:

Jeffrey Koziar, Deputy Attorney General  
State of New Jersey  
Office of the Attorney General  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street-5th Floor  
P.O. Box 45029  
Newark, New Jersey 07101

For Samsung:

Michelangelo Troisi, Esq.  
Senior Counsel & Director of Risk Management  
Legal Department  
Samsung America, Inc.  
105 Challenger Road  
Ridgefield Park, New Jersey 07660

IT IS ON THE 4<sup>th</sup> DAY OF August, 2009 SO AGREED.

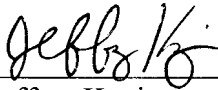
ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY

By: David M. Szuchman  
DAVID M. SZUCHMAN, DIRECTOR  
DIVISION OF CONSUMER AFFAIRS

THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS ASSURANCE OF VOLUNTARY COMPLIANCE ON THE DATES UNDER THEIR RESPECTIVE SIGNATURES.

FOR THE DIVISION:

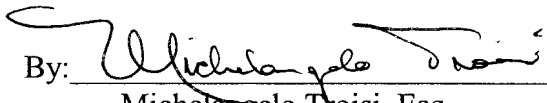
ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY

By:   
Jeffrey Koziar  
Deputy Attorney General

Dated: August 3, 2009

Consumer Fraud Prosecution Section  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101  
(973) 648-7819


FOR SAMSUNG:

By:   
Michelangelo Troisi, Esq.  
Senior Counsel & Director of Risk Management  
Legal Department

Dated: August 3, 2009

Samsung Electronics America, Inc.  
105 Challenger Road  
Ridgefield Park, New Jersey 07660

FOR SAMSUNG:

By:   
Robert E. Fabricant, Esq.

Dated: July 30, 2009

Akerman Senterfitt LLP  
335 Madison Avenue  
Suite 260  
New York, NY 10017

# EXHIBIT A

NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
ALTERNATIVE DISPUTE RESOLUTION UNIT

ADR UNIT GUIDELINES

**INTRODUCTION**

The Division of Consumer Affairs ("Division") started the Alternative Dispute Resolution ("ADR") Unit in May 1992 as an independent, non-advocacy unit within the Division. It was designed to offer a method of resolving problems without using the court system, thereby avoiding the time and expense of court cases. Two programs are available for settling disputes: mediation and arbitration. In the mediation program, the parties involved work directly with a mediator who, as an uninvolved third party, helps to create an atmosphere that is conducive to resolving the issues. In arbitration, the parties present their problem to a neutral individual who analyzes the presentations and then issues a final decision that all parties must follow. Both approaches use trained volunteers and are generally available to the parties at no cost. Originally, the Division made these services available only for settling disputes between businesses and consumers. Over time, however, the focus has been expanded and this assistance is now available to various State agencies.

**I. DEFINITIONS**

Listed below are definitions for terms used in these Guidelines and in the various ADR processes:

(1) **"Arbitration"** is a voluntary means of settling a disagreement in which an arbitrator assigned by the ADR Unit reviews the facts of the case, meets with the parties, and issues a final non-reasoned award that is binding on everyone involved. (A "non-reasoned award" means the parties receive the decision reached by the arbitrator but not the rationale that went into reaching that decision.) Once such a decision is issued, the parties' right to seek further review through the court system is very limited. If necessary, however, the terms of the award can be enforced by the courts. (See discussion below). For the purposes of these Guidelines, an arbitration begins at the time the parties sign the arbitration agreement. (See section VI below.)

(2) An **"arbitrator"** is a volunteer trained by the Division who reviews the facts of the case, meets with the parties and issues a final and binding decision.

(3) A **"complaint"** is a dispute arising out of an interaction between a business and a consumer or between an individual and a State agency, as well as from cases referred by a State agency.

(4) A **"complainant"** is the person who brings the dispute to the attention of the Division or the Unit.

(5) **"Mediation"** is the process by which a mediator works with the parties in an effort to help them craft and agree upon a solution to the dispute. For the purposes of these Guidelines, a mediation begins at the time the parties agree to mediate. That settlement, once reached, is binding on the parties. (See section VI below.)

(6) A **"mediation document"** is any written material prepared before or during the mediation for purposes of the mediation. Such papers may include, but are not limited to, memoranda, notes, files and records.

(7) A **"mediator"** is a volunteer trained by the Division to serve as a neutral third party to help settle disputes brought to the ADR Unit. The mediator does not have the authority to impose a resolution upon the parties.

(8) A **"party"** is a complainant or respondent and may be an individual, corporation, association or other legal entity.

(9) A **"respondent"** is the party against whom the complaint is filed.

## II. **WHAT IS MEDIATION?**

In mediation, through one or more sessions, the mediator encourages the parties to explain their positions about the dispute and helps them develop a solution that is acceptable to them. This is a voluntary procedure that, when successful, quickly turns a dispute into a winning situation for both parties; as a result, long and costly litigation can be avoided.

The mediator may conduct joint and separate meetings with the parties and may propose oral and written suggestions for settlement. (At the discretion of the mediator, the mediation may be conducted by telephone.) The mediator determines when each party may speak during a mediation conference. The mediator may also decide whether the party's representative may speak during the conference. If necessary, the mediator may obtain expert advice concerning technical aspects of the dispute. When appropriate, and when they agree, the parties will jointly pay for such advice. Arrangements for obtaining that input will be made by the mediator or by agreement of all parties.

It is important to note that although mediation is non-binding, once a resolution is reached and agreed upon by the parties, it is binding on all involved, as would any agreed upon contract.

## III. **WHAT IS ARBITRATION?**

The arbitration process also uses trained volunteers to resolve disputes. The arbitrator reviews the facts and issues of the dispute, hears testimony, accepts evidence and evaluates the positions of the parties. Unlike mediation where the parties have agreed to a resolution, in arbitration the arbitrator issues a binding decision. That decision is in the form of a non-reasoned award; that is, no findings of fact and no opinion or rationale are provided by the arbitrator. Additionally, arbitration is not as formal as a court



proceeding. For example, evidence often unacceptable in a court proceeding may be admissible in an arbitration. The parties are bound by and must follow the decision. This process is also faster and less costly than taking a case to court, and the arbitrator's award is viewed as an end to the case. Arbitration awards cannot be challenged in court except under very limited circumstances. For example, in order to overturn a decision, there must be a showing of favoritism, prejudice, fraud, misconduct, or blatant disregard of the rules and procedures in relation to the process of the arbitration. Once a dispute has been submitted for arbitration and an award is issued, neither party can later choose to resolve the dispute again in any other manner, including use of the court system. Please note that if any party to the dispute fails to comply with the arbitrator's decision, the offended party may apply to a court of appropriate jurisdiction to have the decision enforced pursuant to N.J.S.A. 2A:23B-22.

#### **IV. GENERAL GUIDELINES FOR DISPUTE RESOLUTION**

##### **Standard for Participation**

The Director of the ADR Unit accepts referrals from State agencies for mediation or arbitration of complaints that are appropriate for those types of dispute resolution. Such complaints include, among others, requests for restitution, replacements or exchanges of merchandise, warranty claims, and specific performance under a contract.

The Director of the Unit may, in his discretion, decline to accept matters for dispute resolution if the matter is not suitable for arbitration or mediation. In making that determination, the Director shall consider the nature of the relief sought by the complainant (money damages or other relief that can be awarded) and whether the responding party continues to exist or has the resources to address the complaint (for example, the company is bankrupt). If the referral is made pursuant to a Consent Order from a State Agency, any decision to decline to attempt dispute resolution shall be promptly conveyed to that agency along with the reasons for the decision.

##### **Complaint Review**

The ADR Unit reviews the complaints it receives to determine their suitability for the Unit's dispute resolution processes. If the Unit finds that a complaint is appropriate for resolution, either through mediation or arbitration, it will offer those services to the parties involved. Though the ADR Unit and/or the parties decide if mediation or arbitration will be used, generally, unless otherwise required by consent order, matters will be mediated.

If the ADR Unit considers a complaint inappropriate for its dispute resolution procedures, it will return the complaint to the agency that initially referred it to the Unit.

##### **Beginning the Process**

Once a complaint has been accepted by the ADR Unit, a letter is sent to all parties. When

mediation is the proposed process, the letter to the complainant says that the complaint has been received and that the other party, the respondent, is being contacted. The letter to the respondent offers a brief description of the complaint. The letters to both parties name the neutral third party appointed and state how to best contact that person.

In matters to be arbitrated, both parties will be informed of the date of the hearing through ADR Unit staff. In arbitration, ex parte communication, that is contact by one party without the presence of the other, is strictly prohibited. Once the parties agree to participate in dispute resolution, the process is started. Should an arbitrator or mediator become unwilling or unable to serve, the ADR Unit will appoint an alternate.

### **Representation**

Any party may be represented by an attorney during dispute resolution proceedings. In mediation, any individual designated by a party may accompany the party to and participate in a mediation.

### **Date, Time and Place of Mediation or Arbitration**

The mediator shall set the date and time of each conference. In the case of an arbitration, the ADR Unit staff, will fix the date and time of the hearing. Unless the parties are notified otherwise, sessions are held at the offices of the ADR Unit, located at 153 Halsey Street, 7th floor, Newark, New Jersey. In mediation, the mediator and the parties may decide that the sessions will be conducted over the telephone. In arbitration, telephone hearings will only be conducted under extenuating circumstances. The Unit attempts to arrange convenient dates and times for all sessions. In the case of an arbitration, if necessary, the date and time of the hearing may be imposed by the ADR Unit staff. Parties failing to cooperate in setting a date and time or failing to appear when required, may forfeit the ability to present their case to the arbitrator and a decision may be rendered without their ability to offer testimony or evidence beyond those documents submitted to the Unit in advance of the arbitration.

### **Identification of Matters in Dispute**

#### **A) Mediation**

During an initial telephone conference, the mediator and the parties will discuss what information should be provided, including a brief description of the facts, issues and positions in dispute and the parties' desired outcome. That information and copies of any supporting documents must be produced at least five days before the first session. Documents may be exchanged between the parties if everyone expressly agrees to that process. The mediator may ask that additional information be provided before, during or after the sessions.

#### **B) Arbitration**

The ADR Unit will assign an arbitrator who will hear the matter. Once an arbitrator has been selected to hear the case, the arbitrator's curriculum vitae will be sent to each party to the dispute. (Please

see the **Disclosure** section - **D**, below, for the process used to challenge the selection of that arbitrator.) An ADR staff member will then contact the parties to establish a schedule. At least ten days before the first session, each party must provide the arbitrator, through the Unit staff, a brief written description of the facts and issues in dispute, all appropriate documents and background information that are relevant to the dispute and a statement of the relief sought through the arbitration process. Arbitration, through the ADR Unit will not award punitive or consequential damages. At any time during the process, the arbitrator may compel the production of additional information through documents or witnesses by way of subpoena.

Parties will be given the opportunity to present their case in its entirety, including all necessary documentation. However, unless otherwise expressly stated by the arbitrator, no evidence or testimony will be accepted by the arbitrator once the hearing has been concluded.

### **C) Written Requirements**

Before starting a face-to-face mediation or an arbitration, parties must agree to certain terms. There are agreement forms that must be read, understood and signed before anyone can participate. Copies of those forms are provided to the parties prior to the initial mediation or arbitration session but are signed only in the presence of the mediator or arbitrator. (Generally parties who participate in telephone mediation are not required to sign the form. They will, however, be required to indicate acceptance of the terms governing the mediation during the telephone conference.)

### **D) Disclosure**

A person appointed as an arbitrator shall disclose to the ADR staff and to the parties any circumstance likely to raise any question as to the arbitrator's impartiality or independence, including any bias or financial interest or past or present relationship with parties or their representatives. This shall remain a continuing obligation of the arbitrator. Notice of any challenge to the impartiality or independence of the arbitrator shall be made within five (5) days of becoming aware of circumstances giving rise to the challenge. This notice shall be in writing to the ADR Unit and shall set forth the facts and circumstances giving rise to the challenge.

## **V Privacy**

All sessions are private and confidential. Only parties and their designated representatives may attend conferences and/or hearings. Other persons may attend only with the permission of the parties and with the consent of the mediator or arbitrator and the Unit Director.

## **VI CONFIDENTIALITY OF DISPUTE RESOLUTION SESSIONS**

All information provided by parties during the mediation process is confidential. Success of mediation depends in large part on a free exchange of information, so it is important that parties feel free to discuss issues openly. Information provided by one party will not be revealed to the opposing party without the explicit authorization of the revealing side. Mediators cannot be forced to release any

information or to testify about the mediation in a lawsuit or court proceeding. All mediation documents are considered confidential. (For a full description of these rights and responsibilities please see N.J.S.A. 2A:23C-4, 5 and 6.)

In arbitrations, information provided to the arbitrator must also be given to the opposing party. Parties must maintain the confidentiality of the arbitration and may not disclose information except to the staff of the ADR Unit. Confidentiality as discussed in this section, takes effect upon the parties' agreement to participate in the ADR process. The following documents related to the arbitration proceeding are ***not*** considered confidential and may be available upon request to persons or entities:

- a) The complaint, with all its attachments, that initiated the arbitration;
- b) The response to the initial complaint, with all its attachments,; and
- c) The arbitrator's award.

All other documents submitted in the course of the arbitration are considered confidential and not available to any person or entity except the parties involved, the staff of the ADR Unit and its counsel.

No taped or stenographic record may be made of any dispute resolution process.

## **VII TERMINATION**

A mediation will be concluded in one of the following ways:

- 1) the signing of a written settlement agreement by the parties;
- 2) an oral agreement between the parties;
- 3) a written or oral statement of the mediator saying that further efforts at mediation will not be productive; or
- 4) a statement by a party or parties withdrawing from the mediation proceedings.

An arbitration will be concluded in one of the following ways:

- 1) upon the issuance of a decision by the arbitrator;
- 2) a written agreement between the parties resolving the dispute; or
- 3) a written statement by all parties that they no longer wish to continue the arbitration.

## **VIII EXCLUSION OF LIABILITY**

Neither the staff of the ADR Unit nor any mediator or arbitrator is a necessary party in a judicial proceeding related to the dispute that is being resolved. Parties to an arbitration expressly agree to be bound by the immunity provisions of the New Jersey Arbitration Act, N.J.S.A. 2A:23B-14 and the New Jersey Tort Claims Act, N.J.S.A. 59:10A-1 et seq. Parties to a mediation or arbitration shall be deemed to have consented that neither the staff of the ADR Unit nor any mediator or arbitrator shall be liable to any party in any way for damages or for injunctive relief for any act or omission in connection with any mediation or arbitration conducted under these rules.

**IX INTERPRETATION AND APPLICATION OF RULES**

Mediators and arbitrators shall interpret and apply these rules as they relate to their duties and responsibilities. All other rules shall be interpreted and applied by the Director of the ADR Unit.

*Revised June 2008*

**Bank of America** 

**Cashier's Check**

No. **1712700**

Notice to Purchaser: In the event this check is lost, misplaced or stolen, a sworn statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Date **JULY 31, 2009**

3081/1140  
NTX

Banking Center **PORT LEE MAIN**

0093053 00010 001712700

**SAMSUNG ELECTRONICS AMERICA, INC.**  
Remitter (Purchased By)

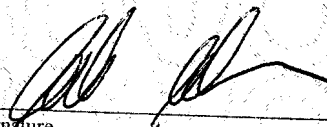
Pay **\*\*SIXTY FOUR THOUSAND SIX HUNDRED DOLLARS AND 00 CENTS\*\***

\$ **\*\*64600.00\*\***

To The Order Of **\*\*NEW JERSEY DIVISION OF CONSUMER AFFAIRS\*\***  
\*\*\*\*

Bank of America, N.A.  
San Antonio, Texas

VOID AFTER 90 DAYS

Authorized Signature 

⑈ 1712700⑈ ⑆ 114000019⑆ 001641006048⑈

THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK

*Received 8/3/09*  
*DAG Koziar*

30-14-3774B 06-2005

ANTI-FRAUD PROTECTION PATENTS 5,997,785; 5,940,158 US Patent 6,233,940; 6,288,646; 6,786,119