

1 **Arbitration of Class Claims**

2 “[T]he availability of class arbitration is a question of arbitrability to be decided by the
3 Court unless the parties clearly and unmistakably provide otherwise.” (Docket no. 33 at
4 2–3.) The parties’ arbitration agreement refers to the AAA National Rules for the Resolution
5 of Employment Disputes, and the AAA’s Supplementary Rules for Class Arbitration provide
6 that an arbitrator will decide whether the applicable arbitration clause permits the arbitration
7 to proceed against a class. (Docket no. 3, Exhibit 3-E; Docket no. 45, Exhibit 3 at ¶ 3.)
8 Based on this provision in the AAA’s Supplementary Rules, Tajonar maintains that the
9 parties *did* sufficiently elect to defer to the arbitrator on the availability of class arbitration.
10 (Docket no. 45 at 6.)

11 There’s support for Tajonar’s argument. See, e.g., *Accentcare, Inc. v. Jacobs*, 2015
12 WL 6847909, at *3 (N.D. Cal. Nov. 9, 2015). *Accentcare* pointed out that the AAA’s National
13 Rules provide that the “arbitrator shall have the power to rule on his or her own jurisdiction,
14 including any objections with respect to the existence, scope or validity of the arbitration
15 agreement.” *Id.* And the AAA’s Supplementary Rules provide that “the arbitrator shall
16 determine as a threshold matter, in a reasoned, partial final award on the construction of the
17 arbitration clause, whether the applicable arbitration clause permits the arbitration to proceed
18 on behalf of or against a class.” *Id.* Thus, because the arbitration agreement at issue there
19 incorporated the National Rules, the court concluded that there was “a clear and
20 unmistakable agreement to have the arbitrator decide questions regarding the arbitrability
21 of class-wide claims.” *Id.*; see also *Oracle Am., Inc. v. Myriad Grp. AG*, 724 F.3d 1069, 1074
22 (9th Cir. 2013) (“Virtually every circuit to have considered the issue has determined that
23 incorporation of the [AAA’s] arbitration rules constitutes clear and unmistakable evidence
24 that the parties agreed to arbitrate arbitrability.”).

25 The Court agrees with the reasoning in *Accentcare*. Tajonar’s class claims shall be
26 presented to an AAA arbitrator to decide if they should be arbitrated.

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