

# Arbitration Rules

## 1. INTERPRETATION

### 1.1 Definitions

In these Rules, the following terms shall have the following meanings:

1. “Appointing Committee” means the Committee established by the Canadian Arbitration Association to exercise the powers of an appointing authority.
2. “Arbitral Tribunal” means a sole arbitrator or a panel of arbitrators.
3. “Arbitration Agreement” means an agreement between or among two or more Parties to submit to arbitration any dispute, controversy or claim and, unless expressly limited, shall be deemed to include any question regarding the existence, interpretation, validity, breach or termination of a contract.
4. “Business Day” means a day between Monday and Friday inclusive, excluding statutory or official holidays in the place of arbitration.
5. “CAA” means the Canadian Arbitration Association
6. “Chair of the Arbitral Tribunal” means the individual arbitrator who is to act as the presiding arbitrator, where a dispute is to be determined by a panel of arbitrators.
7. “Law of the Arbitration” means the applicable arbitration law of the place of arbitration.
8. “Med-Arb” means a process by which the Parties agree to first submit their dispute to mediation and, in the event that the dispute does not fully settle at mediation, to an arbitration in accordance with these Rules, where the arbitrator will be the same individual as the mediator.
9. “Med-Arb Agreement” means an agreement between or among two or more Parties to submit to Med-Arb any dispute controversy or claim, and unless expressly limited, shall be deemed to include any question regarding the existence, interpretation, validity, breach or termination of a contract.
10. “Notice of Arbitration” means the notice referred to in Rule 3.1.
11. “Notice of Request for Med-Arb” means the notice referred to in Rule 13.1.

12. “Party” or “Parties” means a party or parties to an Arbitration Agreement or Med-Arb Agreement.
13. “Representative” means legal counsel for or an authorized representative of a Party.
14. “Rules” means the Canadian Arbitration Association Arbitration Rules in force at the time of the commencement of the arbitration.

1.2 Where appropriate in these Rules, words importing the singular shall include the plural and words importing the masculine gender shall include the feminine gender and vice versa.

## **2. AGREEMENT OF PARTIES AND APPLICATION OF THE RULES**

2.1 These Rules apply to the arbitration administered by the Canadian Arbitration Association, subject to such modification as the Parties may agree upon.

2.2 The arbitration shall be conducted under the Law of the Arbitration. In the event that any provision of these Rules or the agreement of the Parties with respect to the conduct of the arbitration is in conflict with any provisions of the Law of the Arbitration from which the Parties cannot derogate, the provisions of the Law of the Arbitration will prevail.

2.3 The Rules and any procedures set out in the Arbitration Agreement shall be interpreted liberally with the object that (a) all disputes that could be covered by the Arbitration Agreement are subject to arbitration; and (b) the arbitration will be as inexpensive and expeditious as reasonably possible, consistent with a process that is fair and suitable to the circumstances of the particular case. Any procedural question or controversy on which the Parties are not agreed may be resolved by the application of the discretion of the Arbitral Tribunal in conducting the arbitration, or of the Appointing Committee in the exercise of its functions.

2.4 Where an Arbitral Tribunal consists of more than one arbitrator and where differences arise among the members of the Arbitral Tribunal with respect to the interpretation and/or application of these Rules, the decision of the majority of the members will govern.

2.5 Where an Arbitral Tribunal consists of more than one arbitrator, the Parties may agree or the Arbitral Tribunal may decide, after hearing the submissions of the Parties, to delegate the determination of some or all procedural matters to the Chair of the Arbitral Tribunal.

2.6 These Rules may be amended by the Canadian Arbitration Association in its sole discretion. Amendments become effective when they are posted to the Canadian Arbitration Association website.

### **3. COMMENCEMENT OF ARBITRATION**

#### Notice of Arbitration

3.1 The Party commencing arbitration (the “Claimant”) shall deliver a Notice of Arbitration to the opposing Party (the “Respondent”) and shall at the same time deliver a copy of the Notice of Arbitration to the Canadian Arbitration Association. The Notice of Arbitration shall contain:

- a demand that the dispute be referred to arbitration;
- the names, addresses and detailed contact information of the Parties and any Representatives;
- a reference to the arbitration clause or agreement that is invoked;
- a reference to any contract out of or in relation to which the dispute arises;
- a statement of the nature of the dispute, the material facts being relied on and the issues being raised;
- the relief that is being claimed;
- the name of any agreed-upon arbitrator;
- the basis upon which the Arbitral Tribunal has jurisdiction to determine the dispute; and
- may include proposals as to the number of arbitrators, the means of constituting the Arbitral Tribunal, the place of arbitration, and the language of the arbitration.

3.2 Arbitration proceedings shall be deemed to commence on the day on which the Canadian Arbitration Association receives the Notice of Arbitration and filing fee as set forth in the Canadian Arbitration Association Schedule of Fees (Schedule “A” to these Rules).

3.3 The Canadian Arbitration Association shall communicate to the Parties a written acknowledgement of receipt of the Notice of Arbitration, indicating the date of receipt, and invite the Respondent to submit a short answer thereto.

3.4 The short answer shall contain the preference, if any, of the Respondent for the number of the arbitrators and for the place of arbitration, if not agreed by the Parties, as well as any further particulars as to the arbitral proceedings, including any counterclaim against the Claimant.

3.5 The Respondent shall file the short answer with the Canadian Arbitration Association and send a copy to the Claimant within fifteen (15) Business Days after receipt of the Canadian Arbitration Association's invitation. The Notice of Arbitration and the short answer serve as an introduction to the arbitral proceedings, and do not prejudice the Parties' rights to submit further written pleadings as provided in these Rules, as agreed between the Parties, or as authorized by the Arbitral Tribunal.

3.6 Amendments may be made to the Notice of Arbitration or the Respondent's short answer at any time prior to the appointment of the Arbitral Tribunal. Thereafter, amendments may be made with the consent of the Arbitral Tribunal.

Alternative Submission Mechanism

3.7 When the Parties' agreement to arbitrate is in the form of an agreement to submit a dispute to arbitration, either Party may commence arbitration by delivering to the Canadian Arbitration Association a copy of that Arbitration Agreement, together with the requisite filing fee as set forth in Schedule "A" to these Rules, and, to the extent not indicated in the Arbitration Agreement, the following:

- the names, addresses and detailed contact information of the Parties and any Representatives;
- for the purpose of applying of these Rules, which Party is to be considered the Claimant and which the Respondent;
- any proposals or agreements as to the number of arbitrators, the constitution or means of designating the Arbitral Tribunal, the place of arbitration, and the language of the arbitration.

3.8 Arbitration proceedings shall be deemed to commence on the day on which the Canadian Arbitration Association receives the Arbitration Agreement and the filing fee as set forth in Schedule "A" to these Rules.

#### **4. APPOINTING COMMITTEE**

4.1 The Appointing Committee shall be established by the Canadian Arbitration Association and shall have the authority and functions specified in these Rules or incidental thereto. The functions of the Appointing Committee may be delegated by the Appointing Committee to one or more of its members.

4.2 Members of the Appointing Committee are not eligible for appointment as arbitrators in arbitrations where they perform services as members of the Appointing Committee.

4.3 A member of the Appointing Committee shall not be involved in the determination of any issue relating to an arbitration in which they have, may have or have had any interest or involvement.

4.4 The members of the Appointing Committee will be set out in Schedule "B" to these Rules.

## **5. APPOINTMENT OF THE ARBITRAL TRIBUNAL**

5.1 The Parties shall be at liberty to select any qualified arbitrator or panel of arbitrators from the list of CAA arbitrators set out at [https://canadianarbitrationassociation.ca/?page\\_id=21](https://canadianarbitrationassociation.ca/?page_id=21) in accordance with the appointing provisions in or applicable to the Arbitration Agreement. If there are no CAA arbitrators in your jurisdiction, please contact the CAA. In the absence of any Arbitration Agreement appointing provisions or in the event that one or more of the Parties fails to appoint an arbitrator or panel within the times specified (or within a reasonable period of time if no time is specified), the Appointing Committee shall appoint an arbitrator or panel for the Parties in accordance with the provisions of Rules 5.2 to 5.6.

5.2 If the Parties have not agreed on the number of arbitrators (i.e., one or three), a sole arbitrator shall be appointed.

5.3 Where a sole arbitrator is to be appointed and the Parties have not agreed upon the arbitrator, within five (5) Business Days of the receipt of a Notice of Arbitration or Arbitration Agreement and filing fee by the Canadian Arbitration Association, the Canadian Arbitration Association shall provide the Parties with a list of three potential arbitrators. In the discretion of the Appointing Committee, the list of potential arbitrators may include more than three names. If the Parties are unable to agree on an arbitrator within three (3) Business Days of receipt of the list, each Party may, within a further two (2) Business Days, send to the Appointing Committee the name of one of the proposed arbitrators that the Party does not want to be appointed. The Appointing Committee will not choose an arbitrator eliminated by any Party. The Appointing Committee will then choose the arbitrator from the remaining names. If the remaining arbitrator(s) are not able to serve, the Appointing Committee will choose another arbitrator and appoint that person.

5.4 If three arbitrators are to be appointed, each Party shall appoint one arbitrator. The two arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator or "Chair" of the Arbitral Tribunal.

5.5 If within five (5) Business Days after the receipt of a Party's notification of the appointment of an arbitrator under Rule 5.4, the other Party has not notified the first

Party of the arbitrator they have appointed, the first Party may request that the Appointing Committee to appoint the second arbitrator.

5.6 If within five (5) Business Days after the appointment of the second arbitrator, the two party-appointed arbitrators have not agreed on the choice of the presiding arbitrator (the Chair), the Chair shall be appointed by the Appointing Committee. In such a case, the Appointing Committee may select any arbitrator it deems appropriate to act as Chair of the Arbitral Tribunal.

5.7 Where the Parties have agreed that all three members of a three-person Arbitral Tribunal are to be appointed by the Canadian Arbitration Association, the Appointing Committee will make the appointments that it considers to be appropriate, and designate the Chair of the Arbitral Tribunal.

5.8 Where the Arbitration Agreement provides for arbitration among more than two Parties and the Parties have not agreed in writing to the appointment of at least one of the nominees to a three-person Arbitral Tribunal, the Appointing Committee shall appoint all members of the Arbitral Tribunal without regard to any Party's nomination.

5.9 The Parties and the Appointing Committee may appoint any or all of the arbitrators on the Arbitral Tribunal from the current Canadian Arbitration Association roster of arbitrators, but are not required to so restrict themselves. If the Parties select an arbitrator who is not a member of the Canadian Arbitration Association, the selection will be conditional on the selected arbitrator reaching an agreement with the Canadian Arbitration Association on terms of association and with the Parties with respect to the fees to be charged by that arbitrator.

## **6. INDEPENDENCE AND IMPARTIALITY; CHALLENGE**

6.1 Every arbitrator shall be and remain at all times wholly independent of the Parties, wholly impartial, and shall not act as an advocate for any of the Parties. No arbitrator shall be disqualified or subject to challenge by reason of the arbitrator or any Representative of a Party being a member, officer, or director of the Canadian Arbitration Association.

6.2 The Parties shall, prior to the appointment of any arbitrator, disclose to the Canadian Arbitration Association and to the proposed arbitrator(s) the names of all Parties and, to the extent known, all witnesses who will be or are reasonably likely to be involved in the arbitration.

6.3 Before accepting their appointment, a prospective arbitrator shall sign a statement of independence and disclose in writing to the Canadian Arbitration Association any facts or circumstances that might be of such a nature as to give rise to an apprehension of bias in the eyes of the Parties, and shall undertake to avoid and, if necessary, disclose to the Parties any such circumstances arising after that time and before the arbitration is concluded. The Canadian Arbitration Association shall provide such information to the Parties in writing and fix a time limit for any comments from them.

6.4 Before a prospective arbitrator accepts their appointment, the Parties and their Representatives shall also disclose in writing to the Canadian Arbitration Association any facts or circumstances that might be of such a nature as to give rise to justifiable doubt as to the arbitrator's impartiality or independence, including any bias or any financial or personal interest in the result of the arbitration, or any past or present relationship with the Parties or their Representatives. Such obligation shall remain in effect throughout the arbitration. Failure on the part of a Party or a Representative to comply with the requirements of this rule may result in the waiver of the right to challenge an arbitrator.

6.5 A Party who intends to challenge an arbitrator shall send notice of their challenge to the Canadian Arbitration Association within five (5) Business Days after being notified of the appointment of the arbitrator, or within five (5) Business Days after the grounds on which the challenge is based became known to that Party. The notification shall be in writing and shall state the reasons for the challenge. The Canadian Arbitration Association shall notify the other Party, the challenged arbitrator, and any other members of the Arbitral Tribunal.

6.6 When an arbitrator has been challenged by one Party, the arbitrator may withdraw as an arbitrator. This does not imply acceptance of the validity of the grounds for the challenge.

6.7 If the challenged arbitrator does not withdraw, the decision on the challenge will be made by the Appointing Committee. A decision on a challenge need not be accompanied by reasons.

6.8 Any arbitrator who is unable to serve or continue to serve due to disqualification, death or disability shall be replaced in the same manner as their original appointment, failing which the replacement arbitrator shall be appointed by the Appointing Committee.

## **7. CHALLENGES TO THE JURISDICTION OF THE ARBITRAL TRIBUNAL**

7.1 The Arbitral Tribunal shall have the power to hear and determine challenges to its jurisdiction, including any objections with respect to the existence, scope, or validity of the Arbitration Agreement.

7.2 The Arbitral Tribunal shall have the power to determine the existence, scope or validity of the contract of which an arbitration clause forms a part. For the purpose of challenges to the jurisdiction of the Arbitral Tribunal, the arbitration clause shall be considered as separable from any contract of which it forms a part.

7.3 Any challenges to the jurisdiction of the Arbitral Tribunal, except challenges based on the award itself, shall be made no later than the Respondent's short answer; however, if an amended Notice of Arbitration or short answer is later filed, a challenge to jurisdiction arising from such a pleading must be made not later than the date set by the Arbitral Tribunal for responding to that pleading.

## **8. NOTIFICATION TO THE PARTIES**

Any notification or communication from the Canadian Arbitration Association or the Arbitral Tribunal to a Party or its Representative may be delivered to its last known address by delivery, registered mail, courier, facsimile transmission, e-mail, or any other means of telecommunication that provides a record of the sending thereof. Such notification or communication shall be deemed to have been delivered on the date sent.

## **9. COMMUNICATIONS WITH THE ARBITRAL TRIBUNAL**

No Party or person acting on behalf of a Party may communicate *ex parte* with the Arbitral Tribunal.

## **10. PRELIMINARY HEARINGS**

10.1 The Arbitral Tribunal may convene a preliminary hearing to resolve procedural issues and establish a timetable. A preliminary hearing agenda may include points for discussion leading to the identification and clarification of the issues in dispute, and may also include the items set forth in the Canadian Arbitration Association Checklist for Procedural Hearings in Arbitration set out at Schedule "C" to these Rules.

10.2 A preliminary hearing may take place by conference telephone conference call or videoconference.



10.3 After the preliminary hearing, the Canadian Arbitration Association may send Terms of Appointment to the Parties for their review and signature. The Terms of Appointment may be accompanied by a request for deposits to cover the estimated cost of the arbitrator's fees and expenses.

10.4 In the event that the Canadian Arbitration Association does not receive a response from a Party within ten (10) Business Days of sending the Terms of Appointment, the Canadian Arbitration Association may assume that that Party has accepted the content of the Terms of Appointment and the arbitration will proceed.

10.5 In the event that the Canadian Arbitration Association does not receive one or both deposits under Rule 10.3, within fourteen (14) calendar days of the request, the Appointing Committee shall so inform the Parties and the arbitration may be suspended or terminated at the discretion of the Appointing Committee if the deposits requested are not received within the next five (5) Business Days.

## **11. CONDUCT OF PROCEEDINGS; EVIDENCE**

11.1 Subject to these Rules, the Arbitral Tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the Parties are treated equally and fairly, and each Party is given an opportunity to present its case and to respond to the other Party's case.

11.2 A Party may be represented by counsel or any other authorized representative. A Party intending to be so represented shall notify the other Party and the Canadian Arbitration Association of the name and address of the Representative prior to the date set for the hearing or other procedural occurrence at which that person is first to appear. When such a Representative initiates arbitration or responds for a Party, notice is deemed to have been given.

11.3 The Arbitral Tribunal may dispense with an oral hearing if it determines, after hearing the submissions of the Parties, that oral evidence is not necessary given the issues in dispute or not warranted given the amount in dispute.

11.4 In the event of an oral hearing, witnesses may be required to swear an oath or affirm oral evidence.

11.5 The Arbitral Tribunal, in its discretion, may appoint one or more neutral experts whose testimony shall be subject to cross-examination and rebuttal.

11.6 The Arbitral Tribunal may allow for the presentation of evidence by alternative means, such as using the Canadian Arbitration Association's eVideo technology. If eVideo or other such technology is used, all Parties must have a full opportunity to present any evidence that the Arbitral Tribunal deems material and relevant to the resolution of the dispute and, when involving witnesses, to conduct cross-examination(s).

11.7 All documents or information supplied to the Arbitral Tribunal by one Party shall at the same time be communicated by that Party to the other Party, unless ordered otherwise by the arbitrator.

11.8 Each Party shall have the burden of proving the facts relied on to support their claim or defence. The Arbitral Tribunal shall determine the admissibility, relevance, materiality, and weight of the evidence offered.

11.9 The Arbitral Tribunal may allow the filing of and make rulings upon a dispositive motion only if the Arbitral Tribunal determines that the moving party has shown that the motion is likely to succeed and dispose of or narrow the issues in the case.

## **12. MEDIATION**

12.1 Parties may mediate at any stage of the proceedings with a Canadian Arbitration Association mediator who is not a member of the Arbitral Tribunal.

12.2 A member of the Arbitral Tribunal may mediate the Parties' dispute only upon the written consent of all the Parties to the arbitration.

## **13. MED-ARB**

13.1 If the Parties agree to submit their dispute to Med-Arb under these Rules, the Party commencing the Med-Arb (the "Claimant") shall deliver a Notice of Request for Med-Arb to the opposing Party (the "Respondent") and shall at the same time deliver a copy of the Notice of Request for Med-Arb to the Canadian Arbitration Association. The Notice of Request for Med-Arb shall contain:

- a request to submit the dispute to Med-Arb;
- the names, addresses, and detailed contact information of the Parties and any Representatives;
- a reference to the Med-Arb or arbitration clause or agreement that is invoked, if any;
- a reference to any contract out of or in relation to which the dispute arises;

- a statement of the nature of the dispute, the material facts being relied on, and the issues being raised;
- the relief that is being claimed;
- the name of any agreed-upon mediator-arbitrator;
- the basis upon which the mediator-arbitrator has jurisdiction to determine the dispute; and
- may include proposals as to the means of constituting the Arbitral Tribunal, the place of arbitration, and the language of the arbitration.

A Notice of Request for Med-Arb must append:

- a) A copy of the Med-Arb or arbitration clause, if any; and
- b) A copy of the underlying contract(s) (if any) related to the dispute.

13.2 Med-Arb proceedings shall be deemed to commence on the day on which the Canadian Arbitration Association receives the Notice of Request for Med-Arb and filing fee as set forth in the Schedule "A" to these Rules.

13.3 A mediator-arbitrator will be appointed in accordance with the process set out in Rule 5 above.

13.4 Any section in these Rules relating to the independence and impartiality of an arbitrator equally applies to a mediator-arbitrator.

13.5 The mediator-arbitrator will first attempt to resolve the Parties' dispute through mediation. Any issues still in dispute between the Parties upon termination of the mediation shall be finally resolved through an arbitration with the mediator-arbitrator acting as the sole arbitrator.

13.6 The Parties agree that no procedural unfairness or loss of jurisdiction arises solely because the mediator-arbitrator:

- a) acts as mediator in the mediation phase for any issues referred to arbitration;
- b) meets separately with a Party during the mediation phase; or
- c) questions the merits of a Party's position during the mediation phase.

13.7 During the arbitration phase, the mediator-arbitrator must not use information from the mediation phase unless it is properly introduced into evidence in the arbitration or the Parties consent to its use. The mediator-arbitrator will make their decision based on the presentations at the arbitration, both written and oral, and not based on what they learned during the mediation, unless the Parties otherwise agree.

13.8 The Parties to a Med-Arb expressly agree to waive section 35 of the *Arbitration Act, 1991*, S.O. 1991, c. 17.

13.9 Any arbitration commenced in accordance with section 3 of these Rules may subsequently be converted to a Med-Arb upon the written consent of the Parties and the Arbitrator.

#### **14. INTERIM MEASURES OF PROTECTION**

14.1 At the request of any Party and on notice to all the other Parties, the Arbitral Tribunal may order whatever interim measures it deems necessary, including injunctive relief, measures for the protection or conservation of property, and security for costs.

14.2 Such interim measures may take the form of an interim award.

14.3 A request for interim measures addressed by a Party to a court shall not be deemed incompatible with the Arbitration Agreement or a waiver of the right to arbitrate.

14.4 The Arbitral Tribunal may in its discretion apportion costs associated with the applications for interim relief in any interim award or in the final award.

14.5 The Arbitral Tribunal will render its interim award within ten (10) Business Days of the conclusion of any interim motion, provided that the Arbitral Tribunal, for good reason, may extend that time after consultation with the Parties.

#### **15. FAILURE TO COMPLY WITH RULES**

Where a Party fails to comply with these Rules, or any order of the Arbitral Tribunal pursuant to these Rules, in a manner deemed material by the Arbitral Tribunal, the Arbitral Tribunal may fix a reasonable period of time for compliance and, if the Party does not comply within said period, the Arbitral Tribunal may impose a remedy it deems just, including an award on default. Prior to entering an award on default, the Arbitral Tribunal shall require the non-defaulting party to produce evidence and legal argument in support of its contentions as the Arbitral Tribunal may deem appropriate. The Arbitral Tribunal may receive such evidence and argument without the defaulting party's presence or participation.

#### **16. OPTIONAL RULES FOR EMERGENCY MEASURES OF PROTECTION**

16.1 Where the Parties in their Arbitration Agreement have adopted these Rules for emergency measures of protection, a Party in need of emergency relief prior to the appointment of the Arbitral Tribunal shall notify the Canadian Arbitration Association and all other Parties in writing of the nature of the relief sought and the reasons why such relief is required on an emergency basis. The application shall also set forth the

reasons why the Party is entitled to such relief. Such notice must include a statement certifying that all other Parties have been notified or an explanation of the steps taken in good faith to notify other Parties.

16.2 Within one (1) Business Day of receipt of notice as provided in Rule 16.1, the Appointing Committee shall appoint a single emergency arbitrator from the roster of Canadian Arbitration Association arbitrators. The emergency arbitrator shall immediately disclose any circumstance likely, on the basis of the facts disclosed in the application, to affect such arbitrator's impartiality or independence. Any challenge to the appointment of the emergency arbitrator must be made within one (1) Business Day of the communication by the Canadian Arbitration Association to the Parties of the appointment of the emergency arbitrator and the circumstances disclosed.

16.3 The emergency arbitrator shall, as soon as possible, but in any event within two (2) Business Days of appointment, establish a schedule for considering the application for emergency relief. Such schedule shall provide a reasonable opportunity for all Parties to be heard, but may provide for proceeding by telephone conference or on written submissions as alternatives to a formal hearing.

16.4 If, after considering the emergency, the emergency arbitrator is satisfied that the Party seeking the emergency relief has shown that immediate and irreparable loss or damage will result in the absence of emergency relief, and that such Party is entitled to such relief, the emergency arbitrator may enter an interim award granting the relief and stating the reasons therefore.

16.5 Any application to modify an interim award of emergency relief must be based on changed circumstances and may be made to the emergency arbitrator until the Arbitral Tribunal is constituted; thereafter such a request shall be addressed to the Arbitral Tribunal. The emergency arbitrator shall have no further power to act after the Arbitral Tribunal is appointed unless the Parties agree that the emergency arbitrator is named as a member of the Arbitral Tribunal.

16.6 Any interim award of emergency relief may be conditional on provision by the Party seeking such relief of appropriate security.

16.7 The costs associated with applications for emergency relief shall initially be determined by the emergency arbitrator, subject to the power of the Arbitral Tribunal to determine finally the apportionment of such costs. A party seeking emergency relief must deposit on retainer the arbitrator and administrative fees relating to the costs of the request for emergency relief before the decision with respect to emergency relief is released.

## **17. PRIVACY AND CONFIDENTIALITY OF ARBITRATION**

17.1 Subject to Rule 17.2, all arbitrations held under these Rules are private and confidential. The Parties and their Representatives may attend at the arbitration. Other persons may attend only with the consent of the Arbitral Tribunal. The Arbitral Tribunal may require the sequestering of any witness or witnesses during the testimony of other witnesses.

17.2 No information concerning the existence of the arbitration or anything which occurs or is disclosed within the arbitration shall be disclosed or used outside of the arbitration proceedings or for any other purpose by a Party except:

- for the purpose of conducting the arbitration itself including, where necessary and appropriate, interviewing and preparing witnesses, obtaining document and other support services, and the administering of the arbitration;
- in connection with an application to a court for interim relief or to set aside, recognize or enforce an award;
- where a Party is required to do so by law or by a court or competent regulatory body; or
- for educational purposes, provided the disclosure does not indicate the names of any Party or sufficient facts to allow the listener to determine the identity of a Party or identify the dispute.

17.3 Where a Party makes disclosure as permitted by Rule 17.2 it shall only do so:

- by disclosing no more than what is legally required;
- by obtaining, where possible, an undertaking or order of confidentiality consistent with the Rules; and
- by furnishing to the Arbitral Tribunal and to the other Party, if the disclosure takes place during the arbitration, or to the other Party alone, if the disclosure takes place after the termination of the arbitration, details of the disclosure and an explanation of the reason for it.

## **18. THE AWARD**

18.1 The Arbitral Tribunal will render its award within twenty-five (25) Business Days of the close of the arbitral proceedings, provided that the Arbitral Tribunal, for good reason, may extend that time after consultation with the Parties.

18.2 The award shall not be released to the Parties until all outstanding charges of the Canadian Arbitration Association for fees and disbursements relating to the arbitration and all arbitrator's fees and expenses have been paid.

18.3 The award shall set out: the nature of the claim; the decision; the relief awarded; and, unless the Parties have agreed otherwise, reasons – including a review of the issues, the facts and the law as the Arbitral Tribunal deems necessary to explain its award, and the basis of the Arbitral Tribunal's jurisdiction.

18.4 An award or interim award made under the provisions of these Rules shall be treated as a final award for the purposes of recognition and enforcement by a judicial authority and shall not be subject to any appeal to the courts or otherwise unless the Parties have otherwise agreed or the Law of the Arbitration requires.

## **19. AMENDMENTS AND CORRECTIONS TO THE AWARD**

Within twenty (20) Business Days after an award has been released, on the application of a Party or on its own initiative, the Arbitral Tribunal may amend an award to correct:

1. a clerical or typographical error;
2. an accidental error, slip, omission or similar mistake;
3. an arithmetical error made in a computation; or
4. a claim on which the Arbitral Tribunal failed to adjudicate.

## **20. INTEREST**

The Arbitral Tribunal may order the payment of simple or compound interest, including pre-award and post-award interest, unless the Parties have agreed otherwise.

## **21. COSTS**

21.1 The Arbitral Tribunal may determine liability for legal costs and for the costs of the arbitration as part of an interim award or award on the merits, and may apportion those costs as between the Parties. In awarding costs, the Arbitral Tribunal may take into account the conduct of the Parties in the proceedings and any settlement offers made. If there is an order with respect to costs, the order will stipulate a payment as between the Parties.

21.2 Where a determination on costs is to be made following the release of an award on the merits, the Arbitral Tribunal will render its costs award within ten (10) Business Days of receipt of the Parties' final submissions (whether oral or in writing), provided that the

Arbitral Tribunal, for good reason, may extend that time after consultation with the Parties.

21.3 Unless the Parties agree otherwise, the Arbitral Tribunal will have the power, in its discretion, to apportion the arbitration fees and disbursements payable as between the Parties. If the Arbitral Tribunal does not make a determination with respect to the apportionment of arbitration fees and disbursements, the Arbitral Tribunal's fees and disbursements will be billed equally between the Claimant(s) and Respondent(s), unless the Parties have agreed otherwise.

## **22. PLACE OF ARBITRATION; HEARING VENUE**

22.1 Unless the Parties have agreed upon the place where the arbitration is to be held, such place shall be determined by the Arbitral Tribunal, having regard to the circumstances of the arbitration. The Arbitral Tribunal may determine the venue of the arbitration within the place agreed upon by the Parties or fixed by the Arbitral Tribunal. It may hear witnesses and hold meetings for consultation among its members at any place it deems appropriate, having regard to the circumstances of the arbitration. The award shall be deemed to have been made at the place of arbitration.

22.2 Arbitration hearings held at the offices of the Canadian Arbitration Association in North York are subject to a venue fee, as set forth in Schedule "A" to these Rules.

22.3 If arbitrations are held elsewhere than the offices of the Canadian Arbitration Association, the Parties will make their own arrangements and will be responsible for any charges in connection therewith. If the Parties request that the Canadian Arbitration Association make such venue arrangements, a separate Administration Fee (as set forth in the Schedule "A" to these Rules) will be charged. The Parties agree that, in such cases, the Canadian Arbitration Association is acting solely as an agent of the Parties, who are jointly and severally liable to the third-party venue provider for its charges. The Canadian Arbitration Association will require a deposit in the appropriate amount to cover such venue costs. A final invoice from the Canadian Arbitration Association will account for such deposit and may include additional charges of the third-party venue provider.

## **23. IMMUNITY**

None of the Canadian Arbitration Association, its staff, and no member of the Arbitral Tribunal shall be liable to any Party or any lawyer, officer, director, employee or witness for any Party for any act or omission in connection with an arbitration. The Parties shall jointly and severally indemnify and hold harmless the Canadian Arbitration Association in respect of all such claims. The members of the Arbitral Tribunal and the Canadian



Arbitration Association shall have the same protections and immunities as a judge of the superior court of the province, territory or state of the place where the arbitration is held.

## **24. DOCUMENT RETENTION**

The Arbitral Tribunal and/or the Canadian Arbitration Association may destroy any documents, communications or correspondence, including any electronically stored information, submitted by the Parties or created in the context of the arbitration, unless a Party requests in writing, within sixty (60) days following the termination of the arbitral proceedings (whether by award or otherwise), the return of such documents. All costs and expenses related to the return of documents shall be paid by the Party making the request.

## **25. CANCELLATIONS AND ADJOURNMENTS**

25.1 Notification to the Canadian Arbitration Association of any cancellation, request for adjournment, or settlement shall be made by telephone and also confirmed in writing by fax or e-mail.

### **Oral Hearing**

If the matter is to proceed by way of an oral hearing, the following rules apply:

25.2 If an arbitration is cancelled more than thirty (30) calendar days prior to the scheduled commencement of the arbitration hearing, the cancellation fee will be \$500 plus HST, plus the hourly rate of the Arbitral Tribunal multiplied by the number of hours spent by the Arbitral Tribunal prior to notice of the cancellation.

25.3 If an arbitration is cancelled or adjourned within thirty (30) calendar days, but more than fourteen (14) calendar days, prior to the scheduled commencement of the arbitration hearing, the cancellation fee will be 50% of the deposit required to be posted (at the time of cancellation or adjournment), plus any non-refundable disbursements, including the CAA's venue fee.

25.4 If the arbitration is cancelled or adjourned fourteen (14) days or fewer prior to the scheduled commencement of the arbitration hearing, the cancellation fee will be 100% of the deposit required to be posted (at the time of cancellation or adjournment), plus any non-refundable disbursements, including the CAA's venue fee.

### **Arbitration in Writing**

If the matter is to proceed as an arbitration in writing only, the following rules apply:

25.5 If an arbitration is cancelled or adjourned more than thirty (30) calendar days before the delivery of written submissions, the cancellation fee will be \$500 plus HST, plus the hourly rate of the Arbitral Tribunal multiplied by the number of hours spent by the Arbitral Tribunal prior to notice of the cancellation.

25.6 If an arbitration is cancelled or adjourned thirty (30) days or fewer before the delivery of written submissions, the cancellation fee will be 50% of the deposit required to be posted (at the time of cancellation or adjournment).

\* \* \*

THESE RULES ARE EFFECTIVE AS OF JUNE 1, 2024 AND ARE SUBJECT TO CHANGE WITHOUT NOTICE.

These Rules replace all prior rules of arbitration promulgated by the Canadian Arbitration Association. Copies of the Canadian Arbitration Association Rules that were in effect prior to the date of these current rules may be obtained from the Canadian Arbitration Association.

## **SCHEDULE “A”**

### **THE CANADIAN ARBITRATION ASSOCIATION SCHEDULE OF FEES**

*Effective January 21, 2015*

(Applicable taxes may be charged in the rates set out below.)

#### **FILING FEE**

\$500 plus HST. This non-refundable fee is payable by the Claimant upon filing a Notice of Arbitration or Notice of Request for Med-Arb with the Canadian Arbitration Association.

#### **ADMINISTRATION FEE**

\$750 plus HST. Payable by the Parties for any administrative requests, such as alternative venue arrangements.

#### **VENUE COST**

\$800 plus HST per day. Payable by the Parties for the use of the hearing room and one breakout room at the offices of ADR Chambers in North York. Meals, if requested, are billed separately.

#### **ARBITRATION FEES AND DEPOSITS**

The fees for the services of the members of an Arbitral Tribunal will be fixed by the Canadian Arbitration Association based on the hourly rate and the hearing day rate charged by each arbitrator, unless otherwise agreed by the Arbitral Tribunal and the Parties.

Accounts sent to the Parties by the Canadian Arbitration Association on behalf of the Arbitral Tribunal will detail the time spent and the rate charged together with any disbursements.

Notwithstanding any other provision of the Rules, the Parties will be jointly and severally responsible for the payment of all accounts rendered by the Canadian Arbitration Association unless the Parties and the Canadian Arbitration Association have otherwise agreed and have confirmed those arrangements in writing with the Canadian Arbitration Association.

A deposit on account of fees, anticipated costs, including disbursements, and applicable taxes will be required for each day reserved for the arbitration hearing and the time estimated by the Arbitral Tribunal for preparing for the hearing, reviewing the evidence, and writing the award. The amount and timing of deposits will be communicated to the Parties by the Canadian Arbitration Association. The Appointing Committee shall determine any disputes regarding the amount or timing of deposits.

Arbitration hearing days will have a minimum charge of eight (8) hours per day charged for the arbitrator's time on that day.

## **SCHEDULE “B”**

### THE CANADIAN ARBITRATION ASSOCIATION APPOINTING COMMITTEE

Members of the Appointing Committee are:

- Allan Stitt
- Elinor Whitmore
- Uri Snir

## **SCHEDULE “C”**

### CANADIAN ARBITRATION ASSOCIATION CHECKLIST FOR PROCEDURAL HEARINGS IN ARBITRATION

In accordance with Rule 10.1 of the Canadian Arbitration Association Rules of Arbitration, a preliminary hearing agenda may include points for discussion leading to the identification and clarification of the issues in dispute, as well as the items set forth herein:

1. Are there any issues concerning the jurisdiction, appointment or qualifications of the Arbitral Tribunal?
2. To what extent and pursuant to what procedure will there be any disclosure and production of facts and documents or examinations for discovery?
3. Should time be scheduled for the hearing of any questions with respect to pre-hearing disclosure?
4. Can the arbitration be conducted in writing only? If an oral hearing is necessary, how much time will be required? Where will the hearing be held?
5. Should witnesses be identified and statements be delivered before the hearing?
6. Should the Parties jointly prepare any pleadings briefs, documents, legal authorities or other briefs for use in the arbitration?
7. What should be the procedure for and likely length of the hearing?
8. Will expert evidence be required? Are any special rules required?
9. Is a transcript of the evidence at the hearing desirable or necessary?
10. Are interpreters necessary?
11. Should there be a timetable for delivery of written argument, if required?
12. Is there any agreement as to the form of the award?
13. Is the arbitration a final offer selection?
14. Will the arbitrator be required to deliver reasons?

15. Will there be any limit on the time for delivery of the award or completion of the arbitration?