

Title of Proceedings: set out whether the arbitration is under the *Arbitration Act, 1991* or the *International Commercial Arbitration Act* or some other statute; set out names of the parties and who is Claimant and who is Respondent or as the case may be

TERMS OF APPOINTMENT OF RICHARD J. WEILER AS ARBITRATOR

1. The Submission to Arbitration.

Pursuant to [refer to the Agreement to Arbitrate or the arbitration provisions of the Agreement to which the dispute relates – append a copy of the Agreement or provisions and any written document by which such terms have been varied by agreement] the parties have agreed to appoint Richard J. Weiler (the “Arbitrator”) to serve as sole arbitrator of their dispute relating to [provide a brief non-controversial reference sufficient to identify the dispute in question].

2. The Statutory Authority

The Arbitration shall be conducted in accordance with the Arbitration Act, 1991 S. O. 1991, ch. 17.

3. Appointment of the Arbitrator

The Arbitrator accepts the appointment, as the single Arbitrator of the parties' dispute. All adjudicative functions will be performed personally, exclusively and confidentially by the Arbitrator. The Arbitrator's services are provided through Weiler ADR Inc..

The appointment takes effect from the time all of the parties to the arbitration and the Arbitrator have signed these Terms of Appointment.

4. Rules of the Arbitration

The parties shall agree upon the Rules of the Arbitration. In the alternative, and to the extent that the parties do not agree upon the Rules for the Arbitration, those rules shall be determined by the Arbitrator.

5. Confidential Nature of the Arbitration

The arbitration hearing and all steps taken pursuant to this Agreement shall be maintained in confidence. Accordingly, the written and oral communications between the parties, their counsel and the Arbitrator in relation to the Arbitration shall be maintained in confidence. The documents and evidence exchanged between the parties or given in examinations conducted in the Arbitration shall similarly be maintained in confidence.

Sixty days after the Arbitration is finally concluded, and in the absence of any notice from any of the parties to the contrary, the Arbitrator shall be entitled to shred and/or properly and securely dispose of the materials he receives during the Arbitration, or return the materials to the respective party. If notice to the contrary is given the parties will make suitable arrangements to receive the material that the Arbitrator was given during the Arbitration, failing which the Arbitrator shall be at liberty to send the materials

to the party which tendered them and the Arbitrator shall not be required to maintain any materials received by him.

6. The Arbitration Procedures and Hearing

The Arbitration shall be conducted in accordance with this Agreement, the Statutory Authority, the mandatory requirements of law; and the agreements made from time to time by the parties, or failing agreement by the directions or decisions of the Arbitrator, relating to the conduct of the Arbitration.

The parties shall advise the Arbitrator of the procedures and timing that they agree upon, if any, for the conduct of the Arbitration. Failing agreement between the parties from time to time on the procedures and timing for the arbitration, those matters shall be resolved by the decisions and directions of the Arbitrator.

7. Financial Terms of the Arbitrator

The accounts of the Arbitrator will be paid equally by each party to the Arbitration. However, the parties are jointly and severally liable to Weiler ADR Inc. for the payment of the full amounts of those accounts.

The Arbitrator shall be compensated at an hourly rate of \$500.00 (Cdn.) plus applicable taxes.

An initial deposit of \$_____ inclusive of HST is payable at this time to secure payment of fees and disbursements for preliminary matters. The HST number is 829463405 RT0001.

Further deposits may be required on at least 14 days notice to the parties. Any such deposit shall be based on a reasonable estimate of the time required by the Arbitrator to prepare for the next stage of the proceeding, or to complete the matter if it is approaching completion.

Deposits will be applied on account of fees and expenses of the Arbitrator after an account has been rendered. Statements of the amount on deposit will be issued upon request. Any unused portion of deposits will be returned, in the proportions received from the parties, without interest.

The deposit requirements outlined above may be satisfied by one or more parties on behalf of the other party (or parties) subject to any cost award which the Arbitrator may make at the conclusion of the Arbitration.

OR

[The parties and their counsel agree that in consideration of the Arbitrator not requiring the posting of advance deposits towards fees and disbursements that accounts will be addressed to the law firms representing the parties and that said firms shall also be responsible for payment of such accounts.]

The services of the Arbitrator, including any final Award, may be withheld until all applicable financial requirements are met.

The parties shall be responsible for the reasonable and necessary incidental out of pocket expenses and disbursements of the Arbitrator such as photocopying, fax,

telephone, and other similar disbursements. If the Arbitrator must travel to the site of hearing, then the parties shall pay the reasonable travel and accommodation expenses of the Arbitrator.

The parties are directly responsible for any charges relating to the hearing venue.

With the agreement of, and on terms acceptable to, the parties, the Arbitrator may retain administrative or legal assistance, and such assistance will be paid for by the parties in accordance with those terms.

The cancellation fee policy of the Arbitrator is set out at www.rickweiler.com and agreed to by the parties and their counsel.

8. Conflicts

In Schedule "A" hereto, the Arbitrator has set out all circumstances of which he is aware which may give rise to a reasonable apprehension of bias or a conflict of interest. The Arbitrator considers himself to be able to act independently and impartially in this matter notwithstanding the circumstances listed in Schedule "A".

The parties and their counsel shall, prior to executing these Terms of Appointment, disclose to each other and to the Arbitrator any circumstances which may give rise to a reasonable apprehension of bias or a conflict of interest on the part of the Arbitrator.

The parties to the Arbitration waive any right to challenge the independence or impartiality of the Arbitrator or the validity or enforceability of any Award or Ruling on the basis of any of the circumstances set out in Schedule "A" or disclosed by the parties or their counsel prior to the execution of these Terms of Appointment.

9. Indemnity and Release of the Arbitrator

The parties agree that that the Arbitrator and Weiler ADR Inc., shall not be liable for any claim or loss arising from or in relation to the Arbitration and the Arbitrator shall have no liability except that which would be incurred by him if sitting in court as a judge of the Superior Court of Ontario under the *Courts of Justice Act* of Ontario. The parties otherwise release and indemnify the Arbitrator with respect to any matter relating to or arising from the arbitration.

The parties agree that they will not call upon the Arbitrator to give evidence in any court proceeding relating to the arbitration or to any decision or award rendered by the tribunal. If the Arbitrator is called upon to give evidence in any court proceeding the tribunal member shall be paid by the parties for his or her time and expenses on the same basis as set out in this agreement. The parties hereby agree to indemnify the Arbitrator with respect to any costs necessarily incurred by him in relation to any court proceedings initiated by either party with respect to the arbitration, subject to any allocation of such costs as between the parties by the court.

10. Notices.

Any communication to be given in connection with this Agreement shall be in writing and may be by email, personal delivery, fax or regular mail addressed to the recipient as follows:

To the Parties of the First Part:
(Address, including fax & email)

To the Party of the Second part:
(Address, including fax & email)

To the Arbitrator:

Richard J. Weiler
Weiler ADR Inc.
7 Hime Cres.
Ottawa ON K1G 4S2 Canada
Phone - 613-733-9730
Mobile - 613-291-1541
Fax - 613-691-1371
Email: rick@rickweiler.com

or to any other address or individual that one party may designate to the others. Any communication given by personal delivery, email or fax shall be deemed to have been given on the day of actual delivery and, if given by regular mail, on the third business day following the deposit in the mail. If the party giving any communication knows or ought reasonably to know of any difficulties with the postal system that might affect the delivery of mail, any such communication shall not be mailed but shall be given by personal delivery, email or fax.

11. Signing of this Arbitration Appointment and Agreement

This Agreement may be executed (including by e- signature, DocuSign and/or electronic means) in any number of counterparts, each of which (including any electronic transmission of an executed signature page), is deemed to be an original, and such counterparts together constitute one and the same Agreement notwithstanding that the parties are not signatory to the same counterparts .

PARTY

By their counsel, (Firm)

Per: _____
NAME
DATE:

PARTY

By their counsel, (Firm)

Per: _____

NAME

DATE:

Richard J. Weiler on behalf of himself personally and
on behalf of Weiler ADR Inc.

DATE:

SCHEDULE "A"

DISCLOSURE