

**Agreement and Submission to Arbitration and Appointment of Arbitrator**

**This Agreement and Submission to Arbitration and Appointment of Arbitrator is made this DATE**

**BETWEEN**

PARTY("Party")

Parties of the First Part

and

PARTY("Party")

Party of the Second Part

and

RICHARD J. WEILER and WEILER ADR INC.

The "Arbitrator"

**1. The Submission to Arbitration.**

The Parties to this Agreement, other than the Arbitrator, being parties to an earlier agreement requiring that any disputes arising between them shall submit such disputes to binding arbitration hereby agree to submit the dispute set out in Schedule "A" to arbitration (the "Arbitration"). The dispute shall be decided by the Arbitrator, and the Arbitration shall be conducted, in accordance with this Agreement.

**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 parties hereby appoint Richard J. Weiler of Weiler ADR Inc. (the "Arbitrator"), and Richard J. Weiler accepts the appointment, as the single Arbitrator of the parties' dispute.

The appointment of the Arbitrator comes into effect upon the execution by the parties and the Arbitrator of this Agreement.

**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 Arbitrator is a principal of WEILER ADR INC. which is retained by the parties to provide the services of RICHARD J. WEILER as Arbitrator. The word "Arbitrator" refers to and includes both Richard J Weiler and Weiler ADR Inc..

The accounts of Weiler ADR Inc. 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 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 Arbitrator shall be paid at the rate of \$500.00 per hour plus HST for his time devoted to the Arbitration including preparation, hearing time and preparation of reasons. (the "Fees")

The Arbitrator may decline to take further steps in the Arbitration, and to withhold the final award should the financial obligations of the parties not be 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.

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 <http://www.rickweiler.com/fees> and agreed to by the parties and their counsel.

## **8. Conflicts**

The Arbitrator is not aware of any circumstances that might give rise to a conflict of interest or reasonable apprehension of bias. The Arbitrator considers that he can act impartially and independently in this Arbitration.

The parties to this Agreement are not aware of any other circumstances that would disqualify the Arbitrator from acting as the Arbitrator of their dispute. The parties confirm that they do not object to and are not aware of any grounds upon which to object to the appointment of the Arbitrator.

## **9. Indemnity and Release of the Arbitrator**

The parties agree that that the Arbitrator, including 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.

## **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](mailto: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 is signed by the parties and the Arbitrator and comes into effect once so signed by them. This agreement may be signed in counterpart.

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PARTY

By their counsel, (Firm)

Per: \_\_\_\_\_  
NAME

PARTY

By their counsel, (Firm)

Per: \_\_\_\_\_

NAME

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

Schedule A

**Description of dispute being submitted to arbitration.**