

# DENSEM ADR SOLUTIONS INC.

## MEDIATION & ARBITRATION

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SCOTT DENSEM B.A. J.D.  
Mediator & Arbitrator  
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ADR Coordinator  
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(Date)

Dear Counsel:

### **(RE: PARTIES)**

The terms upon which I am accepting appointments as arbitrator are set out below. If these terms are agreeable to you and your clients, please return a signed and dated copy of this letter (a scanned or facsimile copy is fine) at your earliest convenience.

To accommodate you and your clients, we have arranged a pre-arbitration telephone conference for **(date)**, at **(time)**. **Please call (416) 443-4589 or toll free 1-866-234-0247, conference ID: 4949740** to be connected to the conference.

### **Arbitration Terms:**

1. Arbitration proceedings will be governed by the terms of an oral or written Arbitration Agreement entered into between or amongst the parties, and pursuant to the terms of the *Arbitration Act*, S.O. 1991, c.17, as amended.
2. In the event that a procedural circumstance arises that is not specifically covered by the Arbitration Agreement or the *Arbitration Act*, it will be dealt with by reference to any analogous provision in the *Rules of Civil Procedure* R.R.O. 1990, Reg. 194, as amended.
3. The Arbitrator will make arrangements for the time, date, and place of the Arbitration Hearing, in accordance with the request of the parties, or if the parties cannot agree, in accordance with Section 22 of the *Arbitration Act*.

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### Cost of Arbitration Services:<sup>1</sup>

The cost of arbitration services will be calculated and invoiced as follows:

- The minimum cost for arbitration services is \$2,500, plus HST (total \$2,825). Disbursements are included in this amount<sup>2</sup>.
- The minimum cost will be invoiced to the parties in equal shares following the first pre-arbitration conference, or at the arbitrator's discretion, and is due and payable upon receipt.
- **The \$2,825 minimum cost is a non-refundable, "flat rate" charge.** It will cover, in most cases, all arbitration services **prior to** a hearing. It includes, for example, pre-arbitration conferences, receipt and review of documents, issuing orders and summonses, correspondence, e-mails, *et cetera*. It also includes ordinary disbursements (see footnote 2). The arbitrator reserves the right to charge additional fees should a matter be unusually time consuming, or where, for example, more involved interlocutory proceedings such as motions are required. These situations will be dealt with on a case by case basis in consultation with the parties. If any additional fees are billed on an hourly rate basis, the arbitrator's current hourly services rate is \$500 per hour.<sup>3</sup>
- An amount less than the above mentioned minimum cost may be charged in the appropriate case at the discretion of the arbitrator.
- **The charge for each scheduled hearing day, or part thereof, is \$5,000, plus disbursements, plus HST.**<sup>4</sup> This charge is in addition to the

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<sup>1</sup> The cost of arbitration services is invoiced equally to the parties, and is subject to adjustment between the parties depending on any agreement acceptable to them and the arbitrator, or any interim or final arbitration costs award as determined by the arbitrator or on appeal.

<sup>2</sup> Larger disbursements, if any, (e.g. facility rental, travel expense) are not included in this fee. Ordinary disbursements such as Bell conferencing, fax, postage, photocopying, *et cetera*, are included in this fee.

<sup>3</sup> **This is the arbitrator's current hourly rate for arbitration services. It is subject to increase to the hourly rate for arbitration services in effect on the date the services are performed.**

<sup>4</sup> **This is the current daily charge for arbitration hearings. It is subject to increase to the daily charge for arbitration hearings in effect on the date the hearing is conducted.**

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minimum cost set out above. The account for the hearing will be invoiced in equal shares immediately upon completion of the hearing and is due and payable upon receipt.

**If any or all scheduled hearing dates are cancelled within thirty (30) days of the scheduled date or dates, a cancellation charge equal to 50% of the current hearing fee, plus HST, plus disbursements, per date cancelled, will be invoiced when the cancellation is advised, and is due and payable upon receipt.**

- Arbitration services following a hearing will be invoiced at the arbitrator's current hourly services rate. The most significant of these will be preparing and delivering the arbitration award. When the award is ready to be issued, it will be delivered to the parties by courier or facsimile, and the arbitrator's account for post-hearing services will be rendered in equal shares. **Each party is responsible to pay its share of this account upon receipt, notwithstanding any appeal of the award, or issues between the parties as to the ultimate responsibility for the arbitrator's fees and disbursements.**
- **The arbitrator may, at his discretion, require payment in full of this account and any other outstanding amounts prior to delivering the award to the parties.**
- Should further arbitration services be required following the issuance of the arbitration award, these will be invoiced at the arbitrator's current hourly services rate.

The undersigned agree to the foregoing terms, and appoint Scott Densem of Densem ADR Solutions Inc. as Arbitrator to conduct arbitration of this matter pursuant to these terms.

\_\_\_\_\_  
(Counsel for Party)

Date:

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(Counsel for Party)

Date: