

# DENSEM ADR SOLUTIONS INC.

## MEDIATION & ARBITRATION

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(Date)

Dear Counsel:

### **RE: (APPLICANT V. RESPONDENT(S))**

The terms upon which I am accepting appointments as arbitrator are set out below. 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, upon being contacted with a request to accept an appointment as arbitrator, a pre-hearing conference will be scheduled for the earliest, pre-hearing conference date on which time is available.

#### **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, the *Arbitration Act*, S.O. 1991, c.17, as amended, and if applicable, the *Insurance Act*, R.S.O. 1990, c. I.8, as amended.
2. In the event that a procedural circumstance arises that is not specifically covered by the Arbitration Agreement, the *Arbitration Act*, or the *Insurance 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-hearing 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-hearing 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 \$575 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 cost for each full day hearing day (up to 7 hours), 2 parties, is \$5,750, plus disbursements, plus HST.<sup>4</sup> The charge for each half day hearing day (up to 4 hours) is \$4,250, plus disbursements, plus HST.<sup>5</sup> \$700 for each additional party will be added to these daily hearing costs. Full day fees apply to hearings scheduled for a half day which**

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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 costs, 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.

<sup>5</sup> See footnote 4.

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**exceed 4 hours. If the hearing exceeds 7 hours per day the time in excess of 7 hours will be invoiced in addition to the full day fee at \$575 per hour for each additional hour or part thereof.**

- These charges are in addition to the 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.
- 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 electronic mail or courier, 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.

### **Cancellation Policy:**

Cancellation of a hearing date(s) must be requested in writing or during a pre-hearing conference. If a hearing date(s) is cancelled more than 25 business days before the scheduled date, there is no fee. If a hearing date(s) is cancelled within 25 business days of the scheduled date, but more than 5 business days before the scheduled date, a cancellation charge equivalent to 50% of the fee for the hearing date(s) scheduled, plus disbursements (if any) and HST will be invoiced. If a hearing date(s) is cancelled within 5 business days of the scheduled date(s), a cancellation charge equivalent to 100% of the fee for the hearing date(s) scheduled, plus disbursements (if any) and HST will be invoiced. Densem ADR will invoice the cancellation fee in accordance with the parties' agreement. If the parties cannot agree, Densem ADR will invoice all parties who

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have agreed to our retainer in equal shares. The parties are responsible for paying the invoice upon receipt. If we are able to schedule another matter for the cancelled date, there is no fee. If the fee has already been invoiced and paid, it will be refunded.

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.

\_\_\_\_\_ Date:  
Counsel for Applicant

\_\_\_\_\_ Date:  
Counsel for Respondent

\_\_\_\_\_ Date:  
Counsel for Respondent