

ARBITRATION PLACE

ARBITRATION APPEAL AND REVIEW RULES

In force: April 21, 2015



ARBITRATION PLACE
An **asap** company

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1 DEFINITIONS

- a. “**Chair**” has the meaning provided in Rule 8.
- b. “**Challenge Panel**” has the meaning provided in Rule 11.
- c. “**Challenged Arbitrator**” has the meaning provided in Rule 11.
- d. “**Costs**” has the meaning provided in Rule 20.
- e. “**Date of commencement**” has the meaning provided in Rules 4 and 5.
- f. “**Days**” mean calendar days, unless otherwise specified.
- g. “**Decision**” has the meaning provided in Rule 3.
- h. “**Notice**”, “**Notice of Appeal**” and “**Notice of Application for Review**” have the meanings provide in Rule 4.
- i. “**Notice of Confirmation**” has the meaning provided in Rule 4.
- j. “**Notice of Cross-Appeal**” and “**Notice of Application for Cross-Review**” have the meaning provided in Rule 5.
- k. “**Party**” or “**Parties**” refers to the appellant(s) or applicant(s), and the respondent(s).
- l. “**Record**” has the meaning provided in Rule 17.
- m. “**Rules**” has the meaning provided in Rule 2.
- n. “**Tribunal**” refers to both an Appeal Tribunal and a Review Tribunal.

2 SCOPE OF APPLICATION RULES

- a. The Arbitration Place Arbitration Appeal and Review Rules (“**Rules**”) apply, subject to any restriction in the applicable law, whenever the Parties so agree:
 - i. by reference to the Rules in their arbitration agreement;
 - ii. by reference to the Rules in their arbitration appeal agreement,; or
 - iii. by reference to the Rules in any other agreement.
- b. The Rules may be used, unless their application is precluded by the applicable law, for:
 - i. an appeal of an arbitration award that the parties have agreed is appealable;
 - ii. an application to review, set aside or vacate any arbitration award on the grounds set out in any applicable statute or in the Parties’ agreement; or
 - iii. a private appeal of a judgment or an order of any court, the subject matter of which is arbitrable under the applicable law.
- c. Where only a part of the Rules is precluded by the applicable law, the balance of the Rules may be used if, in the opinion of the Tribunal after affording the Parties the opportunity to make submissions, the remaining Rules are usable without reference to the precluded part.
- d. The Parties may modify or exclude any provision of the Rules, except:
 - i. Rule 2, Scope of Application;
 - ii. Rule 22, Exclusion of Liability;
 - iii. Rule 23, Role of Arbitration Place;
 - iv. Rule 24, Modification of the Rules; and
 - v. Any reference to the Arbitration Place Fee Schedule.
- e. The Tribunal may at any time after affording the Parties the opportunity to make submissions, adapt or dispense with the requirements of any provision

of the Rules to the particular circumstances of the case if it considers such adaptation or dispensation desirable to:

- i. further the interests of a fair and expeditious appeal or review, or
 - ii. avoid or mitigate an injustice.
- f. The Tribunal may at any time, including after a time provided for in these Rules has lapsed, after affording the Parties the opportunity to make submissions, modify any time limits in these Rules, including, but not limited to the time limits for commencing an Appeal or Review.
- g. In all cases, these Rules shall be construed with a view to the most just, expeditious, and least expensive determination of every appeal and/or review proceeding, having regard for the principle of party autonomy.

3 EFFECT OF APPEAL OR REVIEW ON UNDERLYING DECISION

- a. By agreeing to an appeal or review pursuant to the Rules, the Parties irrevocably waive all subsequent recourse to all courts, except:
 - i. to determine a matter relating to the appeal or review that the applicable law mandatorily reserves to the courts to determine; and
 - ii. to seek recognition and enforcement of an award made pursuant to the Rules.
- b. Filing a Notice of Appeal or Notice of Application for Review pursuant to the Rules shall mean that the underlying award, judgment or order (collectively, "Decision") is not final for the purposes of recognition or enforcement unless or until otherwise provided by a final award made under the Rules, and no Party shall take any steps to obtain recognition or enforcement of the Decision unless and until a final award under the Rules permits the Party to do so.

4 COMMENCEMENT OF APPEAL OR REVIEW

- a. A Party to a Decision may initiate an appeal or review, as applicable, by giving written notice (“Notice”) to the other Party or Parties to the Decision and by providing a copy of the Notice to Arbitration Place, along with proof that the Notice was given to the other Party or Parties.
- b. In the case of an appeal, the Notice is referred to as a “Notice of Appeal”, and in the case of a review, a “Notice of Application for Review”.
- c. The “Date of Commencement” of the appeal or review shall be the date upon which Arbitration Place receives the Notice.
- d. The Notice shall be given within 21 days of:
 - i. in the case of an appeal or review of a judgment or an order of the court, the date of the judgment or order; or
 - ii. in the case of an appeal or review of an arbitral award, the date the Parties are deemed to have received the award under the rules and/or law applicable to the arbitration, and if none apply, the date the Party appealing or applying for the review actually received the award.
- e. The Notice shall include:
 - i. the names and contact information (including address, telephone and facsimile numbers, and email address) of each Party;
 - ii. the names and contact information (including address, telephone and facsimile numbers, and email address) of each Party’s representative, if any;
 - iii. a description of the Decision or portion(s) of the Decision being appealed or reviewed;
 - iv. an outline of the grounds for the appeal or review;
 - v. the name of the arbitrator that the Party is appointing (unless the Parties have agreed on a sole arbitrator for the appeal or review), and the arbitrator’s contact information (including address, telephone and facsimile numbers, and email address);

- vi. a copy of the agreement(s) pursuant to which the Rules apply;
 - vii. a copy of the Decision; and
 - viii. the filing fee set out in Arbitration Place's fee schedule.
- f. The Notice shall be accompanied by the Statement of Independence and Impartiality, in the form set out in Schedule A, completed and signed by the arbitrator that the Party is appointing.
- g. Arbitration Place will confirm receipt of the Notice received pursuant to Rule 4(a) by sending to the Parties a "Notice of Confirmation" along with a copy of the Statement of Independence and Impartiality that was received by Arbitration Place pursuant to Rule 4(f).

5 CROSS-APPEAL / CROSS-REVIEW

- a. A Party to the Decision may cross-appeal or apply for a cross-review within 14 days of the date of commencement of the appeal or review.
- b. The "Notice of Cross-Appeal" or "Notice of Application for Cross-Review" shall include the information and documents set out in:
- i. Rule 4 (e) (iii), (iv) and (viii);
 - ii. Rule 4 (e) (i), (ii), with any additions or corrections to the information provided in the Notice of Appeal or Notice of Application for Review; and
 - iii. Rule 4 (e) (v), (vi) and (vii), to the extent the Cross-Appellant or Cross-Applicant considers the information provided in the Notice of Appeal or Notice of Application for Review to be incorrect or incomplete.
- c. The Notice of Cross-Appeal or Notice of Application for Cross-Review shall be provided to the other Party or Parties to the Decision by one of the methods provided for in the Rules, and a copy shall be provided to Arbitration Place with proof of Notice to the other Party or Parties to the Decision. The date of commencement of the cross-appeal or cross-review shall be the date upon

which Arbitration Place receives of the Notice of Cross-Appeal or Notice of Application for Cross-Review.

6 GIVING NOTICE

- a. Any notice contemplated by the Rules may be given by any means, including, but not limited to: hand delivery, facsimile, mail, email or other electronic means, unless otherwise agreed to by the Parties.

7 GROUNDS FOR APPEAL AND REVIEW

- a. Subject to any contrary agreement by the Parties, where a right to appeal exists, a Party may appeal a Decision on one or more of the following grounds:
 - i. the Decision contains one or more errors of law that on either their own or collectively were material to the Decision;
 - ii. the Decision contains one or more factual determinations that were clearly unreasonable and that either on their own or collectively were material to the Decision; or
 - iii. the Decision contains one or more errors of mixed fact and law which were clearly unreasonable, and that either on their own or collectively were material to the Decision.
- b. A Party may apply for review of a Decision that is an arbitration award and seek to have it set aside on any ground upon which an arbitral award may be set aside under the law of the seat of arbitration.
- c. A Party may not appeal on the ground of errors of fact or mixed fact and law that are dependent on oral evidence unless the oral evidence was recorded and either has been or will be transcribed.

8 COMPOSITION OF THE APPEAL OR REVIEW TRIBUNAL

- a. The Tribunal shall consist of three arbitrators, unless the Parties agree that there shall be only one arbitrator.
- b. When the Tribunal consists of three arbitrators, each Party (or if there is more than one appellant, applicant or respondent, all appellants, applicants or respondents, respectively) shall appoint one arbitrator, and the two party-appointed arbitrators shall select the third arbitrator, who shall serve as the chair of the Tribunal ("Chair"). The appointment and selection of the Tribunal shall proceed as follows:
 - i. the Party or Parties commencing the appeal or review shall name an arbitrator in the Notice of Appeal or Notice of Application for Review as provided in Rule 4; and
 - ii. the opposite Party or Parties to the appeal or review shall provide to all other Parties and Arbitration Place, within 14 days of the date of commencement of the appeal or review, the name of the arbitrator that the Party is appointing and his/her completed and signed Statement of Independence and Impartiality, in the form set out in Schedule A.
- c. A Party-appointed arbitrator may consult with the Party that appointed that arbitrator in respect of the potential Chair.
- d. When appointed, the Chair shall provide to the Parties and Arbitration Place his/her completed and signed Statement of Independence and Impartiality, in the form set out in Schedule A.
- e. In the case of a sole arbitrator, when appointed, the arbitrator shall provide to the Parties and Arbitration Place his/her completed and signed Statement of Independence and Impartiality, in the form set out in Schedule A.
- f. In the case of a sole arbitrator, if the Parties have not informed Arbitration Place in writing of the name of the arbitrator within 21 days of the date of commencement of the appeal or review, Arbitration Place shall, in accordance with its fee schedule, appoint the arbitrator and inform the Parties of his or her name and provide to the Parties the arbitrator's completed and signed Statement of Independence and Impartiality, in the form set out in Schedule A.
- g. In the case of a three-member Tribunal:

- i. if the respondent or respondents fails to appoint an arbitrator within 14 days of the date of commencement of the appeal or review, Arbitration Place shall, in accordance with its fee schedule, appoint the arbitrator, inform the Parties of the arbitrator's names and provide to the Parties the arbitrator's completed and signed Statement of Independence and Impartiality, in the form set out in Schedule A; and
 - ii. if the two Party-appointed arbitrators have not informed Arbitration Place in writing of the name of the Chair within 28 days of the date of commencement of the appeal or review, Arbitration Place shall, in accordance with its fee schedule, appoint the Chair, inform the Parties and the Party-appointed arbitrators of the name of the Chair and provide to the Parties the arbitrator's completed and signed Statement of Independence and Impartiality, in the form set out in Schedule A.
- h. A Tribunal Secretary, if and when appointed, shall complete and provide to the Parties and Arbitration Place, the Tribunal Secretary's completed and signed Statement of Independence and Impartiality, in the form set out in Schedule A

9 VACANCIES ON APPEAL TRIBUNAL OR REVIEW TRIBUNAL

- a. If a sole arbitrator steps down or otherwise ceases to act, the Parties may appoint a substitute arbitrator by agreement. Absent an agreement within 14 days from the date the arbitrator steps down or otherwise ceases to act, Arbitration Place shall, in accordance with its fee schedule, appoint a substitute sole arbitrator and inform the Parties of the sole arbitrator's name.
- b. In the case of a three-member Tribunal, if an arbitrator is or becomes unable or unwilling to act, the Party that appointed that arbitrator may appoint a substitute arbitrator, unless otherwise agreed between the Parties.
- c. If the Party that appointed the arbitrator fails to appoint a substitute arbitrator within 14 days from the date the previous arbitrator steps down or otherwise ceases to act, Arbitration Place shall, in accordance with its fee schedule, appoint a substitute arbitrator and inform the Parties of the arbitrator's name.

- d. If the Chair is or becomes unable or unwilling to act, the remaining two arbitrators shall appoint a substitute Chair. If the remaining two arbitrators have not informed Arbitration Place in writing of the name of a substitute Chair within 14 days from the date the previous Chair steps down or otherwise ceases to act, Arbitration Place shall, in accordance with its fee schedule, appoint the substitute Chair and shall inform the Parties and the two remaining arbitrators of the name of the substitute Chair.
- e. In all cases under Rule 9, the substitute arbitrator must complete and provide to the Parties and Arbitration Place, the Statement of Independence and Impartiality, in the form set out in Schedule A.

10 QUALIFICATIONS OF THE APPEAL TRIBUNAL OR REVIEW TRIBUNAL

- a. The Parties may agree in writing to the qualifications of the tribunal members.
- b. No arbitrator shall accept an appointment where the arbitrator is not independent and impartial of the parties to the appeal or review.
- c. Further to the requirements in Rule 9, prior to accepting the appointment, the arbitrator shall disclose to the Parties any circumstances of which the arbitrator is aware that may call into question the arbitrator's independence and impartiality.
- d. At any time before, during, or after the arbitration appeal or review and prior to the release of the final award, as soon as an arbitrator becomes aware of any circumstances that may call into question the arbitrator's independence and impartiality, the arbitrator shall disclose those circumstances to the Parties, and in the case of a three-member Tribunal, to the other two arbitrators.
- e. Paragraphs (b) to (d) herein apply equally to the Tribunal Secretary, if and when appointed.

11 CHALLENGES TO AND REMOVALS OF ARBITRATORS

- a. A Party may challenge an arbitrator (“Challenged Arbitrator”) only if:
 - i. circumstances exist that call into question the arbitrator’s independence and impartiality; or
 - ii. the arbitrator lacks the qualifications the Parties have agreed are necessary.
- b. If within 14 days of the challenge the Parties do not agree to the removal of a Challenged Arbitrator, or if the Challenged Arbitrator does not resign, Arbitration Place shall, in accordance with its fee schedule, appoint a three-member panel (“Challenge Panel”) (which shall not include a member of the Tribunal hearing the appeal or review) to determine whether the Challenged Arbitrator shall be removed.
- c. The Challenge Panel shall give the parties, the Challenged Arbitrator, and in the case of a three-member Tribunal, the co-arbitrators, an opportunity to be heard.
- d. The Challenge Panel shall notify the Parties of its decision in writing, with reasons.
- e. All members of the Challenge Panel must complete and provide to the Parties and Arbitration Place, the Statement of Independence and Impartiality, in the form set out in Schedule A.
- f. Rule 10(b), 10(c), and 10(d) apply equally to members of the Challenge Panel, and the Parties agree that the fact that one or more members of the Challenge Panel and/or the challenged arbitrator are arbitrators with Arbitration Place does not itself call into question the independence or impartiality of any arbitrator.
- g. Except where precluded by the applicable law, the Parties:
 - i. agree that a decision of the Challenge Panel shall be final and binding and cannot be appealed or reviewed in any manner or in any forum; and

- ii. waive any right to appeal or seek a review of the decision of the Challenge Panel.

12 ORAL HEARING

- a. Absent an agreement by the Parties or a determination of the Tribunal after affording the Parties' an opportunity to make submissions, all appeals and reviews shall include an oral hearing. Absent an agreement by the Parties, the Tribunal, after affording the Parties' an opportunity to make submissions, may determine the length and allocation of time of the oral hearing, provided that each Party is given what the Tribunal considers to be a reasonable opportunity to present its case.

13 PRELIMINARY CASE CONFERENCES AND PROCEDURAL MATTERS

- a. Within 10 days of the constitution of the Tribunal, or such additional time as the Tribunal considers necessary, the Tribunal shall convene a case conference with the Parties to:
 - i. set a timetable for all steps in relation to the appeal or review including, but not limited to: any motions relating to the appeal (including for the admission of fresh evidence) or review, the filing of the appeal record or review record, the delivery of written submissions and other materials, and the dates for, length of, and any time allocations for the oral hearing;
 - ii. determine whether a Tribunal Secretary is to be appointed;
 - iii. advise the Parties of the Tribunal's hourly rate, and the required deposits, which deposits shall be payable one-half jointly and severally by the appellant(s) or applicant(s), and one-half jointly and severally by the respondent(s); and
 - iv. address and determine any other procedural issues.

- b. The case conference shall be by telephone unless the Tribunal, after affording the Parties an opportunity to make submissions, determines that the case conference should be by videoconference or in person.
- c. The Tribunal shall issue a procedural order that sets out the timetable and other decisions arising from the case conference.
- d. The Tribunal, at the request of a Party or upon its own initiative, may convene further cases conferences.
- e. The Tribunal, after affording the Parties an opportunity to make submissions, may amend prior procedural orders, including the timetable, if it considers it desirable to do so.
- f. At any time prior to issuing its final award, the Tribunal may request that the Parties:
 - i. provide greater specification with respect to the issues;
 - ii. provide evidence in addition to what was agreed or ordered pursuant to Rule 17; and
 - iii. submit written memoranda in addition to what was agreed to or ordered pursuant to Rule 18.

14 JURISDICTION

- a. The Tribunal shall have the authority to rule on its own jurisdiction, including any objections with respect of the existence or validity of an agreement providing for or relating to the appeal or review.
- b. If the Tribunal determines that it lacks jurisdiction, in whole or in part, it shall issue an award or partial award to that effect, and the Parties:
 - i. shall be relieved in whole or in part of the waiver in Rule 3(a) effective as of the date of the award or partial award; and

- ii. shall be deemed to have consented to the necessary extensions of time to maintain any appeal and/or review rights that would otherwise have been available.
- c. If a Party refuses or fails to participate, the Tribunal shall proceed to determine the appeal or review in the Party's absence provided that the Tribunal determines:
 - i. that the Party agreed to the appeal or review;
 - ii. was given adequate notice of the appeal or review pursuant to the Rules; and
 - iii. received the procedural order(s) issued by the Tribunal, or was otherwise adequately notified of the steps in the appeal or review in which the Party has refused or failed to participate.

15 SEAT OF THE ARBITRATION FOR THE APPEAL OR REVIEW

- a. The seat of the arbitration for the appeal or review shall be the seat agreed to by the Parties, and absent agreement, or in the event that the appeal or review is not permitted in such seat by the applicable law, the seat of the arbitration shall be Toronto, Canada.

16 GOVERNING LAW

- a. The law of the arbitration agreement shall be the law of Ontario, Canada, unless otherwise agreed to by the parties.

17 LOCATION OF HEARINGS IN THE APPEAL OR REVIEW

- a. Notwithstanding the seat of the arbitration for the appeal or review, unless otherwise agreed by the Parties or determined by the Tribunal after affording the Parties an opportunity to make submissions, all hearings in the appeal or review shall be held at Arbitration Place or such other location in Toronto, Canada determined by Arbitration Place.

18 APPEAL RECORD OR REVIEW RECORD

- a. The Parties shall cooperate in compiling the appeal record or review record.
- b. The “Record” shall include:
 - i. the Decision;
 - ii. the relevant portions of the transcript of the underlying proceedings, unless the proceedings were not recorded, as agreed by the Parties or determined by the Tribunal after hearing the Parties’ submissions; and
 - iii. the relevant portions of the documentary and other evidence in the underlying proceedings, as agreed by the Parties or determined by the Tribunal after hearing the Parties’ submissions.
- c. Subject to paragraph (d) below, a Party shall not raise any new issue or, except with leave of the Tribunal, submit any evidence that was not submitted in the underlying proceedings.
- d. On a review of an arbitration award under Rule 7(b), a Party may submit evidence to establish any of the grounds for relief relied on by the Party to set aside or vacate the Decision.

19 WRITTEN SUBMISSIONS

- a. The Tribunal may, after affording the Parties the opportunity to make submissions, set parameters for all written submissions.
- b. Any reply submissions permitted by the Tribunal shall, unless agreed by the Parties and approved by the Tribunal, or permitted by the Tribunal after affording the Parties an opportunity to make submissions, be no longer than 10 double-spaced, type-written pages.

20 POWERS OF THE APPEAL TRIBUNAL OR REVIEW TRIBUNAL

- a. An Appeal Tribunal may in its award:
 - i. adopt the Decision appealed from;
 - ii. substitute its own decision for all or part of the Decision; or
 - iii. in exceptional circumstances where the appeal is from the Decision of an arbitral tribunal, the arbitral tribunal is available and willing, and the Appeal Tribunal considers it appropriate and efficient, remand the arbitration back to the arbitral tribunal to consider the Appeal Tribunal's determinations and vary its award accordingly.
- b. An Appeal Tribunal may not remand the Decision or any part of it back to the decision-maker, except as provided in Rule 19(a)(iii).
- c. A Review Tribunal may make any decision that a court at the seat of the original arbitration could make on an application to review, set aside or vacate the award.
- d. The Tribunal shall issue a reasoned award in writing, unless the Parties agree otherwise and such agreement is not prohibited by the applicable law.
- e. All decisions of a three-member Tribunal shall be made by at least the majority of the Tribunal.

- f. An award of a Tribunal is final and binding and is not subject to appeal or review, unless the waiver of a right to appeal or review is precluded by the applicable law.
- g. The Tribunal may make any orders for interim measures that it considers necessary or advantageous:
 - i. to the determination of the Appeal or Review; or
 - ii. to achieve a just resultincluding orders to preserve the circumstances of the Parties, to preserve any property, or to require security for costs to be posted by a Party.
- h. The Tribunal's award may vary the provision for costs in the Decision including, but not limited to:
 - i. revoking any costs awarded; or
 - ii. awarding costs where costs were not awarded in the Decision.
- i. Save for exceptional circumstances, the Tribunal shall not issue an award until the Parties have paid all outstanding accounts and/or deposits owing to Arbitration Place and the Tribunal.

21 COSTS OF THE APPEAL OR REVIEW

- a. The Tribunal may make an order for costs ("Costs") in respect of an appeal or review, including in its final award and in any partial award.
- b. Costs may include:
 - i. the fees of the Tribunal including the cost of any assistance to the arbitrators by experts and/or a Tribunal Secretary;
 - ii. travel and other expenses of the Tribunal in connection with the appeal or review;
 - iii. the fees and expenses of expert and fact witnesses, if any;

- iv. costs of the Parties' legal representation, including legal fees and disbursements;
 - v. hearing facility fees;
 - vi. reporting and transcription costs and interpretation and translation costs;
 - vii. Arbitration Place's fees under the Rules;
 - viii. the fees paid in connection with a Challenge Panel; and
 - ix. any other expenses incurred in connection with the appeal or review.
- c. The Tribunal may award full or partial Costs, and is not restricted in the exercise of its discretion to determine the amount of Costs to award, except that it may not act arbitrarily.

22 CONFIDENTIALITY AND PRIVACY

- a. Unless otherwise agreed to by the Parties or required by law, an appeal or review pursuant to the Rules, including the fact of the appeal or review, shall be private and confidential.
- b. The confidentiality extends to the Parties, their representatives, the Tribunal, any Tribunal Secretary, witnesses, reporters, translators, interpreters and all other participants in the appeal or review, and applies to all documents and materials that are part of the appeal or review including the record, written submissions and the award.
- c. Any oral hearing in an appeal or review shall be private and confidential.

23 EXCLUSIONS OF LIABILITY

- a. With respect to any appeal or review pursuant to the Rules, Arbitration Place, Arbitration Place's directors, officers, agents and employees, the Tribunal, the members of the Challenge Panel, and any Tribunal Secretary:
 - i. shall not be subject to any action of any kind for damages, injunctive or declaratory relief, or any other relief in any jurisdiction for any act or omission except for wilful misconduct;
 - ii. shall have the same immunity from suit and from being compelled to provide evidence as a justice of the Ontario Superior Court of Justice;
 - iii. shall not be called to testify or otherwise submit evidence in any judicial or other proceeding relating to or arising from the appeal or review; and
 - iv. shall not be proper Parties in any judicial or other proceeding relating to or arising from the appeal or review.
- b. Paragraph (a) of Rule 22 shall be a complete defence, and shall constitute a complete waiver by the Parties and their representatives, and all other participants in the appeal or review, of any right to commence or prosecute any action, except as provided therein.
- c. Any person(s) that commence or prosecute an action against any person(s) enumerated in paragraph (a) of Rule 22 shall indemnify said person for all expenses associated with defending said claim(s).
- d. Arbitration Place, the Tribunal, and the Tribunal Secretary may, no earlier than 60 days after the termination of the Appeal or Review destroy any documents, including correspondence, submitted by the Parties or created for the Appeal or Review.
 - i. Paragraph (d) applies equally to hardcopy as well as electronic documents.
 - ii. Within 60 days after the termination of the Appeal or Review, a Party may, at its own expense, request the return of any documents, including correspondence.

24 ROLE OF ARBITRATION PLACE

- a. Arbitration Place does not administer appeals or reviews carried out under the Rules.
- b. Arbitration Place will provide only those services set out in the Rules.
- c. Arbitration Place will charge the Parties fees and disbursements in accordance with the fee schedule set out in Schedule B at the time the service is performed.

25 MODIFICATION OF THE RULES

- a. The Rules may be modified by Arbitration Place at any time.
- b. Modifications shall be effective when posted on the Arbitration Place website.
- c. Unless approved by Arbitration Place, the version of the Rules applicable to the Appeal or Review shall be the version in effect on the date of:
 - i. the arbitration agreement referring to these Rules,
 - ii. the arbitration appeal agreement referring to these Rules, or
 - iii. any other agreement referring to these Rules.

26 ARBITRATION PLACE FEE SCHEDULE

- a. Arbitration Place, subject to change at any time in its sole discretion, will charge the fees and disbursements (in all cases, plus HST) as set out in Schedule B.

SCHEDULE "A"

STATEMENT OF INDEPENDENCE AND IMPARTIALITY

Case Name:

Surname(s): _____

Given Name(s): _____

Please mark all relevant boxes.

A – ACCEPTANCE OF APPOINTMENT (ARBITRATOR)

I agree to serve as arbitrator in this case.

I decline to serve as arbitrator in this case.

B – ACCEPTANCE OF APPOINTMENT (TRIBUNAL SECRETARY)

I agree to serve as Tribunal Secretary in this case.

I decline to serve as Tribunal Secretary in this case.

C – STATEMENT OF INDEPENDENCE AND IMPARTIALITY *(Please mark one of the boxes below and provide details. If you require additional space, please use a separate sheet and attach it to this form.)*

In providing your response, consideration should be had to all direct and indirect relationships of a personal, professional, or financial nature between you and the parties, their representatives, or any affiliated entities. Please be specific and provide any and all details as may reasonably be required to fulfil your disclosure obligation.

No disclosure: I state that I am impartial and independent. After having made reasonable enquiries, to the best of my knowledge, there are no circumstances that may call into question my independence and impartiality. I understand and accept my ongoing obligation to disclose any such circumstances should any arise before, during, or after the arbitration or review, and prior to the release of the final award.

Disclosure: I state that I am impartial and independent. However, understanding my obligation to disclose any circumstances that may question my independence and impartiality, I have set out below and/or on a separate sheet, those facts the parties ought to be made aware.

Date: _____ Signature: _____

The information will be provided to all the parties in this matter in addition to Arbitration Place. Arbitration Place will consider it solely for the purpose of your appointment as arbitrator in the matter(s) listed above. It will remain confidential and will be stored at Arbitration Place in either hardcopy or electronic form. Should you wish to review this information, requests may be made to Arbitration Place, Suite 900, 333 Bay Street, Toronto ON, M5T 2T4.

SCHEDULE “B” -- FEE SCHEDULE

1. Arbitration Place may require a deposit, as determined by it, to cover the fees for the members of the Challenge Panel constituted pursuant to Rule 11.
2. The deposit described above:
 - a. Shall be paid one-half by the Party or Parties bringing the challenge, and
 - b. One-half by the Party or Parties responding to the challenge, provided that if the responding Party or Parties do not pay the one-half of the fee within the payment period set by Arbitration Place, the Party bringing the challenge may pay it.
3. The Parties are jointly liable for the payment of the following fees in respect of services provided by Arbitration Place pursuant to these Rules:
 - a. a filing fee of \$1,000 to be paid when a Notice of Appeal, Notice of Application for Review, Notice of Cross-Appeal or Notice of Cross-Application for Review is provided to Arbitration Place as required by the Rules;
 - b. an appointment fee of \$500 for the appointment of an arbitrator under Rules 8(f), 8(g), 9(a), 9(c) or 9(d); and
 - c. for each Challenge Panel sought to be constituted under Rule 11(b), an administration fee of \$1,000:
4. The Parties are jointly liable for the payment of all disbursements incurred by Arbitration Place in providing services under these Rules.