



Genevieve A. Chornenki
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Conflict Management Services since 1989

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MED-ARB AGREEMENT

1. **PARTIES:** *[name]*
 [name]

agree to submit certain differences to mediation-arbitration (“med/arb”) with **Genevieve A. Chornenki** as mediator-arbitrator.

2. **SCHEDULED MED/ARB DATE:** *[date]*

3. **ISSUES:**

The issues are generally summarized as follows:

Issues relating to *[insert detail]*.

4. **MED/ARB PROCESS:**

- (a) The parties will first attempt to settle all outstanding issues between them by mediation which will be conducted in accordance with the Terms of Mediation, attached.
- (b) All issues not settled at the mediation step, shall be subject to binding arbitration pursuant to the *Arbitration Act*, 1991 of Ontario.
- (c) All issues settled at the mediation step and decisions resulting from arbitration shall together become a final and binding decision on the parties.
- (d) In the interests of an economical and expeditious outcome, the parties agree to use the same person as mediator and arbitrator. No objection shall be taken to Genevieve

Chornenki's appointment as arbitrator or to her conduct of the arbitration, solely on the ground that she previously acted as mediator for some or all of the matters referred to arbitration.

- (e) The mediator-arbitrator shall determine when it is appropriate to move an issue from the mediation step to the arbitration step.
- (f) In the arbitration step, the parties will jointly formulate the issues and determine the appropriate arbitration process keeping in mind the principles of economy and expeditiousness. In the event that the parties are not able to agree upon a formulation of outstanding issues and/or an appropriate process, the mediator-arbitrator shall decide this.
- (g) In the arbitration stage, the mediator-arbitrator will not use information obtained during the mediation stage, unless specifically authorized by the parties to do so.
- (h) In the arbitration stage, the mediator-arbitrator will render a decision in writing together with reasons.

5. COSTS:

The fees are as set out in Schedule "A". The parties agree to share the fees and expenses related to the med/arb equally. The parties shall each bear their own legal expenses.

6. SIGNING INDIVIDUALLY:

Each party may sign a separate copy of this agreement which, when so signed and delivered, shall be an original copy even though not signed by the other parties. All such separately signed copies shall together constitute evidence of all parties' consent to be bound by this agreement.

7. CONSENT TO THIS AGREEMENT:

Each of us has read this agreement and agrees to proceed with the med/arb on the terms contained in it.

DATE: *[date]*

name #1

name #2

"Genevieve A. Chornenki"
Genevieve A. Chornenki,
Mediator-Arbitrator

TERMS FOR MEDIATION STAGE

1. Mediation is a voluntary and informal settlement process by which the parties try to reach a solution that is responsive to their joint needs. Their participation in the process is not intended to alter their existing rights and responsibilities unless they expressly agree to do so.
2. The mediator is a facilitator only, is not providing legal advice, legal representation or any other form of professional advice or representation, and is not representing any party. The mediator's role is to assist the parties to negotiate a voluntary settlement of the issues if this is possible.
3. The parties will send to the mediation representatives with full, unqualified authority to settle and understand that the mediation may result in a settlement agreement that contains binding legal obligations enforceable in a court of law.
4. The parties will discuss the matter with the mediator individually or together, in person or by telephone, with a view to achieving settlement.
5. If the matter cannot be settled voluntarily, it will proceed to arbitration as set out on page 2.
6. Throughout the mediation the parties agree to disclose material facts, information and documents to each other and to the mediator, and will conduct themselves in good faith.
7. Unless the parties authorize its use in the arbitration stage of the med-arb, statements made by any person, documents produced and any other forms of communication in the mediation are off-the-record and shall not be subject to disclosure through discovery or any other process or admissible into evidence in any context for any purpose, including impeaching credibility.
8. The parties will deliver to the mediator and exchange with each other a concise statement of the controversy between them and any relevant documents **on or before** *[date]*.
9. No party will initiate or take any fresh steps in any legal, administrative, or arbitration proceedings related to the issues while the mediation is in progress.
10. Either during or after the mediation, no party will call the mediator as a witness for any purpose whatsoever. No party will seek access to any documents prepared for or delivered to the mediator in connection with the mediation, including any records or notes of the mediator.
11. Other than what is stated above, the mediation is a confidential process and the parties agree to keep all communications and information forming part of this mediation in confidence. The only exception to this is disclosure for the purposes of enforcing any settlement agreement reached. The mediator will not voluntarily disclose to anyone who is not a party to the mediation anything said or done or any materials submitted to the mediator, except:

- a. to any person designated or retained by any party such as a professional advisor, as deemed appropriate or necessary by the mediator;
 - b. for research or educational purposes, on an anonymous basis;
 - c. where ordered to do so by a judicial authority or where required to do so by law;
 - d. where the information suggests an actual or potential threat to human life or safety.
12. The parties are responsible for obtaining their own independent professional advice, including legal advice or representation, if desired; the mediator is not providing same. The mediator has no duty to assert or protect the rights of any party, to raise any issue not raised by the parties themselves or to determine who should participate in the mediation. The mediator has no duty to ensure the enforceability or validity of any agreement reached. The mediator will not be liable in any way, save for his\her wilful default.