

ADR Contract Provisions

Negotiation:

If a dispute arises out of or emerges in relation to any aspect of this agreement the parties shall negotiate in good faith, to mutually resolve same; should the matter not be settled in this way, the parties shall explore and implement jointly approved appropriate processes of alternative dispute resolution (ADR), enlisting the assistance of one or more third party neutrals (TPN), including, where appropriate, use of mediation.

Mediation:

Should the parties invoke mediation, such process shall be pursuant to the rules of the ADR Institute of Canada Inc. (ADRIC), failing such rules, of the American Arbitration Association

Arbitration:

Should the matter still not be finalized to mutual satisfaction within 60 days of the dispute first arising (or such shorter or longer period if all parties so agree), either party may invoke the arbitration process pursuant to the rules of the ADRIC, failing such rules, of the American Arbitration Association.

Urgency:

Notwithstanding the foregoing, only in cases of emergency or potential irreparable jeopardy to any legal right or interests, either party may immediately, prior to or concurrently, commence litigation proceedings in the appropriate form.

Continual Negotiation:

However, the parties and their lawyers, during mediation, arbitration, litigation or any other ADR proceedings or any combination thereof, shall continue to negotiate, whenever possible and to continually seek settlement options and processes.

Without Prejudice:

Unless clearly indicated to the contrary by the parties and their legal counsel, or until a mutually legally-binding agreement is arrived at, all negotiations and dispute resolution processes employed shall be considered conducted on a without prejudice basis.

Confidentiality:

Unless required by law, statements made and documents produced pursuant to this ADR clause, including notes, records and recollections of the parties and any neutrals are not otherwise discoverable, are not subject to disclosure through discovery or any other process and are not admissible into evidence for any purpose, including impeaching credibility, and all sessions are confidential and protected from disclosure for all purposes, and neither the third party neutrals, nor any materials, verbal or written, are compellable by subpoena as witness.

Costs:

If the dispute cannot be mutually settled by the parties within the period referred to above and an adjudication is required, whether by an arbitrator or a judge, the adjudicator in determining the award of costs shall take into consideration whether or not the parties did or did not comply with the spirit, letter and intent of this dispute resolution provision. Unless agreed otherwise and subject to the foregoing, the parties shall pay their own legal and other independent professional costs, but they shall equally share the costs of the TPN and any other costs associated with the application of these ADR Provisions.

Intent:

This ADR clause is meant to assist corporations and individuals in any type of contractual relationship or doing business in North America or internationally to provide a cost effective, collaborative process for the resolution of disagreements without recourse (subject to paragraph D above) to domestic Courts in the Nations, States, Provinces, Territories or other jurisdictional areas where the parties reside, businesses have their head offices or operations.

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