

MEDIATION AGREEMENT – ADR OTTAWA INC.

Short Name of Case: _____

Court File No. (if any): _____

1. THE PROCESS

The parties agree to attempt to settle their dispute through the mediation process on the terms contained in this agreement. By signing this agreement, the parties, their counsel and the mediator intend to act in good faith, in a fair and equitable manner to try to achieve a resolution to this dispute.

2. PARTY CONFIDENTIALITY

The parties acknowledge and agree that mediation is a confidential settlement process and that subject to paragraph 3 herein, all information disclosed, exchanged and created at the mediation, including the mediator's notes and records, shall remain confidential. The parties further agree that all discussions and negotiations at the mediation will remain confidential and without prejudice. The parties acknowledge that this mediation may transpire by video-conference and agree that:

- (a) no person may in the same physical vicinity during the video-conference except the party's own lawyer(s) or another co-party;
- (b) no person, counsel or party, present or participating, shall record, by any means, any part of the mediation proceeding save for as-deemed-necessary solicitor and client written documents and the settlement documents; and
- (c) the terms of this agreement apply whether the mediation is conducted in person, or full or in part by telephone, video conference or any other means as agreed by all parties.

3. MEDIATOR CONFIDENTIALITY

The mediator will not disclose to anyone who is not a party to the mediation anything said or any material submitted to the mediator, except:

- (a) to the lawyers or other professionals retained on behalf of the parties, or to nonparties consented to in writing by the parties, as deemed appropriate or necessary by another mediator;
- (b) to any other individual, providing the parties have provided written consent;
- (c) for research or education purposes on an anonymous basis;
- (d) where ordered to do so by judicial authority, or where required to do so by law; or
- (e) where the information suggests that there will be actual or potential threat to human life or safety, or the commission of a crime in the future.

4. NO SUMMONS OR SUBPOENA

No party may call the mediator or any other person as a witness to testify as to any oral or written communication made during the mediation process. The mediator will not be required to provide an affidavit or any other form of evidence in any litigation related to this dispute. The parties agree not to summons or subpoena the mediator at any stage of any litigation related to this dispute or seek access to any document prepared for or in connection with the mediation, including but not limited to, any of the mediator's notes or records (other than this agreement and any fully executed Minutes of Settlement resulting from the mediation). This agreement may be relied upon as proof of the terms and conditions by which this mediation was governed.

5. MEDIATOR'S ROLE

The mediator's role is to assist the parties to negotiate. The mediator will not make decisions for the parties about how the matter should or must be resolved. The parties, their counsel and the mediator intend to act in good faith, in a fair and equitable manner to try to resolve this dispute.

6. PRE-MEDIATION INFORMATION ROLE

To facilitate an understanding of the dispute and the issues to be mediated, the parties will provide the mediator with a Statement of Issues (Mediation Brief) not less than 3 business days prior to the mediation session and, if this is an Ontario court-connected mediation, otherwise in accordance with Rule 24.1 (10).

7. AUTHORITY TO SETTLE

The parties or those representing them at the mediation will have full, unqualified authority to settle the dispute.

8. PARTIES' OWN LAWYERS

The parties may have their own lawyers present at the mediation or seek outside legal advice prior to or during the mediation. The mediator will not provide legal advice or representation to any party and has no duty to assert or protect the legal rights and responsibilities of any party, to raise any issue not raised by the parties themselves, or to determine who should participate in the mediation.

9. RIGHT TO WITHDRAW

Each party's participation in the mediation is voluntary (subject to the mandatory provisions of Rule 24.1 if this is an Ontario court-connected mediation). While each party intends to participate in the mediation in a good faith attempt to reach a settlement, any party or the mediator may withdraw from the mediation at any time for any reason.

10. FEES FOR MEDIATION

The mediator's fees are:

- **Half-day Ottawa and Virtual Mediations:** \$1,800 block fee (minimum) for a 3-hour mediation, including reasonable preparation time, plus HST and reasonable disbursements, if any.
- **Full-day Ottawa and Virtual Mediations:** \$3,600 block fee (minimum) for a 6-hour mediation, including reasonable preparation time, plus HST and reasonable disbursements, if any.
- **Outside National Capital Region of Ottawa:** \$4,200 block fee for a 6-hour mediation (full-day minimum) plus HST, including reasonable preparation time, plus HST and applicable disbursements.
- **\$600 per hour** plus HST for every hour or part hour over the set 3 or 6 hour mediation time, as the case may be.

Unless the parties agree otherwise, each party shall pay an equal portion of the total amount owing to the mediator. If the parties are represented by counsel, the mediator will submit his account to counsel for the parties, who shall make that party's proportionate payment to the mediator.

11. CANCELLATION

If a mediation session is adjourned or cancelled for any reason, counsel for the party or parties requesting the adjournment or cancellation (or the party, if unrepresented) will be responsible for a cancellation fee. If we do not receive at least **15 clear calendar days' notice** to adjourn or cancel a mediation session from the date selected, there will be a **cancellation fee of one half the minimum rate** of the booked session. Failing agreement as to which party bears responsibility for the cancellation, the fee will be divided equally among the parties.

12. CONSENT TO THIS AGREEMENT

Each of us has read this agreement and agrees to proceed with the mediation on the terms contained herein. The parties agree that this agreement may be signed in person, or by scanned signature, electronic signature, fax and/or in counterparts.

_____ Print Name	_____ Print Name	_____ Print Name
_____ Signature	_____ Signature	_____ Signature
_____ Date	_____ Date	_____ Date
_____ Print Name	_____ Print Name	_____ Print Name
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Mediator, Steven C. Gaon