

Title of Proceedings: set out whether the arbitration is under the *Arbitration Act, 1991* or the *International Commercial Arbitration Act* or some other statute; set out names of the parties and who is Claimant and who is Respondent or as the case may be]

TERMS OF APPOINTMENT OF WILLIAM G. HORTON AS ARBITRATOR

Agreement to Arbitrate Dispute

1. Pursuant to [refer to the Agreement to Arbitrate or the arbitration provisions of the Agreement to which the dispute relates – append a copy of the Agreement or provisions and any written document by which such terms have been varied by agreement] the parties have agreed to appoint William G. Horton (the “Arbitrator”) to serve as sole arbitrator of their dispute relating to [provide a brief non-controversial reference sufficient to identify the dispute in question].

When Appointment Takes Effect

2. The appointment takes effect from the time all of the parties to the arbitration and the Arbitrator have signed these Terms of Appointment.

Arbitration Services

3. All adjudicative functions will be performed personally, exclusively and confidentially by the Arbitrator. The Arbitrator’s services are provided through William G. Horton Corporation.

Communication

4. The Arbitrator may be contacted as follows:

William G. Horton, FCI Arb, C.Arb.
420 - 120 Adelaide Street West
Richmond Adelaide Centre
Toronto, Ontario M5H 1T1
Tel: 416-564-9560
wgh@wgharb.com

Financial Terms

Compensation

5. The parties to the Arbitration are jointly and severally liable for satisfaction of the following financial terms:
6. The Arbitrator shall be compensated at an hourly rate of \$___ (Cdn.) plus applicable taxes.
7. An initial deposit of \$_____ inclusive of HST is payable at this time to secure payment of fees and disbursements for preliminary matters. Each side shall, upon signing these Terms of Appointment, provide a cheque in the amount of \$_____, payable to William G. Horton Corporation, in trust. The HST number is 85469 9980 RT0001.
8. Further deposits may be required on at least 14 days notice to the parties. Any such deposit shall be based on a reasonable estimate of the time required by the Arbitrator to prepare for the next stage of the proceeding, or to complete the matter if it is approaching completion.
9. Deposits shall be held in a mixed trust account operated by the Arbitrator and will be applied on account of fees and expenses of the Arbitrator after an account has been rendered. Statements of the amount on deposit will be issued upon request. Any unused portion of deposits will be returned, in the proportions received from the parties, without interest. At the request of the parties, institutional administration of deposits can be arranged.
10. The deposit requirements outlined above may be satisfied by one or more parties on behalf of the other party (or parties) subject to any cost award which the Arbitrator may make at the conclusion of the Arbitration.
11. The services of the Arbitrator, including any final Award, may be withheld until all applicable financial requirements are met.

Expenses

12. The Arbitrator may recover reasonable charges for necessarily incidental costs such as photocopying, fax, telephone, travel (if necessary) and other charges.
13. The parties are directly responsible for any charges relating to the hearing venue.

Cancellations and Adjournments

14. If a hearing is adjourned or cancelled for any reason, or the arbitration is settled, within 30 days prior to the date on which the hearing was scheduled to begin, a cancellation fee for the unused hearing dates shall be payable. The cancellation fee for unused hearing dates so cancelled will be based on 6 hours per day times the Arbitrators hourly rate for up to a maximum of 10 scheduled hearing dates. The cancellation fee shall not be applicable if the Arbitrator is able to rebook the cancelled dates for other arbitration hearings or mediations.
15. If more than 10 hearing dates are scheduled, a cancellation fee of 1.5 hours per day shall be payable for every day of the scheduled hearing for which no other cancellation fee is payable, regardless of the amount of notice given.
16. No cancellation fee is payable in respect of time reserved by the Arbitrator in his calendar for preparing for hearings or writing awards.
17. Notification of any cancellation, request for adjournment or settlement, shall be made by telephone and also confirmed in writing or by e-mail, to the attention of the Arbitrator.

Conduct of the Arbitration

18. The Arbitration shall be conducted in accordance with the agreement of the parties, subject to mandatory requirements prescribed by law. The parties shall advise the Arbitrator at the first meeting as to the matters on which they have agreed respecting the conduct of the Arbitration. The Arbitrator shall provide directions, initially and from time to time, as to procedural matters on which the parties are not in agreement.
19. Hearings may be arranged as agreed upon by the parties or determined by the arbitrator in the absence of agreement. During the Covid 19 pandemic, the Arbitrator shall be entitled to attend any hearing or case conference by remote video connection.

Confidentiality

20. The arbitration shall be conducted in accordance with any agreement between the parties regarding privacy and confidentiality. The arbitrator may provide additional directions in that regard after hearing submissions from the parties.

Conflicts

21. In Schedule "A" hereto, the Arbitrator has set out all circumstances of which he is aware which may give rise to a reasonable apprehension of bias or a conflict of interest. The Arbitrator considers himself to be able to act independently and impartially in this matter notwithstanding the circumstances listed in Schedule "A".

22. The parties and their counsel shall, prior to executing these Terms of Appointment, disclose to each other and to the Arbitrator any circumstances which may give rise to a reasonable apprehension of bias or a conflict of interest on the part of the Arbitrator.
23. The parties to the Arbitration waive any right to challenge the independence or impartiality of the Arbitrator or the validity or enforceability of any Award or Ruling on the basis of any of the circumstances set out in Schedule "A" or disclosed by the parties or their counsel prior to the execution of these Terms of Appointment.

Release

24. The parties hereby fully release the Arbitrator and William G. Horton Corporation from all claims and causes of action whatsoever relating to or arising from the Arbitration, now or hereafter. The Arbitrator shall be entitled to the same immunity from claims and legal proceedings as a Judge of the Ontario Superior Court of Justice.
25. The parties agree that they will not call upon the Arbitrator to give evidence in any court proceeding relating to the arbitration or to any decision or award rendered by the tribunal. If the Arbitrator is called upon to give evidence in any court proceeding the tribunal member shall be paid by the parties for his or her time and expenses on the same basis as set out in this agreement. The parties hereby agree to indemnify the Arbitrator with respect to any costs necessarily incurred by him in relation to any court proceedings initiated by either party with respect to the arbitration, subject to any allocation of such costs as between the parties by the court.

Document Handling and Retention

26. The Parties agree that they shall take all necessary steps to comply with any laws, regulations or agreements relating to the production or use, in the arbitration, of documents or information belonging to third parties and shall inform the Arbitrator of any measures required in order to comply with such obligations. The arbitrator may provide additional directions in that regard after hearing submissions from the parties.
27. The Arbitrator may dispose of all documents relating to this matter after 60 days following delivery of a final Award or other termination of the arbitration. This period shall be extended at the request of any party, provided the party making the request provides a deposit and reimburses the Arbitrator for the cost of storage of the documents for the period of the time requested beyond 60 days. If a party initiates any Court review of any aspect of the Arbitration, that party shall notify the Arbitrator of having done so and shall provide a deposit and reimburse the Arbitrator for the costs of storing any documents relating to the Arbitration pending completion of such review.
28. The Arbitrator may add to his final invoice a reasonable charge for the secure disposal of documents in the arbitration and the closing of his file.

Execution of this Agreement

29. This agreement may be signed in counter parts and sent to the other parties by courier or e-mail. The agreement only takes effect once the Arbitrator and Counsel for all parties have signed.

Agreed to this day of , 2016.

by its solicitors:

by its solicitors:

William G. Horton, C.Arb, FCI Arb. for himself and
William G. Horton Corporation

SCHEDULE "A"