

1. GENERAL

1.1. Interpretation

1.1.1. In these Rules of Arbitral Procedure (**Rules**):

1.1.1.1. terms have the same meanings as attributed to them under the Arbitration Act;

1.1.1.2. **Document** includes anything made in writing, any communication, picture, drawing, program, or data of any kind, whether recorded or maintained on paper or by electronic or any other means.

1.1.1.3. **Parties** mean the parties to this Contract;

1.1.1.4. **Statutory Holidays** means:

1.1.1.4.1. New Year's Day, Alberta Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Heritage Day, Labour Day, National Day for Truth and Reconciliation, Thanksgiving Day, Remembrance Day, Christmas Day, and Boxing Day;

1.1.1.4.2. any days observed by the City in lieu of one of the days listed in Section 1.1.1.4.1 when the day listed in Section 1.1.1.4.1 falls on a Saturday or Sunday; and

1.1.1.4.3. any other days which the City recognizes as a statutory holiday after signing this Contract, where the City provides the other Party with reasonable notice before the next occurrence of that day.

1.1.1.5. **Working Day** means days other than Saturdays, Sundays and Statutory Holidays.

1.1.2. Subject to Section 1.1.1, in these Rules, time is calculated in the same manner as it is calculated in this Contract.

1.2. Application

1.2.1. These Rules apply to an arbitration conducted under this Contract. The arbitration must comply with these Rules, this Contract, and the Arbitration Act.

1.2.2. The parties may, by agreement, change or make additions to these Rules.

- 1.2.3. If there is any conflict between these Rules and other parts of this Contract with respect to an arbitration, these Rules prevail.

1.3. Communications

- 1.3.1. The parties and arbitrator must make all communications under these Rules in the same manner as communications may be given in this Contract.
- 1.3.2. There must not be any oral communications with respect to the issues in dispute between a party and the arbitrator unless it is made in the oral presence of both parties or their legal representative.
- 1.3.3. A copy of all written communications between the arbitrator and a party must be given to the other party at the same time.

1.4. Objections

- 1.4.1. A party must state objections to any aspect of the arbitral proceedings or to the other party's or arbitrator's conduct at the earliest possible time.
- 1.4.2. The arbitrator may refuse to consider an objection if a party fails to comply with Section 1.4.1.

2. PRE-ARBITRATION CONSIDERATIONS

2.1. Commencement

- 2.1.1. Either party (the **Claimant**) may, where this Contract permits, submit a dispute to arbitration by notifying the other party (the **Respondent**) with a written notice including the following:
 - 2.1.1.1. a description of this Contract;
 - 2.1.1.2. a statement of the issue in dispute;
 - 2.1.1.3. a request that the dispute be referred to arbitration;
 - 2.1.1.4. a description of the claim being made; and
 - 2.1.1.5. the name or names of proposed arbitrators, along with the resume described in Section 2.2.2.
- 2.1.2. For purposes of time calculation under these Rules, the arbitration is deemed to have started on the date the Respondent receives the notice under Section 2.1.1.

2.2. Arbitrator

- 2.2.1. The arbitration will be conducted before a single arbitrator appointed under these Rules who possesses the qualifications, if any, that the parties agree to.

- 2.2.2. If a party proposes an arbitrator, that party must also provide a written resume of that individual's work background, qualifications, and arbitration experience.
- 2.2.3. The parties must make every reasonable effort to reach agreement on an arbitrator within fifteen Working Days after the arbitration begins.
- 2.2.4. If the parties cannot reach an agreement under Section 2.2.3, either party may apply to the court for the appointment of an arbitrator.
- 2.2.5. Before an arbitrator accepts an appointment, they must provide the parties with a written statement declaring that there are no circumstances likely to give rise to justifiable doubts as to their independence or impartiality and that they will disclose any such circumstances to the parties if they arise before the arbitration's conclusion.
- 2.2.6. If the parties do not agree that the circumstances specified in Section 2.2.5 exist, either party may apply to the court for an order that the arbitrator should be replaced.
- 2.2.7. If, for any reason, the arbitrator resigns, is unable or refuses to act, or is removed from office, they will be replaced by another arbitrator under these Rules and any oral hearings previously held will be rescheduled.

2.3. Scheduling a Meeting

- 2.3.1. Within 20 Working Days after the arbitrator is appointed, the arbitrator must convene a meeting of the parties to reach a consensus, if possible, and to make orders, if necessary, on:
 - 2.3.1.1. the procedure to be followed in the arbitration;
 - 2.3.1.2. the time periods for taking steps in the proceedings;
 - 2.3.1.3. the scheduling of any oral hearings or meetings;
 - 2.3.1.4. any preliminary applications or objections a party may have; and
 - 2.3.1.5. any other matter which will assist the arbitration to proceed in an efficient and expeditious manner.

2.4. Powers Of The Arbitrator

- 2.4.1. Subject to any limitations in these Rules or any agreement between the parties, the arbitrator may conduct the arbitration in any manner they consider appropriate, but must treat each party fairly and give each party full opportunity to present its case.
- 2.4.2. The arbitrator may:

- 2.4.2.1. order an adjournment of the proceedings from time to time;
 - 2.4.2.2. make an interim order on any matter with respect to which the arbitrator may make a final award, including an interim order for preservation of property which is subject matter of the dispute;
 - 2.4.2.3. order inspection of documents, exhibits or other property at any location;
 - 2.4.2.4. order the recording of any oral hearing or meeting; and
 - 2.4.2.5. extend or abridge a period of time required in these Rules or fixed or determined by the arbitrator where they consider it just and appropriate in the circumstances.
- 2.4.3. The arbitrator may adjourn the proceedings from time to time if the arbitrator considers that it would facilitate settlement discussions between the parties.

3. PROCEEDINGS

3.1. Exchange of Statements

- 3.1.1. The parties must exchange written statements of their respective positions in the dispute in the following manner:
- 3.1.1.1. the Claimant must give a statement outlining the facts, the matters in issue, and the relief or remedy it requests no later than ten Working Days after the scheduling meeting is held under Section 2.3.1;
 - 3.1.1.2. the Respondent must give a statement outlining its response to the Claimant's statement and its counterclaim, if any, no later than ten Working Days after receiving the Claimant's statement; and
 - 3.1.1.3. the Respondent by counterclaim must give a statement outlining its defence to the counterclaim no later than ten Working Days after receiving the counterclaim.
- 3.1.2. The parties must provide the arbitrator with copies of the statements exchanged in Section 3.1.1 within the period of time indicated in Section 3.1.1.

3.2. Disclosure

- 3.2.1. Within 20 Working Days after providing the statement required by Section 3.1.1, each party must provide to each other and the arbitrator a list of documents:
- 3.2.1.1. upon which it intends to rely; and
 - 3.2.1.2. which describes each document by kind, date, author, addressee and subject matter.
- 3.2.2. During the arbitration proceedings the arbitrator may allow a party to amend or

add to any statement made in Section 3.1.1 unless:

- 3.2.2.1. the amendment or addition goes beyond the terms of the arbitration agreement in this Contract; or
- 3.2.2.2. the other party would be prejudiced by the delay in making the amendment or addition.
- 3.2.3. The arbitrator may order a party to produce any documents not disclosed under Sections 3.2.1 and 3.2.2 that it has in its care, custody or control and that the arbitrator considers to be relevant, within the time the arbitrator specifies.
- 3.2.4. The parties must use best efforts to agree on the manner and format in which they will exchange documents, failing which either party may apply to the arbitrator for direction.
- 3.2.5. The arbitrator may make any orders regarding document production the arbitrator considers reasonable, either at a party's request or on the arbitrator's own initiative.
- 3.2.6. The parties must prepare and send to the arbitrator an agreed statement of facts within the time the arbitrator specifies.
- 3.2.7. Each party must, no later than 15 Working Days before the oral hearing starts, provide the other party with the name and address of any witnesses to be called and a written summary of their evidence.
- 3.2.8. In the case of an expert witness, despite Section 3.2.7, each party must, no later than 40 Working Days before the oral hearing starts, provide the other party with any expert report it intends to rely on at the arbitration.
- 3.2.9. In the case of an expert witness called by a party to rebut the written statement of an expert called by the other party, that party must, no later than 20 Working Days before the oral hearing starts, provide the other party with a written statement or report prepared by the expert witness.
- 3.2.10. Each party must, no later than 20 Working Days before the oral hearing starts, give the other party and the arbitrator an assembly of all documents to be introduced at the hearing.

3.3. Hearings and Meetings

- 3.3.1. The arbitrator must give the parties written notice of not less than:
 - 3.3.1.1. five Working Days of any oral hearings; or
 - 3.3.1.2. three Working Days of any meetings,not been previously scheduled under Section 2.3.1.

3.3.2. All oral hearings and meetings in the arbitrations must be conducted in private and the arbitrator and the parties must keep all written communications and documents in respect of these proceedings strictly confidential.

3.3.3. All oral hearings must be conducted in Edmonton, Alberta, Canada.

3.4. Evidence

3.4.1. The arbitrator is not required to apply the legal rules of evidence and will determine the relevance and materiality of the evidence presented.

3.4.2. All oral evidence will be taken in the presence of the arbitrator and all parties unless a party is absent by default or has waived the right to be present.

3.4.3. The arbitrator may order any individual to be examined under oath or on affirmation in relation to the issues in dispute and to produce before the arbitrator all relevant documents within the individual's care, custody, and control.

3.4.4. The document assemblies delivered under Section 3.2.10 are deemed to have been entered into evidence at the oral hearing without further proof and without being read out at the hearing, but a party may challenge the admissibility of any document so introduced.

3.4.5. The arbitrator may permit a document to be introduced at the oral hearing which was not previously disclosed or provided as required under these Rules; however, the arbitrator may take that default into account when determining the costs to be awarded in the arbitration.

3.4.6. If the arbitrator permits the evidence of a witness to be presented as a written statement, the other party may require that witness to be made available for cross examination at the oral hearing.

3.4.7. The arbitrator may order a witness to appear and give evidence, and if so, the parties may cross examine that witness and call evidence in rebuttal.

3.5. Default

3.5.1. Where a Claimant, without sufficient cause and after five Working Days notice from the arbitrator, fails to provide the statement required in Section 3.1.1.1 within the required time, the arbitrator can terminate the arbitration with respect to that claim.

3.5.2. Where a Respondent, without sufficient cause and after five Working Days notice from the arbitrator, fails to provide the statement required in Section 3.1.1.2 within the required time, the arbitrator must:

3.5.2.1. continue the arbitration; and

- 3.5.2.2. require the Claimant to submit such evidence to support the claim as the arbitrator may require before making an award.
- 3.5.3. Where a party without sufficient cause, fails to appear at a scheduled oral hearing, or fails to produce any evidence, the arbitrator may continue the arbitration and make an award based upon the evidence before the arbitrator.

3.6. Close of Hearings

- 3.6.1. The arbitrator must close the oral hearings when:
 - 3.6.1.1. the parties advise they have no further evidence to give or submissions to make; or
 - 3.6.1.2. the arbitrator considers further hearings to be unnecessary or inappropriate.
- 3.6.2. Where the arbitrator considers it to be just and appropriate to do so, the arbitrator may reopen the oral hearings at any time before making the final award.

4. THE AWARD

4.1. Award

- 4.1.1. The arbitrator must decide the dispute in accordance with the law.
- 4.1.2. The arbitrator must render a final award within 60 calendar days of the completion of written and oral argument, including submissions on costs.
- 4.1.3. The final award of the arbitrator must be in writing, dated, signed and include a statement of the findings of fact on which the decision is based and the reasons for the decision, in addition to any orders, directions, or declarations in respect of the issues raised by the parties. The arbitrator may order interest to be paid in the final award.
- 4.1.4. The final award is final and binding on the parties and the parties agree to comply with it as soon as possible. There is no appeal from the arbitrator's award, and the parties expressly agree that any rights of appeal set out in section 44 of the Arbitration Act or otherwise do not apply. Any temporary, interim, or final award may be incorporated into an Order of the Court of King's Bench of Alberta.

4.2. Costs

- 4.2.1. The arbitrator must fix the costs of the arbitration in the final award, which may include the following:
 - 4.2.1.1. the arbitrator's fees;
 - 4.2.1.2. any necessary expenses the arbitrator incurs;

- 4.2.1.3. the fees, travel costs and other expenses of witnesses the arbitrator approved; and
- 4.2.1.4. any fees, charges or expenses for providing services to the arbitrator or the parties in connection with the arbitration.
- 4.2.2. In the final award, the arbitrator must apportion, or decide which party will bear the arbitration's costs, as well as the costs of legal fees and disbursements (including expert fees) of the successful party.
- 4.2.3. In making a decision under Section 4.2.2, the arbitrator is not limited to awarding the legal fees and expenses that the Court of King's Bench may award to a successful party in a civil action.
- 4.2.4. The fees of the arbitrator must be reasonable in amount, taking into account the amount in the dispute, the complexity of the subject matter, the time spent by the arbitrator and any other relevant circumstances.

4.3. Amendments And Corrections To The Award

- 4.3.1. Upon application by a party, an arbitrator may amend or vary a final award to correct:
 - 4.3.1.1. a clerical or typographical error; or
 - 4.3.1.2. an arithmetical error made in a computation.
- 4.3.2. An application by a party to the arbitrator under Section 4.3.1 must be made within ten Working Days after that party receives the final award.