

## Online Mediation Protocol

### Online Mediation Process

- The Mediator will be responsible for setting up the online platform and providing log in information to the parties in advance of the mediation. The Mediator will host the online mediation and maintain control over the platform throughout the process.
- The parties and their representatives confirm that they have appropriate technology, including camera and microphone, as well as private, secure internet (i.e. not public Wi Fi) to permit their participation in the mediation online. All participants are expected to familiarize themselves with the platform to be used for the mediation in advance. All participants should ensure that their audio and video allow all others on the call to see and hear them clearly.
- The parties and Mediator agree that no one other than the parties, their representatives and the Mediator will participate in the call or have access to the online mediation process. All participants will confirm their identification before the session begins.
- Parties/representatives will enter the call 15 minutes before the start time via a “waiting room” when they log in; once all parties are logged-in they will be admitted into the mediation by the Mediator.
- Parties and the Mediator agree to take all reasonable steps to ensure that they are in a confidential location without visual or verbal access to the proceedings by others, or interruptions by others, including family members. All participants understand that while they may participate from home, proper business-like decorum is expected by all.
- Any recording by video, audio or photos of any portion of the mediation is prohibited. If any recording is created inadvertently, it will be destroyed immediately and not shared with anyone. Parties will advise the Mediator if this should occur.
- The Mediator may, with the consent of the parties, use “break out rooms” to allow the parties to convene in private and/or to allow for caucus meetings with the parties and the Mediator. Use of breakout rooms will be controlled by the Mediator as host of the call. The Mediator will advise the parties before entering their private breakout room.

- The Mediator will maintain the ability to mute/unmute participants should it become necessary to do so. Parties will be asked to be mindful of muting their microphone and stopping video during any breaks in the proceedings. Participants will also be asked to refrain from using any “chat” feature that may be available on the online platform to communicate with each other.
- At the outset of the proceedings, the Mediator will review the ground rules for the group discussion, including the requirement that only one participant speak at a time; how to address each other; how to ask a question and how to make it known that the participant wishes to speak.
- Interruptions in service and/or “dropped calls” may occur. All participants will provide the Mediator with a phone number where they can be reached to establish reconnection. The Mediator will also provide an email and phone number for parties to connect in the event of difficulty joining or maintaining the call. In the event of an interruption, all participants are asked to be patient and courteous to others. In the unlikely event that the call cannot be re-established, the Mediator may direct the parties to discuss a time to reconvene.

### **Role and Expectations of the Mediator**

- The Mediator’s role is to act as a neutral facilitator to assist the parties to reach a mutually beneficial and acceptable resolution. The Mediator will always remain impartial and neutral and will not act as an advocate for any party to the mediation.
- The Mediator will not provide any legal advice to the parties. The Mediator may advise an unrepresented party to seek legal advice, where appropriate, and may advise any party of the need for them to seek legal or other professional advice where appropriate.
- If the Mediator becomes aware of anything that would impede her impartiality, she will immediately disclose this to the parties and determine whether the mediation can proceed or continue.
- The Mediator may meet with the parties and/or lawyers privately (in “caucus”) prior to the start of the mediation or as it is in progress, with the consent of the parties. To

maintain transparency and the independence of the process, the preference will be to conduct discussion in joint session with all parties and their representatives to the extent possible and appropriate.

- The Mediator will facilitate discussion and dispute resolution proceedings in a manner that is founded on the principles of empathy, equity, and respect for all parties. In doing so, the Mediator will help the participants to actively listen to each other, communicate their interests and needs, and stay focused on their interests rather than their positions.
- The Mediator will adhere to the ADR Institute of Canada's Model Code of Conduct for Mediators.
- The Mediator expects that all parties and their lawyers/representatives will participate fully in the mediation.

### **Role of the Parties**

- Mediation is based on the principle of self-determination; the parties have the right to make their own voluntary and non-coerced decisions regarding a resolution of all issues in dispute. The parties will be encouraged by the mediator to adhere to the principle of self-determination.
- Parties are expected to take an active role in the discussion of their own issues and interests, and to actively listen to and consider the issues and interests of the other party or parties.
- Parties come to the mediation voluntary and are expected to act in good faith towards resolution of the dispute.

### **Role of the Lawyer/Representative(s)**

- Lawyers/representatives are expected to advise and assist their clients throughout the mediation process, including in preparation for the mediation.
- Lawyers/representatives are also expected to ensure that their client is adequately prepared to participate in the mediation using the online platform.



- They agree to encourage their clients to actively engage in discussion throughout the mediation to the extent possible.
- They are expected to engage with their clients and the other parties and their representatives to work towards resolution.
- Lawyers/representatives will not act in a manner that is inflammatory, disrespectful, unduly technical, or legalistic.