

## **The Surrey Board of Trade Dispute Resolution Program**

The Surrey Board of Trade (SBOT) Dispute Resolution Program, is a program designed to provide Surrey Board of Trade Members with Arbitration & Mediation options to handle commercial disputes. This program is administered by the ADR Institute of British Columbia. The following outlines the rules of engagement should the parties to the dispute agree to Mediate under this program.

### **Mediation Rules**

#### **1. DEFINITIONS**

1.1 In these rules:

**ADRBC** means the ADR Institute of British Columbia

**Commercial** means a dispute arising from business activities

**Claim** means a statement by the Claimant of the matter in dispute in the form set out in Appendix C;

**Defence** means a statement by the Respondent in reply to the Claim in the form set out in Appendix D;

**Mediation Service Fee** means the mediator's fee and the fee for the administration of the mediation calculated according to the Schedule of Fees;

**Member** means a Surrey Board of Trade member in good standing

**Request for Dispute Resolution** means the form set out in Appendix A to the Rules;

**Representative** means the individuals in the Mediation who have full authority to settle the dispute.

**Respondents Acceptance** means the form set out in Appendix B to the Rules;

**Rules** means the Surrey Board of Trade Dispute Resolution Program Rules

**SBOT** means The Surrey Board of Trade

## 2. APPLICATION AND COMMENCEMENT

- 2.1 Where a mediation agreement provides for mediation under the SBOT Rules, the Rules shall be deemed to form part of the mediation agreement. Unless the parties agree otherwise, the Rules that apply are those in effect on the date ADRBC accepts the dispute.
- 2.2 A SBOT Member who wishes to commence a mediation under the Rules shall submit a completed **Request for Dispute Resolution** to ADRBC (as the Claimant) and at the same time deliver a copy of it to the Respondent.
- 2.3 If the Respondent agrees to the mediation under the Rules, they shall submit a completed **Respondent's Acceptance** to ADRBC and deliver a copy of it to the Claimant.
- 2.4 The Respondent shall submit its Respondent's Acceptance within 14 days after receiving the Request for Dispute Resolution. If the Respondent's Acceptance is not received either by ADRBC or the Claimant by the due date, the mediation shall not proceed under the Rules.
- 2.5 Upon receipt of the completed Respondent's Acceptance, ADRBC may accept the dispute for mediation.

## 3. FEES AND EXPENSES

- 3.1 A **Mediation Service Fee** is payable before a mediator is appointed.
- 3.2 Within 7 days of accepting the dispute for mediation ADRBC shall send each party an invoice for an equal share of the Mediation Service Fee, plus applicable taxes.
- 3.3 Once the Mediation Service Fee has been received in full, ADRBC may administer the mediation according to the Rules.
- 3.4 The Mediation Service Fee shall be held in trust by ADRBC until the mediation is complete under **Rule 6.7**, at which time ADRBC may pay the mediator's fee and the administration fee in the amounts allowed by the Schedule of Fees, or under the Rules, out of the monies held in trust.
- 3.5 If no mediator is appointed and the mediation is terminated, ADRBC may retain a cancellation fee and remit the remainder to the parties pro rata. If an appointment has taken place, RULE 9.1 applies to cancellation fees.

#### **4. APPOINTMENT OF MEDIATOR**

- 4.1 Within 7 days of payment received by both parties, ADRBC will appoint a Mediator from the SBOT Dispute Resolution Roster of Mediators based on the Mediators experience relevant to the dispute.
- 4.2 ADRBC shall notify the member of their selection and seek the member's acceptance of the appointment. The member shall notify ADRBC of their acceptance within 3 calendar days. Upon the member's communication their acceptance of the appointment in writing to ADRBC the appointment is effective and the mediation commences.
- 4.3 Upon confirmation of the appointment from ADRBC the mediator has conduct of the mediation under the Rules, and the mediation may not be terminated or suspended except by agreement of the parties, or by order of the mediator.
- 4.4 Within 7 days of accepting the appointment, the mediator shall contact all parties to schedule a pre-mediation interview either in person or telephone/video conference. Once appointed, the mediator decides all matters of procedure, subject to these Rules.
- 4.5 The mediator is bound by the Code of Ethics of the ADR Institute of Canada.

#### **5. MEDIATION PROCESS**

- 5.1 Mediation is first and foremost a non-binding procedure. This means that, even though parties have agreed to submit a dispute to mediation, they are not obliged to continue with the mediation process. In this sense, the parties remain always in control of a mediation. The continuation of the process depends on their continuing acceptance of it.

The non-binding nature of mediation means also that a decision cannot be imposed on the parties. In order for any settlement to be concluded, the parties must voluntarily agree to accept it.

- 5.2 The Mediator will distribute and review the Agreement To Mediate during the pre-mediation interview. All parties are to sign the Agreement To Mediate at the start of the mediation session.

The parties agree to use the ADRBC Standard Form Agreement to Mediate to be provided by the Mediator set out in Schedule "A" and allow for modifications as the parties may agree.

5.3 Each party must attend the mediation. The name and address of any lawyer or agent who intends to attend the Mediation must be communicated, in writing, to the Mediator and to other parties at least 5 business days before the first mediation session. If any party intends to have any other individuals, such as experts, advisors, or any other persons, attend the Mediation, the name(s) and capacity of such individual must be communicated to the Mediator and the other parties at least 5 business days before the mediation session. The mediator will have the final say on who is allowed to attend the mediation session

5.4 The SBOT Dispute Resolution Program consists of one mediation scheduled for a maximum of 4 hours and will take place at the Surrey Board of Trade office located at: #101-14439 104 Avenue Surrey, British Columbia Canada. The Mediator will make the arrangements to book the room.

Should the party's choose, they can agree to meet at another neutral location. The Mediator is responsible for booking the location however any cost for this location will be shared by both parties. The Mediator will seek reimbursement from the parties at the beginning of the session.

5.5 Upon completion of the mediation, the Mediator may deliver an invoice for his or her fees to ADRBC,

## **6. CONFIDENTIALITY AND DISCLOSURE**

6.1 The parties and the Mediator shall agree on the extent of documentary disclosure required for an effective Mediation, but the Mediator shall not have the power to compel the disclosure of any document.

6.2 The Mediator shall inform the parties of the confidential nature of Mediation

6.3 The Mediator, the parties, their experts and advisors, and any other persons who accompany the parties to the Mediation are also bound to confidentiality and shall not disclose to any non-party all information, documents, and communication that are created, disclosed, received or made available in connection with the Mediation except:

- (a) with the parties' written consent;
- (b) when ordered to do so by a court of competent jurisdiction or otherwise required to do so by law;
- (c) when the information or documents disclose an actual or imminent threat to human life;
- (d) the Mediator is required to report the completion of the mediation to ADRBC

- 6.4 The Mediator shall obtain in writing from all experts and consultants engaged by the Mediator any other person who accompanies the parties, commitments to similar obligations of confidentiality as are provided for in this Rule.
- 6.5 Within 30 days after the conclusion of mediation or drafting of the Memorandum of Understanding, the Mediator shall destroy all information, document and communications created by, disclosed to, received by or made available to the Mediator in connection with the Mediation unless otherwise agreed by the parties.
- 6.7 The mediation is complete on (a) full or partial agreements have been made, or (b) one of the party withdraws, or (c) mediator orders it to be terminated.

## **7 EXCLUSION OF LIABILITY**

- 7.1 Neither ADRBC nor SBOT is liable to a mediator, a party or a witness for any act or omission relating to a mediation conducted under the Rules. In particular, ADRBC or SBOT is not liable for any loss or damage incurred by a party or any other person arising from negligence or other conduct of an employee or agent.

## **8 CONCLUSION**

- 8.1 Should the parties not reach full agreement on the issues in dispute, the Claimant can make a new request for arbitration through the SBOT Dispute Resolution Program or;
- 8.2 If the original Request for Dispute Resolution was to enter into a Med/Arb process, the parties will determine the unresolved issues that will proceed to arbitration.
- 8.3 The Mediator will inform ADRBC that the mediation has been either successfully or unsuccessfully completed.

## **9 CANCELLATION, SUSPENSION, OR TERMINATION**

- 9.1 Cancellation of the mediation may be executed by either party to the dispute. ADRBC will retain the administration fee and as long as a mediator has not been appointed, the party's will each receive their portion of the mediation fee. If a Mediator has been appointed and the mediator has conducted the pre-mediation interviews, the mediator is entitled to 50% of the mediation fee. If either party cancels the mediation with less than 48 hours notice, they forfeit the entire mediation fee.