

IN THE MATTER OF THE *ARBITRATION ACT* S.O. 1991, c. 17, as amended, and the *FAMILY LAW ACT*,  
R.S.O. 1990, c.F3, as amended,

THIS IS A **MEDIATION-ARBITRATION AGREEMENT** dated [REDACTED], 2025,

**BETWEEN:**

[REDACTED]

-and-

[REDACTED]

**1) SUBMISSION TO ARBITRATION PRECEDED BY MEDIATION**

- a) This “Agreement” is a Family Arbitration Agreement that is:
- i) made under the *Arbitration Act* and the *Family Law Act*;
  - ii) also a Mediation Agreement on the terms set out below and, as such, is a Mediation-Arbitration Agreement;
  - iii) effective when:
    - (1) it has been signed by both parties and witnessed;
    - (2) both of the attached Certificates of Independent Legal Advice, which form part of this Agreement, have been signed by counsel;
    - (3) the attached Certificate of Arbitrator, which forms part of this Agreement, has been signed by Michael B. Kleinman (“Mr. Kleinman” or the “Arbitrator”); and
    - (4) the parties have been screened for power imbalances and domestic violence in accordance with the Regulations under the *Arbitration Act* (“screening”).
- b) Mr. Kleinman may act as Mediator and Arbitrator.

**2) SCREENING**

- a) Screening will be conducted by:
- (a)  Mr. Kleinman; or
  - (b)  one accredited professional who is agreed upon or appointed by Mr. Kleinman and who is not counsel for a party, it being understood that the

screening report is provided only to Mr. Kleinman (that is, neither to the parties nor or their counsel).

- b) Except as required by law, all aspects of screening, including intake forms, screening tools, notes and reports are confidential and may not be disclosed to the parties, their counsel or any third party for any purpose without a court order.
- c) The purpose of screening is to assess the appropriateness of mediation-arbitration. Mr. Kleinman may, in his discretion and without providing reasons, determine at any time that a matter is or is no longer appropriate for mediation-arbitration and decline to commence or continue the process. In such event, the mediation-arbitration will be deemed to be terminated on a final basis.

### **3) WAIVER OF RIGHTS TO LITIGATE IN COURTS**

- a) The parties waive any right to further litigate in court pursuant to any statute or law any issues submitted to arbitration by paragraph 5 below, subject to those appeal rights and rights under the *Arbitration Act* and the *Family Law Act* set out below.
- b) Nothing in this Agreement impairs any enforcement rights that a party may have through the courts or otherwise.
- c) The operative terms of this Agreement may be incorporated into a consent order of a court of competent jurisdiction on application by either party and subject to the court's discretion.

### **4) DEFINITIONS**

- a) In this Agreement:
  - i) "*Arbitration Act*" means the Arbitration Act, 1991, SO 1991, c17, as amended;
  - ii) "*Child, Youth and Family Services Act*" means the Child, Youth and Family Services Act, 2017, SO 2017, c14, Sch. 1, as amended;
  - iii) "*Divorce Act*" means the Divorce Act, RSC 1985 (2<sup>nd</sup> Supp), c3, as amended;
  - iv) "*Family Law Act*" means the Family Law Act, RSO 1990, cF3, as amended, including the *Family Law Rules*, OReg 114/99, as amended.
  - v) An Act of the legislature or parliament referred to by name, whether or not defined above, will mean that Act in force as of the execution of this Agreement. If this provision invalidates the operation of any of the other provisions of this Agreement at the time they are sought to be enforced, then the Act referred to will be the one in force at the material time and will include any amendment or successor Act.

**5) ISSUES SUBMITTED TO ARBITRATION**

***Statement of Issues or Pleadings Required for both Mediation and Arbitration***

- a)  If the parties are involved in a court case:
- i) Unless this Agreement provides otherwise, the pleadings, orders and endorsements (collectively, the “Court File”) define those issues being submitted to arbitration on a temporary or final basis;
  - ii) The parties will deliver a copy of the Court File to Mr. Kleinman upon execution of this Agreement;
  - iii) Additional issues may only be submitted to arbitration under this Agreement pursuant to a written agreement between the parties or a motion brought by one party on notice to the other party;
  - iv) Any orders made in the court case:
    - (1) will remain in force and enforceable in the arbitration, subject to an agreement or arbitral award that provides otherwise; and
    - (2) may be incorporated into an arbitral award on motion by either party.
- b)  If the parties are NOT involved a court case:
- i) The following issues are submitted to arbitration (*check those that apply*):
    - Parenting of child(ren)
    - Child Support, including Section 7 Expenses
    - Spousal Support
    - Equalization of Net Family Property
    - Exclusive Possession of Matrimonial Home/Contents
    - Sale of Property
    - Interim Fees and Disbursements
    - Preservation/Non-Dissipation of Assets
    - Prohibition Against Harassment or Other Conduct
    - Costs
    - Other (Attach Schedule)

ii) Each party will deliver to the other party or parties and Mr. Kleinman a statement of requested relief (“SRR”) and the facts supporting the relief requested. Unless the parties agree otherwise, Mr. Kleinman will determine the timing and sequence of delivery of each party’s SRR.

## 6) CONFIDENTIALITY

- a) Proceedings under this Agreement and the record thereof will be private and confidential, except as may be necessary to implement or to enforce the Arbitrator's award, and subject to their being produced in proceedings for judicial review or appeal or as required by law. Neither the parties, their counsel nor Mr. Kleinman may disclose any information about the parties, the mediation, the arbitration, or the screening report to anyone except as required by law.
- b) The common law exception to settlement privilege which permits the production or disclosure of without prejudice communications to prove a settlement is renounced. No evidence of any mediation communications shall be produced or disclosed in any legal proceedings relating to a settlement reached at or after the mediation, including in an arbitration under this Agreement, save for a written agreement containing the settlement terms signed by the parties and witnessed, or a Consent Award incorporating the settlement terms.
- c) Despite subparagraphs 2(b) and 6(a) of this Agreement, Mr. Kleinman’s legal obligations to disclose may include:
  - i) Reporting a child to be in need of protection under section 125 of the *Child, Youth and Family Services Act*;
  - ii) Reporting to police or other lawful authority where he believes on reasonable grounds there is an imminent risk of death or serious bodily or psychological harm to an identifiable person(s) or group, to prevent such death or harm; and
  - iii) Responding to a party’s claim, complaint or fee dispute.

## 7) APPLICABLE LAW

- a) The arbitration will be conducted in accordance with the law of Ontario and the law of Canada as it applies in Ontario.

## 8) LIMITATIONS ON JURISDICTION

- a) The parties agree to proceed with arbitration under this Agreement despite significant differences between the jurisdiction of an arbitrator and a judge such as the following:
  - i) Only a judge has “inherent jurisdiction” such as, for example, *parens patriae* jurisdiction as it relates to children.

- ii) Only a judge can find a party to be in contempt of an order and impose consequences relating to contempt;
- iii) Only a judge can add a third party to a proceeding, and make an order affecting a third party, without the consent of all concerned;
- iv) Only a judge can request the Children's Lawyer to act as the legal representative of a child or investigate matters concerning decision-making responsibility, parenting time or contact with a child; and
- v) Only a judge can make a restraining order.

### **MEDIATION RULES AND PROCEDURES**

#### **9) MEDIATION**

- a) Mr. Kleinman will conduct mediation in respect of the disputed issues before arbitration. The procedure for mediation (including the date, time, modality, and place) will be determined by Mr. Kleinman in consultation with the parties.
- b) In specifically waiving section 35 of the *Arbitration Act*, the parties agree that Mr. Kleinman may act as mediator in this matter and that Mr. Kleinman is not disqualified from arbitrating any or all issues because he has acted as mediator.
- c) Mediation sessions are settlement negotiations. Disclosures made during mediation are inadmissible in arbitration and any future litigation or arbitration. The parties may not summons or otherwise require Mr. Kleinman to testify regarding mediation or to produce records or notes of mediation in any future proceedings. No transcripts will be kept of mediation.
- d) Before and during mediation, Mr. Kleinman may meet with the parties together or separately (and not necessarily both), with or without counsel present, and with whomever Mr. Kleinman deems relevant to a resolution of the issues. Any meeting between Mr. Kleinman and any person who is not a party will be held only with the consent of the parties.
- e) Mr. Kleinman will not provide legal advice to the parties individually or collectively. If Mr. Kleinman expresses an opinion or comments on an issue during mediation, the opinion or comment is not to be construed as constituting a statement of the law, legal advice, or any indication of the result of an arbitration.
- f) Mediation will continue until Mr. Kleinman determines that mediation is unlikely to result in a settlement, at which point he may declare an impasse, terminate mediation and set a date for arbitration.
- g) Mr. Kleinman's file, including all digital/electronic or paper information, documents, notes, correspondence, calculations, memoranda of understanding,

drafts, and any other communications prepared or provided by any person for the purpose of mediation, will, unless otherwise discoverable, be treated as without-prejudice settlement discussions, and will be inadmissible for use by anyone in any proceeding for any purpose.

- h) Mr. Kleinman may destroy all notes and documents in his file (digital/electronic or paper) at the end of mediation.

#### **10) DOCUMENTS FOR MEDIATION**

- a) Unless otherwise agreed, each party will submit to Mr. Kleinman and the other party at least seven (7) days before the Mediation the following (*if applicable*):
  - i) their SRR under subparagraph 5(b)(2) above;
  - ii) a brief memorandum setting out their position on each unresolved issue;
  - iii) copies of any expert reports on which they rely;
  - iv) a current, sworn Financial Statement;
  - v) a comparative Net Family Property Statement;
  - vi) any other information or documentation they consider important for the resolution of issues; and
  - vii) such other documents as Mr. Kleinman directs.

#### **11) TEMPORARY AWARDS TO FACILITATE PRODUCTIVE MEDIATION**

- a) Mr. Kleinman may, on motion by any party, make an arbitral award during the mediation phase of the process if he finds that such award is necessary to facilitate a productive mediation or otherwise promote the “primary objective” of the *Family Law Rules*<sup>1</sup> (a “mid-mediation award”).
- b) The parties agree with respect to a mid-mediation award that:
  - i) There is no right of appeal from such award. For clarity and in any event, the parties waive any right of appeal or to seek leave to appeal from such award.
  - ii) Neither the event of a party bringing a motion for, nor the arbitrator making such an award:
    - (1) terminates mediation;
    - (2) disqualifies Mr. Kleinman from mediating or arbitrating; or
    - (3) constitutes bias or reasonable apprehension of bias under s.13(1) of the *Arbitration Act*.

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<sup>1</sup> As set out in Rules 1(7.2), 2(4) and 2(5)

## ARBITRATION RULES AND PROCEDURES

### **12) PROCEDURE FOR ARBITRATION**

- a) In consultation with the parties, Mr. Kleinman will determine:
  - i) The date(s) and time(s) of, and the procedure for, the arbitration (If a hearing is conducted, it may be conducted in person, electronically, by telephone, videoconference, and/or written submissions);
  - ii) a timetable for the delivery of evidence, briefs, financial disclosure and other documents.
- b) Mr. Kleinman may deliver notices, awards or other communications to the parties via ordinary mail, fax or e-mail.
- c) Despite subparagraph 9(c) above, Mr. Kleinman may, with the consent of the parties, admit into evidence documents or other information received during mediation.
- d) If a hearing is held, unless agreed otherwise:
  - i) witnesses will be sworn under oath or affirmed and will be subject to cross-examination and re-examination, except that Mr. Kleinman may direct that some or all of the evidence be given by affidavit;
  - ii) all usual rules for the admissibility of evidence in court proceedings will apply as amended by the *Arbitration Act*, the *Family Law Rules*, and the *Rules of Civil Procedure*, where applicable; and
  - iii) there will be a reporter appointed as required for all or part of any arbitration as determined by Mr. Kleinman in consultation with the parties.

### **13) MEDIATION WITHIN ARBITRATION**

- a) The parties may, during arbitration, request that Mr. Kleinman conduct a mid-arbitration mediation of some or all disputed issues. Mr. Kleinman may, in his discretion, conduct such a mediation if the parties agree in writing that Mr. Kleinman will not be disqualified as arbitrator by reason of having conducted a mid-arbitration mediation or decline to do so.
- b) If Mr. Kleinman conducts a mid-arbitration mediation, all the rules provided by this Agreement related to mediation (confidentiality, admissibility of statements and evidence, etc.) will apply.
- c) If Mr. Kleinman declines to conduct a mid-arbitration mediation, then arbitration may be adjourned on consent so that the parties may attend closed mediation with a different person.

**14) ARBITRATION MANAGEMENT CONFERENCE(S)**

- a) Mr. Kleinman may convene one or more “arbitration management” conferences to determine:
  - i) The issues for arbitration;
  - ii) The documents to be provided before the start of arbitration;
  - iii) The order of presentation of evidence;
  - iv) The names, addresses, telephone numbers and email addresses of witnesses to be called and a synopsis of their evidence;
  - v) A timetable for pre-arbitration events, including the exchange of expert reports, the delivery of opening statements, the exchange of document briefs and questioning, if required;
  - vi) Estimates of the time required for arbitration;
  - vii) Any physical or electronic/digital arrangements necessary for the attendance of parties or witnesses;
  - viii) Any necessary directions for a virtual hearing; and
  - ix) Any issues arising from screening.
- b) Mr. Kleinman will direct the parties as to the form and content of materials to be delivered before an arbitration management conference.

**15) EXPERT EVIDENCE FOR ARBITRATION HEARING**

- a) The parties authorize Mr. Kleinman to determine the necessity of retaining professional(s) to provide expert opinion(s) respecting any outstanding issues(s) and to retain such professional(s) as he deems appropriate.
- b) The parties will pay the fees of the expert(s) in the amounts or proportions determined by Mr. Kleinman and authorize Mr. Kleinman to include these fees as a disbursement on his account.

**16) WITHDRAWAL FROM MEDIATION OR ARBITRATION**

- a) A party may not at any stage of the process unilaterally withdraw from this Agreement.
- b) The parties may at any stage of the process jointly terminate this Agreement by written agreement.
- c) If the parties jointly terminate this Agreement but cannot agree on a replacement mediator/arbitrator, then a court of competent jurisdiction will appoint a replacement on application by either party.



- d) Mr. Kleinman may at any stage of the process resign from his appointment as mediator/arbitrator on written notice to the parties.
- e) If Mr. Kleinman resigns as mediator/arbitrator, then: *(Select one)*
  - i)  the parties will appoint a replacement mediator/arbitrator, however if they are unable to agree on a replacement, then on application by either party:
    - (1)  a court of competent jurisdiction will appoint a replacement on application by either party; or
    - (2)  the then-chair of the Family Law Section of the Ontario Bar Association will appoint a replacement who is a family law lawyer with at least 15 years' experience;
  - ii)  the arbitration and this Agreement will be at an end, such that either party may proceed to have the issues listed in this Agreement determined by a court of competent jurisdiction.
- f) If the parties jointly terminate this Agreement or if Mr. Kleinman resigns, any award(s) made by Mr. Kleinman will continue to bind the parties and will continue in full force and effect pending further agreement, arbitral award or court order.
- g) Unless the parties jointly terminate this Agreement or Mr. Kleinman resigns, absent resolution of the disputed issues, Mr. Kleinman will conduct an arbitration as provided by this Agreement.
- h) The parties acknowledge that in the resolution of family law disputes, it is common practice to select a mediator or arbitrator from a small, specialized group of individuals. The parties agree that, if Mr. Kleinman was previously or is currently retained by one or both of their counsel to mediate or arbitrate other matters, or if the Arbitrator is retained by one or both of their counsel to mediate or arbitrate one or more new matters while this matter is ongoing (collectively, "Other Retainers"), any such Other Retainers:
  - i) Do not give rise to a reasonable apprehension of bias;
  - ii) Do not raise any doubt as to the Arbitrator's impartiality or independence;
  - iii) Do not constitute grounds for challenge or removal of the Arbitrator; and
  - iv) Do not permit the parties to withdraw from or terminate this Agreement.
- i) Nothing in this paragraph relieves Mr. Kleinman from his obligation to disclose to the parties and their counsel any circumstances which, in his view, may give rise to justifiable doubts as to his impartiality or independence.

### **17) THE ARBITRATOR'S AWARD**

- a) After the evidence has been received and submissions on the law have been made, Mr. Kleinman will deliver an award on all issues submitted to arbitration within 90 days after the conclusion of the hearing.
- b) Within 365 days after delivery of the final award, Mr. Kleinman may destroy his file including all digital/electronic or paper information, documents, briefs, submissions, exhibits, notes, correspondence, calculations, drafts, and any other communications prepared or provided by any person for the purpose of the arbitration.
- c) Mr. Kleinman's file, including his notes, prepared before, during and after the hearing, are the personal property of the Arbitrator, even if they may be considered to be part of the Record of the Arbitration.

### **18) APPEAL FROM A TEMPORARY AWARD**

- a) Except for a mid-mediation award made under paragraph 11 of this Agreement, a party may, in relation to a temporary award:
  - i) seek a review of the award in accordance with the appeal provisions the *Arbitration Act*; or
  - ii) with leave, appeal the award on a question of law, in accordance with s. 45(1) of the *Arbitration Act* and the *Family Law Statute Amendment Act*.
- b) The parties agree that the test for leave to appeal from a temporary award will be as set out in s.45(1) of the *Arbitration Act*, namely, that leave to appeal on a question of law will be granted only if the court is satisfied that:
  - i) the importance to the parties of the matters at stake in the arbitration justifies an appeal; and
  - ii) determination of the question of law at issue will significantly affect the rights of the parties.
- c) The parties have agreed to limit their appeal routes from temporary awards due to the nature of this arbitration process and have specifically considered and rejected the more expansive appeal routes available to them pursuant to s. 45(2) and s. 45(3) of the *Arbitration Act*.

### **19) APPEAL FROM A FINAL AWARD**

- a) A party may appeal a final award: [~~delete either (i) or (ii)~~]
  - i)  In accordance with subsection 45(1) of the *Arbitration Act*; or
  - ii)  On a question of law, a question of fact, or a question of mixed fact and law.

## **20) ENFORCEMENT**

- a) Subject to the appeal rights provided by this Agreement and subject to the appeal remedies and rights to apply to set aside an award under s. 45 and s. 46, respectively, of the *Arbitration Act* and subject to any other applicable provisions of the *Arbitration Act* and the *Family Law Act*, all awards of the Arbitrator will be binding upon the parties.
- b) Any temporary or final award may be incorporated into a consent order of the Ontario Superior Court of Justice.
- c) Either party may apply for the enforcement of any award under s. 59.8 of the *Family Law Act*.
- d) On request of either party, Mr. Kleinman will issue an arbitral award incorporating the terms of any agreement reached by the parties in respect of any issue submitted to arbitration.

## **21) MR. KLEINMAN'S FEES AND DISBURSEMENTS**

- a) The parties agree to honour Mr. Kleinman's fee schedule attached as Schedule "A" and which forms part of this Agreement.

## **22) LIABILITY WAIVER**

- a) The parties waive any claim or right of action against Mr. Kleinman arising from these proceedings, now and in the future. The Arbitrator shall be entitled to the same immunity from claims and legal proceedings as a Judge of the Ontario Superior Court of Justice.

## **23) SEVERABILITY OF TERMS**

- a) Each of the terms of this agreement are severable from the others and will survive the invalidity or unenforceability of any other term of this agreement.

## **24) EXECUTION**

- a) This Agreement may be signed in counterparts, with the parties' physical or electronic signatures witnessed by telephone or videoconferencing. Electronic signatures will not be a basis for challenging the validity or enforceability of this Agreement or for not complying with the terms of this Agreement. Any electronic signature will have the same effect as an original signature. Emailed and scanned fully executed versions of this Agreement will be deemed to be the equivalent of originals. The effective date

of this Agreement is the date on which the latter party signs it electronically (regardless of whether it later re-signed in ink).

**25) EQUITY, DIVERSITY and INCLUSION (EDI)**

- a) Mr. Kleinman ensures that all EDI requirements are met. Counsel and parties will advise Mr. Kleinman and cooperate with respect to EDI accommodations, including those on account of diet, scheduling in consideration of religious and cultural events, and breaks for meditation or prayer.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2025.

\_\_\_\_\_  
**Witness**

\_\_\_\_\_  
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Dated this \_\_\_\_\_ of \_\_\_\_\_, 2025.

\_\_\_\_\_  
**Witness**

\_\_\_\_\_  
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**CERTIFICATE OF ARBITRATOR**

I, **Michael B. Kleinman**, confirm the following matters:

1. I will treat the parties equally and fairly in the arbitration, as required by subsection 19(1) of the *Arbitration Act*.
2. I have received the appropriate training approved by the Attorney General.
3. The parties were separately screened for power imbalances and domestic violence and I have considered the results of the screening and will continue to do so throughout the arbitration, if I conduct one.

DATED: \_\_\_\_\_

\_\_\_\_\_  
**Michael B. Kleinman**

KLEINMAN FAMILY LAW  
165 Avenue Road, Suite 200  
Toronto ON M5R 3S4

Tel: (416) 924-6996

Email: [michael@kleinman.ca](mailto:michael@kleinman.ca)

## SCHEDULE "A"

- 1) Mr. Kleinman's fees are \$800.00 per hour plus HST for the mediation, the arbitration hearing, any pre-arbitration conference, interim arbitration, preliminary meetings, preparation (including preparation of an award) and any other services rendered pursuant to this Agreement. Mr. Kleinman's hourly rate may increase from year to year but if it increases by more than 10% over the prior year, Mr. Kleinman will specifically advise the parties in writing.
- 2) In addition to Mr. Kleinman's fees, the parties will pay the costs of all disbursements relating to the mediation and arbitration, including the costs of long-distance telephone calls, couriers, photocopies, neutral experts engaged in the mediation process (accountants, psychologists), travel expenses, parking and any other disbursements incurred by Mr. Kleinman in relation to the mediation and arbitration.
- 3) Mr. Kleinman charges a non-refundable Administration Fee of \$500.00 plus HST. The administration fee is added to the initial account and the administrative assistant's time in arranging the mediation or arbitration is not charged additionally.
- 4) Retainers and Cancellation Fees
  - a) Mediation
    - i) A mediation date is secured by delivering the signed mediation-arbitration agreement and retainer deposit(s) at least twenty-one (21) days in advance. Refreshers to the retainer will be requested, if needed.
      - (1) For a full day mediation, the retainer is \$8,500 (\$4,250 payable by each party, unless otherwise agreed).
      - (2) For a half day mediation, the retainer is \$5,500 (\$2,750 payable by each party, unless otherwise agreed).
    - ii) The parties are jointly responsible for the total time spent by the mediator/arbitrator. The costs of mediation will not be broken down or allocated based upon the amount of time spent by the mediator/arbitrator with or on behalf of each individual party. Interim accounts may be rendered from time to time.
    - iii) If a scheduled mediation is cancelled on notice of less than seven (7) days, the mediator may charge a cancellation fee of up to \$2,500 (for a full day) or up to \$1,500 (for a half day).
    - iv) Notification of any cancellation, request for adjournment or settlement, shall be made by e-mail.

b) Arbitration

i) An arbitration hearing is secured by delivering such further retainer deposit(s) as Mr. Kleinman will advise in consultation with the parties.

ii) **Four (4) or fewer hearing days**

(1) If a hearing (or part of a hearing) that is scheduled for *four (4) or fewer* hearing days is adjourned or cancelled for any reason, including settlement, within:

(a) Fourteen (14) days before the date on which the hearing was scheduled to begin, the cancellation fee for the unused hearing dates shall be equivalent to three (3) hours per unused hearing day multiplied by Mr. Kleinman's hourly rate.

(b) Seven (7) days before the date on which the hearing was scheduled to begin, the cancellation fee for the unused hearing dates shall be equivalent to six (6) hours per unused hearing day multiplied by Mr. Kleinman's hourly rate.

iii) **Five (5) or more hearing days**

(1) If a hearing (or part of a hearing) that is scheduled for *five (5) or more* hearing days is adjourned or cancelled for any reason, including settlement, within:

(a) Twenty-eight (28) days before the date on which the hearing was scheduled to begin, the cancellation fee for the unused hearing dates shall be equivalent to four (4) hours per unused hearing day multiplied by Mr. Kleinman's hourly rate.

(b) Fourteen (14) days before the date on which the hearing was scheduled to begin, the cancellation fee for the unused hearing dates shall be equivalent to six (6) hours per unused hearing day multiplied by Mr. Kleinman's hourly rate.

iv) No cancellation fee is payable in respect of time reserved by Mr. Kleinman in his calendar for preparing for hearings or writing awards.

v) Notification of any cancellation, request for adjournment or settlement, shall be made by e-mail.

- 5) If a party fails or refuses to pay their share of Mr. Kleinman's fees, disbursements or retainer accounts, Mr. Kleinman may accept payment of the defaulting party's share from the other party and exercise his discretion re: costs to require the defaulting party to reimburse the other party the amount of such payment.
- 6) Mr. Kleinman may award interim fees and disbursements of the arbitration, including his retainer, fees and/or disbursements, on notice to the parties following receipt of submissions.
- 7) Mr. Kleinman may withhold his award until all outstanding fees, disbursements, or retainers have been paid.
- 8) The parties will be jointly and severally liable for any unpaid accounts. Interest will be charged on any overdue accounts at the current rate.

<b>Initialed by:</b>	<b>Party 1</b>	<b>Party 2</b>



**PARTY'S CONTACT INFORMATION**

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone:

Home: (\_\_\_\_) \_\_\_\_\_

Business: (\_\_\_\_) \_\_\_\_\_

Cell: (\_\_\_\_) \_\_\_\_\_

Email Address: \_\_\_\_\_

**PARTY'S CONTACT INFORMATION**

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone:

Home: (\_\_\_\_) \_\_\_\_\_

Business: (\_\_\_\_) \_\_\_\_\_

Cell: (\_\_\_\_) \_\_\_\_\_

Email Address: \_\_\_\_\_

**LAWYER’S CERTIFICATE OF INDEPENDENT LEGAL ADVICE**

I, ---, Barrister and Solicitor, have explained and provided independent legal advice in relation to this Mediation-Arbitration Agreement to my client, ---. I have explained that this Agreement is a “domestic contract” within the meaning of the *Family Law Act*, and as such a court may set it aside under certain circumstances. I certify that my client understands the need to make financial disclosure; understands the nature and consequences of this Agreement; is signing this Agreement voluntarily; and, is not signing this Agreement as a result of duress or undue influence by any person. My client has been or will be separately screened for power imbalances and domestic violence. I certify that my client is fully able and willing to participate and instruct counsel in this mediation-arbitration.

---

Date

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**PARTY’S CERTIFICATE OF INDEPENDENT LEGAL ADVICE**

I, ---, confirm that I have received independent legal advice and have attached to this Agreement a copy of the Certificate of Independent Legal Advice that was provided to me under subsection 59.6(2) of *the Family Law Act*.

---

Date

---

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**LAWYER’S CERTIFICATE OF INDEPENDENT LEGAL ADVICE**

I, ---, Barrister and Solicitor, have explained and provided independent legal advice in relation to this Mediation-Arbitration Agreement to my client, ---. I have explained that this Agreement is a “domestic contract” within the meaning of the *Family Law Act*, and as such a court may set it aside under certain circumstances. I certify that my client understands the need to make financial disclosure; understands the nature and consequences of this Agreement; is signing this Agreement voluntarily; and, is not signing this Agreement as a result of duress or undue influence by any person. My client has been or will be separately screened for power imbalances and domestic violence. I certify that my client is fully able and willing to participate and instruct counsel in this mediation-arbitration.

---

Date

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---

**PARTY’S CERTIFICATE OF INDEPENDENT LEGAL ADVICE**

I, ---, confirm that I have received independent legal advice and have attached to this Agreement a copy of the Certificate of Independent Legal Advice that was provided to me under subsection 59.6(2) of the *Family Law Act*.

---

Date

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**MICHAEL B. KLEINMAN**

**PAYMENT BY CREDIT CARD AGREEMENT**

I authorize Michael B. Kleinman to draw upon my credit card as set forth below for payment of accounts rendered to me or deposit of trust funds.

**\*\* Please note we do not accept American Express Credit Cards \*\***

<b>Credit Card Number</b> ( <i>Visa or Mastercard</i> )	
<b>Expiry Date</b>	
<b>CVD (3 digits on reverse)</b>	
<b>Name</b>	
<b>Signature</b>	

Details of Payment:

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**MICHAEL B. KLEINMAN**  
**ONLINE DISPUTE RESOLUTION**  
**CLIENT INFORMATION AND CONSENT**

*Note: This form is addressed to the parties and should be reviewed with counsel. Both parties and counsel are required to confirm by email their acceptance of the following terms.*

1. Mediation and arbitration sessions will be conducted over a secure online platform provided by **Zoom.us**.
2. Within your email invitation will be a link to download and install the “personal” version of the software, which is free. Clicking on the link will take you directly to the meeting after you have downloaded the Zoom software.
3. Although Zoom can be used on any smart phone, tablet, computer, etc. equipped with both a camera and a microphone, connectivity is best with a secure Ethernet (hard-wired) connection. You should NOT use a public access WiFi connection, such as those available in public spaces and businesses as they are not secure and your information may be at risk.
4. If you have not already done so, please read, sign and return the Mediation/Arbitration Agreement; counsel should complete the Certificate of Independent Legal Advice. All of this may be done digitally, by email/pdf, and in counterpart. This document is an addendum to, and forms part of, the Mediation/Arbitration Agreement.
5. Unless otherwise instructed by Michael Kleinman, the retainer deposit for *mediation* is payable by e-transfer to [michael@kleinman.ca](mailto:michael@kleinman.ca) or credit card (Visa or Mastercard; an authorization form is included in the Mediation/Arbitration Agreement). The usual requirement is for the executed Mediation/Arbitration Agreement and retainer deposit to be in hand at least 14 days in advance. Other arrangements will be advised in relation to a scheduled *arbitration*.

**Confidentiality and Privacy**

6. Only persons who have signed/agreed to the terms of the Mediation/Arbitration Agreement may be present during any online session unless arrangements are made in advance. You will be asked to confirm that you are alone in the room and that you and your device cannot be overheard or observed. Children should not be present or able to overhear or observe you and your device.
7. As set out in the Mediation/Arbitration Agreement, the entire process and each session is confidential and cannot be used in a subsequent court proceeding.
8. Absolute Prohibition on Recording: You, or anyone on your behalf, may NOT audio or video record any mediation session or portion thereof. If you learn of an audio or video recording of any mediation session, you will take immediate measures to destroy the recording and will not

share the recording to or with any third parties. You further agree that you will not transmit a live or deferred video or audio replay of the online mediation sessions to third parties including any social media. If applicable to *arbitration*, arrangements for recording and transcripts may be made in due course.

9. Given the use of information and communication technology, it is not possible to guarantee the confidentiality of online mediation or arbitration, or to completely control where or how some personal information may be collected, stored or accessed. You understand and accept the risks of any such breach of confidentiality.

#### **Best Practices and Troubleshooting**

10. **Interruption Free Zone** - In order to ensure that your session is uninterrupted, please take all reasonable measures to ensure that you have arranged for appropriate childcare, notified family and friends that you are unavailable during your session, and turned off or silenced any phones or devices not being used for the purpose of facilitating your session.
11. **Early Log On** - You should log on to the Zoom link no less than 5 minutes before the scheduled start time so that any technology issues can be resolved, and the session can start on time.
12. **Waiting Room** - In order to preserve the neutrality of the mediator/arbitrator, each time you log on to the Zoom meeting you will enter into a “virtual waiting room” until all parties have arrived. Once all parties are logged on and in the waiting room, you will be admitted into the meeting by the mediator/arbitrator. The mediator may first check in with each party privately. The session will then proceed, either with you in these separate “rooms” or together, as appropriate/deemed best.
13. **Technology Failure Protocol** - Despite all best efforts, at times technology may not operate properly such that a scheduled online session may not commence on time or may be interrupted. If you are unable to join a scheduled session, please immediately email Mr. Kleinman ([michael@kleinman.ca](mailto:michael@kleinman.ca)) or call Mr. Kleinman at **416-924-6996** for assistance.
14. **Respectful Online Communication** - Due to the nature of the online forum, it is especially important to allow each participant to finish their comment or statement before responding. In addition, the online format can amplify and exaggerate sound so maintaining a regular speaking voice is important. Finally, please remember that the camera does not always transmit hand gestures or nonverbal cues, so it is important to verbalize all communication during an online mediation session.
15. Any documents arising from or used in this process will be shared by email, understanding that this may not be a private and secure transmission.
16. By agreeing to proceed with online mediation/arbitration, you agree to all the above cautions and processes and release the mediator/arbitrator from any liability in the event of any inadvertent disclosure.