

Neutral Evaluation Sample Agreement

BETWEEN:

A: _____

B: _____

The parties and their representatives signing this Agreement with respect to a Neutral Evaluation, agree as follows:

1. The Neutral Evaluator will be _____ of ADR Chambers.
2. The Neutral Evaluation will be conducted on the _____ day of _____, 20____ at _____ commencing at _____.
3. The Evaluator is independent of the parties and does not act as a legal representative of any party during the neutral evaluation. The Evaluator does not offer legal advice nor does he or she have a duty to assert or protect the legal rights of any party or to raise any issue not raised by the parties.
4. The Evaluator may determine the procedures to be followed for the Neutral Evaluation.
5. The parties agree to jointly and severally indemnify and save ADR Chambers, its employees and the Evaluator harmless from any and all liability, costs, claims, demands, proceedings and causes of action howsoever arising under this Agreement or as a result of the conduct or consequences of the neutral evaluation, provided the Evaluator has carried out his or her duties honestly and in good faith. The Evaluator will not be liable to the parties for any act or omission in connection with the duties of the Evaluator under this Agreement and shall have the immunity of a Judge of the Superior Court of any province or territory of Canada where the Neutral Evaluation is rendered or the Neutral Evaluator is resident.
6. The appointment of the Evaluator and any rights arising out of this Agreement, are personal to the Evaluator and may not be assigned without the prior written consent of the parties.
7. Following the termination of this Agreement, according to its terms, the Evaluator will not consult with, advise or represent any party in subsequent proceedings relating to this matter and will not testify in any litigation or other proceeding relating to this matter.
8. Unless the parties advise in advance of the Neutral Evaluation that they require a written report, the Evaluator will endeavour to deliver an oral evaluation at the completion of the Neutral Evaluation hearing. However, if the Evaluator is of the view that he or she requires additional time to reflect upon the Evaluation, then he or she will conclude the hearing subject only to the delivery of the Evaluation in writing or alternatively by oral presentation to the parties who will attend upon the Evaluator at a mutually agreed time. A reserved evaluation will be delivered within 7 days of the conclusion of the hearing.
9. By signing this Agreement, the parties and/or their representatives, acknowledge that any statements made, that cannot be obtained from any other source, are confidential, without prejudice and privileged.
10. Statements made and documents produced by the Evaluator, which are not otherwise discoverable, shall not be subject to disclosure through discovery or any other process and shall not be admissible into evidence for any purpose, including impeaching credibility. Evidence that is independently admissible or discoverable shall not be rendered inadmissible or non-discoverable by virtue of its use during the Neutral Evaluation.
11. Nothing in this Agreement shall require the parties to disclose solicitor/client communication, or any documents or information subject to privilege.

12. Each party agrees that the notes, records and recollections of the Evaluator shall, to the extent permitted by law, be confidential and protected from disclosure for all purposes and that, in any proceeding, no attempt will be made to compel the Evaluator to testify or produce any documents. The Evaluator will hold in strict confidence and will not reveal, copy or disclose to any person, any documents or information provided to the Evaluator or to which the Evaluator gains access in the course of performing duties or discharging responsibilities under this Agreement, without the prior written permission of the parties.
13. The parties agree that they will not call the Evaluator as a witness for any purpose whatsoever. No party will seek access to any documents prepared for or delivered to the Evaluator in connection with the Neutral Evaluation, including any records, notes or materials made by the Evaluator.
14. The parties and their solicitors agree that as between them and the Neutral Evaluator and ADR Chambers, they are jointly and severally liable for the fees and disbursements of the Neutral Evaluator and ADR Chambers but the parties may agree as between them, the manner in which the said fees and disbursements will be paid.
15. The Evaluator's role will conclude upon delivery of an oral or, when requested by the parties, a written report of the Neutral Evaluation.

Signed by the parties and the Evaluator this day of _____, 200__. Note: Please sign on the line and print your name below the line.

PARTIES AND REPRESENTATIVES:

(sign and print name)

(sign and print name)

(sign and print name)

(sign and print name)

(sign and print name)

(sign and print name)

NEUTRAL EVALUATOR OF ADR CHAMBERS:
