

AGREEMENT TO ADJUDICATE

The Claimant and Respondent (collectively the “Parties” and individually a “Party”) agree that the Certified CanDACC Adjudicator appointed to this adjudication, (the “Adjudicator”), will adjudicate the Parties’ dispute pursuant to the *Federal Prompt Payment for Construction Work Act*, S.C. 2019, c. 29, s. 387 and the *Regulations* made pursuant to the Act, as amended (collectively the “Act”).

The provisions of this Agreement to Adjudicate (the “Agreement”) are as follows:

1. The Adjudicator has agreed to adjudicate the dispute between the Parties pursuant to the Act.
2. The Adjudicator will conduct the adjudication and issue a decision with reasons (the “Determination”).

CONFIDENTIALITY

3. All written, oral and digital communications made in the course of the adjudication will be treated as confidential. The Parties agree that communications and documents shared pursuant this adjudication will not be disclosed to anyone who is not a Party unless:
 - i. the person has agreed in writing to the terms of this Agreement;
 - ii. the person is an officer, director, or employee of a Party;
 - iii. the information is otherwise public;
 - iv. the person to whom the information is disclosed is a legal or financial advisor to a Party;
 - v. the person is an expert or assessor appointed by the Adjudicator on consent of the Parties or retained by a Party;
 - vi. the disclosure is required for purpose of enforcing or interpreting the Determination;
 - vii. pursuant to an order of a court of competent jurisdiction or otherwise required by law; or
 - viii. the information suggests that there will be actual or potential threat to human life or safety, or the commission of a crime in the future.
4. The Adjudicator will not reveal the names of Parties or anything discussed in the adjudication except that the Adjudicator may disclose such information:

- a. to the lawyers or other professionals retained on behalf of the Parties, as deemed appropriate or necessary by the Adjudicator,
- b. to non-Parties consented to in writing by the Parties and as deemed appropriate or necessary by the Adjudicator;
- c. for research or educational purposes by CanDACC, on an anonymous basis;
- d. where ordered to do so by a court of competent jurisdiction or otherwise required by law; or
- e. where the information suggests that there will be actual or potential threat to human life or safety, or the commission of a crime in the future.

RELEASE FROM LIABILITY

5. The Parties fully release the Adjudicator, ADR Chambers Inc., and ADR Chambers Adjudication Inc., and all officers, directors and employees of ADR Chambers Inc. and ADR Chambers Adjudication Inc. (collectively “CanDACC Releasees”) from all claims and causes of action whatsoever relating to or arising from the adjudication. No Party will invoke any legal process for the purpose of compelling any of the CanDACC Releasees to produce any documents or to testify in any judicial or quasi-judicial forum, concerning anything whatsoever about the adjudication, nor to give evidence touching any aspect of the adjudication.

CanDACC Releasees will not be liable for anything done or omitted with respect to the adjudication and have the immunity from claims and legal proceedings granted to a judge under legislation in place in Canada.

6. The Parties agree that:
 - a. They will not, at any time before, during, or after the adjudication, call CanDACC Releasees as witnesses in any legal or administrative proceedings concerning this dispute. To the extent that they may have a right to call any CanDACC Releasees as a witness, that right is hereby waived.
 - b. If, at any time, either Party decides to call a CanDACC Releasee as a witness in any legal or administrative proceedings concerning this dispute, that Party agrees to reimburse the CanDACC Releasee for whatever expenses they incur in such an action, including lawyer fees, plus the CanDACC Releasees’ hourly rates for time spent dealing with this issue.
 - c. The Parties agree not to subpoena or seek any Court Order or use any other legal process in an attempt to demand the production of any records, notes, work product or the like of any of the CanDACC Releasees, in any legal or administrative proceedings concerning this dispute. To the extent that they may have the right to demand these documents, that right is hereby waived.
 - d. If, at any later time, either Party decides to subpoena any of the CanDACC Releasees, the person subpoenaed may move to quash the subpoena. The Party issuing the subpoena agrees to reimburse all CanDACC Releasees for

whatever expenses they incur in such an action, including lawyer fees, plus the CanDACC Releasees' hourly rate for time spent dealing with this issue.

- e. Any Party calling any of the CanDACC Releasees as a witness, or issuing a subpoena against any of the CanDACC Releasees seeking production of any document(s), waives their right to rely upon and enforce the confidentiality provisions of this Agreement.
 - f. If any of the foregoing provisions is found to be unenforceable, the Parties seeking to call any of the CanDACC Releasees as a witness, agree to pay the then hourly rate of the CanDACC Releasees for time spent dealing with this issue.
7. The Parties (jointly and severally) indemnify and save harmless the CanDACC Releasees for costs reasonably incurred by the CanDACC Releasees in connection with the CanDACC Releasees' defence of a proceeding where the CanDACC Releasees acted in good faith.
 8. The CanDACC Releasees will not provide legal representation or legal advice to any Party at any time. The CanDACC Releasees have no duty to assert or protect the legal rights and responsibilities of any Party, to raise any issue not raised by the Parties themselves, or to determine who should participate in the adjudication.

FEES AND FINANCIAL TERMS

9.
 - a. The Parties are obligated to pay the adjudication fee to CanDACC in respect of the Adjudicator's fee, disbursements, other charges and any administrative fee (collectively the "Adjudication Fee"). The Adjudication Fee will be split evenly among all of the Parties unless the Adjudicator determines otherwise.
 - b. The estimated Adjudication Fee paid as a retainer shall be held by CanDACC and applied on account of the final Adjudication Fee. The requirement to pay the estimated Adjudication Fee as a retainer may be satisfied by one Party on behalf of any other Party, and may be reflected in a cost award that the Adjudicator makes at the conclusion of the adjudication.

GENERAL

10. This Agreement is governed by the laws of the Province of Ontario.

I have read, understood, and agree to the provisions of this Agreement