



PRIVATE ARBITRATION AGREEMENT

This Private Arbitration Agreement sets forth the terms under which Christopher T. Whitten, through Whitten ADR, will serve as arbitrator in the dispute identified below. It is intended for privately administered arbitrations. The parties' underlying arbitration agreement remains controlling except to the extent the parties validly agree otherwise or authorize the Arbitrator to establish procedures for the proceeding.

1. Appointment and Scope

The parties jointly appoint Christopher T. Whitten as the neutral Arbitrator. The Arbitrator accepts the appointment subject to this Agreement, completion of appropriate conflict disclosures, and payment of required deposits.

The Arbitrator shall decide the matters submitted to arbitration, including questions concerning procedure, discovery, admissibility of evidence, dispositive motions, hearing management, and the form and timing of the award, to the extent authorized by the parties' arbitration agreement and applicable law.

2. Governing Agreement, Law, and Rules

The arbitration will be governed first by the parties' written arbitration agreement and applicable law. At the initial case-management conference, the parties and Arbitrator will identify any agreed arbitration rules and any modifications appropriate for the matter. If the parties have not agreed on procedural rules, the Arbitrator may establish reasonable procedures designed to provide each party a fair opportunity to present its case while promoting an efficient and proportionate resolution.

Nothing in this Agreement expands or limits judicial review of an award beyond what is permitted by the parties' arbitration agreement and applicable law.

3. Independence, Impartiality, and Disclosures

The Arbitrator will disclose any known facts or relationships that could reasonably bear on impartiality or create a potential conflict. The Arbitrator's disclosure obligations are continuing throughout the proceeding.

The parties and counsel likewise have a continuing obligation promptly to disclose to the Arbitrator the identity of any additional party, lawyer, law firm, witness, expert, insurer, parent, subsidiary, affiliate, or other person or entity whose involvement could reasonably bear on the Arbitrator's disclosures or impartiality. A party that learns of potentially relevant information shall raise it promptly rather than wait until later in the proceeding.

4. Initial Case-Management Conference and Scheduling Order

Promptly after appointment, the Arbitrator will conduct an initial case-management conference with counsel. Before or during that conference, the parties should be prepared to describe the claims and defenses, identify the principal factual and legal issues, discuss the amount and type of discovery reasonably needed, address anticipated dispositive motions and experts, estimate the length of the evidentiary hearing, and identify any special procedural concerns.

Following the conference, the Arbitrator will issue or approve a case-specific scheduling and procedural order addressing appropriate deadlines and procedures for discovery, motions, experts, prehearing submissions, exhibits, witnesses, the evidentiary hearing, and any post-hearing briefing. The parties and counsel shall cooperate in developing and complying with an efficient schedule.

5. Discovery, Motions, and Evidence

Discovery shall be reasonable and proportionate to the needs of the dispute. The Arbitrator may limit cumulative, duplicative, burdensome, or marginally useful discovery and may resolve discovery disputes by conference, written submission, or other efficient procedure.



The Arbitrator may establish procedures and page limits for dispositive or other motions. Formal rules of evidence may be used as guidance but will apply only to the extent required by the parties' agreement, governing rules, applicable law, or order of the Arbitrator. The Arbitrator may receive evidence that is relevant and reliable while excluding evidence that is cumulative, unduly burdensome, or of insufficient probative value.

6. Hearing Procedure; In-Person and Remote Proceedings

Hearings and conferences may be conducted in person, by videoconference, or in a hybrid format as agreed by the parties or ordered by the Arbitrator after considering fairness, efficiency, cost, and the needs of the proceeding.

No participant may record a conference or hearing unless the Arbitrator has authorized an official recording or transcript. If a court reporter or other official record is requested or ordered, the requesting party or parties shall arrange and initially pay for it subject to any later allocation in the award.

7. Arbitrator Compensation

The Arbitrator's rate is \$700 per hour. Every hour reasonably devoted to the arbitration is billable, including case administration requiring the Arbitrator's attention; conferences and communications; review of pleadings, briefs, exhibits, discovery, transcripts, authorities, and other materials; research; discovery disputes; motion practice; hearing preparation; hearing time; travel time when substantial or specifically agreed; post-hearing submissions; deliberation; preparation, revision, and issuance of orders and the award; and any permitted clarification or correction of the award.

Unless the parties agree otherwise or the Arbitrator orders otherwise as authorized, the parties shall initially share the Arbitrator's fees and expenses equally. The Arbitrator may allocate fees and expenses differently in the final award if authorized by the parties' agreement or applicable law. Whitten ADR does not charge a separate administrative, scheduling, or videoconference fee. Reasonable third-party expenses, if any, will be disclosed when practicable and billed separately.

8. Advance Deposits and Replenishment

After the initial case-management conference, Whitten ADR will estimate the Arbitrator's fees through an appropriate stage of the proceeding. The estimate may include anticipated conferences, motion and discovery work, preparation, scheduled hearing time, post-hearing review, deliberation, and preparation of the award. Each party shall promptly deposit its allocated share of that estimate with Whitten ADR.

The estimate is not a fixed fee or cap. Whitten ADR may request additional deposits as work progresses or if the scope, schedule, or anticipated hearing time changes. Any unused portion of a party's deposit will be refunded after the matter concludes and all fees and expenses have been accounted for.

9. Failure to Pay

If a party fails to timely pay a required deposit or replenishment, Whitten ADR may notify all parties and suspend work or postpone a hearing until adequate funds are received, to the extent consistent with the parties' arbitration agreement and applicable law. Another party may advance the unpaid amount without waiving any position concerning ultimate responsibility for fees or costs.

The Arbitrator may address a party's failure to pay and any advancement by another party in the final award to the extent authorized. The Arbitrator will not condition the substance of any ruling or award on which party has advanced fees.

10. Cancellation or Postponement

Hearing dates are reserved exclusively for the parties. If an evidentiary hearing is cancelled or postponed within 30 days of its scheduled start date, the parties are responsible for cancellation compensation equal to eight hours of Arbitrator time at the then-applicable hourly rate for each reserved hearing day that cannot reasonably be filled with other billable ADR work.



Whitten ADR will make reasonable efforts to fill vacated hearing time but does not guarantee that replacement work can be scheduled. No cancellation compensation will be charged for time actually filled with other billable ADR work. Unless otherwise agreed or ordered, any cancellation compensation will initially be allocated among the parties in the same proportions as the arbitration deposits.

11. Post-Hearing Proceedings and Award

At or before the close of the evidentiary hearing, the Arbitrator will determine whether post-hearing briefs, proposed findings, supplemental authorities, or other submissions will be permitted and when the record will close.

The Arbitrator will issue the form of award required by the parties' arbitration agreement, governing rules, or applicable law. Time spent reviewing the record, deliberating, researching, drafting, revising, and issuing the award is billed at the hourly rate. Any request to clarify, correct, or modify an award will be handled as permitted by the governing agreement, rules, and law, and Arbitrator time devoted to such a request is billable.

12. Payment and Release of Award

Whitten ADR will apply deposits against fees and expenses as incurred and may provide periodic statements. All outstanding Arbitrator fees and expenses shall be paid before the final award is released, subject to applicable law and any governing rule that requires a different procedure. If additional funds are required to complete the award, the parties shall promptly replenish the deposit when requested.

If one party does not pay its share, another party may advance that amount subject to the provisions above concerning ultimate allocation.

13. Confidentiality and Privacy

The Arbitrator will maintain the confidentiality of nonpublic case materials and deliberations to the extent required by the parties' agreement, governing rules, and applicable law. The parties are responsible for identifying any protective order, confidentiality agreement, statutory restriction, or other special requirement that applies to information submitted in the arbitration.

The arbitration itself is not automatically confidential merely because it is an arbitration. Any confidentiality obligations imposed on the parties must arise from their agreement, applicable law, governing rules, or an order entered by the Arbitrator within his authority.

14. Arbitrator Immunity and No Attorney-Client Relationship

The Arbitrator acts in a neutral adjudicative capacity and does not represent or provide legal advice to any party. To the fullest extent permitted by applicable law, the Arbitrator and Whitten ADR shall have the same immunity from civil liability for acts or omissions in connection with the arbitration as would a judge acting in a judicial capacity. The parties agree not to subpoena or otherwise compel the Arbitrator to testify or produce deliberative materials concerning the arbitration except to the extent required by law.

15. Future Relationships and Continuing Obligations

The Arbitrator's service in this matter does not prohibit Whitten ADR from later serving as mediator, arbitrator, or neutral in an unrelated matter involving a party, counsel, law firm, insurer, witness, or other participant, provided any required disclosure is made and no conflict or other disqualification exists. The parties' and Arbitrator's disclosure obligations continue until the arbitration is concluded.

16. Acceptance and Entire Agreement

This Agreement addresses the Arbitrator's engagement and administration of the private arbitration. Case-specific procedural requirements may be established by later scheduling or procedural orders. If a later order conflicts with this Agreement on a procedural matter within the Arbitrator's authority, the later order controls as to that matter.



By signing below, the parties and counsel acknowledge that they have reviewed this Agreement, have authority to enter into it, and agree to be bound by its terms. Electronic signatures and counterparts are permitted.

CASE INFORMATION AND ACCEPTANCE

Case / Matter: _____

Party 1: _____

Party 2: _____

Counsel: _____

Counsel: _____

Email: _____

Email: _____

Party 3: _____

Party 4: _____

Counsel: _____

Counsel: _____

Email: _____

Email: _____

AGREED AND ACCEPTED BY SIGNATURE:

Party 1/ Authorized Representative

Party 2/ Authorized Representative

Counsel

Counsel

Party 3/ Authorized Representative

Party 4/ Authorized Representative

Counsel

Counsel

Christopher T. Whitten, Arbitrator

Date