

# ARBITRATION AGREEMENT

## 1. 1. Parties and Scope of Agreement

This Arbitration Agreement (the "Agreement") is made effective as of [EFFECTIVE DATE] between [PARTY A NAME], a [ENTITY TYPE OR INDIVIDUAL] located at [PARTY A ADDRESS], and [PARTY B NAME], a [ENTITY TYPE OR INDIVIDUAL] located at [PARTY B ADDRESS] (each a "Party" and together the "Parties"). This Agreement is [SELECT — a standalone agreement / incorporated into the [UNDERLYING CONTRACT TITLE] dated [DATE]] and governs the resolution of disputes between the Parties. Each Party represents that the person signing below has authority to bind it and has had the opportunity to review this Agreement with counsel.

## 2. 2. Agreement to Arbitrate and Covered Disputes

The Parties agree that any dispute, claim, or controversy arising out of or relating to their relationship, including the formation, interpretation, breach, termination, enforceability, or validity of [THE UNDERLYING CONTRACT / this Agreement], and including claims based on contract, tort, statute, fraud, misrepresentation, or any other legal theory, will be resolved exclusively by final and binding arbitration rather than in court, except as stated in Section 3. This Agreement covers claims that arose before its Effective Date to the extent permitted by law and claims that arise after it, and it survives termination of any underlying contract and the end of the Parties' relationship. BY SIGNING, EACH PARTY GIVES UP THE RIGHT TO A TRIAL BY JUDGE OR JURY AND THE RIGHT TO PARTICIPATE IN A CLASS ACTION.

## 3. 3. Claims Excluded from Arbitration

The following are not subject to arbitration and may be brought in any court of competent jurisdiction: (a) an application for a temporary restraining order, preliminary injunction, or other provisional relief to preserve the status quo or prevent irreparable harm, including to protect confidential information or intellectual property, pending the outcome of arbitration; (b) claims that qualify for small claims court, provided the claim remains on an individual basis in that court; (c) an action to compel arbitration or to confirm, vacate, or enforce an arbitration award; and (d) [ADDITIONAL EXCLUSIONS, e.g., mechanics lien enforcement, claims that applicable law prohibits from being arbitrated, or "None"]. Seeking provisional relief in court is not a waiver of the right to arbitrate.

## 4. 4. Administrator and Rules

Arbitration will be administered by [SELECT — the American Arbitration Association ("AAA") under its [AAA RULE SET, e.g., Commercial Arbitration Rules and Mediation Procedures / Consumer Arbitration Rules / Construction Industry Arbitration Rules] / JAMS under its [JAMS RULE SET, e.g., Comprehensive Arbitration Rules and Procedures / Streamlined Arbitration Rules and Procedures]], in each case as in effect when the arbitration is commenced (the "Rules"), except where those Rules conflict with this Agreement, in which case this Agreement controls to the extent permitted by the administrator. If the selected administrator is unavailable or declines to administer the case, the Parties will agree on a substitute administrator, and if they cannot agree within [SUBSTITUTE PERIOD, e.g., 30 days], either Party may petition a court of competent jurisdiction to appoint one. Where the Rules require expedited procedures for claims under a threshold amount, those procedures apply.

## 5. 5. Pre-Arbitration Notice and Informal Resolution

Before commencing arbitration, the Party asserting a claim will send the other Party a written Notice of Dispute describing the nature and basis of the claim, the relief sought, and a proposed resolution, delivered to the notice address in [THE UNDERLYING CONTRACT / this Agreement]. The Parties will then attempt in good faith to

resolve the dispute through direct discussion for at least [INFORMAL RESOLUTION PERIOD, e.g., 30 days] after the Notice of Dispute is received, and will [SELECT — participate in non-binding mediation administered by the same administrator before filing / proceed directly to arbitration if no resolution is reached]. Any applicable limitations period is tolled during this process. Compliance with this Section is a condition precedent to commencing arbitration, and either Party may seek a court order requiring compliance.

## **6. 6. Selection of the Arbitrator**

The arbitration will be heard by [SELECT — a single neutral arbitrator / a panel of three arbitrators], selected in accordance with the Rules. Where a single arbitrator is used, the administrator will provide a list of qualified candidates and the Parties will strike and rank in accordance with the Rules; if the Parties cannot agree, the administrator will appoint the arbitrator. Where a panel is used, each Party appoints one arbitrator and the two appointees select the third, who will chair the panel. The arbitrator must be [ARBITRATOR QUALIFICATIONS, e.g., a retired judge or an attorney with at least 10 years of experience in [SUBJECT MATTER]], must be neutral and independent, and must disclose any circumstance likely to affect impartiality. Either Party may challenge an arbitrator for cause in accordance with the Rules.

## **7. 7. Location, Language, and Governing Law**

The arbitration will take place in [ARBITRATION CITY AND STATE], or by videoconference or telephone if the arbitrator determines that remote proceedings are appropriate and no Party is materially prejudiced. Hearings will be conducted in English. This Agreement evidences a transaction involving interstate commerce, and the Federal Arbitration Act governs its interpretation and enforcement, including questions of arbitrability delegated to a court. The substantive law governing the underlying dispute is the law of the State of [GOVERNING STATE], without regard to conflict of laws rules. If a Party is a consumer and the designated location would impose an undue burden, the arbitration will be held in the county of that Party's residence or conducted remotely.

## **8. 8. Discovery and Pre-Hearing Procedure**

The Parties are entitled to reasonable discovery proportionate to the amount in controversy, as determined by the arbitrator in accordance with the Rules. Unless the arbitrator orders otherwise, each Party may serve [NUMBER OF DOCUMENT REQUESTS] document requests, take [NUMBER OF DEPOSITIONS] depositions, and exchange witness and exhibit lists at least [EXCHANGE DEADLINE, e.g., 30 days] before the hearing. The arbitrator will resolve all discovery disputes and may impose reasonable limits to keep the proceeding efficient and cost-effective. Dispositive motions may be filed only with leave of the arbitrator. The Parties will preserve documents and electronically stored information relevant to the dispute from the date of the Notice of Dispute.

## **9. 9. Authority of the Arbitrator and the Award**

The arbitrator has authority to grant any remedy that a court of competent jurisdiction could grant in an individual action, including compensatory damages, declaratory relief, specific performance, and permanent injunctive relief limited to the claiming Party, and to award interest, costs, and fees to the extent permitted by the governing law and this Agreement. The arbitrator will apply the substantive law identified in Section 7 and may not disregard it or award relief that this Agreement or applicable law prohibits. The award will be in writing, will state the essential findings and conclusions on which it is based, and will be issued within [AWARD DEADLINE, e.g., 30 days] of the close of the hearing. The award is final and binding, and judgment on it may be entered in any court having jurisdiction. Review is limited to the narrow grounds provided by the Federal Arbitration Act.

## **10. 10. Class Action Waiver and Individual Claims Only**

ALL CLAIMS MUST BE BROUGHT IN THE PARTY'S INDIVIDUAL CAPACITY AND NOT AS A

PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, COLLECTIVE, CONSOLIDATED, OR REPRESENTATIVE PROCEEDING. The arbitrator may not consolidate the claims of more than one person or entity, may not preside over any form of class or representative proceeding, and may not award relief to anyone who is not a party to this arbitration. If a court determines that this Section is unenforceable as to a particular claim or form of relief, that claim or form of relief will be severed and litigated in court while all remaining claims proceed in arbitration, and the remainder of this Agreement stays in effect. The Parties acknowledge that this waiver is a material and essential term of this Agreement.

#### **11. 11. Fees, Costs, and Allocation**

The Party initiating arbitration will pay the filing fee required by the Rules, except that where a Party is a consumer, that Party's share of filing, administrative, and arbitrator fees is capped at the amount that Party would have paid to file the same claim in court, and [BUSINESS PARTY NAME] will pay the remainder as required by the applicable consumer rules. Administrative and arbitrator fees are otherwise [SELECT — shared equally by the Parties / paid by [PARTY NAME] / allocated by the arbitrator in the final award]. Each Party bears its own attorney fees and expert costs unless the governing law, the underlying contract, or the arbitrator's award provides otherwise, in which case the arbitrator may award fees and costs to the prevailing Party. The arbitrator may reallocate fees and costs against a Party that asserts a frivolous claim or defense or that unreasonably increases the cost of the proceeding.

#### **12. 12. Confidentiality of the Proceeding**

The existence of the arbitration, all submissions, testimony, evidence, and the award are confidential and may not be disclosed except: to the Parties' attorneys, accountants, insurers, and advisors who need the information and agree to keep it confidential; as necessary to enforce or challenge the award or to comply with a court order or applicable law; or with the written consent of both Parties. Nothing in this Section prevents a Party from disclosing information to a government agency or from making a disclosure required by securities or accounting rules. Confidentiality obligations survive the conclusion of the arbitration.

#### **13. 13. Severability, Survival, and Waiver**

If any provision of this Agreement is held unenforceable, that provision will be severed or narrowed to the minimum extent necessary and the remainder will continue in effect, except that if the class action waiver in Section 10 is held unenforceable in its entirety with respect to all claims, this Agreement is void in its entirety as to those claims. This Agreement survives the expiration, termination, or rescission of any underlying contract and the end of the Parties' relationship. Neither the filing of a court action for the excluded relief described in Section 3 nor participation in the informal resolution process waives the right to arbitrate, and no delay in asserting the right to arbitrate constitutes a waiver absent material prejudice.

#### **14. 14. Right to Opt Out**

A Party may opt out of this Agreement by delivering written notice of that election to the other Party at the notice address within [OPT-OUT PERIOD, e.g., 30 days] after signing. The notice must include the Party's name, address, and a clear statement that the Party is opting out of arbitration. Opting out affects only this Agreement and does not affect any other term of the relationship between the Parties, and a Party that opts out will not be subject to retaliation or adverse treatment for doing so. If no timely opt-out notice is delivered, this Agreement is binding on the Parties for all covered disputes.

#### **15. 15. Signatures and Acknowledgment**

EACH PARTY ACKNOWLEDGES THAT IT HAS READ THIS ARBITRATION AGREEMENT,

UNDERSTANDS THAT IT IS GIVING UP THE RIGHT TO A JURY TRIAL AND THE RIGHT TO PARTICIPATE IN A CLASS ACTION, AND SIGNS IT VOLUNTARILY. [PARTY A NAME]. Signature: \_\_\_\_\_. Printed Name: [SIGNER NAME]. Title: [TITLE]. Date: [DATE]. [PARTY B NAME]. Signature: \_\_\_\_\_. Printed Name: [SIGNER NAME]. Title: [TITLE]. Date: [DATE]. This Agreement may be signed in counterparts, and electronic or scanned signatures have the same effect as originals.

## **16. Disclaimer**

This template is provided for general informational purposes only and is not legal advice. Arbitration agreements are governed by the Federal Arbitration Act and by state law, and courts refuse to enforce terms they consider unconscionable, including one-sided carve-outs, prohibitive fee-shifting, or an unreasonably distant forum. Consumer and employment arbitration carry additional requirements under administrator rules and, in some contexts, federal statutes limit mandatory arbitration of specific claims. Administrator rules and fee schedules change, so confirm the current AAA or JAMS rules before adopting them. Consult a licensed attorney before putting an arbitration agreement into use. Use of this template does not create an attorney-client relationship with ScanContract.

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