

PVP Program Arbitration Agreement

A dispute has arisen out of, or in connection with compensation under the PVP Program, and the parties executing this agreement below (hereinafter referred to as the “Parties”) did not resolve the dispute through negotiation or mediation and as such the Parties agree to submit those issues in dispute to binding arbitration pursuant to the specific Terms of Arbitration as set forth below and the PVP Program Claim Rules.

Terms of Arbitration

1 Arbitration under this Agreement

Arbitration under the PVP Program Claim Rules and this Agreement shall be defined as *a process of adjudication for the hearing of a disputed claim between the PVP Office and the Claimant by an independent Compensation Officer, whose decision will be final and binding*. This arbitration process is meant to provide a cost-effective, simple procedure for the Parties and to achieve a prompt, practical and just resolution, without extensive pre-hearing procedures.

2 Scope of Arbitration and Jurisdiction of Arbitrator

- a) The Claimant submitted a Standard Route claim to the PVP Office under the PVP Program, which claim is attached as Schedule “A”. The PVP Office rendered a claim decision, which is attached as Schedule “B”. The Claimant submitted a Request for Review - Arbitration, which is attached as Schedule “C”.
- b) This arbitration is a review of the Standard Route claim decision under the PVP Program. To succeed in this review the Claimant must prove on a balance of probabilities both: (i) that the claim examiner failed to apply the PVP Program Claim Rules, and (ii) that the claim examiner failed to make a reasonable determination based upon the PVP Program Claim Rules.
- c) The Arbitrator may not make any award that does not fall within the scope of the Arbitration and the PVP Program Claim Rules.
- d) Where the terms of this Agreement and the PVP Program Claim Rules are silent, or in the opinion of the Arbitrator are unclear, the Arbitrator will have the discretion to control the process in such a way as he or she deems appropriate and fair.

3 Consent to Binding Decision

This Agreement, when executed, signifies each Party’s understanding and agreement that the decision of the Arbitrator shall be final, binding and not subject to an appeal or review on any grounds whatsoever. For clarity, the failure of an arbitrator to comply with a provision of this agreement will not provide a basis for an appeal of the award or decision.

4 Appointment of Arbitrator

The PHAI will appoint the next Compensation Officer on its roster to act as a single Arbitrator within 10 days of executing the Arbitration agreement.

5 Appointment and duties of the Review Clerk

- a) The PVP Office shall appoint a PHAI employee or contractor to act as Review Clerk within five (5) days of execution of this Agreement.
- b) The claim file will be provided to the claimant and Arbitrator within 10 days of execution of the Arbitration Agreement
- c) The Review Clerk shall be responsible for the following:
 - i) The receipt, filing, and timely distribution to the Arbitrator of any briefs, forms, notices, documents, or other materials relating to the Arbitration process; and
 - ii) The scheduling of dates, times, and locations for Arbitration calls and hearings.
- d) The Review Clerk shall be responsible to the Arbitrator to carry out the clerical requests of the Arbitrator. The Review Clerk has no administrative responsibilities to the Parties by virtue of this Agreement.

6 Exchange of Information

- a) On request, and subject to applicable privacy legislation, the PVP staff shall make documents contained in the PVP claim file of the Claimant available to the Claimant for review at the PHAI office, unless that has already been done earlier as part of a mediation. The Claimant may request (at no charge) one copy of documents contained in their PVP claim file that they believe may be relevant to their claim.
- b) On request, other publicly available documents shall be made available to the Claimant for review at the PHAI office.
- c) Except as provided in this section, there shall be no oral or documentary discovery.

7 Time Limits, Motion, Scope of Arbitration

Except as otherwise agreed to by both parties and the Arbitrator there will be no preliminary motions for the arbitration.

8. Determination of Hearing Format

The arbitration hearing shall be held in writing.

9. Written Submissions

- a) Within 20 days of receiving an executed Arbitration Agreement, the Claimant shall provide to the PVP Office and to the Review Clerk written submissions containing only the following, unless otherwise agreed to by both Parties;
- b) submissions (maximum 25 pages in length) setting out the Claimant's position on the issues and any arguments that Claimant intends to make;
- c) evidence restricted to evidence submitted to the claim examiner for evaluation at the time the claim decision was considered or a professional review of any new valuation evidence relied upon by the PHAI in making its decision. Otherwise, no new evidence may be submitted at the time of the arbitration;
- d) any evidence as to the value of a property will come from a certified appraiser and may be attached to evidence referenced in (c); and
- e) a page is considered to be double-spaced using 12-point font.



- f) Fifteen (15) days following receipt by the Review Clerk of the claimant's submissions, the PVP Office shall provide a written response to the Claimant's written submissions, based upon the same terms and limitations applicable to the Claimant as provided for in section 9 (a).
- g) Failure to comply with time requirements in this Agreement may result in dismissal or allowance of the Claim in whole or in part, as may be determined by the Arbitrator.

10. Communication, Filing and Service of Documents

- a) All documents to be filed in relation to an arbitration hearing will be delivered to the other party and filed with the Review Clerk on or before 4 p.m. on the required date.
- b) All documents will be delivered by hand, registered mail or by using email in printable electronic pdf format at the physical or electronic address provided by the Party. Any document delivered to a Party after 4 p.m. is deemed to have been served on the next business day. Delivery by registered mail shall be to the address specified in the Request for Review.
- c) If the date for filing a document falls on a day which is not a business day, the deadline for filing will be extended to the next business day.
- d) All communication to the Arbitrator with respect to the arbitration shall be in writing sent through the Review Clerk and the other Party will be copied on all such communication.

11. Time Limits, Motions and Scope of Arbitrations

Except as otherwise agreed by both parties and concurred to by the Arbitrator, there will be no preliminary motions for the arbitration other than:

- (a) requests for increases to the page limitations for documents as set out in these rules, in extraordinary circumstances; and
- (b) requests to extend the timeframes set out in these rules because of illness or extraordinary or unforeseen circumstances. For the sake of clarity, a Party or their lawyers' other work commitments are not grounds for extending time.

Such motions will take place by written submissions to the Arbitrator and delivered through the Review Clerk.

12. No Discovery and Other Limitations

For greater certainty, there will be no oral or documentary discovery in the arbitration. The Arbitrator shall not have the power to appoint an expert to assist in his or her determination of the issues, award interest, or request from a court in Canada assistance in taking evidence.

13. Powers of Arbitrator and Types of Award

The Arbitrator will determine whether there was an error in the Claim Decision. The only powers of the Arbitrator are to:

- a) confirm the Claim Decision;
- b) with respect to a Claim Decision, find that there is an error in the Claim Decision but that is not material and does not affect the decision thus confirming the decision
- c) find that there is an error in the Claim Decision and provide the Claimant with an Award in the amount of project-related diminution proved by the Claimant; and/or
- d) award costs as contemplated in section 9.16.



14. Release of the Arbitration Decision

The Arbitrator will make reasonable efforts to release the arbitration decision to the parties within 15 days of the Arbitrator receiving all written material from the Review Clerk. Sparse or abbreviated reasons in an arbitration decision will be acceptable as part of the Simplified arbitration process, and will not be grounds for appeal or judicial review.

15. Types of Awards

- a) The Arbitrator shall award monetary relief only. The maximum amount that an Arbitrator may award in compensation is the amount claimed in Schedule A or such lesser amount as specified herein.
- b) Equitable remedies including injunctive relief and specific performance may not be imposed against the Parties.
- c) If the arbitrator finds that the request for review was reasonable, the filing fee will be refunded.

16. Reimbursements

- a) If the claim is determined to be reasonable, the Arbitrator shall make an award for the reimbursement of the Claimant for reasonable costs directly incurred by the Claimant to review the claim decision under this Arbitration Agreement. Reasonable costs shall not exceed \$1,500 except in exceptional circumstances.
- b) Exceptional circumstances means circumstances in which the Claimant is acting under a disability and lacks capacity under the Ontario Substitute Decisions Act, or is otherwise incapable of filing submissions.
- c) In determining whether a claim is reasonable and whether reimbursement of expenses is appropriate, the Arbitrator shall take into consideration the submissions of the Parties (if any), which can include but are not limited to submissions as to the conduct of the Parties throughout the process and any settlement offers that were rejected by the Claimant.
- d) Except where the Parties agree on payment of costs, submissions as to costs will be made in writing by a claimant within 5 days of the arbitration hearing and the PHAI will have a further 5 days to respond to the claimant's submission. Submissions will not exceed two pages plus supporting receipts. In order to qualify for payment of expenses, Claimant must submit copies of original, third Party receipts to the Arbitrator and PVP Office.

17. Prohibition against Future Assistance

It is agreed that the Arbitrator will neither represent nor testify on behalf of any of the Parties in any subsequent proceeding between the Parties or where they are opposed in interest. It is further agreed that the personal notes and written opinions of the Arbitrator made in relation to this arbitration are confidential and may not be used in any subsequent proceeding between the Parties or where they are opposed in interest.

18. Immunity

The Arbitrator will not be liable to any Party, lawyer or witness, or officer, director or employee of any Party for any act or omission in connection with the arbitration. Each Party will indemnify and hold harmless the Arbitrator in respect of such claims by or through that Party.

19. Confidentiality

Except for the sharing of written rulings and decisions amongst the PVP Program arbitrators and mediators on a confidential basis, all information pertaining to or relating to the arbitration, both written and oral, whether made prior to, during the course of the arbitration session, or after the arbitration, shall be treated as private and confidential by

the Parties and their representatives, unless otherwise required by law. However, the results of the arbitration and the decision itself may be made public. Where a Party is represented or assisted by an individual who is not a lawyer, the other Party may require that such individual sign a confidentiality agreement consistent with the obligations under this Agreement. A Party will be liable for the acts of any representative as if they were the Party's own acts. These obligations will survive the termination of this Agreement. However, evidence that is independently admissible or discoverable shall not be rendered inadmissible or non-discoverable by virtue of its use during the arbitration. For any breach of this section, either Party may (i) apply to a Court of competent jurisdiction to restrain a breach or seek other appropriate remedy not available to the Arbitrator under this Agreement; and/or (ii) terminate this Agreement.

Accepted by the Parties:

Claimant

Signature: _____ Date: _____

Print Name: _____

Claimant

Signature: _____ Date: _____

Print Name: _____

Address for delivery of Documents to Claimant:

Address of Property Subject to PVP claim:



Canadian Nuclear Laboratories Ltd., in its capacity as manager of the Port Hope Area Initiative

Signature: _____ Date: _____

Print Name: _____

I have the authority to bind the corporation.

Signature: _____ Date: _____

Print Name: _____

I have the authority to bind the corporation.

Address for delivery of Documents:

Att: PVP Review Clerk
Historic Waste Program Management Office
25 Henderson Street
Port Hope, ON
L1A 0C6

