

Draft
Family Law Arbitration Rules of Procedure
for Alberta and British Columbia

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Acknowledgments

These rules are partly based on a variety of sources including the Alberta Rules of Court, the British Columbia Supreme Court Family Rules, the Domestic Commercial Arbitration Rules of Procedure of the British Columbia International Commercial Arbitration Centre and the rules of the ADR Institute of Canada.

Family Law Arbitration Rules of Procedure for Alberta and British Columbia

OVERVIEW FOR PARTICIPANTS

ABOUT THESE RULES

These Rules of Procedure have been designed for the resolution of family law disputes.

Resolving a dispute through arbitration is like resolving a dispute through court. The people involved, the parties to the dispute, present their evidence and arguments to an impartial, independent and fair legal professional, who makes a decision resolving the dispute based on the evidence and arguments. In court, this person is a judge; in arbitration, this person is an *arbitrator*.

In court, the procedural rules, called the Rules of Court, apply equally to all disputes. They are not flexible and cannot usually be changed or abridged, even if the parties agree to the change. In arbitration, the Rules of Procedure can be adapted by the parties to suit their dispute, their circumstances and their financial resources.

You should read these rules carefully, whether you are represented by a lawyer at your arbitration proceeding or not. You should think about how the rules apply to you and your dispute, and whether there are any changes that would make the process more efficient while still resolving the legal issues in your dispute fairly. You should also think about:

- a) the impact of the arbitration, and the conflict between you and the other people involved in your dispute, on your children;
- b) how you can reduce conflict and encourage cooperation between you and the other parties;
- c) the cost of the arbitration process; and,
- d) the speed and efficiency of the arbitration process.

It is important that the rules that govern your arbitration proceeding, and the extent of the different procedures they provide, are proportionate to:

- a) the wellbeing and interests of your children, and the future interests of your family as a whole;
- b) the importance and complexity of the issues involved in the dispute;

- c) the value of any support claims and any property or debt in dispute; and,
- d) your own wellbeing and long-term interests.

You will have the opportunity to talk about the Rules of Procedure before the arbitration hearing begins, in consultation with the arbitrator. These rules include a number of procedural options, summarized below, but you can make other changes as well, including changes to how evidence is handled during the hearing. Any changes that all parties agree to, providing those changes do not make the process unfair, will be followed in your arbitration proceeding. Once the process is underway, however, it can be very difficult to make further changes to the rules.

LIMITS OF ARBITRATION

The result of an arbitration proceeding is an *arbitral award*. This award is enforceable in court, just like a court order, but is not the same as an order of the court. Arbitration cannot deal with legal issues that only an order can address. Among other things, arbitration cannot:

- a) make you divorced, if you are married;
- b) decide that your marriage is invalid or annul your marriage;
- c) change a court order, including orders from other provinces and orders from other countries, unless the order says so;
- d) let you adopt a child; or,
- e) legally change your name.

SETTLEMENT

It is almost always better to come to an agreement about how a family law dispute should be resolved, called a *settlement*, than to leave the final resolution to a judge or an arbitrator. You can reach a settlement at any time during the arbitration proceeding.

If you are able to reach an agreement on all or some of the legal issues in your family law dispute during the arbitration proceeding, the terms of your settlement will be made into a final arbitral award, called a *consent award*.

ARBITRAL AWARDS AND COURT ORDERS

Whether you are able to reach an agreement on the legal issues in your family law dispute or the arbitration proceeding ends with a hearing and an arbitral award, you can include the terms of the settlement or award in a court order as long as all parties agree to do so. The order will

be made by the court as an order that all parties agree the court should make, called a *consent order*.

PROCEDURAL OPTIONS

The following procedural options are described in more detail in Part V of the rules; the default process is a decision based on written and limited oral evidence, as set out in Division 4 of Part V. You can change these procedural options to better suit your circumstances and your dispute, as long as all parties agree to those changes and the changes do not make the arbitration proceeding unfair.

The *claimant* is the person who goes first at an arbitration hearing. Usually, this person is the person who starts the arbitration proceeding. The *respondent*, or respondents, because there can be more than two parties involved in a family law dispute, is the person or people who go next. There are no really important advantages to being the claimant or a respondent.

Once the arbitration proceeding has started, the claimant prepares a *claim*, a document summarizing the important facts, the legal issues and the award the claimant thinks would be most appropriate. The respondent then prepares a *response to claim*, a document summarizing the important facts, from the respondent's point of view, the legal issues, the award the respondent thinks would be most appropriate, and the respondent's views of the award sought by the claimant.

Division 2: Decision on a legal issue

This process is intended to resolve one or more legal issues when the claimant and the respondent mostly agree on the important facts. There are no witnesses and no other evidence is presented. There may or may not be an oral hearing before the arbitrator, and this process will usually be the fastest and least expensive way of arbitrating a family law dispute.

The parties must complete a few preliminary steps:

- 1) The parties prepare an agreed statement of the facts relevant to the legal issues.
- 2) The parties exchange books of authority, electronic binders with the case law and statute law they will be relying on at the hearing.

Once these steps are complete, the arbitrator will schedule a hearing if a party requests. At that hearing, the parties will present oral arguments to the arbitrator about how the legal issues should be decided. If no one requests a hearing, each of the parties will provide a written argument to the arbitrator explaining why the arbitrator should make the award the party wants.

Division 3: Decision on written evidence

This process is intended to resolve legal issues when the claimant and the respondent mostly agree on the important facts, or when any disputes about the facts are relatively minor. There are no witnesses, and all evidence is presented in writing, though written statements, experts' reports, business records and other documents. The facts and legal issues will be resolved at a final hearing before the arbitrator, and there may be one or more interim hearings, hearings in which a party asks the arbitrator for a short-term or temporary award, before the final hearing.

The preliminary steps before the final hearing include:

- 1) The arbitrator decides, after consulting with the parties, about any expert reports that will help to resolve the dispute, which experts will prepare those reports, the questions the experts will be asked to address and the date when the reports will be completed.
- 2) The parties exchange copies of the written statements they will be relying on at the hearing.
- 3) The parties prepare a statement of agreed facts, setting out the facts that are not in dispute.
- 4) The parties exchange books of authority.

Once these steps are complete, the arbitrator will schedule a hearing if a party requests. At that hearing, the parties will present their evidence as well as oral arguments to the arbitrator about how the facts and the legal issues should be decided. If no one requests a hearing, the parties will provide written arguments to the arbitrator.

Division 4: Decision on written and limited oral evidence

This process is intended to resolve legal issues when the parties cannot agree on important facts and some oral evidence will help to resolve the facts in dispute. The main evidence of each party's witnesses is presented in writing, through written statements, and each of those witnesses may be subject to limited oral cross-examination by the other parties. All other evidence is presented in writing, through experts' reports, business records and other documents. The facts and legal issues will be resolved at a final hearing before the arbitrator, and there may be one or more interim hearings before the final hearing.

The preliminary steps before the final hearing include:

- 1) The arbitrator decides, after consulting with the parties, about any expert reports that will help to resolve the dispute, which experts will prepare those reports, the questions the experts will be asked to address and the date when the reports will be completed.

- 2) The parties agree, or a decision is made, about the witnesses who will be cross-examined and the amount of time that will be provided for the cross-examination of each of these witnesses.
- 3) The parties exchange copies of the written statements they will be relying on at the hearing.
- 4) The parties prepare a statement of agreed facts, setting out the facts that are not in dispute.
- 5) The parties exchange books of authority.

Once these steps are complete, the arbitrator will schedule a hearing. At that hearing, the parties will present their evidence and cross-examine the other parties' witnesses, and make oral arguments to the arbitrator about how the facts and the legal issues should be decided.

Division 5: Decision on limited oral evidence

This process is intended to resolve legal issues when the parties cannot agree on important facts and oral evidence will help to resolve the facts in dispute. Most evidence is presented orally, through the evidence of a limited number of witnesses in a limited amount of time. The evidence of each party's witnesses is presented through direct examination, and each of those witnesses may be subject to oral cross-examination by the other parties. All other evidence is presented in writing, through experts' reports, business records and other documents. The legal issues will be resolved at a final hearing before the arbitrator, and there may be one or more interim hearings before the final hearing.

The preliminary steps before the final hearing include:

- 1) The arbitrator decides, after consulting with the parties, about any expert reports that will help to resolve the dispute, which experts will prepare those reports, the questions the experts will be asked to address and the date when the reports will be completed.
- 2) The parties agree, or a decision is made, about the number of witnesses each party may present, and the amount of time that will be provided for the direct examination and cross-examination of each witness.
- 3) The parties exchange will-say statements for each of their witnesses, statements that summarize the things each witness will say in their direct examination.
- 4) The parties prepare a statement of agreed facts, setting out the facts that are not in dispute.
- 5) The parties agree, or a decision is made, about when offers to settle will be exchanged.

- 6) The parties exchange books of authority.

Once these steps are complete, the arbitrator will schedule a hearing. At that hearing, the parties will present their evidence and cross-examine the other parties' witnesses, and make oral arguments to the arbitrator about how the facts and the legal issues should be decided, and whether a party should be ordered to pay for the costs of the arbitration proceeding.

Division 6: Decision on full oral evidence

This process is intended to resolve legal issues when the parties cannot agree on the facts and oral evidence will help to resolve the facts in dispute. Most evidence is presented orally, through the direct examination and cross-examination of each party's witnesses. All other evidence is presented in writing, through experts' reports, business records and other documents. The legal issues will be resolved at a final hearing before the arbitrator, and there may be one or more interim hearings before the final hearing. This is the arbitration process that is the most similar to how trials work in court, and will usually be the slowest and most expensive way of arbitrating a family law dispute.

The preliminary steps before the final hearing include:

- 1) The arbitrator decides, after consulting with the parties, about any expert reports that will be needed to resolve the disputes, which experts will prepare those reports, the questions the experts will be asked to address and the date when the reports will be completed. The arbitrator also decides about whether the parties will be able to present expert reports of their own.
- 2) The parties agree, or a decision is made, about when the parties will exchange interrogatories, lists of questions that must be answered by the other party on oath or affirmation, and when the answers to those questions must be provided.
- 3) The parties agree, or a decision is made, about whether the parties will be entitled to cross-examine each other privately and in the absence of the arbitrator, called a questioning in Alberta and an examination for discovery in British Columbia.
- 4) The parties exchange will-say statements for each of their witnesses.
- 5) The parties prepare a statement of agreed facts, setting out the facts that are not in dispute.
- 6) The parties agree, or a decision is made, about when offers to settle will be exchanged.
- 7) The parties exchange books of authority.

Once these steps are complete, the arbitrator will schedule a hearing. At that hearing, the parties will present their evidence and make oral arguments to the arbitrator about how the facts and the legal issues should be decided, and whether a party should be ordered to pay for the costs of the arbitration proceeding.

Division 7: Decision on limited oral evidence from inquisition

This process is intended to resolve legal issues when the parties are not represented by lawyers, the parties cannot agree on important facts and oral evidence will resolve those disputes. Most evidence is presented orally, through the answers of a limited number of witnesses to questions asked by the arbitrator, with each party having a limited right to ask further questions of each witness. All other evidence is presented in writing, through experts' reports, business records and other documents. The legal issues will be resolved at a final hearing before the arbitrator, and there may be one or more interim hearings before the final hearing.

The preliminary steps before the final hearing include:

- 1) The arbitrator decides, after consulting with the parties, about any expert reports that will help to resolve the dispute, which experts will prepare those reports, the questions the experts will be asked to address and the date when the reports will be completed.
- 2) The parties agree, or a decision is made, about the which witnesses will be asked to give evidence and how long each party will have to ask further questions of each witness after the arbitrator's questions.
- 3) The parties agree, or a decision is made, about when offers to settle will be exchanged.
- 4) The parties exchange books of authority.

Once these steps are complete, the arbitrator will schedule a hearing. At that hearing, the parties will present their witnesses for questioning by the arbitrator, and make oral or written arguments to the arbitrator about how the facts and the legal issues should be decided.

THE ARBITRATION AGREEMENT

Whether you are represented by a lawyer or not, the arbitrator will ask you and the other parties to sign a contract prepared by the arbitrator, called an *arbitration agreement*. In this contract, you and the other parties will agree to be bound by the result of the arbitration proceeding. You will also agree to other things, including:

- a) on the person who will be your arbitrator;

- b) on the city or town where the arbitration hearings will happen or, if you agree, that the hearings will be held by teleconference or electronically, though FaceTime or Skype, for example;
- c) on how and how much the arbitrator will be paid for his or her services, including on any deposits that the arbitrator may require in advance;
- d) on the legal issues that will be addressed in the arbitration hearing;
- e) on the law that the arbitrator will apply in resolving your family law dispute;
- f) that you will not go or go back to court to address any of the issues that are being arbitrated;
- g) that you will provide copies of all documents that are relevant to the legal issues, and tell the other parties if anything changes that affects the accuracy of the information and documents provided; and,
- h) that these rules will govern your arbitration proceeding.

You will also agree that the documents and evidence provided in the arbitration proceeding will remain private and confidential.

OVERVIEW FOR LAWYERS

ABOUT THESE RULES

These Rules of Procedure have been designed to resolve family law disputes quickly and efficiently, and at a minimum cost to the parties. They provide an array of built-in procedural options intended to give substance to the principle that the degree, duration and complexity of the dispute resolution process provided should be proportionate to the importance, value and complexity of the matters in dispute.

Disputes are presumptively resolved through written statements and the limited cross-examination of the parties on their written statements, presented at an abbreviated oral hearing. Other procedural options include a process intended to resolve points of law on submissions alone, and a process that includes all of the procedural options available in court, such as interrogatories, out-of-court examinations, lists of documents and private experts' reports. Another option is intended for, but not limited to, parties without counsel and provides an inquisitorial process in which the primary examination of witnesses is performed by the arbitrator. All of these procedural options are summarized in the table below and may, of course, be altered and adapted to suit the needs of the parties and the circumstances of their specific dispute.

These rules are intended to encourage settlement, where reasonably possible, and provide simple, easy-to-use forms. Following the example of some courts, the forms take a fill-in-the-blanks approach intended to deprive parties of the opportunity to provide provocative narrative statements itemizing grievances and complaints. The rules are written in plain language for the benefit of the parties to a family law dispute, and encourage them to act in good faith and to consider the effect of their conflict and the arbitration process on themselves and on their children.

The rules adopt a child-centred focus reflecting our obligations under the UN Convention on the Rights of the Child. Evidence of the views and preferences of children may be presented through a variety of means, from parenting assessments, to views of the child reports, to interviews with the arbitrator. In especially difficult disputes, a lawyer may be appointed to represent a child using the instructional advocacy approach required by the children’s advocate offices of many provinces.

There is much room for improvement to this first draft. Please contact John-Paul Boyd if you have any questions, comments or concerns about these rules and any suggestions for their improvement.

PROCEDURAL OPTIONS

In this chart, *optional* means that a party may choose to undertake a procedural step, while *discretionary* means that a procedural step is available to a party at the discretion of the arbitrator. *Yes* means that a step is mandatory and *limited* means that the arbitrator may impose limits on the number of witnesses and the length of the parties’ right to examine or cross-examine a witness.

Step	Division 2 Decision on a legal issue	Division 3 Decision on written evidence	Division 4 Decision on written and limited oral evidence	Division 5 Decision on limited oral evidence	Division 6 Decision on oral evidence	Division 7 Decision on oral evidence from inquisition
Production of minimum disclosure documents				Yes	Yes	Yes
Production of lists of documents			Discretionary	Discretionary	Discretionary	
Order to produce documents	Yes	Yes	Yes	Yes	Yes	Yes
Compel written questioning		Discretionary	Discretionary	Optional	Optional	Discretionary
Compel oral questioning		Discretionary	Discretionary	Optional	Optional	
Statement of agreed facts	Yes	Yes	Yes	Yes	Yes	Yes

Step	Division 2 Decision on a legal issue	Division 3 Decision on written evidence	Division 4 Decision on written and limited oral evidence	Division 5 Decision on limited oral evidence	Division 6 Decision on oral evidence	Division 7 Decision on oral evidence from inquisition
Presenting the views of children		Optional	Yes	Yes	Yes	Yes
Appointment of children’s lawyer				Optional	Optional	Yes
Arbitrator’s expert reports	Discretionary	Discretionary	Discretionary	Discretionary	Discretionary	Discretionary
Party’s own expert reports					Optional	
Witness will-say statements				Yes	Yes	
No oral hearing	Optional	Optional				
Oral hearing	Optional	Optional	Yes	Yes	Yes	Yes
Evidence in direct in writing		Yes	Yes	Optional	Optional	
Direct examination of witnesses				Limited	Yes	Limited
Cross-examination of witnesses			Limited	Limited	Yes	Limited
Submission of books of authority	Yes	Yes	Yes	Yes	Yes	Yes

TIMELINES

Part II: Beginning the Arbitration Proceeding

Rule	Step	Timeline
Rule 13	Parties, lawyers and arbitrator attend pre-arbitration conference	Convened within 21 days of start of arbitration proceeding
	Arbitrator’s record of orders made at conference	Delivered within 7 days of conference
Rule 15	Claimant’s claim, financial statement and minimum disclosure documents	Delivered within 14 days of conference
	Respondents’ responses to claim, financial statements and minimum disclosure documents	Delivered within 14 days of delivery of claim
	Claimant’s reply to response to claim	Delivered within 7 days of delivery of response to claim

Part III: Exchanging Documents and Information

Rule	Step	Timeline
Rule 18	Notice to produce list of documents	Delivered not less than 28 days before start of hearing
	Produce list of documents	Provided to requesting party within 14 days of delivery of notice
Rule 20	Notice to answer written questions	Delivered not less than 28 days before start of hearing
	Written statement in response to questions	Provided to requesting party within 7 days of delivery of notice

Rule	Step	Timeline
Rule 21	Notice to answer oral questions at examination	Delivered not less than 35 days before start of hearing
	Examination	Completed not less than 21 days before start of hearing
Rule 22	Statement of agreed facts	Delivered to arbitrator at least 7 days before start of hearing

Part IV: Application Procedure

Rule	Step	Timeline
Rule 23	Application respondents' responses to application, written statements	Delivered no more than 7 days after delivery of applicant's application and written statements
	Applicant's written statement in reply to written statements of application respondents	Delivered no more than 7 days after delivery of response to application

Part V: Oral Hearing Procedures

Timeline	Division 2 Decision on a legal issue	Division 3 Decision on written evidence	Division 4 Decision on written and limited oral evidence	Division 5 Decision on limited oral evidence	Division 6 Decision on oral evidence	Division 7 Decision on oral evidence from inquisition
At least 21 days from start of hearing	Report of arbitrator's expert	Report of arbitrator's expert	Report of arbitrator's expert	Report of arbitrator's expert	Report of arbitrator's expert	Report of arbitrator's expert
		Claimant's written statements	Claimant's written statements	Claimant's written statements	Claimant's written statements	
At least 14 days from start of hearing		Respondents' written statements	Respondents' written statements	Respondents' written statements	Respondents' written statements	
					Report of party's own expert	
At least 7 days from start of hearing		Claimant's written statements in reply	Claimant's written statements in reply	Claimant's written statements in reply	Claimant's written statements in reply	
			Witness notice to attend	Witness and expert notice to attend	Witness and expert notice to attend	
				Witnesses' will-say statements	Witnesses' will-say statements	
		Answers to written questions	Answers to written questions	Answers to written questions	Answers to written questions	Answers to written questions
		Transcript of answers to oral questions	Transcript of answers to oral questions	Transcript of answers to oral questions	Transcript of answers to oral questions	
	Parties' books of authority	Parties' books of authority	Parties' books of authority	Parties' books of authority	Parties' books of authority	Parties' books of authority

Timeline	Division 2 Decision on a legal issue	Division 3 Decision on written evidence	Division 4 Decision on written and limited oral evidence	Division 5 Decision on limited oral evidence	Division 6 Decision on oral evidence	Division 7 Decision on oral evidence from inquisition
	Statement of agreed facts	Statement of agreed facts	Statement of agreed facts	Statement of agreed facts	Statement of agreed facts	Statement of agreed facts

Part VI: Final Awards

Rule	Step	Timeline
Rule 51	Arbitrator's final award	Completed and delivered no more than 70 days after close of hearing
Rule 52	Request to correct final award	Delivered no more than 14 days after delivery of final award
	Arbitrator's correction of final award	Completed no more than 28 days after delivery of final award
Rule 53	Request to clarify final award	Delivered no more than 14 days after delivery of final award
	Arbitrator's clarification of final award	Completed no more than 28 days after delivery of final award

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PART I: INTRODUCTORY AND GENERAL RULES

1. Definitions

- (1) In these Rules, unless the context requires a different meaning,
- (a) “address for delivery” means the email address provided by a party or the arbitrator for the delivery of notices, communications and documents related to the arbitration proceeding under Rule 7;
 - (b) “applicant” means a party who has delivered an application under Rule 23;
 - (c) “application” means an application in Form 7;
 - (d) “application respondent” means a party who has delivered a response to application under Rule 23;
 - (e) “application response” means an application response in Form 8;
 - (f) “arbitration agreement” means the written agreement of the parties to submit specified legal issues in a family law dispute to arbitration;
 - (g) “arbitrator” means the legal professional appointed to conduct the arbitration proceeding and determine the legal issues identified in the arbitration agreement;
 - (h) “award” means the arbitrator’s written determination of the legal issues identified in the arbitration agreement, on a temporary or final basis, and includes:
 - (i) interim awards and final awards, and
 - (ii) awards on collateral issues that must be determined to resolve the legal issues identified in the arbitration agreement;
 - (i) “book of authority” means an electronic binder or other electronic document containing complete copies of any case law and excerpts of any statute law on which a party intends to rely in written or oral argument;
 - (j) “business day” means a day on which court registries are open for business in Alberta or British Columbia;
 - (k) “claim” means a claim in Form 3 and is a statement of a party under section 25 of the *Alberta Arbitration Act*;
 - (l) “claimant” means the party who has delivered a claim under Rule 15;

- (m) “deliver,” unless a Rule requires a different interpretation, means to send a document to the arbitrator’s address for delivery and to the address for delivery of all other parties to the arbitration proceeding;
- (n) “expert” means an independent, impartial person with special knowledge of or skill in a subject and includes psychiatrists, psychologists, counsellors, therapists, social workers, valuers, appraisers, actuaries, accountants and assessors;
- (o) “family law dispute” means a dispute between two or more persons about legal issues arising from the breakdown of a family relationship and includes the parenting of a child, parenting time and contact with a child, the payment of child support and children’s expenses, the payment of spousal support, the use of, interests in or the division of property, and responsibility for debt;
- (p) “minimum disclosure documents” means the documents described in Rule 17(2);
- (q) “oral evidence” means the answers given by a witness, on the witness’ promise to tell the truth, in response to questions asked in the direct examination or cross-examination of the witness;
- (r) “order” means a direction given by the arbitrator about the conduct of the arbitration proceeding;
- (s) “party” means a person who has signed an arbitration agreement concerning a family law dispute;
- (t) “reply to response to claim” means a reply to response to claim in Form 5 and is a statement of a party under section 25 of the *Alberta Arbitration Act*;
- (u) “respondent” means a party who has delivered a response to claim under Rule 15;
- (v) “response to claim” means a response to claim in Form 4 and is a statement of a party under section 25 of the *Alberta Arbitration Act*;
- (w) “Rules” means these Family Law Arbitration Rules of Procedure;
- (x) “site” means the province in which an arbitration proceeding occurs;
- (y) “witness” means a person, including a party, who provides oral evidence or a written statement in an arbitration proceeding;
- (z) “writing” includes information communicated through text in emails, computer files and other electronic documents; and,

(aa) “written statement” means evidence provided by a witness, on the witness’ promise to tell the truth, that is in writing and is physically or electronically signed by the witness.

(2) In these Rules,

(a) for arbitration proceedings sited in Alberta, words and phrases not defined in this Rule have the same meanings as in the Alberta *Family Law Act*, the *Matrimonial Property Act* and the *Adult Interdependent Relationships Act*, or in the Alberta *Interpretation Act* if the word or phrase is not defined in the *Family Law Act*, the *Matrimonial Property Act* or the *Adult Interdependent Relationships Act*;

(b) for arbitration proceedings sited in British Columbia, words and phrases not defined in this Rule have the same meanings as in the British Columbia *Family Law Act*, or in the British Columbia *Interpretation Act* if the word or phrase is not defined in the *Family Law Act*;

(c) “arbitrator” includes an arbitration tribunal under the *Arbitration Act* of Alberta or the *Arbitration Act* of British Columbia;

(d) words in the singular include the plural and words in the plural include the singular; and,

(e) words signifying a person of a particular gender include persons of all genders.

(3) References to the law of Alberta apply to arbitration proceedings sited in Alberta, and references to the law of British Columbia apply to arbitration proceedings sited in British Columbia.

2. Application of Rules

(1) These Rules apply to the arbitration of family law disputes in Alberta and British Columbia where the parties to a dispute have agreed or are required to arbitrate the dispute.

(2) These Rules do not apply to:

(a) arbitration proceedings under commercial agreements;

(b) arbitration proceedings under the *International Commercial Arbitration Act* of Alberta or the *International Commercial Arbitration Act* of British Columbia; and,

(c) arbitration proceedings under the statutes, treaties and agreements listed at section 2(3) of the *Arbitration Act* of Alberta and section 2(4) of the *Arbitration Act* of British Columbia.

3. Forms and purpose of Rules

- (1) The purpose of these Rules is to:
 - (a) help the parties to a family law dispute resolve the legal issues identified in their arbitration agreement fairly and in a way that:
 - (i) takes into account the impact that their dispute and the manner of its resolution may have on any children, and
 - (ii) minimizes conflict and promotes cooperation between the parties;
 - (b) secure the fair, speedy and inexpensive determination of a family law dispute on its merits; and,
 - (c) encourage the parties to communicate honestly and in a timely way.
- (2) Securing the fair, speedy and inexpensive determination of a family law dispute on its merits includes managing the arbitration proceeding, to the extent possible, in ways that are proportionate to:
 - (a) the wellbeing and interests of any children, and the future functioning of the family as a whole;
 - (b) the importance and complexity of the issues in dispute; and,
 - (c) the financial value of any support obligations, and of any property or debt in dispute.
- (3) The forms provided in Part VII of the Rules may be changed or adapted as necessary in the circumstances of a family law dispute, providing the changes or adaptations do not mislead, confuse or alter the purpose of the form.

4. Deadlines and counting time

- (1) In counting time under these Rules, the first day of a time period is excluded and the last is included.
- (2) Where the time for doing something under these Rules falls or ends on a day that is not a business day, the time for doing of that thing is extended to the next business day.

5. Breach of Rules and waiver of breach

- (1) A party who is aware of a failure to comply with these Rules and continues with the arbitration proceeding without promptly delivering notice of the party's objection to the failure is deemed to have waived the right to object to the failure.
- (2) The arbitrator will determine whether a party has waived the right to object to a failure to comply with the Rules.

6. Changes to Rules

- (1) These Rules may be changed by:
 - (a) an agreement of the parties reached before the arbitration proceeding has started;
 - (b) the determination of the arbitrator, in consultation with the parties, before the arbitration proceeding has started; or,
 - (c) an agreement of the parties reached, in consultation with the arbitrator, at the start of or during the arbitration proceeding.
- (2) Where an agreement to change these Rules has been reached before the arbitration has started, the parties will notify the arbitrator of the agreed changes in writing before or at the start of the arbitration proceeding.

7. Communication and address for delivery

- (1) Each party and the arbitrator must maintain a working, accessible email address as an address for delivery until the arbitration proceeding is terminated.
- (2) A party may change the party's address for delivery at any time by delivering notice of the party's new address for delivery.
- (3) Any communications, notices or documents required or permitted under these Rules may be delivered by sending the communication, notice or document by email to all other parties and to the arbitrator, at the same time, at their addresses for delivery.
- (4) The parties should only communicate with the arbitrator about the arbitration proceeding and the facts and the legal issues in dispute in the proceeding:
 - (a) in the presence of the other party, whether present in person, by teleconference, by videoconference or by other means; or,

- (b) in writing, copying the communication to all other parties at the same, as provided in these Rules or as previously agreed to by the parties.

8. The role of the arbitrator

- (1) The arbitrator will conduct the arbitration proceeding in the manner the arbitrator considers appropriate but will, throughout the arbitration proceeding:
 - (a) be independent and impartial in all contacts with the parties and their lawyers;
 - (b) treat each party fairly and equally; and,
 - (c) not advance the interests of one party over those of another party.
- (2) The arbitrator will, throughout the arbitration proceeding, prioritize the interests and wellbeing of any children and the resolution of major procedural and legal issues over the resolution of minor procedural and legal issues.
- (3) The arbitrator will strive to achieve a fair, speedy and inexpensive determination of the arbitration proceeding on its merits.
- (4) In accordance with article 12 of the *UN Convention on the Rights of the Child*, the arbitrator will assure to the child who is capable of forming a considered opinion the right to express those views freely in all matters affecting the child, and will give weight to the views of the child in accordance with the age and maturity of the child. For this purpose, the child will in particular be provided the opportunity to be heard, including through a representative, in a manner consistent with these Rules.
- (5) The arbitrator will make awards about the guardianship of a child, decision-making in respect of a child, and parenting time and contact with a child considering only the best interests of the child, as defined at section 18 of the *Family Law Act* of Alberta, in arbitration proceedings sited in Alberta, or at section 37 of the *Family Law Act* of British Columbia, in arbitration proceedings sited in British Columbia.

9. The role of the parties

- (1) The parties to an arbitration must:
 - (a) make their best efforts to comply with these Rules, respond promptly to communications and observe deadlines agreed to or prescribed by these Rules;
 - (b) act in good faith throughout the arbitration proceeding and treat each other with courtesy, civility and respect;

- (c) make their best efforts at all times to place the wellbeing and interests of any children, and the future functioning of the family as a whole, ahead of their personal interests;
 - (d) provide to all other parties the minimum disclosure documents as required by these Rules, as well as such other documents and information that may be ordered by the arbitrator or be reasonably requested by another party, providing the documents and information are relevant to the facts and legal issues in the dispute;
 - (e) prioritize the resolution of major procedural and legal issues over the resolution of minor procedural and legal issues and any grievances which may arise during the arbitration proceeding; and,
 - (f) carefully consider the possibility of settlement at each step in the arbitration proceeding.
- (3) If, during the arbitration proceeding, a party discovers that the party cannot comply with an obligation, an agreed deadline, a deadline prescribed by these Rules, an interim award or an order made by the arbitrator, the party will immediately notify the other parties and the arbitrator.
- (4) If, during the arbitration proceeding, a party discovers:
- (a) new documents or information that are relevant to the facts and legal issues in the dispute; or,
 - (b) that documents or information previously provided are no longer accurate,
- the party will immediately notify the other parties and the arbitrator.

10. Jurisdiction

- (1) The arbitrator may rule on the arbitrator's jurisdiction, including on any objections with respect to the existence or validity of the arbitration agreement.
- (2) Any objection to the jurisdiction of the arbitrator to consider a legal issue must be raised in a response to claim or a reply to response to claim. The arbitrator may consider an objection made after the delivery of the response to claim or reply to response to claim if the arbitrator considers the delay to be justified.
- (3) A party may raise an objection to the jurisdiction of the arbitrator despite appointing or participating in the appointment of the arbitrator.

11. Confidentiality

- (1) Unless otherwise agreed by the parties or required by law, all communications, notices, documents and information provided in an arbitration proceeding are private and confidential as between the parties, their lawyers and the arbitrator.
- (2) Unless otherwise agreed by the parties, all meetings, conferences and hearings in the arbitration proceeding will be held in private.

PART II: BEGINNING THE ARBITRATION PROCEEDING

12. Initial steps

- (1) The parties to a family law dispute may submit the legal issues involved in the dispute to arbitration if:
 - (a) the dispute is subject to an arbitration clause in an agreement or a court order; or,
 - (b) the parties agree in writing that the dispute should be resolved by arbitration.
- (2) The parties will appoint a single legal professional to act as arbitrator, and the person appointed will be:
 - (a) the legal professional agreed to by the parties;
 - (b) failing the parties' agreement, the legal professional named by a family law arbitrators' association to arbitrate the dispute or, if no such organization exists or the organization will not name a professional, then the legal professional named by a civil law arbitrators' association; or,
 - (c) the legal professional named by an order of the court to arbitrate the dispute.
- (3) An arbitration proceeding starts when:
 - (a) either
 - (i) a party provides a notice of arbitration to the arbitrator in Form 1 together with a copy of the agreement or order authorizing or requiring the resolution of the family law dispute through arbitration, and serves a copy of the notice of arbitration to all other parties, or

- (ii) the parties provide a joint notice of arbitration to the arbitrator in Form 2 together with a copy of any agreement or order authorizing or requiring the resolution of the dispute through an arbitration proceeding;
- (b) the arbitrator accepts the appointment as arbitrator;
- (c) the parties and their lawyers, if any, have signed the arbitration agreement provided by the arbitrator; and,
- (d) the parties have paid any commencement fees, retainer fees or other fees that may be required by the arbitrator.

13. Conference

- (1) The arbitrator will convene a conference of the parties and their lawyers within 21 days of the start of the arbitration proceeding.
- (2) The agenda for the conference may include:
 - (a) clarifying the legal issues to be addressed in the arbitration proceeding and identifying any of the legal issues that have been resolved;
 - (b) determining the procedure to be followed in the arbitration proceeding;
 - (c) determining any changes that will be made to these Rules;
 - (d) identifying a party as the claimant for the purposes of the arbitration proceeding under Rule 14;
 - (e) identifying any documents to be exchanged between the parties and produced prior to the arbitration hearing in addition to the minimum disclosure documents;
 - (f) establishing a timetable for any steps to be taken prior to the arbitration hearing;
 - (g) where the legal issues include claims about children and parenting,
 - (i) determining whether an independent lawyer will be appointed to represent any or all of the children,
 - (ii) determining how information about the children's views and preferences will be obtained and presented in the arbitration hearing, and
 - (iii) determining whether and how the results of the arbitration proceeding will be communicated to the children;

- (h) subject to Rule 25, canvassing whether any additional changes to the usual rules for the admissibility of evidence in court proceedings will be adopted at the arbitration hearing;
 - (i) where an oral arbitration hearing will be held, determining any physical arrangements that are necessary for the attendance of the parties and witnesses at the arbitration hearing; and,
 - (j) determining whether expert evidence is required to determine the legal issues, the questions the expert or experts will be required to address and the timetable for the production of the report of the expert or experts.
- (3) The conference may be held in person, by teleconference, by videoconference or by other means.
- (4) The arbitrator will record any agreements and orders made at the conference in writing, and will deliver a copy of the record to all parties within 7 days of the conference.

14. Identifying the claimant and the respondents

- (1) In the case of an arbitration proceeding commenced by a notice of arbitration in Form 1, the party providing the notice will be the claimant for the purposes of the arbitration proceeding and the other parties will be respondents.
- (2) In the case of an arbitration proceeding commenced by a joint notice of arbitration in Form 2, the arbitrator will determine which parties will be the claimant and which will be the respondents at the conference held under Rule 13.

15. Claim, response to claim and financial statements

- (1) Within 14 days of the conclusion of the conference held under Rule 13, the claimant will deliver a claim in Form 3.
- (2) Within 14 days of delivery of the claim, each respondent will deliver a response to claim in Form 4.
- (3) The claimant may, within 7 days of delivery of the response to claim, deliver a reply to response to claim in Form 5.
- (4) Except as these Rules otherwise provide, or the parties, in consultation with the arbitrator, otherwise agree, where the legal issues in the family law dispute include claims respecting:
- (a) the payment of child support and/or children's special or extraordinary expenses;
 - (b) the payment of spousal support;

- (c) interests in or the division of property; or,
- (d) the allocation of responsibility for debt,

the claimant will deliver a financial statement in Form 6 and the minimum disclosure documents with the claim, and the respondents will deliver financial statements in Form 6 and the minimum disclosure documents with their responses to claim.

16. Amendment of claim and response to claim

- (1) The arbitrator may allow a party to change or supplement a claim, response to claim or reply to response to claim during the arbitration proceeding unless the arbitrator considers the proposed change or supplement to be unfair to another party.
- (2) The arbitrator will not allow a change or supplement to a claim or response to claim that raises legal issues exceeding the scope of the legal issues identified in the arbitration agreement.

PART III: EXCHANGING DOCUMENTS AND INFORMATION

17. Disclosure of documents and information

- (1) Each party must, throughout the arbitration proceeding, provide the arbitrator and all other parties with complete, accurate and up to date documents and information for the purpose of resolving the legal issues;
- (2) Subject to the discretion of the arbitrator, the minimum disclosure documents that must be provided by each party are:
 - (a) where the legal issues include claims respecting the payment of child support, the payment of children's special or extraordinary expenses, and/or the payment of spousal support
 - (i) the party's personal income tax returns, including all slips, schedules and attachments, for each of the three most recent tax years,
 - (ii) every notice of assessment and notice of reassessment received by the party for each of the three most recent tax years,
 - (iii) if the party is an employee, the party's most recent statement of earnings showing the party's total earnings in the year to date, including overtime, or a letter from the party's employer setting out this information as well as the party's salary or pay rate;

- (iv) if the party is receiving benefits, the party's most recent Employment Insurance, Workers' Compensation, disability or social assistance benefits statement indicating the party's total income from benefits in the year to date, or a letter from the appropriate authority setting out this information,
 - (v) if the party is receiving pension or dividend income, the party's most recent statement indicating the party's total pension or dividend income in the year to date, or a letter from the appropriate authority setting out this information,
 - (vi) if the party is self-employed in an unincorporated business, the financial statements of the business for each of the three most recent tax years, and a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom the party does not deal at arm's length for the three most recent tax years,
 - (vii) if the party is self-employed in an incorporated business, the financial statements of the business or professional practice, a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom the party does not deal at arm's length for the three most recent tax years, and a statement showing the party's shareholder's loans transactions for the last 12 months,
 - (viii) if the party is a partner in a partnership, confirmation of the party's income and draw from, and capital in, the partnership for its three most recent taxation years, and
 - (ix) if the party controls a corporation, the financial statements of the corporation and its subsidiaries, and a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom the corporation and every related corporation does not deal at arm's length for its three most recent fiscal years;
- (b) where the legal issues include claims respecting the division of property
- (i) the most recent property tax assessment issued in respect of any real property which is owned by the party or in which the party has an interest,
 - (ii) if the party is self-employed and the business or professional practice is at issue, the financial statements of the business or professional practice for the three most recent tax years,
 - (iii) if the party controls a corporation and the corporation is at issue, the financial statements of the corporation and its subsidiaries for the three most recent fiscal years,

- (iv) if the party is a beneficiary under a trust and the trust is at issue, the trust settlement agreement and the trust's three most recent financial statements,
- (v) all statements and cancelled cheques for all bank accounts held solely or jointly in the party's name for the last six months, and
- (vi) the most recent statements for all RRSP accounts, pensions and pensionable savings accounts, term deposit certificates, guaranteed investment certificates, stock accounts and other investments in the party's name or in which the party has an interest;

and,

- (c) where the legal issues include claims respecting the allocation of responsibility for debt
 - (i) all loan, credit card and mortgage agreements, and any other agreements respecting the debt, and
 - (ii) all statements for all loan, credit card, mortgage and other accounts in respect of the debt for the last six months.

(3) The arbitrator may order a party to provide other documents relevant to the legal issues in addition to the minimum disclosure documents.

18. List of documents

- (1) A party may, at the discretion of the arbitrator, require another party to provide a list of documents describing all documents currently in the party's possession or control that relate to any material facts in dispute or to the legal issues in the family law dispute. The arbitrator may order that the list of documents be made on the oath or affirmation of the party providing the list that the list is complete.
- (2) A party who is required to provide a list of documents must provide the list to the requesting party within 14 days of notice of the requirement.
- (3) A party may not require another party to provide a list of documents less than 28 days before the start of the arbitration hearing.

19. Production of documents

- (1) The arbitrator may order a party to produce any particular document or class of documents within a specified time period.

- (2) A party subject to an order to produce documents must make those documents available for all other parties to inspect and copy.

20. Written questioning

- (1) A party may compel another party to answer written questions about material facts relating to the legal issues in the arbitration proceeding by delivering a numbered list of questions about those facts to that party no later than 28 days before the start of the arbitration hearing.
- (2) A party who has been delivered with questions:
 - (a) must provide a response to each question to the delivering party by written statement within 7 days of delivery of the questions; and,
 - (b) may object to answering some or all of the questions on grounds of privilege or because a question does not concern material facts relating to the legal issues, and may do so in the party's written statement in response to the questions.
- (3) A party's written statement in response to questions may be admitted into evidence at the arbitration hearing by the party delivering the questions.

21. Oral questioning

- (1) A party may compel another party to answer oral questions about material facts relating to the legal issues in the arbitration proceeding by delivering a notice of examination to that party no later than 35 days before the start of the arbitration hearing.
- (2) The notice of examination must state the time and date proposed for the examination of the party, and whether the examination is proposed to be conducted in person, by videoconference or by other means. The time, date and means of examination may be changed to accommodate the calendar and other reasonable needs of the party to be examined, but the examination must in all cases be completed no later than 21 days before the start of the hearing.
- (3) A party who has been delivered with a notice of examination:
 - (a) must attend at the time and date set for the examination;
 - (b) must bring or have immediate access to the documents in the possession or control of that party relating to any material facts in dispute and/or to the legal issues;
 - (c) must answer the questions asked by the party delivering the notice on the party's promise to tell the truth; and,

(d) may object to answering some or all of the questions asked on grounds of privilege or because a question does not concern material facts relating to the legal issues.

- (4) The party delivering the notice may arrange for a court reporter to attend the examination and make a complete, word for word transcript of the questions asked and answers given at the examination, and will be responsible for the fees and disbursements of the court reporter, subject to the arbitrator's discretion on costs.
- (5) All or some of a party's oral answers to questions may be admitted into evidence at the arbitration hearing by the party delivering the notice where a transcript of the questions asked and answers given at the examination of the has been made.

22. Statement of agreed facts

- (1) Subject to the discretion of the arbitrator, the parties must prepare a statement of those facts which are not in dispute and deliver the statement to the arbitrator at least 7 days before the start of the arbitration hearing.
- (2) In preparing the statement of agreed facts, the parties must make their best efforts to work together in good faith and to reduce the number of facts in dispute to the extent possible.

PART IV: APPLICATION PROCEDURE

23. Application procedure and evidence

- (1) Subject to the discretion of the arbitrator, all evidence at an application hearing will be given by written statement.
- (2) A party seeking an interim award or order may apply for the award or order by delivering an application in Form 7, together with any written statements on which the party intends to rely at the application hearing.
- (3) A party may oppose, agree or conditionally agree to the award or order sought by the applicant by delivering a response to application in Form 8, together with any written statements on which the party intends to rely at the application hearing, no more than 7 days after delivery of the application.
- (4) The applicant may deliver one written statement in reply to the written statements delivered by the application respondent, no more than 7 days after delivery of the application response, which may address:
 - (a) facts stated in the written statements delivered by the application respondent; and,

(b) facts arising since the delivery of the application,

but, subject to the discretion of the arbitrator, must not state facts relevant to the legal issues in the application that could have been stated in the written statements delivered with the application.

(5) Upon receipt of an application, the arbitrator, in consultation with the applicant and any application respondents, will:

(a) determine whether the application can be resolved through written argument or if an oral hearing is necessary;

(b) if an oral hearing is not necessary, set the date for the delivery of written argument by the applicant and application respondents; and,

(c) if an oral hearing is necessary,

(i) set the date, time and place for the application hearing, and

(ii) notify all parties of the date, time and place of the application hearing.

(6) If a party fails to attend the application hearing, despite having been notified of the hearing, the arbitrator may proceed with the hearing and make an interim award or order addressing some or all of the claims made in the application.

24. Powers of the arbitrator

(1) Unless the parties agree otherwise, the arbitrator may:

(a) order that an application hearing be adjourned;

(b) make some or all of the interim awards and orders sought in the application, including on terms and conditions;

(c) make none of the interim award or orders sought and dismiss the application;

(d) order that a person making a written statement for the purposes of the application attend the application hearing for cross-examination on the person's written statement;

(e) where the application seeks interim awards about the parenting of a child, parenting time or contact, determine how information about the children's views and preferences will be obtained and presented at the application hearing;

- (f) make an order shortening or lengthening the period of time for doing something or taking a step in the application under these Rules or under a previous order made by the arbitrator; and,
 - (g) make an interim award requiring one or parties or, without the consent of a party, one or more children to attend and participate in counselling, services or programs, and allocating responsibility for the fees of the counselling, services or programs among the parties, subject to the arbitrator's discretion on costs.
- (2) The arbitrator may make interim awards, including interim injunctions and other equitable remedies and relief, for the protection of persons or for the protection and preservation of property that is the subject of a claim in the arbitration proceeding.
 - (3) The arbitrator may conclude that a party who has been delivered with an application but has not delivered a response to application consents to or does not oppose the making of the interim awards or order sought in the application.

PART V: HEARING PROCEDURES

DIVISION 1: GENERAL RULES

25. General hearing procedure and evidence

- (1) The arbitrator will set the dates and places for arbitration hearings in consultation with the parties and their lawyers.
- (2) Each party must prove the facts on which the party relies.
- (3) A witness must attend the arbitration hearing if requested to do so no less than 7 days before the hearing.
- (4) A party seeking to introduce the oral evidence of a witness in direct examination must deliver a will-say statement summarizing the expected evidence of that witness at least 7 days before the hearing.
- (5) Written statements delivered by the claimant in reply to written statements delivered by a respondent may address:
 - (a) facts stated in the written statements delivered by the application respondent; and,
 - (b) facts arising since the delivery of the claimant's previous written statements,

but, subject to the discretion of the arbitrator, must not state facts relevant to the legal issues in the arbitration proceeding that could have been stated in the written statements previously delivered by the claimant.

- (6) In determining the relevance and materiality of evidence, the arbitrator is not required to apply the rules of evidence.
- (7) The arbitrator will direct the hearing and may:
 - (a) divide the hearing into stages;
 - (b) exclude repetitive or irrelevant evidence;
 - (c) limit or refuse to receive the evidence of a witness as to fact or opinion; or,
 - (d) direct the parties to address specific matters where the determination of those matters may help to resolve all or some of the legal issues in the family law dispute.
- (8) The arbitrator may, on such terms that are necessary to prevent prejudice to the other parties, allow a party to introduce:
 - (a) documents into evidence that have not been disclosed under Rules 17 and 18,
 - (b) written statements into evidence that have not been disclosed or delivered under these Rules; and,
 - (c) the oral evidence of a witness not disclosed or identified under these Rules.
- (9) If a party fails to attend a hearing despite having been notified of the hearing, the arbitrator may proceed with the hearing and make a final award determining some or all of the legal issues.
- (10) In the event that the procedure to be followed in the arbitration hearing is not determined at the conference held under Rule 13, the procedure to be followed will be the procedure described in Division 4 of this Part.

26. Powers of the arbitrator

- (1) Unless the parties agree otherwise, the arbitrator may:
 - (a) order that an arbitration hearing be adjourned to the date and time specified by the arbitrator;
 - (b) make an award on some or all of the legal issues in the arbitration proceeding;

- (c) make an interim award on any legal issue on which the arbitrator may make a final award;
 - (d) order that documents, exhibits, personal property and real property be inspected;
 - (e) order that oral evidence or a written statement be provided on the oath or affirmation of the witness providing the oral evidence or written statement;
 - (f) administer an oath or affirmation to a witness providing oral evidence;
 - (g) make an order shortening or lengthening the period of time for doing something or taking a step in the arbitration proceeding under these Rules or under an order made by the arbitrator;
 - (h) order a party to provide security for the legal or other costs of another party, including the costs of the arbitration proceeding;
 - (i) order a party to provide security for all or part of any amount in dispute in the arbitration proceeding;
 - (j) determine the qualifications of an individual to provide evidence as an expert in the arbitration proceeding;
 - (k) make an award requiring one or parties or, without the consent of a party, one or more children to attend and participate in counselling, services or programs, and allocating responsibility for the fees of the counselling, services or programs among the parties, subject to the arbitrator's discretion on costs; and,
 - (l) make an award for specific performance, rectification, injunctions and other equitable remedies and relief.
- (2) The arbitrator may make interim awards during the arbitration hearing, including interim injunctions and other equitable remedies and relief, for the protection of persons or for the protection and preservation of property that is the subject of a claim in the arbitration proceeding.

27. Children's lawyer

- (1) The arbitrator may or the parties may agree to appoint a lawyer to represent the interests of a child in an arbitration proceeding if necessary to promote or protect the wellbeing and best interests of the child.
- (2) A lawyer appointed to represent a child will act on the instructions of the child to the extent possible considering the age and maturity of the child.

- (3) If the arbitrator appoints a lawyer for a child, the arbitrator will make an order allocating the lawyer's fees and disbursements among the parties, subject to the arbitrator's discretion as to costs.

28. Children's views and preferences

- (1) Evidence and information about the views and preferences of any children may be presented by one or more of the following means:
- (a) a parenting assessment prepared by a mental health professional, providing the assessment as an expert;
 - (b) the oral evidence of a mental health professional, providing the evidence as an expert;
 - (c) the oral evidence of the child, where the child is capable of forming a considered opinion;
 - (d) information provided by the child in writing or by audio or video recording, where the child is capable of forming a considered opinion;
 - (e) an evaluative views of the child report prepared by a mental health professional, providing the report as an expert;
 - (f) a non-evaluative views of the child report prepared by a mental health professional, lawyer or other person experienced in interviewing and obtaining the views and preferences of children, where the child is capable of forming a considered opinion; and,
 - (g) an interview between the child and the arbitrator, at the discretion of the arbitrator, where the child is capable of forming a considered opinion.
- (2) Where the arbitrator interviews a child, the arbitrator will convene a conference of the parties and their lawyers and:
- (a) the agenda of the conference may include determining
 - (i) when and where the arbitrator will interview the child, including whether the arbitrator should conduct more than one interview with the child,
 - (ii) whether anyone other than the arbitrator and the child will be present during the arbitrator's interview, and
 - (iii) how the child's views and preferences will be communicated to the parties;
- and,

- (b) the conference may be held in person, by teleconference, by videoconference or by other means.

29. Expert evidence

- (1) An expert's report will include, in addition to the expert's opinion, summary statements of:
 - (a) the questions the expert was asked to address;
 - (b) the facts on which the expert's opinion is based; and,
 - (c) the expert's qualifications.
- (2) Subject to the discretion of the arbitrator, an expert appointed by the arbitrator must:
 - (a) deliver a copy of the expert's report at least 21 days before the start of the arbitration hearing; and,
 - (b) include in the expert's report a statement confirming that the expert's duty is to assist the arbitrator and not to be an advocate for any party.
- (3) A party intending to rely on the report of an expert other than an expert appointed by the arbitrator must deliver a copy of the expert's report at least 14 days before the start of the arbitration hearing.
- (4) An expert providing a report in the arbitration proceeding must make available for the examination of the parties all documents, working papers and property used by the expert in the preparation of the expert's report.
- (5) A party wishing to cross-examine an expert appointed by the arbitrator must serve the expert with notice that the expert must attend the arbitration hearing at least 7 days before the arbitration hearing, and the party cross-examining the expert will be responsible for the expert's fees and disbursements associated with attending the hearing, subject to the arbitrator's discretion as to costs.
- (6) A party wishing to cross-examine an expert other than an expert appointed by the arbitrator must serve the expert with notice that the expert must attend the arbitration hearing at least 7 days before the arbitration hearing, and the party relying on the report of the expert will be responsible for the expert's fees and disbursements associated with attending the hearing, subject to the arbitrator's discretion as to costs

30. Settlement offers

- (1) A party may deliver an offer to settle the legal issues in the family law dispute to one or more other parties at any time in the arbitration proceeding before the close of the arbitration hearing.
- (2) Subject to the discretion of the arbitrator, an offer to settle must not be delivered or provided, and the terms of the offer must not be communicated, to the arbitrator until the arbitration hearing has closed and the arbitrator has made final awards on all of the legal issues other than costs.
- (3) The arbitrator will consider the terms of any written offers to settle in determining the costs of the arbitration proceeding.

DIVISION 2: DECISION ON A LEGAL ISSUE

31. Choice of procedure

- (1) The legal issues in the family law dispute may be determined using the arbitration hearing procedure described in this Division if:
 - (a) the family law dispute primarily concerns a question of law and the parties agree on the material facts relevant to the legal issue or issues; and,
 - (b) the parties agree or the arbitrator orders that the procedure described in this Division will be adopted for the arbitration hearing.
- (2) The arbitrator may, in consultation with the parties, change, abridge or adapt any part of the procedure described in this Division as may be necessary to achieve a fair, speedy and inexpensive determination of the arbitration proceeding on its merits.

32. Evidence and application of other Rules

- (1) Notwithstanding the provisions of any other Rule, in arbitration hearings under this Division:
 - (a) the parties will not provide the minimum disclosure documents under Rule 17;
 - (b) no party may require another party to provide a list of documents under Rule 18; and,
 - (c) no party may compel another party to answer written or oral questions under Rules 20 and 21.

- (2) Notwithstanding the provisions of any other Rule, in arbitration hearings under this Division:
- (a) a lawyer for a child will not be appointed under Rule 27;
 - (b) evidence and information about the views and preferences of a child will not be presented under Rule 28; and,
 - (c) no party may rely on the report of an expert other than an expert appointed by the arbitrator under Rule 29.

33. Hearing procedure

- (1) The arbitrator will determine, in consultation with the parties, whether an oral arbitration hearing is necessary. If no party requests an oral hearing, the arbitrator will determine that an oral hearing is not necessary.
- (2) If an oral hearing is not necessary:
- (a) the claimant will deliver written argument and the claimant's book of authority at least 21 days before the date set for the arbitration hearing;
 - (b) the respondents will deliver written arguments and the respondents' books of authority at least 14 days before the date set for the arbitration hearing;
 - (c) the claimant will deliver any reply to the written arguments of the respondents and any new authorities at least 7 days before the date set for the arbitration hearing;
 - (d) the parties will prepare a statement of agreed facts under Rule 22; and,
 - (e) the arbitrator will review the documents submitted by the parties beginning on the date set for the arbitration hearing.
- (3) If an oral hearing is necessary:
- (a) the parties will deliver their books of authority at least 7 days before the date set for the arbitration hearing;
 - (b) the parties will prepare a statement of agreed facts under Rule 22; and,
 - (c) the parties will present their oral arguments on the date set for the arbitration hearing.

DIVISION 3: DECISION ON WRITTEN EVIDENCE

34. Choice of procedure

- (1) The legal issues in the family law dispute may be determined using the arbitration hearing procedure described in this Division if:
 - (a) the parties agree on most of the material facts relevant to the legal issues and the arbitrator is able to reach a fair determination of the legal issues on written statements and without the direct examination or cross-examination of witnesses; and,
 - (b) the parties agree or the arbitrator orders that the procedure described in this Division will be adopted for the arbitration hearing.
- (2) The arbitrator may, in consultation with the parties, change, abridge or adapt any part of the procedure described in this Division as may be necessary to achieve a fair, speedy and inexpensive determination of the arbitration proceeding on its merits.

35. Evidence and application of other Rules

- (1) Notwithstanding the provisions of any other Rule, in arbitration hearings under this Division:
 - (a) the parties will not provide the minimum disclosure documents under Rule 17;
 - (b) no party may require another party to provide a list of documents under Rule 18; and,
 - (c) subject to the discretion of the arbitrator, a party may compel another party to answer written or oral questions under Rules 20 and 21.
- (2) Notwithstanding the provisions of any other Rule, in arbitration hearings under this Division:
 - (a) a lawyer for a child will not be appointed under Rule 27;
 - (b) evidence and information about the views and preferences of a child may be presented under Rule 28 if the legal issues concern the parenting of a child, parenting time or contact;
 - (c) no party may rely on the report of an expert other than an expert appointed by the arbitrator under Rule 29;
 - (d) any evidence of opinion will be given through the reports of experts appointed by the arbitrator; and,

- (e) any evidence of fact will be given through
 - (i) written statements,
 - (ii) written statements in response to questions asked under Rule 20, and
 - (iii) transcripts of the questions asked and answers given at an examination under Rule 21.

36. Hearing procedure

- (1) The arbitrator will determine, in consultation with the parties, whether an oral arbitration hearing is necessary. If no party requests an oral hearing, the arbitrator will determine that an oral hearing is not necessary.
- (2) If an oral hearing is not necessary:
 - (a) the claimant will deliver written argument, any written statements on which the claimant intends to rely and the claimant's book of authority at least 21 days before the date set for the arbitration hearing;
 - (b) the respondents will deliver written arguments, any written statements on which the respondents intend to rely and the respondents' books of authority at least 14 days before the date set for the arbitration hearing;
 - (c) the claimant will deliver any reply to the written argument of the respondents, any written statements addressing the respondents' written statements and any new authorities at least 7 days before the date set for the arbitration hearing;
 - (d) a party will deliver any
 - (i) questions and written statements in response to questions, and
 - (ii) transcripts of the questions asked and answers given at an examinationon which the party intends to rely at least 7 days before the date set for the arbitration hearing;
 - (e) the parties will prepare a statement of agreed facts under Rule 22; and,
 - (f) the arbitrator will review the documents submitted by the parties beginning on the date set for the arbitration hearing.
- (3) If an oral hearing is necessary:

- (a) the claimant will deliver any written statements on which the claimant intends to rely at least 21 days before the date set for the arbitration hearing;
- (b) the respondents will deliver any written statements on which the respondents intend to rely at least 14 days before the date set for the arbitration hearing;
- (c) the claimant will deliver any written statements addressing the respondents' written statements at least 7 days before the date set for the arbitration hearing;
- (d) the parties will prepare a statement of agreed facts under Rule 22;
- (e) the parties will deliver their books of authority at least 7 days before the date set for the arbitration hearing;
- (f) a party will deliver any
 - (i) questions and written statements in response to questions, and
 - (ii) transcripts of the questions asked and answers given at an examination
 on which the party intends to rely at least 7 days before the date set for the arbitration hearing; and,
- (g) the parties will present their written arguments and/or oral arguments on the date set for the arbitration hearing.

DIVISION 4: DECISION ON WRITTEN AND LIMITED ORAL EVIDENCE

37. Choice of procedure

- (1) The legal issues in the family law dispute may be determined using the arbitration hearing procedure described in this Division if:
 - (a) the parties agree on some of the material facts relevant to the legal issues and the cross-examination of a limited number of witnesses will allow the arbitrator to reach a fair determination of the facts and the legal issues; and,
 - (b) the parties agree or the arbitrator orders that the procedure described in this Division will be adopted for the arbitration hearing.
- (2) The arbitrator, may in consultation with the parties, change, abridge or adapt any part of the procedure described in this Division as may be necessary to achieve a fair, speedy and inexpensive determination of the arbitration proceeding on its merits.

38. Evidence and application of other Rules

- (1) Notwithstanding the provisions of any other Rule, in arbitration hearings under this Division:
 - (a) subject to the discretion of the arbitrator, a party may require another party to provide a list of documents under Rule 18; and,
 - (b) subject to the discretion of the arbitrator, a party may compel another party to answer written or oral questions under Rules 20 and 21.

- (2) Notwithstanding the provisions of any other Rule, in arbitration hearings under this Division:
 - (a) a lawyer for a child will not be appointed under Rule 27;
 - (b) evidence and information about the views and preferences of a child must be presented under Rule 28 if the legal issues concern the parenting of a child, parenting time or contact;
 - (c) no party may rely on the report of an expert other than an expert appointed by the arbitrator under Rule 29;
 - (d) any evidence of opinion will be given through the reports of experts appointed by the arbitrator; and,
 - (e) any evidence of fact will be given through
 - (i) written statements,
 - (ii) written statements in response to questions asked under Rule 20,
 - (iii) the cross-examination of each party, by all or some of the parties opposed in interest to the party, on the evidence given in the written statements made by that party,
 - (iv) the cross-examination of such other witnesses making written statements in the arbitration proceeding, by all or some of the parties opposed in interest to the parties delivering the written statements, as may be identified by the arbitrator in consultation with the parties, and
 - (v) transcripts of the questions asked and answers given at an examination under Rule 21.

- (3) The arbitrator will, in consultation with the parties, set time limits for the cross-examination of the parties and the identified witnesses.

39. Hearing procedure

- (1) The arbitration hearing will be conducted orally, and:
 - (a) the claimant will deliver any written statements on which the claimant intends to rely at least 21 days before the date set for the arbitration hearing;
 - (b) the respondents will deliver any written statements on which the respondents intend to rely at least 14 days before the date set for the arbitration hearing;
 - (c) the claimant will deliver any written statements addressing the respondents' written statements at least 7 days before the date set for the arbitration hearing;
 - (d) the parties will prepare a statement of agreed facts under Rule 22;
 - (e) the parties will deliver their books of authority at least 7 days before the date set for the arbitration hearing; and,
 - (f) a party will deliver any
 - (i) questions and written statements in response to questions, and
 - (ii) transcripts of the questions asked and answers given at an examinationon which the party intends to rely at least 7 days before the date set for the arbitration hearing.
- (2) On the day of the arbitration hearing:
 - (a) the claimant will present an opening argument and cross-examine the respondents and the identified witnesses on their written statements;
 - (b) the respondents will, in turn, present their opening arguments and cross-examine the claimant, any respondents opposed in interest and the identified witnesses on their written statements; and,
 - (c) the parties will, in turn, present their written arguments and/or closing oral arguments.

DIVISION 5: DECISION ON LIMITED ORAL EVIDENCE

40. Choice of procedure

- (1) The legal issues in the family law dispute may be determined using the arbitration hearing procedure described in this Division if:
 - (a) the parties agree on few of the material facts relevant to the legal issues and the direct examination and cross-examination of a limited number of witnesses will allow the arbitrator to reach a fair determination of the facts and the legal issues; and,
 - (b) the parties agree or the arbitrator orders that the procedure described in this Division will be adopted for the arbitration hearing.
- (2) The arbitrator, may in consultation with the parties, change, abridge or adapt any part of the procedure described in this Division as may be necessary to achieve a fair, speedy and inexpensive determination of the arbitration proceeding on its merits.

41. Evidence and application of other Rules

- (1) Notwithstanding the provisions of any other Rule, in arbitration hearings under this Division:
 - (a) evidence and information about the views and preferences of a child must be presented under Rule 28 if the legal issues concern the parenting of a child, parenting time or contact;
 - (b) no party may rely on the report of an expert other than an expert appointed by the arbitrator under Rule 29;
 - (c) any evidence of opinion will be given through the reports of experts appointed by the arbitrator; and,
 - (d) any evidence of fact will be given through
 - (i) written statements,
 - (ii) written statements in response to questions asked under Rule 20,
 - (iii) the direct examination and cross-examination of witnesses identified by the arbitrator in consultation with the parties, and
 - (iv) transcripts of the questions asked and answers given at an examination under Rule 21.

- (2) Experts appointed by the arbitrator may be cross-examined by all parties.
- (3) The arbitrator will, in consultation with the parties, set time limits for the direct examination and cross-examination of all or some of the parties and the identified witnesses.

42. Hearing procedure

- (1) The arbitration hearing will be conducted orally, and:
 - (a) the claimant will deliver any written statements on which the claimant intends to rely at least 21 days before the date set for the arbitration hearing;
 - (b) the respondents will deliver any written statements on which the respondents intend to rely at least 14 days before the date set for the arbitration hearing;
 - (c) the claimant will deliver any written statements addressing the respondents' written statements at least 7 days before the date set for the arbitration hearing;
 - (d) each party will deliver will-say statements for the identified witnesses giving evidence on their behalf at least 7 days before the date set for the arbitration hearing;
 - (e) the parties will prepare a statement of agreed facts under Rule 22;
 - (f) the parties will deliver their books of authority at least 7 days before the date set for the arbitration hearing; and,
 - (g) a party will deliver any
 - (i) any questions and written statements in response to questions, and
 - (ii) any transcripts of the questions asked and answers given at an examinationon which the party intends to rely at least 7 days before the date set for the arbitration hearing.
- (2) On the day of the arbitration hearing:
 - (a) the claimant will present an opening statement,
 - (b) the respondents will, in turn, present their opening statement;

- (c) the claimant will examine in direct the other parties and each of the identified witnesses giving evidence on behalf of the claimant, and each witness may be cross-examined by the respondents;
- (d) the respondents will, in turn, examine in direct the other parties and each of the identified witnesses giving evidence on behalf of a respondent, and each witness may be cross-examined by the claimant and by any respondents opposed in interest; and,
- (e) the parties will, in turn, present their written arguments and/or closing oral arguments.

DIVISION 6: DECISION ON ORAL EVIDENCE

43. Choice of procedure

- (1) The legal issues in the family law dispute may be determined using the arbitration hearing procedure described in this Division if:
 - (a) the parties agree on none or few of the material facts relevant to the legal issues and the direct examination and cross-examination of a limited number of witnesses is necessary to allow the arbitrator to reach a fair determination of the facts and the legal issues; and,
 - (b) the parties agree or the arbitrator orders that the procedure described in this Division will be adopted for the arbitration hearing.
- (2) The arbitrator, may in consultation with the parties, change, abridge or adapt any part of the procedure described in this Division as may be necessary to achieve a fair, speedy and inexpensive determination of the arbitration proceeding on its merits.

44. Evidence

- (1) Evidence and information about the views and preferences of a child must be presented under Rule 28 if the legal issues concern the parenting of a child, parenting time or contact.
- (2) Any evidence of opinion will be given through the reports of experts.
- (3) Evidence of fact may be presented by the parties through any means provided in these Rules.
- (4) Experts appointed by the arbitrator may be cross-examined by all parties.
- (5) If a party is relying on the report of an expert other than an expert appointed by the arbitrator, the expert may not be examined in direct and may be cross-examined by parties opposed in interest to the party relying on the report.

- (6) The arbitrator may, in consultation with the parties, set time limits for the direct examination and cross-examination of all or some witnesses.

45. Hearing procedure

- (1) The arbitration hearing will be conducted orally, and:
- (a) the claimant will deliver any written statements on which the claimant intends to rely at least 21 days before the date set for the arbitration hearing;
 - (b) the respondents will deliver any written statements on which the respondents intend to rely at least 14 days before the date set for the arbitration hearing;
 - (c) the claimant will deliver any written statements addressing the respondents' written statements at least 7 days before the date set for the arbitration hearing;
 - (d) each party will, except for experts other than experts appointed by the arbitrator, deliver will-say statements for the witnesses giving evidence on their behalf, at least 7 days before the date set for the arbitration hearing;
 - (e) if a party is intending to rely on the report of an expert other than an expert appointed by the arbitrator, a party opposed in interest wishing to cross-examine the expert must give notice to the party relying on the report that the expert must attend the arbitration at least 7 days before the date set for the hearing;
 - (f) the parties will prepare a statement of agreed facts under Rule 22;
 - (g) the parties will deliver their books of authority at least 7 days before the date set for the arbitration hearing; and,
 - (h) a party will deliver any
 - (i) any questions and written statements in response to questions, and
 - (ii) any transcripts of the questions asked and answers given at an examinationon which the party intends to rely at least 7 days before the date set for the arbitration hearing.
- (2) On the day of the arbitration hearing:
- (a) the claimant will present an opening statement,
 - (b) the respondents will, in turn, present their opening statements;

- (c) the claimant will examine in direct each of the witnesses giving evidence on behalf of the claimant, and each witness may be cross-examined by the respondents;
- (d) the respondents will, in turn, examine in direct each of the witnesses giving evidence on behalf of the respondent, and each witness may be cross-examined by the claimant and by any respondents opposed in interest; and,
- (e) the parties will, in turn, present their written arguments and/or closing oral arguments.

DIVISION 7: DECISION ON LIMITED ORAL EVIDENCE FROM INQUISITION

46. Choice of procedure

- (1) The legal issues in the family law dispute may be determined using the arbitration hearing procedure described in this Division if the parties agree that the procedure described in this Division will be adopted for the arbitration hearing.
- (2) The arbitrator, may in consultation with the parties, change, abridge or adapt any part of the procedure described in this Division as may be necessary to achieve a fair, speedy and inexpensive determination of the arbitration proceeding on its merits.

47. Evidence and application of other Rules

- (1) Notwithstanding the provisions of any other Rule, in arbitration hearings under this Division:
 - (a) no party may require another party to provide a list of documents under Rule 18; and,
 - (b) no party may compel another party to answer oral questions under Rule 21.
- (2) Notwithstanding the provisions of any other Rule, in arbitration hearings under this Division:
 - (a) evidence and information about the views and preferences of a child must be presented under Rule 28 if the legal issues concern the parenting of a child, parenting time or contact;
 - (b) no party may rely on the report of an expert other than an expert appointed by the arbitrator under Rule 29;
 - (c) any evidence of opinion will be given through the reports of experts appointed by the arbitrator;
 - (d) any evidence of fact will be given through

(i) questions asked by the arbitrator and the parties of the parties and witnesses identified by the arbitrator in consultation with the parties, and

(ii) written statements in response to questions asked under Rule 20;

and,

(e) The arbitrator may, in consultation with the parties, set time limits for the questioning of all or some of the parties and the identified witnesses.

48. Hearing procedure

(1) The arbitration hearing will be conducted orally, and:

(a) the parties will prepare a statement of agreed facts under Rule 22;

(b) the parties will deliver their books of authority at least 7 days before the date set for the arbitration hearing; and,

(c) a party will deliver any questions and written statements in response to questions on which the party intends to rely at least 7 days before the date set for the arbitration hearing.

(2) On the day of the arbitration hearing:

(a) the parties will, in turn, present any opening statements they wish to make;

(b) the parties and the identified witnesses will, in the order determined by the arbitrator, be questioned first by the arbitrator and then by each of the parties in turn; and,

(c) the parties will, in turn, present their closing oral arguments.

PART VI: FINAL AWARDS AND TERMINATING THE PROCEEDING

49. Closure of arbitration hearing

(1) An arbitration hearing without an oral hearing is closed when the parties have submitted their documents for the review of the arbitrator.

(2) The arbitrator will close an oral arbitration hearing when:

(a) the parties have presented their evidence and their closing arguments;

- (b) all of the legal issues are withdrawn or resolved by the agreement of the parties during the arbitration hearing; or,
 - (c) the arbitrator determines that continuing the hearing is unnecessary or inappropriate.
- (3) The arbitrator may, in exceptional circumstances, reopen an arbitration hearing at any time before a final award is made.

50. Legal principles

- (1) The arbitrator will determine the legal issues in the arbitration proceeding in accordance with the law and, to the extent they may be relevant to the legal issues, in consideration of:
- (a) for arbitration proceedings sited in Alberta, the federal *Divorce Act* and the Alberta *Family Law Act*, the *Matrimonial Property Act* and the *Adult Interdependent Relationships Act*; and,
 - (b) for arbitration proceedings sited in British Columbia, the federal *Divorce Act* and the British Columbia *Family Law Act*.
- (2) The arbitrator may determine claims in equity, including unjust enrichment, and may award equitable remedies, including injunctions.

51. Final awards

- (1) The arbitrator will make one or more final awards determining the legal issues submitted for arbitration in the arbitration agreement within 70 days of the closure of the arbitration hearing. The arbitrator will deliver the final awards to all parties.
- (2) The final awards will be in writing and state the summary reasons for the arbitrator's determination. The arbitrator will provide full reasons at the request of a party.

52. Amendment and correction of final awards

- (1) A party may request the arbitrator to, or the arbitrator on the arbitrator's own initiative may, amend a final award to correct:
- (a) clerical or typographic errors;
 - (b) accidental errors, slips or omissions; and,
 - (c) arithmetical errors in calculations.

- (2) A party may request the arbitrator to amend a final award to address a legal issue submitted for arbitration in the arbitration agreement but omitted from the award.
- (3) A request by a party to amend a final award must be delivered within 14 days of delivery of the award.
- (4) The arbitrator will complete any amendment of a final award within 28 days of delivery of the original award.

53. Clarification of final awards

- (1) A party may request the arbitrator to clarify a final award, and the arbitrator may amend the award if the arbitrator considers that the amendment will clarify the award.
- (2) A request by a party to clarify a final award must be delivered within 14 days of delivery of the award.
- (3) The arbitrator will complete any amendment of a final award to clarify the award within 28 days of delivery of the original award.

54. Costs

- (1) The arbitrator may determine liability for costs on the basis of the evidence presented and any offers to settle, and may:
 - (a) apportion costs between some or all of the parties, equally or unequally; or,
 - (b) order that each party bear the party's own costs.
- (2) In making a costs award, the arbitrator may take into account:
 - (a) the length of time required to conclude the arbitration proceeding;
 - (b) the importance and complexity of the issues in dispute;
 - (c) the financial value of any support obligations in dispute, and of any property or debt in dispute;
 - (d) the conduct of the parties during the arbitration proceeding; and,
 - (e) the failure of a party to comply with these Rules or with an interim award or order of the arbitrator.
- (3) Costs may include:

- (a) the fees and expenses incurred by the arbitrator;
 - (b) the fees and expenses of any experts appointed by the arbitrator;
 - (c) the fees and expenses of any experts other than experts appointed by the arbitrator;
and,
 - (d) the legal fees and expenses incurred by a party in relation to the arbitration proceeding.
- (4) If the arbitrator makes an award of costs, the arbitrator will provide summary reasons for the award.
- (5) If the arbitrator does not make an award of costs, each party will bear the party's own costs.

55. Termination of arbitration proceeding

- (1) An arbitration proceeding terminates when:
- (a) the arbitrator has made final awards that together address all of the legal issues submitted for arbitration in the arbitration agreement; or,
 - (b) the parties withdraw all of the legal issues submitted for determination in the arbitration agreement.
- (2) The arbitrator may terminate the arbitration proceeding if the arbitrator concludes that the continuation of the arbitration proceeding has become unnecessary or impossible.

PART VII. FORMS

Forms in these rules are available for download from www.boydarbitration.ca/forms in Word format, rich text format and as fillable PDFs, along with a guide to completing these forms.

These forms may be changed as necessary to suit the circumstances of and parties to the family law dispute, providing that the changes are not misleading or confusing and do not alter the purpose of the form.

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Family Law Arbitration

Between:

And:

NOTICE TO ARBITRATE

To: _____

Take notice that _____ requires that certain unresolved legal issues in the family law dispute between _____ and _____ be determined through arbitration.

The arbitration of the legal issues is authorized or required by:

- a family law agreement between the parties made following their separation, dated _____ ;
- an arbitration agreement between the parties made following their separation, dated _____ ; and/or,
- an order made in litigation proceedings between the parties, dated _____ .

The legal issues concern:

- children and parenting;
- child support and/or children’s special expenses;
- spousal support;
- property and/or debt; and/or,
- other issues indicated in the schedule attached to this notice.

The arbitrator for this arbitration proceeding:

- has not been agreed upon by the parties; or,

will be _____, as specified in the agreement or order authorizing or requiring the arbitration of the legal issues.

Date: _____

Name

Family Law Arbitration

Between:

And:

JOINT NOTICE TO ARBITRATE

Take notice that _____ and _____ submit the unresolved legal issues in their family law dispute for determination through arbitration.

The arbitration of the legal issues is authorized or required by:

- the consent of the parties, by an agreement dated _____ or signified by their submission of this joint notice to arbitrate;
- a family law agreement between the parties made following their separation, dated _____ ;
- an arbitration agreement between the parties made following their separation, dated _____ ; and/or,
- an order made in litigation proceedings between the parties, dated _____ .

The legal issues concern:

- children and parenting;
- child support and/or children's special expenses;
- spousal support;
- property and/or debt; and/or,
- other issues indicated in the schedule attached to this notice.

The arbitrator for this arbitration proceeding:

- has not been agreed upon by the parties;
- is agreed to be _____ ; or,
- will be _____ , as specified in the agreement or order authorizing or requiring the arbitration of the legal issues.

Date: _____

Name

Date: _____

Name

Family Law Arbitration

Between:

Claimant

And:

Respondent

Claim

Facts

About the parties and their lawyers

	Claimant	Respondent
Preferred name		
Legal name		
Birthdate		
Postal address		
Telephone number		
Email address		
Lawyer's name		
Lawyer's firm		
Lawyer's telephone number		
Lawyer's email address		

About the parties' relationship

	Not applicable	Date
Began to live together	<input type="checkbox"/>	
Marriage	<input type="checkbox"/>	
Separation	<input type="checkbox"/>	
Divorce	<input type="checkbox"/>	

About the children

Name	Birthdate	Relationship to Claimant	Relationship to Respondent	Current living arrangements

About any previous proceedings

	In progress	Interim order or agreement made	Final order or agreement made
Negotiation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mediation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Litigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Awards

Awards sought by the Claimant

	Terms of award sought
Children and parenting	
Guardianship	
Decision-making	
Parenting time / contact	
Child support	
Special or extraordinary expenses	
Retroactive support	
Arrears of support	
Spousal support	
Retroactive support	
Arrears of support	
Property	
Equal division of family / matrimonial property	
Unequal division of family / matrimonial property	
Occupancy of family home	
Occupation rent	

Terms of award sought

Unjust enrichment	
Debt	
Equal division of family / other debt	
Unequal division of family / other debt	
Costs	
Other awards	

Arbitration

Source of the obligation to arbitrate

	Date	Copy attached
Court order		<input type="checkbox"/>
Separation or other family law agreement		<input type="checkbox"/>
Agreement to arbitrate		<input type="checkbox"/>
Other:		<input type="checkbox"/>

Law to be applied

- Alberta
- British Columbia
- Other law: _____

Preferred city/town of arbitration

Claimant's email address for delivery

Date: _____

Name
Claimant

Family Law Arbitration

Between:

Claimant

And:

Respondent

Response to Claim

This is the response to claim of _____

Facts

About the parties and their lawyers

Respondent

Preferred name	
Legal name	
Birthdate	
Postal address	
Telephone number	
Email address	
Lawyer's name	
Lawyer's firm	
Lawyer's telephone number	
Lawyer's email address	

About the parties' relationship

	Not applicable	Date
Began to live together	<input type="checkbox"/>	
Marriage	<input type="checkbox"/>	
Separation	<input type="checkbox"/>	
Divorce	<input type="checkbox"/>	

About the children

Name	Birthdate	Relationship to Claimant	Relationship to Respondent	Current living arrangements

About any previous proceedings

	In progress	Interim order or agreement made	Final order or agreement made
Negotiation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mediation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Litigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Awards

Awards sought by the Claimant

	Not agreed	Agreed	Agreed on the following conditions
Children and parenting	<input type="checkbox"/>	<input type="checkbox"/>	
Guardianship	<input type="checkbox"/>	<input type="checkbox"/>	
Decision-making	<input type="checkbox"/>	<input type="checkbox"/>	
Parenting time / contact	<input type="checkbox"/>	<input type="checkbox"/>	
Child support	<input type="checkbox"/>	<input type="checkbox"/>	
Special or extraordinary expenses	<input type="checkbox"/>	<input type="checkbox"/>	
Retroactive support	<input type="checkbox"/>	<input type="checkbox"/>	
Arrears of support	<input type="checkbox"/>	<input type="checkbox"/>	
Spousal support	<input type="checkbox"/>	<input type="checkbox"/>	
Retroactive support	<input type="checkbox"/>	<input type="checkbox"/>	
Arrears of support	<input type="checkbox"/>	<input type="checkbox"/>	
Property	<input type="checkbox"/>	<input type="checkbox"/>	
Equal division of family / matrimonial property	<input type="checkbox"/>	<input type="checkbox"/>	
Unequal division of family / matrimonial property	<input type="checkbox"/>	<input type="checkbox"/>	

	Not agreed	Agreed	Agreed on the following conditions
Occupancy of family home	<input type="checkbox"/>	<input type="checkbox"/>	
Occupation rent	<input type="checkbox"/>	<input type="checkbox"/>	
Unjust enrichment	<input type="checkbox"/>	<input type="checkbox"/>	
Debt	<input type="checkbox"/>	<input type="checkbox"/>	
Equal division of family / other debt	<input type="checkbox"/>	<input type="checkbox"/>	
Unequal division of family / other debt	<input type="checkbox"/>	<input type="checkbox"/>	
Costs	<input type="checkbox"/>	<input type="checkbox"/>	
Other awards	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

Awards sought by the Respondent delivering this response to claim

Terms of award sought	
Children and parenting	
Guardianship	
Decision-making	
Parenting time / contact	
Child support	
Special or extraordinary expenses	
Retroactive support	
Arrears of support	
Spousal support	
Retroactive support	
Arrears of support	
Property	
Equal division of family / matrimonial property	
Unequal division of family / matrimonial property	
Occupancy of family home	
Occupation rent	
Unjust enrichment	
Debt	
Equal division of family / other debt	

Terms of award sought

Unequal division of family / other debt	
Costs	
Other awards	

Arbitration

Source of the obligation to arbitrate

	Date	Copy attached
Court order		<input type="checkbox"/>
Separation or other family law agreement		<input type="checkbox"/>
Agreement to arbitrate		<input type="checkbox"/>
Other:		<input type="checkbox"/>

Law to be applied

- Alberta
- British Columbia
- Other law: _____

Preferred city/town of arbitration

Respondent's email address for delivery

Date: _____

Name
 Respondent

Family Law Arbitration

Between:

Claimant

And:

Respondent

Reply to Response to Claim

Awards

Awards sought by the Respondent _____

	Not agreed	Agreed	Agreed on the following conditions
Children and parenting	<input type="checkbox"/>	<input type="checkbox"/>	
Guardianship	<input type="checkbox"/>	<input type="checkbox"/>	
Decision-making	<input type="checkbox"/>	<input type="checkbox"/>	
Parenting time / contact	<input type="checkbox"/>	<input type="checkbox"/>	
Child support	<input type="checkbox"/>	<input type="checkbox"/>	
Special or extraordinary expenses	<input type="checkbox"/>	<input type="checkbox"/>	
Retroactive support	<input type="checkbox"/>	<input type="checkbox"/>	
Arrears of support	<input type="checkbox"/>	<input type="checkbox"/>	
Spousal support	<input type="checkbox"/>	<input type="checkbox"/>	
Retroactive support	<input type="checkbox"/>	<input type="checkbox"/>	
Arrears of support	<input type="checkbox"/>	<input type="checkbox"/>	
Property	<input type="checkbox"/>	<input type="checkbox"/>	
Equal division of family / matrimonial property	<input type="checkbox"/>	<input type="checkbox"/>	
Unequal division of family / matrimonial property	<input type="checkbox"/>	<input type="checkbox"/>	
Occupancy of family home	<input type="checkbox"/>	<input type="checkbox"/>	

	Not agreed	Agreed	Agreed on the following conditions
Occupation rent	<input type="checkbox"/>	<input type="checkbox"/>	
Unjust enrichment	<input type="checkbox"/>	<input type="checkbox"/>	
Debt	<input type="checkbox"/>	<input type="checkbox"/>	
Equal division of family / other debt	<input type="checkbox"/>	<input type="checkbox"/>	
Unequal division of family / other debt	<input type="checkbox"/>	<input type="checkbox"/>	
Costs	<input type="checkbox"/>	<input type="checkbox"/>	
Other awards	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

Date: _____

Name
 Claimant

Family Law Arbitration

Between:

Claimant

And:

Respondent

Financial Statement

This is the _____ financial statement of _____ and I promise that the information provided in this statement is true and accurate, to the best of my knowledge and belief.

The legal issues concern:

- child support and/or children’s special expenses, and I have completed Part I of this form;
- spousal support, and I have completed Parts I and II of this form;
- property, and I have completed Part III of this form; and/or
- debt, and I have completed Part IV of this form; and/or

Date: _____

Name
Claimant / Respondent

PART I: INCOME

Employment information

- I am employed by _____ .
- I am self-employed as _____ .
- I operate an unincorporated business, doing business as _____ .

My total annual income is

Source of income		Amount
Employment, total received	+	
Self-employment (gross income: \$ _____), net received	+	
Other employment income, total received	+	
Rental income (gross amount: \$ _____), net received	+	
Pension, total received	+	
RRSPs, total received	+	
Interest and investments, total received	+	
Dividends, total received	+	
Capital gains, (total gains: \$ _____), net received	+	
Employment Insurance benefits, total received	+	
Worker’s Compensation benefits, total received	+	
Spousal support received from another relationship, total received	+	
Other income, total received	+	
A. TOTAL INCOME FROM ALL SOURCES	=	

Income for child support

The adjustments to be added to my income are

Adjustment to be added		Amount
Capital cost allowance for real property, total amount	+	
Exercise of stock options (gross value: \$ _____), net of cost of shares and amount paid to acquire option	+	
B. TOTAL ADJUSTMENTS TO BE ADDED	=	

The adjustments to be deducted from my income are

Adjustment to be deducted		Amount
Union dues and professional dues, total paid	+	
Actual business investment losses, total loss	+	

Carrying charges and interest expenses, total paid	+	
Partnership and sole proprietorship earnings required to be reinvested, total	+	
Prior period earnings (gross amount: \$ _____), net of reserves	+	
Employment expenses under Sched III of the Child Support Guidelines, total paid	+	
C. TOTAL ADJUSTMENTS TO BE DEDUCTED	=	

D. My income for child support is $A + B - C = \$$ _____.

Income for children’s special and extraordinary expenses

The adjustments to be added to my income for child support are

Adjustment to be added		Amount
Spousal support received from another party, total received	+	
Universal Child Care Benefits	+	
E. TOTAL ADJUSTMENTS TO BE ADDED	=	

The adjustments to be deducted from my income for child support are

Adjustment to be deducted		Amount
Spousal support paid to another party, total paid	+	
F. TOTAL ADJUSTMENTS TO BE DEDUCTED	=	

G. My income for children’s special and extraordinary expenses is $D + E - F = \$$ _____.

Income for spousal support

The adjustments to be added to my income for child support are

Adjustment to be added		Amount
Child support received from another party, total received	+	
Canada Child Tax Benefit, total received	+	
BC Family Bonus, total received	+	
Alberta Child Benefit, total received	+	
H. TOTAL ADJUSTMENTS TO BE ADDED	=	

I. My income for spousal support is $D + H = \$$ _____.

PART II: EXPENSES

My total annual expenses are

Compulsory deductions from income		Amount
Canada Pension Plan contribution	+	
Employment Insurance premiums	+	
Income taxes	+	
Employee pension contributions	+	
Other:	+	
A. Total deductions	=	

Housing expenses		Amount
Rent or mortgage	+	
Property taxes	+	
Property insurance	+	
Water, sewer, garbage, recycling and composting fees	+	
Strata or condominium fees	+	
Repairs and maintenance	+	
Other:	+	
B. Total expenses	=	

Utilities and services		Amount
Natural gas	+	
Electricity	+	
Landline telephone	+	
Cellphone	+	
Cable television	+	
Internet	+	
Other:	+	
C. Total expenses	=	

Household expenses		Amount
Food	+	
Household supplies	+	
Meals outside the home	+	
Furnishings and equipment	+	
Other:	+	
D. Total expenses	=	

Personal expenses	Amount
Clothing	+
Hair care	+
Toiletries and cosmetics	+
Education and training	+
Life insurance	+
Dry cleaning and laundry	+
Entertainment and recreation	
Other:	+
E. Total expenses	=

Children's expenses	Amount
Clothing	+
Hair care	+
Child care	+
School fees and supplies	+
Activities, teams and lessons	+
Entertainment and recreation	+
Gifts to children	+
Other:	+
F. Total expenses	=

Health care expenses	Amount
Provincial medical plan fees	+
Extended health insurance premiums	+
Dental insurance premiums	+
Health care costs, net of coverage	+
Prescription drug costs, net of coverage	+
Dental care costs, net of coverage	+
Other:	+
G. Total expenses	=

Savings	Amount
RRSP contributions	+
RESP contributions	+
Other:	+
H. Total savings contributions	=

Transportation expenses	Amount
Public transit	+
Taxis and ridesharing services	+
Gas	+
Car insurance and personal driver's licence	+
Parking	+
Lease payments	+
Loan payments	+
Repairs and maintenance	+
Other:	+
I. Total expenses	=

Other expenses	Amount
Child support payments to persons who are not parties	+
Spousal support payments to persons who are not parties	+
Charitable donations	+
Vacations	+
Pet care	+
Other:	+
J. Total expenses	=

Debt payments	Amount
	+
	+
	+
	+
K. Total payments	=

L. My total annual expenses are $A + B + C + D + E + F + G + H + I + J + K = \$$ _____.

PART III: PROPERTY

The real property I own, including bare land, leasehold and mortgage interests, is

Address and nature of interest	Date acquired	Value
Total fair market value of real property		

The vehicles I own, including cars, trucks, motorcycles, trailers, motor homes and boats, are

Make, model and of vehicle	Date acquired	Value
Total fair market value of vehicles		

The financial assets I own, including bank accounts, term deposits, stocks, bonds, mutual funds, insurance policies and accounts receivable, are

Asset and name of financial institution	Date acquired	Value
Total fair market value of financial assets		

The pensionable savings I own, including private pensions and RRSPs, are

Pensions and name of financial institution	Date acquired	Value
Total current value of pensionable savings		

The business interests I hold, directly or indirectly, and including incorporated businesses, unincorporated businesses, partnerships, trusts and joint ventures, are

Interest and nature of interest	Date acquired	Value
Total current value of business interests		

The other assets I own, including collections, precious metals, works of art, jewelry, safety deposit boxes and household items of high value, are

Interest and nature of interest	Date acquired	Value
Total fair market value of other assets		

PART IV: DEBT

The secured debts I owe, including mortgages, lines of credit and car loans, are

Debt and name of creditor	Date incurred	Value
Total amount of secured debt		

The unsecured debts I owe, including credit card accounts, bank loans, accounts payable, tax arrears and personal loans, are

Debt and name of creditor	Date incurred	Value
Total amount of unsecured debt		

Family Law Arbitration

Between:

Claimant

And:

Respondent

Application

To: _____

Take notice that _____ is applying to the arbitrator for:

- an interim award on a legal issue in this arbitration proceeding; and/or
- an order on a procedural matter in this arbitration proceeding.

Interim awards

Awards sought by the Applicant

	Terms of interim award sought
Children and parenting	
Decision-making	
Parenting time / contact	
Children's activities	
Child support	
Special or extraordinary expenses	
Spousal support	
Property	
Occupancy of family home	
Use of property	
Sale of property	

Terms of interim award sought

Debt	
Payment of debt	
Payment of expense related to property	
Other interim awards	

Orders

Orders sought by the Applicant

Terms of order sought

Protection orders	
Protection of persons	
Non-removal of child	
Protection of property	
Procedural orders	
Changing a time limit	
Disclosure or production	
Expert witness	
Other witness	
Directions on	
Written questioning	
Oral questioning	
Disclosure or production	
Agreed statement of facts	
Expert witness	
Other witness	
Other orders	

Date: _____

Name
Applicant

Family Law Arbitration

Between:

Claimant

And:

Respondent

Response to Application

This is the response to application of _____

Interim awards

Awards sought by the Applicant

	Not agreed	Agreed	Agreed on the following conditions
Children and parenting	<input type="checkbox"/>	<input type="checkbox"/>	
Decision-making	<input type="checkbox"/>	<input type="checkbox"/>	
Parenting time / contact	<input type="checkbox"/>	<input type="checkbox"/>	
Children's activities	<input type="checkbox"/>	<input type="checkbox"/>	
Child support	<input type="checkbox"/>	<input type="checkbox"/>	
Special or extraordinary expenses	<input type="checkbox"/>	<input type="checkbox"/>	
Spousal support	<input type="checkbox"/>	<input type="checkbox"/>	
Property	<input type="checkbox"/>	<input type="checkbox"/>	
Occupancy of family home	<input type="checkbox"/>	<input type="checkbox"/>	
Use of property	<input type="checkbox"/>	<input type="checkbox"/>	
Sale of property			
Debt	<input type="checkbox"/>	<input type="checkbox"/>	
Payment of debt	<input type="checkbox"/>	<input type="checkbox"/>	
Payment of expense related to property	<input type="checkbox"/>	<input type="checkbox"/>	
Other interim awards	<input type="checkbox"/>	<input type="checkbox"/>	

	Not agreed	Agreed	Agreed on the following conditions
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

Orders

Orders sought by the Applicant

	Not agreed	Agreed	Agreed on the following conditions
Protection orders	<input type="checkbox"/>	<input type="checkbox"/>	
Protection of persons	<input type="checkbox"/>	<input type="checkbox"/>	
Non-removal of child	<input type="checkbox"/>	<input type="checkbox"/>	
Protection of property	<input type="checkbox"/>	<input type="checkbox"/>	
Procedural orders	<input type="checkbox"/>	<input type="checkbox"/>	
Changing a time limit	<input type="checkbox"/>	<input type="checkbox"/>	
Disclosure or production	<input type="checkbox"/>	<input type="checkbox"/>	
Expert witness	<input type="checkbox"/>	<input type="checkbox"/>	
Other witness	<input type="checkbox"/>	<input type="checkbox"/>	
Directions on	<input type="checkbox"/>	<input type="checkbox"/>	
Written questioning	<input type="checkbox"/>	<input type="checkbox"/>	
Oral questioning	<input type="checkbox"/>	<input type="checkbox"/>	
Disclosure or production	<input type="checkbox"/>	<input type="checkbox"/>	
Agreed statement of facts	<input type="checkbox"/>	<input type="checkbox"/>	
Expert witness	<input type="checkbox"/>	<input type="checkbox"/>	
Other witness	<input type="checkbox"/>	<input type="checkbox"/>	
Other orders	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

Date: _____

Name
 Application Respondent