

MEDIATION AGREEMENT

DATED:

PARTIES:

(1) (PARTY A)

(2) (PARTY B)

(each a "Party" and together "the parties")

AND:

of Brick Court Chambers, 7-8 Essex Street, London, WC2R 3LD

(the "Mediator") by which it is agreed as follows:

1. In this agreement "the dispute" means

(define)

2. The Parties appoint the Mediator and the mediator accepts the appointment to mediate the dispute in accordance with the terms of this Agreement. The Parties will attempt to settle the dispute by Mediation. The parties undertake to participate in the mediation in good faith.

3. The Mediation shall be conducted in such manner as the Mediator considers appropriate taking into account the views of the Parties, the nature of the dispute and the need to conduct the mediation with efficiency and expedition.

4. After any preliminary discussions or meetings the principal Mediation meeting will take place on the (TBC) at the offices of (TBC) commencing at 9.30am. Thereafter the Mediator will direct the procedure to be followed.

5. The parties' representatives **must** have the necessary full authority to settle the dispute and shall immediately inform the Mediator if it becomes apparent, prior to or during the Mediation hearing, that a

restriction or limit on their authority might reasonably be expected adversely to affect the mediation.

6. Those attending the Mediation for the Parties will be:

For Party A: *(to be confirmed)* advised by

For Party B: *(to be confirmed)* advised by

The Parties will inform each other and the Mediator of the status and role of their respective representatives. If there is any change in representation, the Party concerned will immediately notify the other Party or Parties and the Mediator of that change and provide full information about the status and role of any replacement or new representatives.

7. If prior to or in the course of the Mediation the Mediator is or becomes aware of any circumstance which might reasonably be considered to affect the Mediator's capacity to act impartially, the Mediator will immediately inform the parties giving such details as are appropriate.
8. The Mediator
- (a) will read the summaries and familiarise himself with other documents provided by the Parties to enable him to assist the parties to settle the dispute by agreement
 - (b) will determine the procedure at the mediation after consultation with the parties and their advisers;
 - (c) will seek to assist the parties in compromising and settling the dispute by a process of conciliation and discussion during the course of the mediation;
 - (d) will assist, if so requested, in drawing up any written settlement agreement;
 - (e) will not during the currency of this agreement or at any time thereafter act for any of the parties in any capacity (including as an expert witness, advocate or consultant) in relation to any aspect of the dispute.
9. The Parties accept that in relation to the dispute the Mediator is not acting as agent of or otherwise acting in any capacity on behalf of any of the parties.
10. The Mediators fees will be £ per hour for work done in advance of the mediation hearing and for work done after the mediation hearing but

before the conclusion of the mediation. The fee for the mediation day will be £ per day and the mediation day is from 9.30 until 19.30. If the parties wish to continue after 19.30 and the Mediator is able to do so then the additional hours will be charged at the hourly rate of £. The Parties will seek to agree these fees in advance of the mediation hearing. In default of such agreement the Mediator shall be entitled to charge reasonable fees for the work that he performs. These fees shall be payable within 14 days of receipt by the Parties of the Mediator's invoice. Each party will be separately liable to the Mediator for an equal share of these fees and the Mediator's expenses but those fees and expenses will be treated as costs of the action for the purposes of any subsequent agreement between the parties in relation thereto or order of the court.

11. Each Party will exchange with the other or others and send to the Mediator no later than 7 days before the Mediation:
 - (a) a concise summary (normally not more than 10 pages) which states its position in the dispute and which may outline what it hopes to achieve in the Mediation
 - (b) such supporting documents as are referred to in each party's summary or are otherwise considered likely to assist the Mediator
 - (c) in addition any party may provide to the Mediator written submissions or material in confidence marking such material as being strictly confidential to the Mediator.
12. No formal record or transcript shall be made of the Mediation.
13. The Mediator shall be entitled but not obliged, at any stage in the Mediation, to express his view privately to any Party on the reasonableness or otherwise of any argument or proposal made by that party.
14. If the parties are unable to reach a settlement during the course of a mediation then if all the parties so request and the mediator agrees, the Mediator may provide a non-binding written recommendation of terms of settlement. The Mediator in providing that recommendation shall be free to take into account all such matters and issues as he shall think appropriate and reasonable in all the circumstances. He shall not be required to pre-judge nor be limited by the possible outcomes that might be available in Court or from an Arbitral Tribunal.
15. All documents or other material (including any form of electronic record) produced for or brought into existence for the Mediation will be subject to without prejudice or negotiation privilege and together with evidence of meetings and other oral proceedings in the Mediation will be inadmissible as evidence and not be disclosable in any litigation or

arbitration connected with the dispute so long as and to the extent that such privilege applies.

16. The Parties, their representatives and advisors and the Mediator agree in relation to all information and statements whether written or oral disclosed or made to them in the Mediation including any preliminary steps:
- (a) To keep them confidential (save only as may be required to report to the Court or an Arbitrator or Arbitrators whether or not the matter has been resolved, to professional advisors, HM Revenue & Customs, relevant regulatory bodies or as may be required by law)
 - (b) Not to use them for a purpose other than the Mediation
 - (c) That the obligation of confidentiality herein shall bind the parties and all those attending on their behalf and the Mediator
 - (d) That no notes taken by the parties or by the Mediator and no other evidence concerning the conduct of the Mediation including oral submissions, oral statements, concessions or admissions of law or fact will be adduced in evidence in any subsequent proceedings in Court or before an Arbitrator or Arbitrators in connection with the Dispute (provided that if they would otherwise and independently of the Mediation have been admissible in such proceedings they should not be rendered inadmissible by reason of having been made during the course of the Mediation).

This agreement is without prejudice to the parties' ability to disclose the fact or the terms of any settlement agreement made in the course of the mediation, the parties being free to determine as and when that agreement is entered into the extent to which it should remain confidential.

17. No settlement reached during the Mediation will be legally binding unless and until it has been reduced to writing and signed by or on behalf of the Parties.
18. Each representative, when signing this agreement is signing on behalf of the Party he or she represents and on behalf of and binds all individuals attending or participating on behalf of that Party.
19. None of the Parties will seek to procure evidence from the mediator nor call him as a witness in any litigation or arbitration arising out of or in connection with the dispute, the mediation or any settlement reached at or in the course of or following the mediation. The Mediator may at his absolute discretion give such evidence only with the written consent of all the Parties. Any party who seeks (whether successfully or not) to

require the Mediator (including any servant or agent of the mediator who may with the consent of the Parties be involved in the mediation) to give evidence and/or provide documents arising out of or concerning the mediation or this dispute in any arbitral or judicial proceedings hereby agrees to indemnify the mediator and/or any such servant or agent of the mediator against any costs, expenses or disbursements including legal expenses incurred in responding to any such attempt by that party.

20. The Mediation shall terminate in the following events:
 - (a) with respect to any Party if that party withdraws from the mediation by giving written notice to that effect to the Mediator and each of the other Parties
 - (b) A written settlement agreement resolving the dispute is signed by the Parties
 - (c) The Mediator decides that continuing the Mediation is unlikely to result in a settlement or that it is undesirable or inappropriate for any other reason to continue with the Mediation
21. Each party shall in the first instance pay its own costs and expenses incurred in respect of the Mediation but nothing in this agreement shall prejudice any application the parties may hereafter make to the Court, if so advised, for orders as to the payment of such costs and expenses by another party or parties.
22. The Mediator shall not be liable to the parties for any act or omission or default in connection with the Mediation save in the case of wilful misconduct or bad faith on his part.
23. This agreement shall be governed by English Law and the Courts of England shall have exclusive jurisdiction to settle any claim or difference which may arise out of or in connection with this agreement.

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Signed on behalf of Party A

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Signed on behalf of Party B

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Signed by the Mediator