

Agreement To Mediate

Date:

Parties:

(“Party A”)

(“Party B”)

(Jointly “the Parties”)

Stephen Shaw (“the Mediator”)

Dispute (“the Dispute”)

This dispute concerns

Participation in the Mediation

1. The Parties will attempt, in good faith, to settle the Dispute, by Mediation (“the Mediation”). The “Mediation Procedure” is as set out below, and will determine the conduct of the Mediation. It is incorporated into, and forms part of, this Agreement.
2. The Mediator will be Stephen Shaw of Lamb Chambers, Lamb Building, Temple, London EC4Y 7AS.
3. The lead negotiator for each of the Parties at the Mediation will be:

Party A:

Party B:

(Jointly “the Lead Negotiators”)

Each of the Lead Negotiators will have full authority to settle on behalf of their Parties.

A Party will immediately notify the other Parties and the Mediator of any change to the above.

4. The person signing the Mediation Agreement on behalf of each party, will be deemed to be agreeing, on behalf of both the Party he or she represents and all persons present on that Party’s behalf at the Mediation, to be bound by the provisions of the Mediation Procedure.

Other Participants

5. The following, in addition to the Parties and the Lead Negotiators, will be present on behalf of each of the Parties at the Mediation:

Party A:

Party B:

A Party will immediately notify the other Parties and the Mediator of any change to the above.

6. The Mediation will take place Zoom video link:

On:

Starting at: 10.00am

The parties will be sent invitations prior to the Mediation date.

Confidentiality

7. The person signing this Agreement on behalf of each Party is deemed to be agreeing to the Confidentiality Provisions of the Mediation Procedure on behalf of the Party he or she represents and all other persons present on that Party's behalf at the Mediation.

Law and Jurisdiction

8. This Agreement shall be governed by, construed and take effect in accordance with, English Law. The Courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise out of, or in connection, the Mediation.

Settlement formalities

9. No terms of settlement reached at the Mediation will be legally binding until set out in writing and signed by or on behalf of each of the Parties.

Human Rights

10. The referral of the Dispute to Mediation does not affect any rights that may exist under Article 6 of the European Convention on Human Rights. If the Dispute is not settled by the Mediation, the Parties rights to a fair trial remain unaffected.

Mediation Procedure

1. The parties ("the Parties") to the dispute in question ("the Dispute") and the Mediator agree that this procedure ("the Procedure") forms part of, and may be varied by, the Mediation Agreement.

2. The Mediator, after consultation with the Parties where appropriate, will:
 - (a) Attend any meetings with any or all of the Parties preceding the Mediation if requested or if the Mediator decides this is appropriate and the Parties agree;
 - (b) Read before the Mediation each case summary and all the documents sent to him;
 - (c) Chair, and determine the procedure for, the Mediation ;
 - (d) Assist the Parties, if unrepresented and so required, in drawing up any written Settlement Agreement; and
 - (e) Abide by the terms of this Procedure and such Mediation Agreement as is signed.

3. The Mediator, will not act for any of the Parties individually in connection with this Dispute in any capacity either during the currency of this Agreement or at any time thereafter. The Parties accept that in relation to the Dispute the Mediator is not an agent of, nor acting in any capacity for, any of the parties. The Parties and the Mediator accept that the Mediator is acting as an independent contractor.

4. Each party will state in the Mediation Agreement the names of:
 - (a) The person(s) who will be the lead negotiator(s) for that Party, who must have full authority to settle the Dispute; and
 - (b) Any other person(s) (such as professional advisors or colleagues) who will also be present at, and/or participating in, the mediation on that Parties behalf.

The person signing the Mediation Agreement on behalf of each Party will be deemed to be agreeing, on behalf of both the Party he/she represents and all persons present on that Parties' behalf at the Mediation, to be bound by the provisions of this procedure

5. Each Party will send to the Mediator within good time and not less than seven days before the date of the Mediation, sufficient copies of:

- (a) A Position Statement (“the Position Statement”) setting out its case in the Dispute on a Without Prejudice basis, and for the purposes of the Mediation only; and
- (b) All the documents which the Summary refers to, and any other to which it may want to refer in the Mediation (“the Documents”),

and will simultaneously send such Statement and Documents to the other Party.

The parties should endeavour to agree a single paginated Mediation Bundle for use at the Mediation. It should be noted that the Mediator does not require documentation as comprehensive as in trial bundles, nor copies of the entire correspondence file. A paginated bundle containing copies of the pleadings, important witness statements, experts’ reports/photographs, and offers to settle should suffice, together with any other documents the Parties consider it is crucial for the Mediator to consider. The Parties should also provide an estimate of the costs incurred up to and including the Mediation, and the projected costs to be incurred if the matter were to be taken to trial.

In addition, each Party may send to the Mediator or bring to the Mediation further documentation which it wishes to disclose in confidence to the Mediator but not to any other Party, clearly stating in writing that such documentation is confidential to the Mediator.

- 6. The Parties should try to agree:
 - (a) The maximum number of pages of each Position Statement - no more than 6 pages is suggested; and
 - (b) A joint bundle of Documents as described above.
- 7. The Mediation will take place remotely by Zoom, as stated in the Mediation Agreement
- 8. The Mediator will chair and determine the Procedure at the Mediation.

9. No recording or transcript of the Mediation will be made.
10. Any settlement reached in the Mediation will not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties.
11. Any of the Parties may withdraw from the Mediation at any time and shall immediately inform the Mediator and the other representatives in writing. The Mediation will terminate when:
 - (a) A Party withdraws from the Mediation; or
 - (b) A written Settlement Agreement is concluded; or
 - (c) The Mediator decides that continuing the Mediation is unlikely to result in a settlement;
or
 - (d) The Mediator decides that he should withdraw from the Mediation.
12. Any litigation or arbitration in relation to the Dispute may be commenced or continued notwithstanding the fact of the Mediation unless the Parties agree otherwise or a court so orders.
13. Every person involved in the Mediation will keep confidential and not use for any collateral or ulterior purpose:
 - (a) The fact that the Mediation is to take place or has taken place, other than to inform a court dealing with any litigation relating to the Dispute of that fact; and
 - (b) All information (whether given orally, in writing or otherwise) arising out of, or in connection with, the Mediation, including the fact of any settlement and its terms.
14. All information (whether oral or in the form of documents, tapes, computer etc) arising out of, or in connection with, the Mediation will be without prejudice,

privileged and not admissible as evidence or disclosable in any current or subsequent litigation or other proceedings whatsoever, save that this does not apply to any information which would in any event have been admissible or disclosable in any such proceedings.

15. Paragraphs 13 and 14 above shall not apply insofar as any such information is necessary to implement and enforce any settlement arising out of the Mediation.

16. None of the Parties to the Mediation Agreement will call the Mediator as a witness, Consultant, Arbitrator or expert in any litigation or other proceedings whatsoever. The Mediator will not voluntarily act in any such capacity without the written agreement of all the Parties.

17. (i) Unless otherwise agreed by the Parties in writing, each Party agrees to share the Mediation Fee of £..... equally and also to bear its own legal and other costs and expenses of preparing for and attending the Mediation ('each Party's Legal Costs'). Each Party further agrees that any court or tribunal may treat both the Mediation Fees and each Party's Legal Costs as costs in the case in relation to any litigation or arbitration where that court or tribunal has power to assess or make orders as to costs, whether or not the Mediation results in settlement of their dispute.

(ii) The Mediation Fee specified above, is all-inclusive for the day's mediation. The mediator will charge no further fees for preparation, overtime, or otherwise. VAT is not payable, and the fee is non-refundable in the event of cancellation. The fee is payable not less than 14 days prior to the date fixed for the Mediation.

19. The Mediator shall not be liable to the Parties for any act or omission in connection with the services provided by him, or in relation to, the Mediation, unless the act or omission is shown to have been in bad faith.

20. The Parties understand and agree, that the Mediator does not give legal advice and agree that they will not make any claim against the Mediator in

connection with this Mediation. The Parties will not make an application to call the Mediator as a witness, nor require him to produce in evidence any records or notes relating to the Mediation, in any litigation, arbitration or other formal process arising out of or in connection with their dispute and the Mediation; nor will the Mediator agree to act as a witness, expert, arbitrator or consultant in any such process. If any Party does make such an application (as listed above), that Party will fully indemnify the Mediator in respect of any costs which may be incurred in resisting and/or responding to such an application, including reimbursement at the Mediator's standard rate of £300 per hour, for the Mediator's time spent in resisting and/or responding to such an application.

Signed:

On behalf of Party A:

Signed

On behalf of Party B:

The Mediator:

