

Mediation Agreement

THIS AGREEMENT DATED xx/xx/xxxx IS MADE BETWEEN

Party A

Add

Party B

Add

(together referred to as 'the Parties')

The Mediator

Peter Higgins Mediation of Add

(a term which includes any agreed mediator)

In relation to a mediation to be held at

Add

On

Add

('the Mediation')

IT IS AGREED by those signing the agreement THAT:

The Mediation

1. The parties agree to attempt in good faith to settle their dispute at the mediation. The mediator agrees to conduct and the parties to participate in the mediation in accordance with this agreement to mediate and with the mediation procedure set out in Schedule 2 of this agreement.

Participation in a Mediation

2. The Parties will attempt in good faith to settle the Dispute by mediation (“**the Mediation**”). The Parties signing this Agreement agree that the provisions of the Mediation Procedure set out in Schedule 2 to this Agreement will apply to the Mediation, are incorporated in and form part of this Agreement. The Mediation Agreement is to be signed before the beginning of the mediation by the Mediator and the Parties. Subsequent to the appointment of the Mediator by the Parties during contact prior to the day of the Mediation the Parties will observe the Mediation Procedure’s terms as to confidentiality and payment of the Mediator’s remuneration regardless of whether or not the Mediation Agreement already been signed.

The Mediator and attendees

3. Are detailed in **schedule 1**.
4. Each Party will immediately notify the other Party and the Mediator of any change to this information.

Authority and Status

5. The person signing this Agreement on behalf of each Party warrants having authority to bind that Party and all other persons present on that Party’s behalf at the Mediation, [or any part thereof], to observe the terms of this Agreement, and also having authority to bind that Party to the terms of any settlement.
6. The Mediator shall not be liable to the Parties for any act or omission in relation to the Mediation unless the act or omission is proved to have been fraudulent or involved willful misconduct.

Confidentiality and without prejudice status

7. Every person involved in the Mediation:
 - 7.1 will keep confidential all information arising out of or in connection with the Mediation, including the terms of any settlement, unless otherwise agreed by the Parties in writing but not including the fact that the Mediation is to take place or has taken place or where disclosure is required by law, or to implement or to enforce terms of settlement or to notify their insurers, insurance brokers and/or accountants; and
 - 7.2 acknowledges that all such information passing between the Parties and the Mediator, however communicated, is agreed to be without prejudice to any Party’s legal position and may not be produced as evidence or disclosed to any judge, arbitrator or other decision- maker in any legal or other formal process, except where otherwise disclosable in law.

8. Where a Party privately discloses to the Mediator any information in confidence before, during or after the Mediation, the Mediator will not disclose that information to any other Party or person without the consent of the Party disclosing it.

9. The Parties understand 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 them 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 any of them incur in resisting and/or responding to such an application, including reimbursement at the Mediator's standard hourly rate for the Mediator's time spent in resisting and/or responding to such an application.

Settlement formalities

10. 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.

Fees and costs of the mediation

11. Add

Legal status and effect of the Mediation

12. This Agreement is governed by the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to decide any matters arising out of or in connection with this Agreement and the Mediation.

13. The referral of the dispute to the Mediation does not affect any rights that exist under Article 6 of the European Convention of Human Rights, and if their dispute does not settle through the Mediation, the Parties' right to a fair trial remains unaffected.

Signed by:

for and on behalf of Party A

Print Name:

Dated

Signed by:

for and on behalf of Party B

Print Name

Dated

Signed by:

the Mediator

Print Name

Dated

Schedule 1

The Lead Attendees are:

For Party A:

Add

For Party B:

Add

The Representatives / other attendees are:

For Party A :

Add

For Party B:

Add

The mediator is:

Peter Higgins

Schedule 2

Mediation Procedure

1. The Mediator

- a. The Mediator, after consultation with the Parties where appropriate, will read before the Mediation:
 - i. each Case Summary (as defined below); and
 - ii. such of the Documents (as defined below) sent to him as he considers relevant and appropriate, taking into account the volume of such Documents and the time in advance of the Mediation they were delivered;
 - iii. chair, and determine the procedure for the Mediation;
- b. The Mediator and or Assistant Mediator/Observer will not act for any of the Parties individually in connection with the 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 and Assistant Mediator/Observer are not agents of, advisors to, or acting in any capacity for, any of the Parties.
- c. If there is any issue about the conduct of the Mediation upon which the Parties cannot agree within a reasonable time, the Mediator will, at the request of any Party, decide the issue for the Parties, having consulted with them. The Parties agree to abide by and comply in a timely manner with all decisions of the Mediator made pursuant to this clause.

2. Exchange of Information

- a. The Parties will agree a bundle of key documents for use at the Mediation (“the Documents”). The Parties will provide the Documents to the mediator at least one week before the Mediation, or by such other date as may be agreed between the Parties and the Mediator, or in the absence of agreement as directed by the Mediator. Each Party will send to the Mediator by the same deadline, a concise summary (“the Case Summary”) of its case in the Dispute; and
- b. In addition, each Party may send to the Mediator and/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.

3. The Mediation

- a. The Mediation will take place at the place stated in the Mediation Agreement.
- b. The Mediator will chair, and determine the procedure at, the Mediation.
- c. No formal recording or transcript of the Mediation will be made but the Parties and/or their Representatives may take notes of proceedings at the Mediation.
- d. Any Party time constraints should be notified to the Mediator as soon as known

4. Participants

The person signing the Mediation Agreement on behalf of each Party warrants having authority both for the Party he / she represents, and all persons present on that Party's behalf at the Mediation, to be bound by the provisions of the Mediation Agreement and this Procedure.

5. Termination

Any of the Parties may withdraw from the Mediation at any time and shall immediately inform the Mediator and the other representatives. 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;

Where the mediation does not end in complete settlement, the mediator may make contact with the parties thereafter to see whether further progress might be possible. Many disputes, which do not settle at the mediation, settle later, usually as a result of what occurred or was learned at the mediation. Where the mediator is in contact with the parties after the mediation, the provisions of the Mediation Agreement continue to apply.