

AGREEMENT TO MEDIATE

THIS AGREEMENT is made on the date and between the Parties, the Mediator, and Consensus Mediation Limited (“Consensus”) as set out in Schedule 1 hereto.

APPOINTMENT OF MEDIATOR

1. The Parties agree to appoint the Mediator to mediate the matters in dispute between them, all as defined in Schedule 1 hereof, at a Mediation meeting (the “Mediation”).
2. Consensus shall have the right to appoint an Assistant Mediator at no cost to the Parties.
3. The expression “the Mediator” shall herein include any Co-Mediator or Assistant Mediator.

REPRESENTATIVES AND ADVISORS

4. The individuals identified in Schedule 1 (the “Attendees”) will attend the Mediation either as Representatives of a Party or as Advisors to a Party, or as Companions to a Party.
5. Any Party may change the identified attendees before the commencement of the Mediation, notifying the Mediator and the other Parties as soon as possible of any such change.
6. The Representatives attending the Mediation will have full authority from their respective organisations to settle the dispute. The Representatives will also ensure that they are able to communicate with appropriate members of their respective organisations during the course of the Mediation if necessary.

CONFIDENTIALITY

7. Consensus, the Mediator and the Parties will ensure that they, their Representatives, Advisors and Companions will at all times keep confidential all facts, matters, written or oral statements, documents, or other items produced or disclosed for the purposes of the Mediation **SAVE THAT** such material that is admissible or disclosable in law shall not become inadmissible or non-disclosable by reason of this Agreement.

8. The Parties expressly agree that the entire Mediation process including all related discussions and correspondence taking place both before during and after the Mediation itself will be privileged in nature and shall at all times be as 'without prejudice' negotiations in litigious or similar proceedings.
9. The Parties warrant that to the best of their knowledge and belief the dispute and the matters to be considered at the mediation do not arise out of or concern any unlawful activity in any way. The Parties expressly release Consensus and or the Mediator from their obligations under paragraph 7 should a representative of Consensus or the Mediator at any time form the view that the activities or intentions of one or more of the Parties are, or might reasonably be construed to be, unlawful.

STATEMENTS OF CASE

10. In accordance with Schedule 1, the Parties:

- 10.1. will each prepare and submit to Consensus one or more copies of a written statement of case ("Statement") no later than the date set out in Schedule 1;
- 10.2. may by the same date serve a copy of the Statement on any other party;
- 10.3. will by the same date submit direct to the Mediator and to the Assistant Mediator or Co-Mediator (if one be appointed) copies of an agreed bundle of documents ("the Agreed Bundle");
- 10.4. may by the same date submit direct to the Mediator and to the Assistant Mediator or Co-Mediator (if one be appointed) copies of a bundle of non-agreed or confidential documents ("Non-Agreed Bundle") which shall not contain copies of any documents within the Agreed Bundle.

THE MEDIATION

11. The procedure to be adopted at the Mediation shall be at the discretion of the Mediator.
12. The Mediation will take place at the place and time set out in Schedule 1. The Mediation will continue until unanimous settlement terms resolving the dispute are agreed upon ("the

Settlement Terms”), or until any Party withdraws from the Mediation, or until the Mediator declares that the Mediation shall be abandoned.

COSTS

13. Each Party will bear its own legal costs unless otherwise agreed in the Settlement Terms.
14. The fee payable by the Parties for the Mediation is set out in Schedule 1 (“Fee”).
15. The expenses of the Mediator and Consensus including all administrative and out of pocket expenses relating to the provision of accommodation and other arrangements for the Mediation (“Expenses”) will be calculated and notified in advance to the Parties if reasonably possible.
16. The Fee will be paid by the Parties as set out in Schedule 1 to Consensus in advance of the Mediation and no later than the due date. An amount on account of Expenses will also be paid by the Parties as set out in Schedule 1 by the same date. Any unused Expenses will be reimbursed by Consensus and any Expenses not covered by the sum paid on account will be paid to Consensus within 14 days of the Mediation.
17. If payment in full of the Fee and Expenses is not received by the date specified in Schedule 1 the Mediator reserves the right not to attend the Mediation and the Parties will remain liable to pay the Fee and Expenses as set out in Schedule 1. Failure to pay by any Party or Parties will not relieve the liability of any other Party to pay its proportion of the Fee.
18. If the Parties do not settle the dispute on the first date fixed for the mediation and a second mediation day or part of a day is agreed the fee for such second attempt will be 65% of the original fee plus the mediator’s expenses.
19. The Mediator and or Consensus may recover unpaid fees as a debt. Consensus will pay the Mediator but will not be liable to the Mediator for any payment in the event that one or more Parties fail to pay its proportion of the Fee or Expenses.
20. Any payment not made in due time by any party will incur an interest charge of 2% per annum above Bank of England Base Rate for the time being calculated daily until payment.
21. In the event that the Parties do not attend the Mediation or reach a settlement before the commencement of the Mediation the Fee will remain payable except in the absolute discretion of

Consensus. Expenses will remain payable by the Parties unless the Mediator or Consensus has not paid or incurred liability to pay them.

22. In the event that the Mediation does not result in settlement between the Parties for any reason whatsoever including the termination of the Mediation by the Mediator, the Parties will not be entitled to the recovery of any portion of the Fee.

LIABILITY

23. Neither Consensus nor the Mediator shall be liable to any Party for any act or omission whatsoever in connection with the Mediation or the services provided in conjunction with the Mediation save in the case of proven bad faith on the part of Consensus or the Mediator as the case may be.

24. The Mediator is acknowledged by the Parties to be an independent contractor and is not an agent, servant or employee of Consensus. The Mediator warrants that the information provided to the Parties as set out in the Mediator's CV on the Consensus web site is accurate. In selecting the Mediator the Parties agree that they have satisfied themselves of the suitability of the Mediator for this appointment from the Mediator's CV and/or their own independent enquiries and have not relied upon any express or implied representation made by Consensus.

25. No Party may have access to the Mediator's notes, or other papers prepared by or for the Mediator or Consensus (including those papers provided to the Mediator by the Parties) for any purpose whatsoever. No Party may call the Mediator or any representative of Consensus as a witness in any proceedings between the Parties, and the Mediator's opinion will be inadmissible in any proceedings involving any Party relating to the Mediation or any of its subject matter.

LAW

26. This Agreement is governed by the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to determine any disputes arising in connection with this Agreement.

SIGNED
for and on behalf of Party A

SIGNED
by the Mediator

SIGNED
for and on behalf of Party B

SIGNED
by the Assistant Mediator

SIGNED
for and on behalf of Consensus Mediation
Limited

Schedule 1

Date of this Agreement			
<i>The Parties</i> (Party A) (Party B)			
The Dispute	Case number: or as described in the Parties' Statements of Case.		
The Mediator Assistant Mediator/Co-Mediator Mediator's Assistant	N/a N/a		
<i>Parties' Attendees:</i>	Representatives	Advisors	Companions
Party A - Claimant			
Party B - Defendant			

<p><i>The Mediation</i></p> <p>Date</p> <p>Start time</p> <p>Venue</p>	
<p><i>Documents</i></p> <p>Maximum size of:</p> <ul style="list-style-type: none"> ▪ Statement ▪ Agreed Bundle ▪ Non-Agreed Bundle <p>Number of copies</p> <p>Date due</p>	<p>No more than 10 sides of A4, unless otherwise agreed.</p> <p>No more than one standard lever arch file of documents between all parties, unless otherwise agreed.</p> <p>N/a</p> <p>1</p> <p>No later than:</p>
<p><i>Fees</i></p> <p>The Fee (per party)</p> <p>Mediator's expenses on account</p> <p>Date for payment</p>	<p>£ + VAT of £</p> <p>£ + VAT of £</p> <p>No later than:</p>