

# MEDIATION AGREEMENT

**THIS AGREEMENT** is between:

- (1) [ ] of [ ] (“Party A”)
- (2) [ ] of [ ] (“Party B”)
- (3) Robert Batho of “Lawrence House” 41 South Street ST AUSTELL Cornwall PL25 5BJ (“the Mediator”)

MATTER: [ ] (please complete)

## AGREEMENT

- 1 Party A and B (hereinafter referred to as “the Parties”) agree to use their best endeavours to resolve the dispute by mediation and to the appointment of Robert Batho as Mediator.
- 2 The Representatives of the Parties for the Mediation will be:  
  
[ ] for Party A  
(Advised by [ ])  
  
and  
  
[ ] for Party B  
(Advised by [ ])
- 3 The Representatives (or such other representatives as the Parties may from time to time appoint) will represent the respective Parties at the Mediation and will have full authority to settle the dispute.
- 4 The Mediation will take place at [ ] am on the [ ] day of [ ], 200x at [ ]. If the issues are unresolved at the end of that meeting, then with the unanimous agreement of the Parties and the Mediator, the Mediation may be adjourned to such time and place as may be agreed.
- 5 Prior to the Mediation both Parties will have submitted to the Mediator and will have exchanged copies of a written summary of their case and relevant background documentation.
- 6 Procedure at the Mediation will be determined by the Mediator, in consultation with the Parties.

## CONCLUSION OF THE MEDIATION

- 7 The Mediation will continue during the day(s) agreed until agreement is reached; or one of the Parties withdraws from the Mediation; or the Mediator is of the view that further efforts at mediation would not be worthwhile.
- 8 If the Parties require and the Mediator agrees that this would be helpful, the Mediator may produce for the Parties a written report of the case with recommendations on terms of settlement. This will not constitute an attempt to anticipate what a court might order but rather the Mediator's suggestions as to the settlement terms which are considered appropriate in all the circumstances.

## SETTLEMENT

- 9.1 If an agreement is reached between the Parties, Heads of Agreement will if appropriate and required by the Parties be prepared and signed by the Parties. No agreement as to the terms of any settlement reached during the Mediation shall be legally binding unless and until it is reduced to writing and signed by the Representatives for and on behalf of the Parties. The Parties shall however be legally bound by any settlement so reduced to writing and signed and undertake to give effect to such settlement in accordance with its terms.
- 9.2 All Parties reserve their respective rights should the Mediation not result in a settlement agreement being reached between them.

## CONFIDENTIALITY

- 10.1 By taking part in the Mediation the Parties undertake to each other and agree that:

- (i) the entire Mediation is and will be kept confidential;
- (ii) the Parties, the Representatives and their advisers and the Mediator shall keep all statements and all other matters whether oral or written including any settlement agreement relating to the Mediation confidential except insofar as disclosure is necessary to implement and enforce such settlement agreement;
- (iii) the entire process of the Mediation shall be treated as privileged and will be conducted on the same basis as without prejudice negotiation in an action in the courts or (similar proceedings). All documents, submissions and statements made or produced for the purposes of the Mediation whether oral or written shall be inadmissible and not subject to discovery in any arbitration, legal or other similar proceedings except that which is otherwise admissible or discoverable shall not become inadmissible or non-discoverable by reason of its use in connection with this Mediation.

10.2 The Mediator may not act for either Party individually in any capacity with regard to the subject matter of Mediation, and the Parties acknowledge that in acting under this agreement, the Mediator is not representing or giving legal advice to, nor assessing, upholding or protecting (or attempting to assess, uphold or protect), any rights of any of the Parties. The Parties are encouraged to take legal advice in respect to all matters pertaining to the Mediation and any agreement reached.

10.3 Neither Party may have access to the Mediator's notes or call the Mediator as witness in any proceedings relating to any of the issues between them, and the Mediator's opinion will be inadmissible in any subsequent proceedings which may take place between the Parties concerning the subject matter of the Mediation.

**COSTS**

11 Unless the parties otherwise agree, the fees and expenses of the Mediation as well as any other administrative expenses of the Procedure will be borne by the Parties in equal shares. Each Party will also pay its own expenses of individual representation in the Mediation. The estimated fees and expenses of the Mediation are payable in advance. Such estimate may be revised in the event of any further meeting(s) or other services being required of the Mediator, and in any event Parties will be invoiced in arrears for any additional fees or expenses not included in the initial invoice. If the Parties fail to pay the Mediator's fees and expenses they will be liable for non-payment. In the event that the Parties settle the matter prior to the Mediation, but after fees and expenses payable in advance have become due, the Mediator will be entitled to keep his administrative fees and any irrecoverable expenses incurred.

**EXCLUSION OF LIABILITY**

12 The Mediator shall not be liable to the Parties or either of them for any act or omission whatsoever in connection with the services to be provided by him.

13 This agreement shall be governed by and construed in accordance with English law, under the jurisdiction of the English Courts.

Dated the    day of    200x

SIGNED: .....  
for and on behalf of Party A

SIGNED: .....  
for and on behalf of Party B

SIGNED: .....  
by the Mediator