



DAVID GAMBLE MEDIATION

TREVERRICK HOUSE
NEWQUAY
CORNWALL TR8 4PP
info@dagmediation.com
0845 2591926
07714 290122

MEDIATION AGREEMENT

This Mediation Agreement (the "Agreement") is made on

Between

Name

(Address)

(Telephone)

(Email)

Represented by:

(Legal Advisers details)

AND

Name

(Address)

(Telephone)

(Email)

Represented by:

(Legal Advisers details)

Collectively referred to as "the parties" and individually as the "Party"

AND

DAVID GAMBLE (the Mediator) of the address set out at the head of this document.

WHEREAS



A. A dispute (the Dispute) has arisen between the Parties and

B. The Parties have requested the Mediator to assist them to resolve the Dispute by mediation (the Mediation) in accordance with the terms of the Agreement

IN CONSIDERATION

Of the mutual agreements set out below

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS

1 THE MEDIATOR, MEDIATION DATES AND VENUE

1.1 The Parties appoint the Mediator to assist them to resolve the dispute in accordance with the Agreement.

1.2 If the date or dates and venue of the mediation are not agreed, they shall be determined in writing by the Mediator after consultation with the Parties.

1.3 If the Parties are unlikely to reach a settlement during the Mediation, the mediator shall not make any recommendation on possible processes or terms of settlement.

1.4 The Mediator will attempt to effect a resolution by facilitative mediation and the Parties agree that the Mediator may use such skills as reality testing, probing questions and objective criteria (amongst others) to assist them in reaching a settlement.

1.5 The Parties agree that there shall be deemed to be no blinding agreement or blinding resolution to the dispute unless a Settlement Agreement is made in writing and signed by the Parties (but not the Mediator) . The Settlement Agreement may take such written form as the Parties agree, determine and wish, including potentially but not limited to, a draft Order, contract, undertaking or other document.

1.6 The Parties may, if they wish, otherwise conclude heads of agreement, or a minute of matters agreed without making the same blinding Settlement Agreement, or they may reach any other form of non-blinding resolution. Any offer made in mediation which is intended to survive the mediation should be in writing and so expressed.

2 MEDIATOR NOT TO CALLED AS A PARTY OR WITNESS, OR SUED

2.1 It is an express and fundamental condition precedent of the Mediator agreeing to act that the Parties (whether jointly or severally) shall neither call nor attempt to call the Mediator as a witness in any subsequent matter or seek a witness statement from him, unless an Order to that effect has been obtained by the Court.

2.2 If notwithstanding the foregoing, or in the alternative where an Order so permits, The Parties (jointly or severally) call or attempt to call the Mediator as a witness, or seek a witness

statement from him, the Parties shall (jointly or severally) be liable to pay The Mediator for the Mediator's recorded time in respect of dealing with or attending upon the summons and /or witness statement at the rate of £250 per hour (plus VAT) including travel, subsistence, accommodation and waiting time together with any such legal costs as the Mediator may incur. The Mediator's fees and costs in this instance shall be paid by way of a deposit of £1,000 before any work is undertaken followed by payment of any balance to reach the Mediator within 7 days of each presentation of the Mediator's fee note.

2.3 The Parties may also agree that they shall take no action against or commence any action or claim whatsoever against the Mediator arising from this Agreement by reason of his acting as the Mediator and that this is also a fundamental condition precedent of the Mediator agreeing to act in this matter. The Parties understand that this precludes any Party seeking any remedy for any alleged negligence or breach of duty or breach of any term of this Agreement by the Mediator.

3 CONFIDENTIALITY AND PRIVILEGE

3.1 As a pre-condition to attendance of the person at the Mediation, that person must sign the Confidentiality Agreement set out below at the end of this Agreement.



3.2 Those signing the Confidentiality Agreement and The Parties agree as a condition precedent for their participation in the mediation that the mediation will be conducted on a without prejudice basis and as a private and confidential meeting. Save as set out in paragraph 3.4 nothing said or done or written at or in the Mediation by way of or in the course of discussion, negotiation, exchange of documents, conversation, etc. can be repeated or relied upon elsewhere except for the Settlement Agreement.

3.3 During the Mediation itself, the Mediator will not disclose to anyone any statement said to him in private without the consent of the person who made that statement and shall never disclose that statement to any person after the Mediation.

3.4 Provisions 3.2 and 3.3 above cannot be varied except by Order of the Court.

3.5 Following termination of the Mediation, all information (whether given orally, in writing or otherwise) produced for, or arising out of or in connection with, the Mediation passing between any of the Parties and/or between any of them and the Mediator and made for the purposes of the Mediation shall be and remain confidential other than as set out in the Settlement Agreement and any terms thereof.

3.6 The Mediator shall not retain any documents or electronic records made or obtained for the purposes of the Mediation other than the signed copy of this Agreement. The Mediator will destroy or delete all materials sent to him at the conclusion of the mediation including any notes taken other than the signed copy of this Agreement.

4 START DATE, TIME AND TERMINATION OF THE MEDIATION

4.1 The Mediation shall begin as follows

Date

Time

Location

Duration

4.2 If the duration is exceeded, overtime is payable at the rate agreed.

TERMINIATION

4.3 The Mediation shall terminate either on settlement being reached or on The Parties agreeing to end the Mediation or on the duration being reached and no overtime being agreed by the Parties.

4.4 The Mediation may also be terminated by The Mediator when in his absolute discretion which shall not be challenged and for which no reason shall be sought or provided by him, The Mediator considers it appropriate to terminate.

5 FEES AND PAYMENTS

5.1 Each Party shall pay their agreed share (normally 50% in default of any differing agreement) of the Mediator's fees and expenses which (in total) will be:

1 Basic fee

2 Overtime

3 Travel / Expenses

5.2 The mediator's basic fee (plus VAT) must be paid before the Mediation begins by cheque or bank transfer unless the Mediator agrees otherwise. The Mediator will provide a fee note to trigger payment.

CANCELLATION OR POSTPONEMENT



5.3 If the Mediation is cancelled or postponed seven calendar days before the agreed date in paragraph 4.1 above, The Mediator is entitled to 50% of the Basic Fee in Paragraph 5.1 (1) above. If the mediation is cancelled more than seven days calendar days before the agreed date in paragraph 4.1 above. The Mediator will waive his basic fee but may recover any actual reasonable out of pocket expenses already made (for example travel expenses which are not recoverable)

ADJOURNMENT

5.4 If the Parties so agree the Mediation may be adjourned instead of being terminated under paragraph 4.3 above. In such event the Mediator may in his discretion agree with The parties the

terms of such an adjournment which will usually be for a fresh mediation fee (if his services are required) based on paragraph 5.1 (1) above.

6 APPLICABLE LAW AND DISPUTES

6.1 This Agreement shall be governed by the law of England and Wales

6.2 This Agreement shall be interpreted to give force to the mediation principles of confidentiality

IN WITNESS WHEREOF

The Parties and the Mediator have caused this Agreement to be executed by their undersigned duly authorised representatives

FOR _____ By

(Insert name of Party)

.....Dated

Signature

FOR _____ By

(Insert of Party)

.....Dated

Signature

FOR DAVID GAMBLE the Mediator By

.....Dated

Signature



MEDIATION ATTENDANCE - CONFIDENTIALITY AGREEMENT

(Note: to be signed by all those in attendance including the Parties, the Parties representatives, their Lawyers, experts and any additional advisors to the Parties, any other agreed attendees and any observers)

In consideration of my being permitted to attend the Mediation taking place under the provisions of the Agreement to which this is a part, I agree to be personally bound by the Agreement. My attention is specifically drawn to and I agree personally to be bound by and/or to bind those or that which I am the authorised representative, Paragraphs 2.1, 2.2 and 2.3 of this Agreement (Exclusion of liability) and Paragraphs 3.2 and 3.3 (Confidentiality). I will hold confidential all I see or hear at Mediation subject to the Order of the Court.

NAMES	OF / FIRM	Role at MEDIATION	SIGNATURE