

## Agreement

**THIS AGREEMENT is made this      day of**

**BETWEEN:**

**(1)      The parties named in Part I of the appendix**

**-and-**

**(2)      The mediator named in Part II of the appendix**

WHEREAS the Law Society of Northern Ireland has established a Dispute Resolution Service (the DRS) and maintains a panel of persons trained and accredited to act in the capacity of mediator and the Society will appoint persons from that panel to act as mediators in disputes referred to the DRS.

1. The parties have requested the Society to appoint a person to act as mediator for the resolution of the dispute which exists between the parties and have also furnished to the Society brief details of the nature of the dispute.
2. The Society has appointed from its panel of DRS mediators the person named in Part II of the appendix and the mediator agrees to accept the appointment.
3. No responsibility attaches to the Society or to the mediator as to whether or not it is appropriate to refer any particular dispute to mediation.
4. The parties agree to use their best endeavours to resolve the dispute by mediation and acknowledge the appointment of the mediator for that purpose.
5. If any of the parties intend to be represented in the mediation, the representative(s) is named in Part III of the Appendix. If any of the parties appoints a representative after the date of this agreement, such party will immediately notify the other parties and the mediator of the identity and address of such representative.
6. The mediation will take place at the date, time and venue arranged by the mediator in consultation with the parties. If the dispute is unresolved and the mediator is of the view that it would be productive to continue the mediation for a further period then this may be arranged in consultation with the parties.
7. Any representative named in Part III of the Appendix (or substituted later by a party) has full authority to settle the dispute and to bind the party whom he/she represents in matters pertaining to the mediation and to the proposed settlement of the dispute (and including authority to sign a settlement agreement for that party).
8. If a party to the mediation is insured in relation to the subject matter of the dispute, the other parties and the mediator may assume that that party has advised the insurer that mediation will take place and that the insurer has consented to the mediation proceeding. The mediator is not under any obligation to have regard to the interest of any such insurer or other third party.
9. As soon as practicable and in any event prior to the date specified in Part IV of the Appendix (unless the mediator waives such requirement) each party will submit to the mediator and exchange copies of a written summary of their case.

### **Conduct of the mediation**

10. (a) The Mediator does not enjoy power to make an award or reach any finding which will be binding upon the parties. No agreement as to the terms of any settlement reached during the mediation ("a settlement agreement") will be legally binding until it is in writing and signed by or on behalf of the parties. The form of any such agreement is the responsibility of the parties and not of the mediator.
  - (b) The mediation is without prejudice to the rights of the parties in any other legal proceedings related to the dispute if the mediation does not result in a settlement agreement. To ensure this the parties agree that all information and documents provided, views and opinions expressed, offers and counter offers made by any of the parties or by the mediator are solely for the purpose of the mediation and are without prejudice to any other legal proceedings and will not involve any admission on which a party to the mediation may rely outside the context of the mediation.
11. Each of the parties acknowledges and accepts that the procedure at the mediation will be determined by the mediator.

### **Obligations of the mediator**

12. (a) The mediator will act impartially in the mediation.
- (b) In the mediation the mediator acts only as a mediator and not in any other professional capacity and does not give professional advice to any of the parties.
- (c) The mediator is not under any duty to make or require independent enquiries or to undertake independent verification in relation to any question or other matter arising from the mediation process.
- (d) Where a conflict of interest on the part of the mediator becomes apparent during the course of the mediation, the mediator must immediately inform the parties and will withdraw if either party so requests.

### **Conclusion of the mediation**

13. The mediation will continue until agreement is reached but it will be discontinued if any party withdraws from the mediation or the mediator forms the opinion that in all the circumstances the mediation is unlikely to resolve the dispute or that it would not be productive to proceed with the mediation.

### **Settlement**

14. If an agreement is reached the parties will prepare and sign a settlement agreement. The terms and preparation of the settlement agreement are a matter for the parties and the mediator may (without obligation) assist.
15. The parties undertake to be legally bound by the settlement agreement and to give effect to the terms thereof.
16. Each of the parties reserves their respective rights in the dispute if the mediation does not result in a settlement agreement.

### **Confidentiality etc**

17. (a) Each of the parties and the mediator undertake as follows:-
  - (i) Unless they otherwise agree the mediation shall be conducted in private and they will keep confidential all matters which emerge during the mediation;

- (ii) To keep confidential all statements and all other matters whether oral or written including any settlement agreement relating to the mediation except in so far as disclosure is necessary to implement and enforce such settlement agreement;
- (iii) 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 produced for the purposes of the mediation whether oral or written will be inadmissible and not subject to discovery in any arbitration, legal or any other similar proceedings except that evidence that is otherwise admissible or discoverable shall not become inadmissible or non-discoverable by reason of its use in connection with the mediation.

17. (b) No party will have access to any of the mediator's notes or call the mediator as a witness in any proceedings relating to any of the issues between them which may emerge or be disclosed during the mediation.

### **Costs**

18. (a) Unless the parties otherwise agree, the fees and expenses of the mediator as well as any other administrative expenses of the mediation will be borne by the parties in equal shares. Each party will also be responsible for their own costs.
- (b) The costs of the first day of mediation, as specified in Part V of the appendix, are payable to the mediator in advance and unless otherwise agreed the mediation will not proceed until this has occurred. This sum is exclusive of any VAT which will be payable to the mediator in respect of his/her fee.
- (c) If the mediation continues beyond one day any additional costs shall be agreed between the parties and the mediator.

### **Exclusion of Liability**

19. Neither the Society nor any mediator appointed by the Society will be liable to the parties for any act or omission arising out of or in connection with this agreement.

#### **Signed by the Mediator**

in the presence of:

#### **Signed by**

in the presence of:

#### **Signed by**

in the presence of:



# Appendix

## **PART I Parties: -**

No.1 of

No.2 of

No.3 of

No.4 of

## **PART II The Mediator: -**

## **PART III The Representatives (if any) of the parties are: -**

Representative  
of Party No 1:

Representative  
of Party No 2:

Representative  
of Party No 3:

Representative  
of Party No 4:

## **PART IV Date/Time & Venue:**

Date:

Time:

Venue:

## **PART V First Day Fees**

The fees for the first day of mediation will be in accordance with the scale attached.