

Res Ipsa Mediation



Dr Trevor Fox LLB PhD (Exon) Solicitor
Independent ADR Group Accredited Mediator

AGREEMENT TO MEDIATE

PARTIES:

1. ("Party A")

2. ("Party B")

3. ("Party C")

("a Party" or collectively "the Parties")

3. ("the Mediator") Dr Trevor Fox

IN RELATION TO:

A. **DISPUTE:** *short description of the dispute*

("the Dispute")

B. **VENUE:** The Mediation will be held at with the Mediator on [date] from 10:00 for a duration of 7 hours or such longer period as may be agreed. ("the Mediation Session")

IT IS AGREED

The Parties agree in consideration of the mutual covenants between them that the Mediator shall mediate (including all preparatory and post Mediation Session activity) and the Parties shall seek to resolve the Dispute through mediation on the following terms and conditions ("the Mediation").

1. THE RULES

The Mediation shall be held and conducted according to this Agreement to Mediate.

2. COMMENCEMENT AND TERMINATION OF THE MEDIATION

2.1 The Mediation shall be deemed to have commenced on the date and time determined by the Mediator.

2.2 The Mediation shall be deemed to continue until any one of the following occurs:

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- 2.2.1 when a written Settlement Agreement is executed and signed by the Parties;
- 2.2.2 a written notice of withdrawal is given by any Party;
- 2.2.3 the time set for the Mediation has expired without agreement for continuation or resumption;
- 2.2.4 the Mediator decides, at his absolute discretion, and notifies the Parties, that continuing the Mediation is unlikely to result in a settlement or is otherwise undesirable; or
- 2.2.5 the Mediator decides that he should retire for any of the reasons set out in the Code of Practice of ADRg for the time being.

3. PROCEDURES

- 3.1 Each Party shall exchange with each other and supply the Mediator with an outline of their case and supporting documents at least 7 clear business days before the Mediation.
- 3.2 A Party does not require legal representation to attend the Mediation. Where a Party is not legally represented, they are advised to obtain independent legal and tax advice before the Mediation and prior to finalising any agreement reached pursuant to the Mediation and may bring a friend to the Mediation to help them.
- 3.3 The Parties recognise that the Mediator will not offer legal advice nor act as a legal advisor for any Party nor will he provide any Party with a legal analysis with respect to a Party's legal position or rights.
- 3.4 The Parties will participate in the Mediation personally or in the case of businesses, corporations or other legal entities, through their authorised representatives. The Parties will be represented in the Mediation as set out in Schedule 1.
- 3.5 Each Party warrants that at least one of its representatives has full authority to bind that Party to settle the dispute on its behalf. Any restriction on this authority must be notified in writing to the Mediator prior to commencement of the Mediation.
- 3.6 Any settlement reached in the Mediation will not be legally binding until it has been reduced to writing in a Settlement Agreement and signed by, or on behalf of, each of the Parties.

4. PRIVATE SESSIONS AND MEDIATOR CONFIDENTIALITY

- 4.1 The Mediator may hold private sessions with each Party and/or their representatives.
- 4.2 Information received by the Mediator through such sessions shall be and shall remain confidential with the Mediator save where (a) it is in any event publicly available or (b) the Mediator is specifically authorised by that Party to disclose it to the other Party and/or their representatives or (c) disclosure is required by law.
- 4.3 The parties agree that no recording or transcript will be made at the time of the mediation and that they will not call the Mediator to give evidence in any subsequent action.

5. MEDIATION FEES, EXPENSES AND COSTS

- 5.1 The Mediator's fees are payable in full 48 hours prior to the date of the mediation.
- 5.2 The Mediator's fee shall be fixed at £... plus VAT for each party which is fully inclusive of travel expenses. Each Party shall receive a separate invoice and shall pay £... plus VAT. There will be no additional charge if the mediation stretches beyond the agreed 7 hours on the allotted day of the mediation but if the Mediator is required to continue to assist the Parties after the allotted day his time shall be chargeable at an hourly rate of £... plus VAT per Party.

5.3 The full fees shall be due and payable if the mediation is cancelled by either Party within 24 hours of the agreed scheduled date and time and 50% of the fees shall be due and payable if the mediation is cancelled by either Party within 7 days of the agreed scheduled date.

SIGNATURE OF THIS MEDIATION AGREEMENT

This Agreement to Mediate is to be signed by the Parties, any instructed legal representative of each Party attending the mediation (if represented) and is binding upon them as of the date of signature.

Party A

Signature

Name

Date

Party B

Signature

Name

Date

Party C

Signature

Name

Date

Mediator

Signature

Name

Date

SCHEDULE 1 – Parties & Representatives Attendance Record

Attendee	Role	Signature on Attendance