

## MEDIATION AGREEMENT

Dated:

Parties:

1.

2.

3.

Mediator: Grant Brittain KC

The dispute:

### **THE PARTIES AND THE MEDIATOR AGREE:**

#### **Participation**

1. The Parties have agreed to refer the dispute to mediation. The parties appoint Grant Brittain KC to act as mediator.
2. Prior to the mediation, each party shall confirm to the mediator, and the other parties, the names of representatives who will attend the mediation.
3. By attending the mediation, the parties represent that they have full authority to settle the dispute. If any party attends mediation with a limitation on their authority to settle the dispute, that shall be communicated at the commencement of the mediation.

#### **Exchange of information**

4. Prior to the mediation, the parties and the mediator may agree on an exchange of information and documents for the purposes of the mediation. By agreement, the

exchange may be between all parties and the mediator, or be limited to the provision of information and documents to the mediator on a confidential basis.

### **Conduct of the mediation**

5. The mediator will act neutrally and impartially.
6. The mediator shall act as facilitator, and assist the parties to identify, and if possible resolve, the issues between them.
7. The mediator shall not give legal advice to any party.
8. The mediator shall not make a decision for the parties.
9. The mediator shall not coerce any party into agreement.
10. The mediator may conduct the mediation in the manner he thinks fit, including meeting with the parties together or separately.
11. The mediator shall comply with the Code of Ethics of the Arbitrators' and Mediators' Institute of New Zealand Inc.

### **Termination of the mediation**

12. The mediation may be terminated in any of the following circumstances:
  - a. Any party may withdraw from the mediation at any time, after consultation with the mediator.
  - b. The mediator may terminate the mediation after consultation with the parties if the mediator considers that he is unable to further assist the parties.
  - c. By execution of a written settlement agreement.

### **Settlement and confidentiality**

13. The parties and the mediator shall maintain the confidentiality of the process. The parties and the mediator shall not divulge any information disclosed during the mediation, or any aspect of the mediation, unless directed by a court or as permitted by clause 16.

14. Any information disclosed to the mediator during a private meeting between the mediator and a party shall be kept confidential from the other parties and not disclosed by the mediator without the consent of the party that imparted the information.
15. If the parties agree terms of settlement at mediation it is their intention to record those terms in a written agreement to be signed by the parties before they leave the mediation.
16. The mediation shall be without prejudice to the parties' positions in the dispute. The parties shall not introduce as evidence in any proceeding:
- a. documents prepared for the mediation;
  - b. admissions made by a party at mediation;
  - c. settlement proposals made or views on settlement expressed by the parties or the mediator;

except that a party seeking to enforce a settlement agreement may call evidence to prove the existence and terms of a settlement agreement.

### **Exclusion of mediator liability**

17. The parties agree that the mediator shall not be in any way liable to the parties for any act or omission in any way connected to the mediation. The parties, jointly and severally, indemnify the mediator in respect of any such claim.

### **Costs**

18. The parties shall meet their own costs of the mediation.
19. Unless agreed otherwise, the parties agree to pay an equal share of the mediator's fee. The mediator's fee shall be agreed prior to the mediator's appointment. The mediator's fee shall be payable regardless of the outcome at the mediation.

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Party

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Party

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