**ASG 8**

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| **DATED 201[ ]** |
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| **MEDIATION AGREEMENT** |

**ASG MEDIATION AGREEMENT**

**THIS AGREEMENT** dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_201[ ] is made between:

1. **PARTY A.**

of

1. **PARTY B.**

of

("the Parties")

1. **THE MEDIATOR.**

of

(the "Mediator")

(a term which includes any agreed mediator or observer)

**APPOINTMENT OF MEDIATOR**

1. The Parties have agreed to appoint the Mediator, and the Mediator accepts the appointment, to mediate the Dispute in accordance with the terms of this Agreement.
2. The "Dispute" means the issues that are the subject matter of [*insert brief details of proceedings/dispute*]

**COSTS**

1. The Parties will share equally and will be liable together and separately to the Mediator for the Mediator's fees and all other costs of the Mediation as described below.

The costs of the Mediation, including the Mediator's fees payable in accordance shall be shared equally between the parties and shall not form part of any recoverable costs in any proceedings.

**THE MEDIATOR**

1. The Mediator shall throughout the Mediation act as an independent, impartial, neutral facilitator, act in good faith to assist the parties to settle the Dispute and If requested, assist the Parties in drawing up a suitable settlement agreement (the “Settlement Agreement”)
2. The Mediator shall maintain and respect the confidentiality of all information provided by the Parties.

**CONFIDENTIALITY**

1. The Parties agree that every person involved in or attending the Mediation:
   * + 1. Will keep confidential all information arising out of or in connection with the Mediation, including the terms of the Settlement Agreement, unless otherwise agreed by the Parties in writing
       2. Unless otherwise agreed or required by law, or required in order to enforce any Settlement Agreement, keep confidential the fact that the Mediation is to take place or has taken place;

**CONDUCT OF THE MEDIATION**

1. The Mediation, including all preliminary steps, shall be conducted in such manner as the Mediator considers appropriate having due regard to the nature and circumstances of the Dispute.
2. Each Party must use their best endeavours to comply with reasonable requests by the Mediator to promote the efficient and expeditious resolution of the Disputes. If either Party does not do so, the Mediator may terminate the mediation.
3. The Mediator may give directions as to:
   * + 1. the exchange of brief written outlines of the issues raised by the Dispute and a supporting bundle of documents which are relevant to those issues;
       2. providing the Mediator prior to the Mediation with any such outlines and documents, and any further information or documents that the Mediator may request following perusal of the outlines and supporting documents; and
       3. preliminary conferences, by phone or meeting, prior to the Mediation.

**COMMUNICATIONS**

1. The Mediator may meet the Parties, together or alone, as often as the Mediator considers to be appropriate.
2. Save for anything reflected in the Settlement Agreement no written record of the Mediation shall be taken or kept.
3. The Parties and the Mediator agree that all documents or statements produced for or used or made in the Mediation, not otherwise available or known or subject to other obligations of disclosure, will be privileged and will not be disclosed in or relied upon or be the subject of an application to give evidence or to produce documents in any arbitral or judicial proceeding or any other formal process in respect of the Dispute (or any of them) and the mediation

**PRIVILEGE**

1. The Mediation shall be conducted on a without prejudice basis. The Parties and the Mediator accordingly agree that all documents or statements produced, used or made in the Mediation, not otherwise available or known or subject to other obligations of disclosure, will be privileged.

**LEGAL PROCEEDINGS**

1. No Party shall require, call or summons the Mediator to give evidence as witness or to produce documents records or notes in any arbitral or judicial proceeding or any other formal process arising from or in connection with the Disputes (or any of them) and the mediation or to request the Mediator to act in any capacity other than as Mediator.

**TERMINATION**.

1. The Mediator may terminate the Mediation, other than as provided elsewhere in this agreement, if after consultation with the Parties, the Mediator feels unable to assist the Parties to achieve resolution of the Dispute or considers it appropriate for any other reason, which the Mediator may decline to give the Parties.
2. The Mediation will be terminated, in any event, upon execution of the Settlement Agreement.

**SETTLEMENT**

1. Unless otherwise agreed by the Parties, a settlement reached at the Mediation must be written down in the Settlement Agreement and signed by the Parties or their representatives in order to be binding on the Parties.
2. Either Party may enforce the terms of the settlement agreement by judicial proceedings; and / or in such proceedings adduce evidence of and incidental to the Settlement Agreement (other than matters which are privileged).

**INDEMNITY AND EXCLUSION OF LIABILITY**

1. The Mediator will not be liable to a Party, except in the case of fraud by the Mediator, for any act or omission whatsoever in the performance of the Mediator's obligations under this Agreement. The Parties together and separately indemnify the Mediator against all claims.

**LAW AND JURISDICTION**

1. This Agreement is governed by, and is construed and takes effect in accordance with, English law. Unless otherwise specified in any settlement agreement, the Courts of England will have exclusive jurisdiction in relation to the settlement of any claim, dispute or matter of difference that may arise out of or in connection with the Mediation.

**COSTS OF THE MEDIATION**

1. Mediator's Fees
   * + 1. The Mediator's fee is for a one-day mediation involving two parties and shall be £3,000 per party per day.
       2. This fee **includes** preparation and any pre-meeting contact with the parties
       3. Any additional day for any two party mediation will be charged at £2,250 per party per day or part thereof.
       4. If the mediation involves three or more parties, the standard fee per party per day will be reduced to £2,250 per party per day for a one-day mediation and £1,750 per party per day for any subsequent days or part thereof.
       5. These fees are based on a standard mediation day commencing at 9.30am and ending at 6.00pm. If the mediation extends beyond 6.00pm on any one day the Mediator's fee will be £350 per hour for each hour or part of an hour thereafter for all time spent by the Mediator on the matter until the mediation is formally concluded and the Mediator's mandate is terminated, and will be split equally between the parties.
       6. The above fees are based on the assumption that the parties should restrict the papers provided to the Mediator such that they can be easily read and digested by the Mediator in one day of preparation (8 hours). If a particular case makes it necessary for the Mediator to read more than this, or to take more time, additional preparation time will be charged at the rates set out above. However, the Mediator will first endeavour to agree with the parties the level of any additional preparation charge which he considers necessary.
       7. All Mediator's fees shown above are exclusive of VAT, if applicable.
       8. The Mediator’s expenses will be charged at cost and split equally between the parties
       9. The cost of the venue (if applicable), including meals and any other expenses will be charged at cost and split equally between the parties
       10. The Mediator shall have liberty to issue an invoice for the standard fee and for any additional time agreed requiring payment before commencement of the mediation or at any time thereafter
2. **Cancellation**

If the Mediation is cancelled after a date has been fixed and confirmed to the Parties the Mediator shall have liberty to charge each or any party a cancellation fee of not more than 50% of the standard fee which would have been payable by that party had the mediation taken place; or to waive such fee.

Any expenses incurred will be charged at cost and split equally between the parties

**SIGNED:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**On behalf of [Party A] Print name**

**Date**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**On behalf of [Party B] Print name**

**Date**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**The Mediator Print name**

**Date**

01/11/17