

## Agreement to Mediate

**This Agreement is among the Parties (“the Parties”):**

	of	
	of	

**and the Mediators (“the Mediators”):**

	of	

**and is agreed by the other participants attending the Mediation:**

	of	
	of	

**It is agreed by signing this agreement that:**

1. The Parties agree that they wish to attempt in good faith to resolve a dispute between them by mediation and they agree to appoint the Mediators to conduct the Mediation.
2. The Mediation will take place at [location and address] on [date] commencing at [time]. The Mediation may be adjourned at any time by agreement between the Parties and the Mediators and will be resumed at a place, date and time which they agree.
3. The Parties acknowledge that they have seen the Terms of Mediation (“the Terms”) and the Scottish Mediation Network Code of Practice for Mediation in Scotland (“the Code”) which they agree will apply to the Mediation.
4. The Mediation will continue until a settlement of the dispute is reached unless either of the Parties decides to withdraw from the Mediation or the Mediators terminate the Mediation or withdraw from the Mediation in accordance with the Terms.

**Signed:**

		Party A
		Party B
		Mediator
		Mediator

**Signed by the other participants, who agree to be bound by the confidentiality provisions:**


**Date:**

## Terms of Agreement to Mediate ("the Terms")

### **The Mediation**

1. Mediation means a structured process whereby two or more Parties to a dispute attempt, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a Mediator.
2. Mediator means a third person(s) who conducts a mediation in an effective, impartial and competent way and may include two co-mediators where stated in the Agreement to Mediate.
3. The Parties wish to resolve a dispute by mediation and will use their best efforts to reach a settlement.
4. The Parties have full authority to reach a resolution to the dispute and to enter into an agreement. An individual who is a representative of one of the Parties will provide a mandate confirming their full authority and if they need to consult others who will not be present, they will ensure they are able to communicate with those individuals throughout the Mediation.
5. The Parties legal rights are retained by them should the Mediation not result in an agreement.
6. The Parties are free to withdraw from the Mediation at any time.

### **The Settlement**

5. If a settlement is reached a Settlement Agreement will be prepared if required by the Parties and this will be signed by them. The Settlement Agreement will then be a legally binding obligation on the Parties.

### **Confidentiality**

6. The Mediation, including all communications prior to and during the Mediation, will be kept confidential. It will be conducted on the same privileged basis as without prejudice negotiations in an action in the courts or tribunals or similar proceedings.
7. The preceding paragraph shall not apply where:
  - the Parties agree to specific disclosure;
  - disclosure is necessary to implement and enforce the Settlement Agreement;
  - the Parties are, or any other person is, required by law to make disclosure;
  - the Mediators reasonably consider that there is serious risk of a breach of the money laundering regulations (Proceeds of Crime Act 2002)
  - the Mediators reasonably consider that there is serious risk of significant harm to the life or safety of any person if the Mediators do not make such disclosure;
  - the Mediators require assistance in confidence from another Mediator who is a signatory to the Agreement on any ethical or other serious question arising out of the Mediation.
8. Unless otherwise admissible, all documents, submissions and statements made or produced for the purposes of the Mediation, whether oral or written, shall be inadmissible as evidence in any court or tribunal or arbitration or other proceeding. Unless otherwise recoverable, all such documents, submissions and statements shall be treated as confidential in any procedure for recovery by way of Commission and Diligence or other similar proceedings.
9. No Party may have access to the Mediators' notes or call the Mediators as witness in any court or tribunal or arbitration or other proceeding relating to the subject of the Mediation.

### **Liability**

10. Neither Eskhill & Co nor the Mediators, shall be liable to the Parties for any act or omission in connection with any services provided by them.

### **Jurisdiction**

11. The Agreement shall be governed by the laws of Scotland.

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