# ARBITRATION : AGREEMENT TO TERMS OF APPOINTMENT

AGREEMENT dated 20

# PARTIES

CLAIMANT(S) AND

RESPONDENT(S)

# Acceptance of terms

* 1. The parties are in dispute and have agreed to submit that dispute to Arbitration under the Arbitration Act 1996.
  2. The parties by their execution of this agreement accept/note the appointment of Sam Maling of Christchurch, Barrister [“ The Arbitrator”], and accept the terms and conditions of that appointment as detailed in this agreement.

# Service and communications

* 1. The Claimant in these proceedings is represented by
  2. The Claimants address for service is
  3. The Respondent in these proceedings is represented by
  4. The Respondents address for service is
  5. Communications and notifications to the Arbitrator shall in the first instance be made in writing by email to [smaling@xtra.co.nz](mailto:smaling@xtra.co.nz) or where for any reason email is not practical delivered to the Arbitrator in his rooms at Regus, Level 1, North Lobby, Awly Building 293 Durham Street Christchurch or posted to POBox 79043,Avonhead Christchurch.
  6. Any communication with the Arbitrator shall be copied contemporaneously to the other party at the address for service nominated in this agreement.
  7. It is the responsibility of each party to advise any change of address for service. Unless and until notice of a change to a new address has been lodged with the Arbitrator and advised to all other parties, documents and notices served at the address for service recorded on the Arbitrators file shall be valid service and effective notice.
  8. Email and documents in electronic form are preferred unless otherwise directed.

# CONFERENCES AND PROCEDURE

* 1. The Arbitrator will convene an initial conference to consider any preliminary matters and to make directions for the conduct of the Arbitration. Thereafter conferences may be convened as required to expedite preparation and to ready the matter for hearing.
  2. Where possible conferences will be conducted by conference call or video conferencing ( Zoom technology or Skype) but the Arbitrator may, at his sole discretion, require the

parties and their Counsel, or both, to attend in person on giving notice for that purpose at any time.

* 1. The Arbitration will be conducted generally in accordance with the Arbitration Act 1996 and its Amendments but the parties further agree that where procedure or process is in doubt the Arbitrator may in his discretion apply the UNCITRAL Arbitration Rules (2010).
  2. Unless otherwise agreed the scope of this Arbitration shall be determined by the Arbitrator following the exchange of points of claim and any response and/or counterclaim.

# FEES and INDEMNITY

* 1. Arbitrator’s fees are based on $1500 plus gst per half day or part thereof for interlocutory hearings and $3000.00 plus gst for each sitting day (max 8 hours)or part thereof for the substantive hearing. Fees for other attendances are based on an hourly rate of $375.00 plus gst and may where appropriate include a component for ongoing supervision and monitoring.
  2. Where the amount in dispute or subject matter value exceeds $NZ 100,000 or where the dispute involves urgency, complexity, or other particular difficulty then the Arbitrator may increase the fee by a reasonable amount to reflect that additional responsibility.
  3. Where the proceeding is settled , withdrawn or otherwise discontinued then the Arbitrator shall be paid for all work in progress up to discontinuance and may charge a cancellation fee which must be reasonable in all the circumstances for any cancelled hearing day.
  4. In addition to fees all reasonable expenses including transcription fees and venue hire will be recoverable from the parties.
  5. Fees may be rendered monthly or at such other intervals as the Arbitrator may decide and are due for payment within 14 days of the date of invoice. Fees outstanding for more than 30 days from date of invoice attract interest at 2% per month compounding.
  6. The Arbitrator may at any time and as a precondition to any continuing attendance in the Arbitration order any party to give security for costs and may stay the proceeding until that order is complied with.
  7. Notwithstanding any direction as to payment which may be made by the Arbitrator all parties accept joint and several responsibility for the Arbitrators fees. Should a party default on a payment directed by the Arbitrator then the Arbitrator may recover the outstanding payment from the other party or parties in which event the paying party or parties shall have a right to immediate recourse from the non paying party or parties.
  8. This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument. A pdf scanned copy of this agreement attached to an email transmission, showing a representation of the signature of any party shall be deemed to be an original.

DATED THIS DAY OF 20

SIGNED BY THE CLAIMANT(s) :

SIGNED BY THE RESPONDENT(s):

SIGNED BY THE ARBITRATOR :