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| Dated | **xx/xx/xxxx** |
| *CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE BETWEEN* |
| **Party A** |  | **Party B** |  |
| *And* |
| **Party C** |  | **Party D** |  |

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**THIS AGREEMENT** is dated [DATE]

**Parties**

(1) [PARTY A] of [ADDRESS] (Company number [NUMBER]) whose registered office is [ADDRESS] (“[**PARTY A**]”)

(2) [PARTY B] of [ADDRESS] (Company number [NUMBER]) whose registered office is [ADDRESS] (“[**PARTY B**]”).

**Background**

A dispute has arisen between the parties. [DETAILS OF THE DISPUTE] (“the Dispute”).

The Dispute has been the subject of a mediation (“the mediation”) conducted under an agreement (“the Mediation Agreement”) between the Parties and Nigel Davidson (“the Mediator”).

(A) The parties have settled their differences and have agreed terms for the full and final settlement of

the Dispute and wish to record those terms of settlement, on a binding basis, in this agreement

**Agreed terms**

**1. Definitions and interpretation**

In this agreement, unless the context otherwise requires, the following words and expressions have the following meanings:

**Related Parties**: a party’s parent, subsidiaries, assigns, transferees, representatives, principals, agents, officers or directors.

**2. Effect of this agreement**

The parties hereby agree that this agreement shall immediately be fully and effectively binding on them.

**3. IT IS AGREED AS FOLLOWS:**

3.1 [SET OUT TERMS AGREED]

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**4. Stay OR Dismissal of action**

The parties hereby consent to, and shall take all necessary steps to obtain Orders in substantially the form of the draft Orders in Annex A.

**5. Release**

This agreement is in full and final settlement of, and each party hereby releases and forever discharges, all and/or any actions, claims, rights, demands and set-offs, whether in this jurisdiction or any other, whether or not presently known to the parties or to the law, and whether in law or equity, that it, its Related Parties or any of them ever had, may have or hereafter can, shall or may have against the other party or any of its Related Parties arising out of or connected with:

(a) the Dispute;

(b) the underlying facts relating to the Dispute;

(c) the Proceedings;

(d) any agreement between or act by the parties or their Related Parties or any of them; and

(e) any other matter arising out of or connected with the relationship between the parties.

(Collectively the **Released Claims**)

 **6. Agreement not to sue**

Each party agrees, on behalf of itself and on behalf of its Related Parties not to sue, commence, voluntarily aid in any way, prosecute or cause to be commenced or prosecuted against the other party or its Related Parties any action, suit or other proceeding concerning the Released Claims, in this jurisdiction or any other.

**7. Costs**

7.1 The parties shall each bear their own legal costs in relation to the Dispute the Proceedings the mediation and this agreement.

7.2 This clause 7 supersedes and overrides any and all previous agreements between the parties and any court order regarding the legal costs in relation to the Dispute and the Proceedings and in relation to this agreement (including the implementation of all matters provided by this agreement).

**8. Warranties and authority**

8.1 Each party warrants and represents that it has not sold, transferred, assigned or otherwise disposed of its interest in the Released Claims.

8.2 Each party warrants and represents to the other with respect to itself that it has the full right, power and authority to execute, deliver and perform this agreement.

**9. Indemnities**

Each party hereby indemnifies, and shall keep indemnified, the other party against all costs and damages (including the entire legal expenses of the parties) incurred in all future actions, claims and proceedings in respect of any of the Released Claims which it or its Related Parties or any of them may bring against the other party or its Related Parties or any of them.

**10. No admission**

This agreement is entered into in connection with the compromise of disputed matters and in the light of other considerations. It is not, and shall not be represented or construed by the parties as, an admission of liability or wrongdoing on the part of either party to this agreement or any other person or entity.

**11. Severability**

If any provision of this agreement is found to be void or unenforceable, that provision shall be deemed to be deleted from this agreement and the remaining provisions of this agreement shall continue in full force and effect and the parties shall use their respective reasonable endeavours to procure that any such provision is replaced by a provision which is valid and enforceable, and which gives effect to the spirit and intent of this agreement.

**12. Entire agreement**

12.1 This agreement constitutes the entire understanding and agreement between the parties in relation to the subject matter of this agreement and supersedes all previous agreements between the parties in respect of all matters relevant to the Dispute except those terms of the Mediation Agreement of continuing effect including confidentiality of the mediation process, the Parties’ undertaking not to call the mediator or pdtsolicitors to give evidence and the liability of the Mediator and pdtsolicitors.

12.2 Each party acknowledges that it has not entered into this agreement in reliance wholly or partly on any representation or warranty made by or on behalf of the other party (whether orally or in writing) other than as expressly set out in this agreement.

**13. Confidentiality**

The terms of this agreement, and the substance of all negotiations in connection with it, are confidential to the parties and their advisers, who shall not disclose them to, or otherwise communicate them to, any third party without the written consent of the other party other than:

(a) to the parties' respective auditors, insurers and lawyers on terms which preserve confidentiality;

(b) pursuant to an order of a court of competent jurisdiction, or pursuant to any proper order or demand made by any competent authority or body where they are under a legal or regulatory obligation to make such a disclosure; and

(c) as far as necessary to implement and enforce any of the terms of this agreement.

The parties are entitled to confirm the fact of, but not the terms of, settlement of the Dispute.

**14. Governing law and jurisdiction and Dispute Resolution**

14.1 This agreement shall be governed by, and construed in accordance with, the law of England and Wales. Any dispute arising out of or in connection with, or concerning the carrying into effect of, this agreement shall be subject to the exclusive jurisdiction of the courts of England and Wales, and the parties hereby submit to the exclusive jurisdiction of those courts for these purposes.

14.2 If any dispute arises out of this Agreement, the Parties will attempt to settle it by mediation before resorting to any other means of dispute resolution. To initiate any such mediation a Party must give notice in writing to the Mediator. Insofar as possible the terms of the Mediation Agreement will apply to any such further mediation. If no legally binding settlement of such a dispute is reached within 28 days from the date of the notice to the Mediator, either party may institute court proceedings/refer the dispute to arbitration.

**15. Contracts (Rights of Third Parties) Act 1999**

The parties agree that the terms of this agreement are not enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999.

**16. Co-operation**

The parties shall deliver or cause to be delivered such instruments and other documents at such times and places as are reasonably necessary or desirable, and shall take any other action reasonably requested by the other party for the purpose of putting this agreement into effect.

**17. Variation**

Any variation of this agreement shall be in writing and signed by or on behalf of each party.

This agreement has been entered into on the date stated at the beginning of it.

|  |  |  |
| --- | --- | --- |
| Signed by | **[NAME OF DIRECTOR]** |  |
| for and on behalf of | **[PARTY A]** |
|  |
| Signed by | **[NAME OF DIRECTOR]** |  |
| for and on behalf of | **[PARTY B]** |
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**ANNEX A. TOMLIN ORDER**

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| --- | --- | --- | --- |
| **IN THE HIGH COURT OF JUSTICE** |  | ACTION NUMBER: |  |
| **QUEEN’S BENCH DIVISION** |  |
|  |
| BETWEEN | **[PARTY A]** | CLAIMANT |
|  | and |  |
|  | **[PArtY B]** | DEFENDANT |

**TOMLIN ORDER**

**UPON** the parties to this action consenting to the terms set out below

**BY CONSENT IT IS ORDERED** that

1. All further proceedings in this case be stayed upon the terms set out in the Settlement Agreement between the parties and an original of which is held by each of the parties’ solicitors.

2. Any of the parties may apply to the Court to enforce the terms of the said Agreement without the need to commence new proceedings.

3. No order as to costs of this action.

**WE HEREBY CONSENT**

|  |  |
| --- | --- |
|  | [BLANK] Solicitors for the Claimant |
|  |  |
|  | [BLANK] Solicitors for the Defendant |