

# Model Settlement Agreement & Tomlin Order



## Model Settlement Agreement

### Date

### Parties

\_\_\_\_\_ (“Party A”)

[Address]<sup>1</sup> \_\_\_\_\_

\_\_\_\_\_ (“Party B”)

[Address]<sup>2</sup> \_\_\_\_\_

[ \_\_\_\_\_ (“Party C”) etc.]  
(jointly “the Parties”)

### [Background] 3

The Parties have agreed to settle “the Dispute” which:

- is being litigated/arbitrated [court/arbitration reference] (“the Action”)<sup>4</sup>
- has been the subject of a CEDR Solve mediation today (“the Mediation”)

### Terms

It is agreed as follows:

- 1 [A will deliver..... to B at ..... by not later than 4 o’clock on 25 December ...]<sup>5</sup>
- 2 [B will pay £..... to A by not later than 4 o’clock on 25 December ... by direct bank transfer to .... bank sort code ... account number .....]
- 3 .....
- 4a The Action will be stayed and the parties will consent to an order in the terms of the attached Tomlin Order precedent [see attachment].  
  
OR
- 4b The Action will be dismissed with no order as to costs.

<sup>1</sup> Not strictly necessary

<sup>2</sup> Not strictly necessary

<sup>3</sup> Not strictly necessary but may be useful for setting up definitions

<sup>4</sup> Omit this wording and paragraph 4 if there are no court proceedings

<sup>5</sup> Be as specific as possible, for example, how, by when, etc.

- 5 This Agreement is in full and final settlement of any causes of action whatsoever which the Parties [and any subsidiaries ..... of the Parties] have against each other.
- 6 This agreement supersedes all previous agreements between the parties [in respect of matters the subject of the Mediation].<sup>6</sup>
- 7 If any dispute arises out of this Agreement, the Parties will attempt to settle it by mediation<sup>7</sup> before resorting to any other means of dispute resolution. To institute any such mediation a party must give notice to the mediator of the Mediation. Insofar as possible the terms of the Mediation Agreement will apply to any such further mediation. If no legally binding settlement of this 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 under the rules of ...].
- 8 The Parties will keep confidential and not use for any collateral or ulterior purpose the terms of this Agreement [except insofar as is necessary to implement and enforce any of its terms].
- 9 This Agreement shall be governed by, construed and take effect in accordance with [English] law. The courts of [England] shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise out of, or in connection with this agreement.<sup>8</sup>

**Signed**

\_\_\_\_\_

for and on behalf of<sup>9</sup> \_\_\_\_\_

\_\_\_\_\_

for and on behalf of<sup>10</sup> \_\_\_\_\_

Note: This Model Agreement and attached precedent order is for guidance only. Any agreement based on it will need to be adapted to the particular circumstances and legal requirements of the settlement to which it relates. Wherever possible any such agreement should be drafted/approved by each party's lawyer. Although the mediator is likely to be involved in helping the parties to draft acceptable terms, the mediator is not responsible for the drafting of the agreement and does not need to be a party to it. [See also provisions of mediation agreement which, if it is based on the CEDR Model Mediation Agreement, will deal with mediator liability, confidentiality etc. and should not need to be repeated in this agreement.]

<sup>6</sup> Only necessary if there have been previous agreements

<sup>7</sup> Alternatively, negotiation at Chief Executive level, followed by mediation if negotiations do not result in settlement within a specified time

<sup>8</sup> Usually not necessary where parties are located in same country and subject matter of agreement relates to one country

<sup>9</sup> Not necessary where the party signing is an individual

<sup>10</sup> Not necessary where the party signing is an individual

**Attachment to Model Settlement Agreement**

**Tomlin Order Precedent**

[Action heading]

UPON hearing .....

**By consent**

**IT IS ORDERED** that all further proceedings in this case be stayed upon the terms set out in the Settlement Agreement between Parties dated ....., an original of which is held by each of the Parties' solicitors [OR CEDR Solve/the Mediator] except for the purpose of enforcing the terms of that Agreement as set out below.

**AND IT IS FURTHER ORDERED** that either Party/any of the Parties may apply to the court to enforce the terms of the said Agreement [or to claim for breach of it] without the need to commence new proceedings.

**AND IT IS FURTHER ORDERED** that [each Party bear its own costs].

**WE CONSENT** to an order in these terms

\_\_\_\_\_ [Black & White], Claimant's Solicitors

\_\_\_\_\_ [Red & Green], Defendant's Solicitors