

**SCHEDULE 15****DISPUTE RESOLUTION PROCEDURE****1. GENERAL**

- 1.1 This Schedule sets out the process to be followed by the Parties in the event of a dispute between the Parties.
- 1.2 The provision of the Services under this Agreement shall not cease or be delayed by this dispute resolution procedure.
- 1.3 For the avoidance of doubt this Schedule 15 shall in no way prejudice any rights or remedies of the Parties under this Agreement including and without limitation the right of termination.
- 1.4 Subject to Paragraph 4.8 of this Schedule, each Party shall bear its own costs in relation to any procedure adopted pursuant to this dispute resolution Schedule.

**2. ESCALATION**

- 2.1 All disputes between the Parties arising out of or relating to this Agreement or the Services provided pursuant to the Agreement shall in the first instance be referred, by either Party, to the Authority's Representative and the Contractor's Representative (each Representative as identified in Schedule 11 Key Personnel) for resolution.
- 2.2 If a dispute cannot be resolved by the Authority's Representative and the Contractor's Representative within a maximum of twenty eight (28) days after it has been referred under Paragraph 2.1 of this Schedule:
  - 2.2.1 if the dispute is agreed by the parties to be of a technical nature or is expressed by this Agreement to be subject to expert determination it may be referred for final determination to an expert (referred to in this Schedule as the "Neutral Adviser") who shall be deemed to act as expert and not as arbitrator; or
  - 2.2.2 otherwise the Parties shall attempt to settle the dispute by mediation in accordance with Paragraph 3 of this Schedule; or, failing that
  - 2.2.3 it shall be determined pursuant to Clause 64.1.

**3. MEDIATION**

- 3.1 If any dispute is not resolved within twenty eight (28) days of referral to the Authority's Representative and the Contractor's Representative under Paragraph 2.1 above, then (subject to Paragraph 2.2.1 above) the Parties shall attempt to settle the dispute by mediation in accordance with the CEDR Model Mediation Procedure.
- 3.2 To initiate the mediation either Party may give notice in writing (the "ADR notice") to the other Party requesting mediation. If the parties cannot agree the identity of a mediator within seven (7) days of the ADR notice, CEDR will, at the request of either Party, appoint a mediator. The mediation is to take place not later than twenty eight (28) days or such other period as the parties may agree after the ADR notice. If there is an issue with regard to the

conduct of the mediation upon which the Parties cannot agree within twenty one (21) days of the ADR notice, then CEDR will, at the request of either Party, decide the issue for the Parties after consultation with them.

- 3.3 Either of the Parties may invite the mediator to provide a non-binding but informative opinion in writing. The mediator need only comply with such a request if he/she considers it would be helpful. Any written opinion given by the mediator shall contain suggestions as to the settlement terms which he/she considers appropriate in all the circumstances and will be provided on a without prejudice basis and shall not be used in evidence in any legal proceedings arising in connection with this Agreement without the prior written consent of the Parties.
- 3.4 If the Parties accept the mediator's opinion or otherwise reach agreement on the resolution of the dispute, such agreement shall be confirmed in writing and, once signed by the authorised representatives of the Parties shall be binding on the Parties.
- 3.5 If the Parties fail to reach agreement within twenty eight (28) days or such other period as the Parties may agree of the mediator being appointed then any dispute between them may be referred to litigation pursuant to Clause 64.1.

#### **4. EXPERT DETERMINATION**

- 4.1 The Neutral Adviser shall be selected after a written request by one Party to the other by mutual agreement or, failing agreement within fourteen (14) days, shall be chosen at the request of any Party by the President for the time being of the Chartered Institute of Arbitrators who shall be requested to choose a suitably qualified and experienced Neutral Adviser for the dispute in question.
- 4.2 Fourteen (14) days after the Neutral Adviser has accepted the appointment the Parties shall submit a written report on the dispute to the Neutral Adviser and to each other and seven (7) days thereafter shall submit any written replies they wish to make to the Neutral Adviser and to each other. Unless agreed otherwise between the Parties, each report and reply shall be not more than twenty (20) pages in length and shall only be supported by such evidence as is strictly necessary.
- 4.3 The Parties will then afford the Neutral Adviser all necessary assistance which the Neutral Adviser requires to consider the dispute. The Neutral Advisor may require the Parties to attend an oral hearing which shall be limited to [8] hours in total.
- 4.4 The Neutral Adviser shall be instructed to deliver his determination to the Parties within fourteen (14) days (or such other period as may be agreed between the Parties and the Neutral Adviser) after the submission of the written replies pursuant to Paragraph 4.2.
- 4.5 Decisions of the Neutral Adviser shall be final and binding and not subject to appeal except in the case of fraud or manifest error (in which case the dispute shall be determined pursuant to Clause 64.1).
- 4.6 The Neutral Adviser shall have the same powers to require any Party to produce any documents or information to him and the other Party as an arbitrator.
- 4.7 The Neutral Adviser's determination shall be governed by, and interpretations made in accordance with, English law.

- 4.8 The fees of the Neutral Adviser shall be borne by the Parties in the proportions determined by the Neutral Adviser having regard (amongst other things) to the conduct of the Parties in relation to the dispute in question.

**5. PENSION DISPUTES**

- 5.1 For any disputes pursuant to Paragraph 6.3.4 of Annex A to Schedule 4 the Parties agree that:

5.1.1 in the event the Parties choose to resolve the dispute by mediation, GAD shall act as a mediator; and

5.1.2 in the event the Parties choose to resolve the dispute by expert determination, an expert shall be appointed by the President of the Faculty and Institute of Actuaries.