

## **SPORT RESOLUTIONS (UK)**

### **MEDIATION PROCEDURE**

The following procedure ("the Mediation Procedure") (as amended by Sport Resolutions (UK) from time to time) shall govern the mediation of any dispute and the Parties shall be taken to have agreed that the mediation shall be conducted in accordance with the Mediation Procedure.

#### **1. Mediation Procedure**

- 1.1 Mediation is, in general terms, a negotiation assisted by an independent third party ("the Mediator"). The process is flexible and determined by the Mediator in consultation with the Parties and normally comprises a series of confidential joint and private meetings. Except as noted in clause 11 all communications relating to, and at, the mediation are confidential and without prejudice.
- 1.2 The representatives of the Parties must have the necessary authority to settle the dispute.

#### **2. Mediation Agreement**

- 2.1 The Parties, the Mediator and Sport Resolutions (UK) will enter into an agreement based on Sport Resolutions (UK) Mediation Agreement ("the Mediation Agreement").

#### **3. The Mediator**

- 3.1 The Parties will agree a Mediator from the list of mediators provided by Sport Resolutions (UK). If they cannot agree as to who should be appointed, the Mediator shall be appointed by the Executive Director of Sport Resolutions (UK).
- 3.2 The Mediator will:
  - (a) attend any meetings with any or all of the parties preceding the mediation, if requested or if the mediator decides this is appropriate;
  - (b) read before the mediation each Summary and all the Documents sent to him/her in accordance with paragraphs 6.1 and 6.2 below;
  - (c) determine the procedure (see paragraph 1.1 above);
  - (d) assist the Parties in drawing up any written settlement agreement;
  - (e) abide by the terms of the Mediation Procedure, the Mediation Agreement and any Code of Conduct adopted from time to time ("the Code of Conduct").
- 3.3 The Mediator will not at any time advise a party or offer an opinion. The Mediator's independence and impartiality is to be maintained throughout the Mediation.

- 3.4 The Mediator and any member of a firm or company associated with the Mediator will not act for any of the Parties individually in connection with the dispute in any capacity during the currency of the Mediation Agreement.
- 3.5 The Parties accept that in relation to the dispute neither the Mediator nor Sport Resolutions (UK) is an agent of, or acting in any capacity for, any of the Parties. The Parties and the Mediator accept that the Mediator is acting as an independent contractor and not as agent or employee of Sport Resolutions (UK).
- 3.6 None of the Parties to the Mediation Agreement will call the Mediator or Sport Resolutions (UK) (or any employee, consultant, officer or representative of Sport Resolutions (UK)) as a witness, consultant, arbitrator or expert in any litigation or arbitration in relation to the dispute, nor require him/her/them to produce in evidence any record or notes relating to the mediation in any litigation, arbitration or other formal process arising from or in connection with the dispute and the mediation. The Mediator and Sport Resolutions (UK) will not act or agree to act as a witness, consultant, arbitrator or expert in any such process.
- 3.7 An Assistant Mediator may accompany the Mediator. The Assistant is present to gain experience and assist the Mediator as appropriate and attends without cost to the Parties. All references to 'Mediator' in this Procedure also apply to the Assistant Mediator.

#### **4. Sport Resolutions (UK)**

- 4.1 Sport Resolutions (UK), in conjunction with the Mediator, will make the necessary arrangements for the mediation including, as necessary:
- a) assisting the Parties in appointing the Mediator and in drawing up the Mediation Agreement;
  - b) organising a suitable venue and dates;
  - c) organising exchange of the Summaries and Documents;
  - d) meeting with any or all of the representatives of both Parties (and the Mediator if he/she has been appointed) either together or separately, to discuss any matters or concerns relating to the mediation;
  - e) general administration in relation to the mediation including post-mediation follow-up.

#### **5. Other Participants**

- 5.1 Each Party will notify the other Party or Parties, through Sport Resolutions (UK), of the names of those people that it intends will be present on its behalf at the mediation.

#### **6. Exchange of Information**

- 6.1 Each Party will, simultaneously through Sport Resolutions (UK), exchange with the other and send to the Mediator at least two weeks before the mediation or such other date as may be agreed between the Parties:

- (a) a concise summary ("the Summary") stating its case in the dispute;
  - (b) copies of all key documents to which it refers in the Summary and to which it may want to refer in the mediation ("the Documents").
- 6.2 In addition, each Party may send to the Mediator (through Sport Resolutions (UK)) and/or bring to the mediation further documentation which it wishes to disclose in confidence to the Mediator but not to any other Party, clearly stating in writing that such documentation is confidential to the Mediator and Sport Resolutions (UK).
- 6.3 The Parties will, through Sport Resolutions (UK), agree the maximum number of pages of each Summary and of the Documents and try to agree a joint set of documents from their respective Documents.

## **7. Records**

- 7.1 No formal record or transcript of the mediation will be made.

## **8. Settlement**

- 8.1 Any settlement reached in the mediation will not be legally binding until it has been reduced to writing and signed by, or on behalf of, the parties.

## **9. Law and Jurisdiction**

- 9.1 Except where the parties have otherwise agreed, this Agreement shall be governed by, be construed and take effect in accordance with English law, and the courts of England and Wales shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise out of or in connection with the mediation.
- 9.2 The referral of the dispute to mediation does not affect any rights that may exist under Article 6 of the European Convention on Human Rights. If the dispute is not settled by mediation, the Parties rights to a fair trial are unaffected.
- 9.3 The mediation will terminate when:
  - (a) a written Settlement Agreement is concluded; or
  - (b) a Party withdraws from the mediation; or
  - (c) the Mediator decides to retire where he/she deems it to be professional to do so.

## **10. Proceedings**

- 10.1 Any litigation or arbitration in relation to the dispute may be commenced or continued notwithstanding the mediation unless the Parties agree otherwise.

## **11. Confidentiality**

- 11.1 Every person involved in the mediation will keep confidential and not use for any collateral or ulterior purpose all information, (whether given orally, in writing or otherwise), produced for, or arising in relation to, the mediation including the Settlement Agreement (if any) arising out of it except insofar as is necessary to implement and enforce any such Settlement Agreement.
- 11.2 All documents (which include anything upon which evidence is recorded including tapes and computer discs) or other information produced for, or arising in relation to, the mediation will be privileged and not be admissible as evidence or discoverable in any litigation or arbitration connected with the dispute except any documents or other information which would in any event have been admissible or discoverable in any such litigation or arbitration.

## **12. Fees, Expenses and Costs**

- 12.1 Unless otherwise agreed, Sport Resolutions (UK)'s fees (which include the Mediator's fees) and the other expenses of the mediation will be borne equally by the Parties. Payment of these fees and expenses will be made to Sport Resolutions (UK) in accordance with its Fee Schedule and Terms of Business.
- 12.2 Unless otherwise agreed, each Party will bear its own costs and expenses of its participation in the mediation.

As amended July 2009