



THE BOROUGH COUNCIL OF NEWCASTLE-UNDER-LYME

DISPUTE RESOLUTION PROCEDURE

J1. If any dispute arises between the Parties in relation to this Contract which can not in the first instance be resolved by the Appropriate Officer and the Provider's Representative, then:

J1.1 either Party may request the other to participate in a meeting of their respective managers, in order to discuss the dispute and to agree a strategy to resolve it, in which case the Parties shall liaise in good faith to meet within ten (10) Working Days and also exchange statements at least three (3) clear Working Days prior to the date of the meeting (setting out their respective views of the issues, which are in dispute);

J1.2 if despite following the procedures set at/in sub-clause **J1.1** the dispute remains unresolved, the dispute shall be referred to a Executive Director of the Buyer and the Managing Director of the Provider (or a senior manager designated by them) without delay, in which case the Parties will seek to meet and resolve the dispute within a further period of fifteen (15) Working Days and shall each provide the other (if appropriate) with further statements setting out their views of the outstanding issues in order to assist resolution within that time period.

J2. If, notwithstanding any steps taken by the Parties under clause **J1**, the dispute between them fails to be resolved within one (1) month of the date on which the dispute arose, then at the request of either Party, the dispute shall be referred to an independent and professional mediator to be nominated without delay by agreement between the Parties. And failing such agreement to be appointed by Whose decision shall be final and binding on both parties. Any such mediation shall be carried out in confidence and on a without prejudice basis in relation to any subsequent proceedings.

J3. If, despite the intervention of a mediator under clause **J2**, the Parties fail to resolve their dispute within six (6) weeks of the appointment of the mediator, then either Party may serve Notice on the other to require the dispute to be referred to a single arbitrator in

accordance with the Arbitration Act 1996, to be appointed in default of agreement by the President or the Chief Officer for the time being of or any deputy duly authorised in that regard and the decision of the arbitrator shall be final and binding on both parties.

J4. The mediator or arbitrator that is appointed under clause **J2** or clause **J3** (as applicable) shall:

J4.1 set a strict (but nevertheless reasonable and fair) timetable, with which the Parties must comply in order to secure a resolution of their dispute without undue delay or expense;

J4.2 invite the Parties (or their respective agents) to submit written representations to him to explain their respective cases in relation to the dispute;

J4.3 disclose any such representations to the other Party so that they can submit written comments on the same to the mediator/arbitrator;

J4.4 have power to determine how the costs of the reference shall be borne by the Parties and may require either of the Parties to bear more than one half of the costs if they conclude (acting reasonably) that either of the Parties has acted unreasonably in relation to the dispute.

J5. The Parties agree that if an arbitrator is appointed under clause **J3**, then:

J5.1 the arbitrator shall not be fettered or bound by any representations (or comments on the same) made by either of the Parties;

J5.2 the decision of the arbitrator shall not be final and binding on the Parties unless the appointed person provides each of the Parties with a detailed statement setting out their reasons for making the decision which they have arrived at;

J5.3 the arbitrator shall not have exclusive jurisdiction on questions of construction of law.

J6. If the Parties reach agreement on the resolution of their dispute pursuant to clauses **J2** to **J5** (inclusive and as applicable) then the Parties shall record their agreement in writing and shall sign the same and the signed document shall then form a legally binding agreement between them.

J7. For the avoidance of doubt, the Parties will not be required to follow the procedures which are set out in clauses **J2** to **J6** where the

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issue relates to a simple non-payment of monies owed under the Contract, but may instead (provided that they act reasonably) resort directly to court proceedings after having first exhausted the procedures which are set out in clause **J1**.

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