

## **Mediation Clause**

### **Mediation**

- 1.1 Notwithstanding anything to the contrary contained within this agreement, and whether or not arbitration proceedings have commenced, it is open to the Parties at any stage to agree in writing to refer the difference or dispute arising out of or in connection with this agreement to mediation (the "Mediation Agreement"). Where the Parties cannot agree on the identity of a mediator within 14 days of the date of the Mediation Agreement, the Parties together or either Party individually may apply to the Baltic Exchange requesting that the Baltic Exchange promptly nominate a mediator which the Parties shall jointly appoint.
- 1.2 The mediation shall commence within 30 days of the date of the Mediation Agreement or within 21 days of the appointment of the mediator, whichever is the later. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the Parties may agree or, in the event of disagreement, in such place and on such terms and procedure as may be decided by the mediator.
- 1.3 If one Party does not agree to mediate or fails to co-operate in the appointment of a mediator or agreement of the terms or procedure to be followed, such failure or lack of co-operation may be brought to the attention of an arbitration tribunal (the Tribunal) if or when constituted and may be taken into account by the Tribunal when allocating the costs of the arbitration as between the Parties.
- 1.4 Where the Parties agree to mediate, the mediation process shall be confidential and without prejudice and no information or documents disclosed during the mediation process may be revealed to any Tribunal or court except to the extent they are disclosable under the law and procedure governing the arbitration.
- 1.5 Unless otherwise agreed or specified in the mediation terms, each Party shall bear its own costs incurred in the mediation and the Parties shall share equally the mediator's costs and expenses.
- 1.6 The mediation shall not affect the right of either Party to seek such relief or take such steps as it considers necessary to protect its interest.
- 1.7 In the case of a dispute in respect of which arbitration has been commenced under the terms of this agreement either Party may advise the Tribunal that the Parties have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the Tribunal may take the mediation timetable into account when setting the timetable for steps in the arbitration.