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SCHEDULE

ACAS ARBITRATION SCHEME

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APPENDIX B

Waiver of Rights

Scottish Arbitrations

The ACAS Arbitration Scheme (“the Scheme”) is entirely voluntary. In agreeing to refer a dispute to arbitration under the Scheme, both parties agree to waive rights that they would otherwise have if, for example, they had referred their dispute to the employment tribunal. This follows from the informal nature of the Scheme, which is designed to be a confidential, relatively fast, cost-efficient and non-legalistic process.

As required by Part VII of the Scheme, as a confirmation of the parties' agreement to waive their rights, this form must be completed by each party and submitted to ACAS together with the agreement to arbitration.

A detailed description of the informal nature of arbitration under the Scheme, and the important differences between this and the employment tribunal, is contained in the ACAS Guide to the Scheme (“the ACAS Guide”), which should be read by each party before completing this form.

The Scheme is not intended for disputes involving complex legal issues, or questions of EC law. Parties to such disputes are strongly advised to consider applying to the employment tribunal, or settling their dispute by other means.

This form does not list all the differences between the Scheme and the employment tribunal, or all of the features of the Scheme to which each party agrees in referring their dispute to arbitration.

There are differences between the law of Scotland on the one hand and the law of England and Wales on the other. The Scheme accordingly makes separate provision for Scottish arbitrations and English/Welsh arbitrations. This form confirms the parties' agreement that the arbitration between them will be a Scottish arbitration and (as permitted in Scots law) that any award may be enforced by registration rather than by application to the Court.

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I,, the Applicant / Respondent / Respondent's duly authorised representative [delete as appropriate] confirm my agreement to each of the following points:

1.	Unlike proceedings in the employment tribunal, all proceedings under the Scheme, including all hearings, are conducted in <i>private</i> . There are no public hearings, and the final award will be confidential.
2.	All arbitrators under the Scheme are appointed by ACAS from the ACAS Arbitration Panel (which is a panel of impartial, mainly non-lawyer, arbitrators appointed by ACAS on fixed, but renewable, terms). The appointment process and the ACAS Arbitration Panel are described in the Scheme and the ACAS Guide. Neither party will have any choice of arbitrator.
3.	Proceedings under the Scheme are conducted differently from the employment tribunal, in particular: <ul style="list-style-type: none"> — arbitrators will conduct proceedings in an <i>informal</i> manner in all cases; — the attendance of witnesses and the production of documents cannot be compelled (although failure to co-operate may be taken into account by the arbitrator); — there will be no oaths or affirmations, and no cross-examination of witnesses by parties or their representatives; — the arbitrator will take the initiative in asking questions and ascertaining the facts (with the aim of ensuring that all relevant issues are considered), as well as hearing each side's arguments; — the arbitrator's decision will only contain the main considerations that have led to the result; it will not contain full or detailed reasons; — the arbitrator has no power to order interim relief.
4.	Once parties have agreed to refer their dispute to arbitration in accordance with the Scheme, the parties cannot then return to the employment tribunal.
5.	In deciding whether or not the dismissal was fair or unfair, the arbitrator shall have regard to general principles of fairness and good conduct in employment relations (including, for example, principles referred to in any relevant ACAS "Disciplinary and Grievance Procedures" Code of Practice or "Discipline and Grievances at Work" Handbook). Unlike the employment tribunal, the arbitrator will not apply strict legal tests or rules (eg court decisions or legislation), with certain limited exceptions set out in the Scheme (see eg paragraph 17). Similarly, in cases that do not involve EC law, the arbitrator will calculate compensation or award any other remedy in accordance with the terms of the Scheme, instead of applying strict legal tests or rules.
6.	Unlike the employment tribunal, there is no right of appeal from awards of arbitrators under the Scheme (except for a limited right to appeal questions of EC law and, aside from procedural matters set out in the Scheme, questions concerning the Human Rights Act 1998 and devolution issues. The provisions of section 3 of the Administration of Justice (Scotland) Act 1973 (which provides for arbitrators to state a case for the opinion of the Court of Session) shall not apply to this arbitration).
7.	Unlike the employment tribunal, in agreeing to arbitration under the Scheme, parties agree that there is no jurisdictional argument, ie no reason why the claim cannot be heard and determined by the arbitrator. In particular, the arbitrator will assume that a dismissal has taken place, and will only consider whether or not this was unfair. This is explained further in the Scheme and in the ACAS Guide.
8.	The arbitration shall be a Scottish arbitration.
9.	The parties consent to registration for execution of any award requiring the payment of money which may be made under the Scheme.

SIGNED:

DATED:

IN THE PRESENCE OF

Signature:

Full Name:

Position:

Address: