

## **Sample Letter Requesting Mediation in a Commercial Court Case**

**Black Brothers v. ABC Ltd, XYZ Ltd**  
**The High Court 2006 No 24 COM**  
**Rule 6(1)(xiii) Commercial Court Rules**

Dear Sirs

We refer to the High Court proceedings [dispute between our respective clients].

We are instructed to make this open offer suggesting mediation to you [and to each of the other parties] in respect of all claims arising out of the above proceedings. We believe that mediation is a process which could facilitate an early resolution of this claim (which involves complex issues of both law and fact) and offers a less adversarial environment in which to do so. [We are writing similar letters to each of the other parties with this proposal].

Any mediation would be entirely confidential and conducted on a without prejudice basis. All of the parties would commit to these principles in advance as part of the agreement to mediate. If the parties fail to reach a settlement agreement of the claims during the course of the mediation, then the case can proceed to trial in the normal way.

We would ask you to positively consider this request with your client[s] and confirm in open correspondence, within the next fourteen days, that you will be prepared to refer this claim to mediation.

If we do not hear from you in relation to this open offer within 14 days from the date of this letter, we will take it that you reject the offer to mediate. In such circumstances we reserve the right to produce this letter to the court in the context of an application for a stay under Rule 6(1)(xiii) Commercial Court Rules or alternatively at the conclusion of the litigation and ask that this proposal to mediation be taken into account when costs are being adjudicated upon regardless of the outcome of the proceedings.

If your client is prepared to accept that this matter be referred to mediation, we can put in place the necessary arrangements for a mediation without delay and in particular reach agreement with you on the identity of a mediator and the fixing of a date for the holding of the mediation.

We look forward to hearing from you.

Yours faithfully

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