



## **LMAA EARLY NEUTRAL EVALUATION – GUIDANCE NOTE**

Early Neutral Evaluation (ENE) is a form of alternative dispute resolution in which an independent and impartial Evaluator is appointed to provide the Parties to a dispute with an assessment of the merits of their case.

The objective of an ENE is to give Parties a realistic indication of the merits of their respective cases to help inform the negotiations between them and, if the Evaluator considers it appropriate, to put forward a figure or range for settlement.

Early Neutral Evaluation is typically a non-binding form of alternative dispute resolution which, unless the Parties agree otherwise, is usually conducted without prejudice.

The LMAA Early Neutral Evaluation Agreement may be adopted for use in chain, or related, disputes involving more than two Parties.

### **1. Appointment**

In case the Parties agree to Early Neutral Evaluation but are unable to agree on the identity of the Evaluator the Parties may jointly apply to the President of the LMAA, providing brief details of the dispute, to make an appointment on behalf of the Parties. In such case an administration fee, as fixed from time to time by the LMAA, shall be payable to the LMAA with the request to

appoint an Evaluator. Liability for payment of such fee shall be joint and several.

## **2. Fees**

Fees may be agreed with the Evaluator on a fixed or hourly basis. This will usually depend on the nature of the dispute and should be discussed with the Evaluator in each case before entering into any Agreement.

## **3. Preparation**

To achieve the best outcome from the ENE process, proper preparation is important.

Case summaries should be concise and informative. They should cover and include, as appropriate:

- A factual summary and background;
- A chronology of relevant events;
- The factual issues in the dispute;
- Common ground and differences;
- A list of issues as the Parties see them for the Evaluator to determine;
- The relevant documents.

## **4. Documents**

Relevant documentary evidence will vary from case to case and may include, if appropriate:

- Relevant contracts and agreements;
- Relevant correspondence;

- Relevant and important excerpts from any witness statements;
- Relevant and important excerpts from any expert reports;
- Excerpts from the relevant legal authorities.

#### **5. Oral hearings**

There shall be no right to an oral hearing. The Evaluator may however in exceptional circumstances call for an oral or virtual hearing if he/she considers this of benefit in forming a view on the Dispute. In such case, the Evaluator will outline in advance the issues to be considered at, and the cost of, the hearing.