

EXPERT VIEW (NON-BINDING): Nutshell & Agreement

This Pathway constitutes a non-binding evaluation made for the parties jointly, by a person with expertise in the areas that are outstanding between the parties as outlined in a terms of reference document.

About the Expert and Expert View

The expert is a person with specialist knowledge of the subject matter of the dispute, who can use that expertise to provide the parties with a view. This can be provided as part of another process (negotiation/mediation) or as a stand-alone option.

The process for an expert view is decided by the expert and will vary depending on the subject matter. Participants can represent themselves or bring a friend, lawyer, or other support person. The expert will provide them with a report that sets out his/her view. For music creators, an expert view may be available as part of a mediation (mapping).

If the matter is resolved as a result of the evaluation then this can be documented in an appropriate format. If the matter is not resolved, the Resolution Facilitator can assist in exploring alternative ways of resolving the issues. The parties can decide on whether the expert view forms part of any further step.

Expert View - Agreement

It is important that everyone knows what to expect. This will allow parties to adequately prepare, to know their rights and maximise the chances of everyone feeling satisfied with the process.

The agreement sets out the legal rights in plain English - these are important to understand. The Resolution Facilitator is also available to explain the process and the terms of the agreement.



EXPERT VIEW (NON-BINDING): Agreement

Between: Name:

Address:

Name:

Address:

(collectively “the Participants”)

And

Name:

Address:

(the “Expert”)

And

Name:

Address:

(the “Resolution Facilitator”)

Definitions:

Adviser means a legal adviser or support person for a Participant.

The Dispute is the issue between the participants as described in Annexure A.

The Participants are the parties to the Expert view process.



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Background:

- A. The Resolution Facilitator has referred the Dispute to the Expert for consideration and to provide a non-binding view on the Dispute.
- B. The Expert and the Participants enter into this agreement to formalise the Expert View.

The Expert View

1. “The Expert View” comprises all steps taken to hear and provide a view on the Dispute by the Expert, whether prior or subsequent to the execution of this agreement

Appointment and functions of the Expert

2. With the Participants’ consent, the Resolution Facilitator appoints the Expert, and the Expert accepts the appointment, to hear and provide a view on the Dispute in accordance with the terms of this agreement.
3. The Expert confirms that s/he has no interest in the Dispute, nor any prior dealings with any of the Participants in relation to the Dispute.
4. If in the course of the process the Expert becomes aware of any circumstances that might reasonably be considered to affect the Expert’s capacity to act impartially, the Expert will, to the extent that the Expert may properly do so, immediately inform the Participants of those circumstances.
5. If, after consultation with the Participants or Advisers, the expert forms the view that s/he will be unable to assist the Participants s/he may terminate the appointment by giving written notice to the Participants of that termination.

Co-operation, Costs and Expert’s Fees

6. The Participants agree to participate in the Expert View process and each Participant and Adviser will comply with reasonable requests made by the



Expert. This includes but is not limited to the filing of information and the attendance at any meetings by phone or in person and the expert considers necessary.

7. Each Participant will meet its own costs of and in connection with the Expert view process
8. Irrespective of the Expert View, the Expert's fees and disbursements will be paid as specified in Annexure A.

Insurance

- 9 The expert will ensure s/he has any insurance and any professional accreditation required to make the decision.

Conduct of the Expert Determination

10. The Expert View, including all preliminary steps, shall be conducted in such manner as the Expert considers appropriate, and the Expert may suggest:
 - (i) the exchange of written outlines of the views of the Parties on the issues raised by the Dispute;
 - (ii) the exchange of information or reports;
 - (iii) the holding of face to face meetings.

The Report

11. The Expert's View on the issues in Dispute will be in writing, signed and dated by the Expert and will contain a statement of reasons for the view in such a form as the Expert considers appropriate.

Confidentiality

12. Material that is confidential will be marked as confidential by the Participant for whom it is confidential.



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- 13 The Resolution Facilitator, Participants, Advisers and the Expert will not, unless required by law to do so, disclose to any person not involved in the Expert View process nor use, any confidential information furnished during the Expert View process unless:
- (i) such disclosure is to obtain professional advice, or
 - (ii) is to a person who has been named and all of the other Participants have consented, and
 - (iii) the person to whom the disclosure is made is advised that the confidential information is confidential.

Release.

- 14 Each Participant releases and indemnifies the Expert and the Resolution Facilitator in relation to any loss, damage or liability that the Expert or the Resolution Facilitator suffers or incurs, or would, but for this release and indemnity, suffer or incur, as a consequence of any act or omission done in good faith in connection with the Expert View process.



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Signed By:

.....

Print name:

.....

Date:

Signed By:

.....

Print name:

.....

Date:

Signed by the Expert:

.....

Print name:

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Signed by Resolution Facilitator:

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Print name:

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ANNEXURE A

1 **The Dispute** (please provide a short description) *[EG: ownership of “dog eat Dog”, license category etc.]*

2 **Expert’s Fees and Disbursements:**

Expert fees:

Estimated disbursements:

P aid by: (note proportion of payment by each Participant☺)

3 **The Resolution Facilitator**

Name: Shirli Kirschner

Address: PO Box Paddington NSW 2021

Fee:

Current as at May 12 2015

DATE	COMMENT	
12 May placed on letterhead	Legal sign off	

