



TR STORAGE

30 Tobago Street, Glasgow G40 2RH
T: 07407 471814 E: storage@trproperties.uk
VAT Reg No: 405 6424 17

SELF STORAGE LICENCE AGREEMENT

YOUR DETAILS		Company Name:	Number:	☐ I.D. Copied	
Ms/Mrs/Mr:	First Name:	Surname:			
Home/Business Address:	Postcode:				
Postal Address:	Postcode:				
Phone Numbers:	Mobile:	Email:			
Vehicle Details: Make:	N/A	Reg No:	Colour:	N/A	
I consent to receiving notifications from this Facility by SMS to the mobile no above				☐ Yes, I consent to SMS notification	
I prefer to receive all correspondence from this Facility by email rather than traditional mail.				☐ Yes, I prefer email.	
It is Your obligation to update Your email address when necessary.					
Alternate Contact Person (ACP): -					
For contacting regarding accounts and other matters if You are not contactable – Not for access to unit					
Ms/Mrs/Mr	First Name:	Surname:			
Home/Business Address:	Postcode:				
Phone Numbers:	Mobile:	Email:			
Please advise us immediately if Your address or contact details or those of Your alternate contact person change.					
Cross this box if You CONSENT to being contacted by FO for feedback after this Agreement expires (see Condition 34) ☐					
Note: You can withdraw Your consent or change Your contact preferences at any time by contacting Us – please see Our PRIVACY NOTICE on Our website for more details					
STORAGE DETAILS		Unit number	Replacement Value as new of Goods: £		
Storage Period begins on		and runs for till the end of the current calendar month, then extends automatically for the period of a calendar month until 21 days' notice is given by either party, or it ends for another reason (see condition 38).			
You can cancel the contract within 14 days from signing up (cooling-off period). If You cancel during this period, a refund will be provided based on the length of storage You have taken prior to cancelling.					
Note – Unit sizes are approximate so the size of Your unit may vary slightly from the description. If You have exact requirements, check with the Facility before signing this Agreement. When you sign, you agree to the actual size of the unit You use and not any represented unit size.					
STORAGE COSTS		MAIN POINTS (SEE OVER)			
Deposit: £		- You own or are authorised to store the Goods. - Storage fees must be paid in advance and on time. - If You do not comply with the conditions of this Agreement FO will have certain rights which include keeping Your Deposit and the right to seize the Goods in storage and sell or dispose of them. - You must secure the Unit. - You must not store dangerous, illegal, stolen, perishable, environmentally harmful or explosive goods subject to clause 18. - You must check the Unit is suitable for storing the Goods. - FO's liability for loss of and damage to Goods is limited to £100. - FO is not liable to You for events outside its control. - Goods are stored at Your sole risk and must be insured. - Where offered the FO does not give any advice as to the suitability or otherwise of the insurance cover. - FO may use and share Your personal and other data in certain circumstances. - FO may apply for rates relief on your behalf. - Any special terms have been written down on this Agreement. - You must give 21 days' notice to terminate this Agreement.			
Storage: £					
Cleaning Fee: £	NIL				
Key/fob/card deposit:	NIL				
Late Payment Fee: Greater of £10 or 10% of Storage Fee					
PLEASE READ CONDITIONS OVERLEAF CAREFULLY AS BY SIGNING THIS AGREEMENT, YOU WILL BE BOUND BY THEM		I acknowledge that these main points have been drawn to my/our attention and I have read and understood them			
I/We agree to be bound by the Conditions of this Agreement as shown overleaf.		Customer's Signature:			
Customers Signature:					
Date of this Agreement					
Accepted by Facility Owner – Signed for and on behalf of Facility Owner					
Signature:					
Print name:					
All fees and charges in this contract [exclude] applicable VAT unless otherwise stated.					

CONDITIONS OF AGREEMENT

STORAGE:

1. So long as all fees are paid up to date, You: (a) are licensed to store Goods in the Unit allocated to You by FO from time to time and only in that Unit; (b) are deemed to have knowledge of the Goods in the Unit; and (c) warrant that You are the owner of the Goods in the Unit and/or entitled at law to deal with them in accordance with all aspects of this Agreement as agent for the owner.
2. FO: (a) does not have and will not be deemed to have knowledge of the Goods; (b) is not a bailee, custodian or warehouseman of the Goods and You acknowledge that FO does not take possession of the Goods; and (c) does not grant any lease or tenancy of the Unit.
3. This Agreement will come into existence between FO and You when FO notifies You it has accepted the order by signing the cover sheet. The storage period will begin on the date agreed with You during the order process and set out on the cover sheet.

COST:

4. You must pay the Deposit on signing this Agreement. The Deposit (or the balance of it after any appropriate deductions for unpaid Fees, repairs, cleaning or other charges to put right any breach of this Agreement by You) will be refunded by cheque or electronic transfer within 21 days of termination of this Agreement.
5. You are responsible to pay: (a) the Storage Fee (being the amount set out in the cover sheet or as most recently notified to You by FO). FO will take the first payment on acceptance of Your order and will take subsequent payments in advance on the invoice date for each storage period or other date agreed with You (**Due Date**). It is Your responsibility to see that payment is made directly to FO on time and in full throughout the storage period. You can pay using a debit card or credit card or by direct debit, in which case the designated bank account will be charged automatically on each Due Date. FO does not normally bill for fees but will issue an electronic invoice following payment. Any Storage Fees paid by direct transfer will not be credited to Your account unless You identify the payment clearly and as directed by FO and FO shall have no liability to and shall be indemnified by You if FO takes steps to enforce the Agreement (including the sale of Goods) due to Your failure to identify a payment. FO will not accept that payment has been made until it has received cleared funds; (b) a Late Payment Fee each time a payment is late or cancelled; (c) any costs incurred by the FO in collecting late or unpaid Storage Fees, or in enforcing this Agreement in any way, including but not limited to postal, telephone, unit inventory, debt collection, personnel and/or default action costs and associated legal and professional fees; (d) any government taxes or charges (including any value added tax or insurance premium tax) levied on any supplies made under this Agreement; and (e) the Cleaning Fee or charges for repairs, to be invoiced at FO's discretion as per Condition 20;. Where You have more than one agreement with FO, all will form one account and FO may in its sole discretion apply any payment made by You or on Your behalf on this Agreement against the oldest amount due from You to FO on any agreement in the account. If You make a part payment of any Storage Fees due to FO and FO retains Your part payment, this will not affect FO's ability to take any action against You or to exercise any rights FO has under this Agreement in respect of the Storage Fees which remain outstanding from You. The time period from which FO may take such action will still start from the Due Date when the original Storage Fees were due and the Due Date will not be extended as a result of Your part payment.

DEFAULT – RIGHT TO SELL OR DISPOSE OF GOODS:

6. FO takes the issue of prompt payment seriously and has a right of lien, which is a right to seize and sell or otherwise dispose of some or all of the Goods as security for Your obligation to make payments under this Agreement. If any sum owing to FO and other fees related to it are not paid when due (**Debt**), You authorise FO without further notice to: (a) refuse You and Your Agents access to the Goods, the Unit and the Facility and overlock the Unit until the Debt has been paid in full; (b) enter the Unit and inspect and/or remove the Goods to another unit or site and to charge You for all reasonable costs of doing so on any number of occasions; and (c) apply the Deposit against the Debt and, if insufficient to clear it in full, hold onto and/or ultimately sell or dispose of some or all of the Goods in accordance with Conditions **8** to **10**. You acknowledge that (a) FO shall be entitled to continue to charge for storage from the date the Debt becomes due until payment is made in full or the Goods are sold or disposed of; (b) FO will sell the Goods as if FO was the owner and will pass all rights of ownership in the Goods to the buyer; and (c) if You do not pay fees on the Due Date, the value of any discounts and special offers (including periods of free storage) which You have received will be payable by You in full.
7. On expiry or termination of this Agreement, if You fail to remove all Goods from the Unit, FO is authorised to treat the Goods as abandoned and may sell or dispose of all Goods by any means in accordance with Conditions **8** to **10**. You are liable for Storage Fees for the period from abandonment to the sale or disposal of the Goods together with any costs of disposal (**Debt**).
8. Before FO sells or disposes of the Goods, it will give You notice in writing directing You to pay (if You are in default) or collect the Goods (if they are treated as abandoned). This notice will be sent by registered or recorded delivery to the postal address last notified by You to FO in writing and by email and/or social media. If no address within the UK has been provided, FO will use any land or email address or social media details it holds for You and any ACP. If You fail to pay the Debt and/or collect the Goods (as appropriate) FO will access the Unit and begin the process to sell or dispose of the Goods. You consent to and authorise the sale or disposal of all Goods without further notice regardless of their nature, content or value. FO will sell the Goods for the best price reasonably available in the open market, taking into account the costs of sale. FO may also require payment of default action costs, including any costs associated with accessing the Unit and disposal or sale of the Goods, which shall be added to the Debt.
9. Sale proceeds will be applied first against the cost of removal and sale of Goods and second to pay the Debt. If sale proceeds do not discharge all of these costs and the Debt, You must pay FO the balance within 7 days of a written demand from FO. FO may take action to recover the balance and any legal and administration costs incurred in doing so. If sale proceeds exceed the amount due from You, FO will hold the balance for You, but no interest will be payable on it.
10. If, in the opinion of FO and entirely at FO's discretion, the Goods are either not saleable, fail to sell when offered for sale, or are not of sufficient value to warrant the expense of attempting to sell, you authorise FO to treat the Goods as abandoned and FO may dispose of all Goods by any means at Your cost. FO may dispose of the Goods at FO's discretion in the event that (a) Goods are damaged due to fire, flood or other event that has rendered them, in the opinion of the FO, severely damaged, of no commercial value, or dangerous to persons or property, or (b) Goods may contain personal data belonging to You or others. FO does not need Your prior approval to take this action but will send Notice to You within 7 days of assessing damaged Goods.
11. Any items left unattended in common areas or outside Your Unit at any time shall be treated as abandoned and may at FO's discretion be moved, sold, or disposed of immediately with no liability to FO.

ACCESS:

12. You have the right to access the Unit during Access Hours as posted by FO and subject to the terms of this Agreement. FO will try to provide advance warning of changes to Access Hours by notice at the Facility and/or by SMS or email but reserves the right to change Access Hours temporarily to other reasonable times without giving prior notice.
13. Only You or others authorised or accompanied by You (**Your Agents**) may access the Unit. You are responsible for and liable to FO and other users of the Facility for Your own actions and those of Your Agents. FO may (but is not obliged to) require proof of identity from You or any other person at any time and, at FO's sole discretion, may refuse access to any person who is unable to produce satisfactory proof.
14. FO may refuse You access to the Unit and/or the Facility where moneys are owing by You to FO, whether a formal demand for payment has been made, or if FO considers the safety or security of any person, unit or goods on or at the Facility has been threatened or may be put at risk.
15. You should not leave a key with or permit access to the Unit to any person other than Your own Agent who is responsible to You and subject to Your control. If You do so, it is at Your own risk.
16. You authorise FO and its agents and contractors to enter the Unit in the following circumstances and to break any lock if reasonably necessary to gain entry: (a) on not less than 7 days' notice to inspect or carry out repairs or alterations to the Unit or any other part of the Facility; (b) without prior notice (but with notice as soon as practicable after the event) in the event of an emergency (including for repair or alteration) or to prevent injury or damage to persons or property; (c) if FO believes the Unit is being used to store prohibited goods or for a prohibited purpose; (d) if FO is obliged to do so by law, by the Police, Fire Services, Trading Standards, HM Revenue & Customs, other competent authority or by a Court Order; or (e) to relocate the Goods or exercise FO's lien or power of sale or disposal in accordance with this Agreement.

CONDITIONS:

17. You will be solely responsible for securing the Unit and ensuring it is locked so as to be secure from unauthorised entry at all times when You are not in the Unit. FO will not be responsible for securing any unlocked Unit. You are not permitted to apply a padlock or other device to the Unit in FO's overlocking position and FO may have any such padlock or device forcefully cut off at Your expense. Where applicable, You will secure the external gates and/or doors of the Facility.
18. You must not store (or allow any other person to store) any of the following in the Unit: (a) food or perishable goods unless securely packed so they are protected from and do not attract vermin; (b) any living creatures; (c) combustible or flammable substances such as gas, paint, petrol, oil, cleaning solvents or compressed gases; (d) firearms, explosives, weapons or ammunition; (e) chemicals, radioactive materials, biological agents, toxic waste, asbestos or other potentially hazardous substances; (f) any item that emits fumes, or odours; (g) any illegal item or substances or goods illegally obtained such as illicit (counterfeit/smuggled) tobacco or alcohol and unlicensed or unsafe goods (such as toys, electrical goods, medicines, aerosols, cosmetics, fireworks); (h) goods which are environmentally harmful or that are a risk to the property of any person; (i) currency, deeds and securities; and (j) items which are unique in nature and/or where the value to You cannot be assessed on a financial basis. You will be liable under Condition **29** for any breach of this Condition **18**.
19. You will use the Unit solely for the purpose of storage and shall not (or allow any other person to): (a) use the Unit as offices or living accommodation or as a home, business or mailing address; (b) use or do anything at the Facility or in the Unit which may be a nuisance to FO or any other person (including the escape of any substance or odour from or generation of noise or vibration which may be heard or felt outside the Unit); (c) use or do anything at the Facility or in the Unit which may invalidate or increase premiums under any insurance policies of FO or any other person; (d) paint or make alterations to or attach anything to the internal or external surfaces of the Unit; (e) connect or provide any utilities or services to the Unit unless authorised by FO; (f) cause damage to the Unit or any part of the Facility (which includes by removal, haulage or delivery contractors); or (g) create any obstruction or leave items or refuse in any common space within the Facility.
20. You must maintain the Unit by ensuring it is clean and in good repair. In the event of uncleanness or damage to the Unit or Facility, FO will be entitled to retain the Deposit, charge a Cleaning Fee, and/or claim full reimbursement from You of the reasonable costs of repairs, replacement, restoration, proper compensation, or disposal of refuse.
21. You must (and ensure that Your Agents) use reasonable care on site and have respect for the Facility and other unit users, inform FO of any damage or defect immediately it is discovered and comply with the reasonable directions of FO's employees, agents and contractors and any other regulations or policies for the use, safety and security of the Facility as FO shall issue periodically.

22. This Agreement does not confer on You any right to exclusive possession of the Unit and FO reserves the right to relocate You to another Unit not smaller than the current Unit: (a) by giving 14 days' notice during which You can elect to terminate this Agreement under Condition 37; or (b) on shorter notice if an incident occurs that requires the Unit or section where it is located to be closed or sealed off. In these circumstances, FO will pay Your reasonable costs of removal if approved in writing by FO before removal. If You do not arrange removal by the date specified in FO's notice, then You authorise FO and its agents to enter the Unit and move the Goods as Your agent on Your behalf and at Your risk (except for damage caused wilfully or negligently which is subject to the limitations in Condition 27). Following removal this Agreement will be varied by substitution of the new Unit number but otherwise continues on the same terms at the storage rates in force for the original Unit at the time of the removal.

23 You must ensure the Unit is suitable for the storage of the Goods intended to be stored in it and You are advised to inspect the Unit before storing Goods and periodically during the storage period. FO makes no warranty or representation that any unit is suitable for any particular goods and accepts no liability in this regard. Unit sizes are approximate. If You have exact requirements, You must check with FO before signing this Agreement as, by signing, You agree to the actual size of the Unit and not any represented unit size.

24 FO may refuse storage of any Goods or require You to remove Goods if in FO's opinion storage of such Goods creates a risk to the safety of any person or property.

25 You must give notice to the FO in writing of the change of any contact details on this Agreement for You or the ACP within 48 hours of any change. You agree FO is entitled to discuss any default by You with the ACP registered on the front of this Agreement.

RISK AND RESPONSIBILITY:

26. FO will not be liable for any loss or damages suffered by You as a result of You not being able to access the Facility or the Unit, regardless of the cause.

27. The Goods are stored at Your sole risk and responsibility and You shall be responsible for and bear the risk of any and all theft, damage to, and deterioration of the Goods caused by any reason. FO excludes all liability in respect of (a) loss or damage to Your business, if any, including consequential loss, lost profits or business interruption; (b) loss of or damage to Goods or any claim for return of the Storage Fees except where this results from FO's negligence or breach of contract, in which case FO's liability will be limited to the sum of £100 in total. FO does not exclude liability for physical injury to or the death of any person which is a direct result of negligence or wilful default on the part of FO, its agents and/or employees.

28 Subject to clause 44 if applicable, FO does not insure the Goods and it is a condition of this Agreement that the Goods remain adequately insured at all times for their Replacement Value (as set out on the cover sheet) while they are in storage. You warrant that such cover is in place, will not lapse and that the aggregate value of Goods in the Unit from time to time will not exceed the insured value. FO does not give any advice concerning insurance cover given by any policy and You must make Your own judgment as to adequacy of cover even when arranged by the FO. Inspection of any insurance documents provided by You to demonstrate cover does not mean FO has approved the cover or confirmed it is sufficient.

29. It will be Your responsibility to compensate FO for the full amount of all claims, liabilities, demands, damages, costs and expenses (including any reasonably incurred legal and professional fees) incurred by FO or third parties (**Liabilities**) resulting from or incidental to (a) the use of the Unit (including but not limited to the ownership or storage of Goods in the Unit, the Goods themselves and/or accessing the Facility) or (b) breach of this Agreement by You or any of Your Agents or (c) enforcement terms of this Agreement.

30. You agree to comply with this Agreement and all laws and regulations relevant to the use of the Unit. This includes laws relating to material which is stored and the manner in which it is stored. You will be responsible for all Liabilities resulting from such a breach.

31. If FO has reason to believe that You are not complying with all relevant laws FO may take any action it considers necessary, including, but not limited to, action outlined in Conditions 16 and 37, contacting, cooperating with and/or submitting Goods to relevant authorities, and/or immediately disposing of or removing Goods at Your expense. You agree that FO may take such action at any time even though FO could have acted earlier.

32. FO shall not be considered to be in breach of this Agreement nor liable for any delay in performing or failure to perform any of its obligations under this Agreement or any resulting loss or damage to Goods if such delay, failure, loss or damage results from events, circumstances or causes beyond FO's reasonable control. Such circumstances include (but are not limited to) any Act of God, riot, strike or lock-out, trade dispute or labour disturbance, accident, breakdown of plant or machinery, fire, flood, shortage of labour, materials or transport, electrical power failures, threat of or actual terrorism or environmental or health emergency or hazard or recommended restrictions, or entry into any unit including the Unit or the Facility by, or arrest or seizure or confiscation of Goods by, competent authorities. If this happens, FO will not be responsible for failing to allow access to the Goods, Unit and/or the Facility for so long as the circumstances continue. FO will try to minimise any effects arising from such circumstances.

PERSONAL INFORMATION

33. FO collects information about You and any ACP on registration and whilst this Agreement continues, including personal data (**Data**). FO processes Data in accordance with the General Data Protection Regulation and all associated laws. Details on how FO uses Data and Your rights in relation to Data are set out in FO's Privacy Notice which can be viewed on its website at www.trstorage.uk. You confirm any ACP has consented to You supplying Data to FO on these terms.

34. If You give consent, FO will use Data for feedback purposes, including to provide information on products or services provided by FO in response to requests from You or if FO believes they may be of interest. Your choice with regard to the relevant use of Data is indicated in the cover sheet and can be changed at any time by contacting FO.

COMMUNICATIONS AND NOTICE :

35. FO can send You notifications regarding day to day matters and minor changes to this Agreement by email and/or by SMS if You have agreed to receive notifications by SMS. These notifications will be effective one hour after sending or immediately if they relate to an urgent problem or emergency. We may also use Your social media accounts.

36. Notices to be given by FO or You for more significant changes to the services and these terms or to enforce rights under this Agreement (such as ending the Agreement, changing prices, significant disruptions or enforcing FO's right to sell or dispose of Goods) must be in writing and must either be delivered by hand, pre-paid post or email. Notices shall be considered to have been received at the time of delivery by hand, one day after sending by email or 48 hours after posting. Notices from FO to You will be sent to the addresses on the cover sheet or the most recent address in England and/or email address notified by You to FO and/or Your social media accounts. In the event of not being able to contact You at the last notified postal or email address, Notice will be considered as having been given to You if FO serves that Notice on the ACP as identified on the front of this Agreement at the last notified postal or email address of the ACP. Any notice from You must be sent to the FO by hand or by post to the address on the cover sheet or by email to storage@trproperties.uk. In the event that there is more than one storer named on the Agreement, Notice to or by any single storer is agreed to be sufficient for the purposes of any Notice requirement under this Agreement.

CANCELLING OR ENDING THE AGREEMENT:

37. If You signed up without coming into the Facility, then You have 14 days after FO confirms acceptance of the order to change Your mind (cooling off period). If You cancel during this period a refund will be provided based on the length of storage You have taken prior to cancelling and all Goods being removed from the Unit. FO can use any payment made by You to settle some or all of this. You can cancel by email, post or telephone call to FO referring to Your name, address and date of order.

38. Unless otherwise agreed in writing by both parties, either FO or You may end this Agreement at any time by giving the other party written Notice. The date on which the Agreement will end (the **Termination Date**) must be at least the number of days indicated on the cover sheet. In the event of illegal or environmentally harmful activities on Your part or a breach of this Agreement (which, if it can be put right, You have failed to put right within 14 days of notice from FO to do so), FO may terminate the Agreement immediately by Notice. FO is entitled to retain from the Deposit, or make a charge for, apportioned Storage Fees if less than the required Notice is given by You. You must remove all Goods in the Unit before the close of business on the Termination Date and leave the Unit in a clean condition and in a good state of repair to the satisfaction of FO. In the event that Goods and/or rubbish are left in the Unit after the Termination Date, Conditions 7 and 20 will apply. You must pay any outstanding Storage Fees and any other fees or expenses owed to FO up to the Termination Date, or Conditions 6 to 10 may apply. Any calculation of the outstanding fees will be by FO. If FO enters the Unit for any reason and there are no Goods stored in it, FO may terminate the Agreement without giving advance Notice but will send Notice to You within 7 days.

39. You agree to examine the Goods carefully on removal from the Unit and must notify FO of any loss or damage to the Goods as soon as is reasonably possible.

40. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of FO or You that came into effect during the life of the Agreement. This includes the right to claim damage for breach of the Agreement, liability for outstanding monies, property damage, personal injury, environmental damage and legal responsibility under this Agreement.

OTHER IMPORTANT TERMS:

41. FO may vary the Storage Fee or other terms of this Agreement and add new terms and conditions as long as such changes are notified to You in writing. The modified terms will take effect on the first Due Date occurring not less than 28 days after the date of FO's notice. You may end this Agreement without charge before the change takes effect by giving notice in accordance with Condition 36. Otherwise, Your continued use of the Unit will be considered as Your acceptance of and agreement to the amended terms.

42. You acknowledge and agree that : (a) the terms of this document constitute the whole agreement with FO and, in entering this Agreement, You do not rely on any statement, promise, representation, assurance or warranty which is not set out in this Agreement; (b) any descriptions or illustrations on our website are published for the sole purpose of giving an approximate idea of the services described in them but they will not form part of this Agreement or have any contractual force; (c) the terms of this Agreement apply to the exclusion of any other terms that You seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing; (d) You have raised all queries relevant to Your decision to enter this Agreement with FO and FO has, prior to You entering into this Agreement, answered all such queries to Your satisfaction; (e) any special terms agreed between You and FO, been recorded in writing and incorporated into the terms of this Agreement; (f) if FO decides not to exercise or enforce any right that it has against You at a particular time, then this does not prevent FO from deciding to exercise or enforce that right at a later date unless FO tells You in writing that FO has waived or given up its ability to do so; (g) it is not intended that anyone other than You and FO will have any rights under this Agreement and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to it; (h) if any provision or part-provision of this Agreement is or becomes invalid, unlawful or unenforceable to any extent, it shall be treated as deleted, but that shall not affect the validity and enforceability of the rest of this Agreement; (i) You may not assign or transfer any of Your rights under this Agreement or part with possession of the Unit or Goods whilst they are in the Facility; (j) FO may transfer its rights under this Agreement to another organisation and will let You know if it plans to do this; and (k) where there are two or more joint Storer, each person takes on the obligations under this Agreement separately.

43. You confirm that the FO has the authority to apply for rates relief on your behalf ,which may be available to you,under "The Small Business Bonus Scheme " in respect of the storage facility.

44. This Agreement shall be governed by Scottish law and any dispute or claim that either party brings will be decided by the Courts of Scotland. The parties must first try to settle any dispute in connection with this Agreement by mediation. Such mediation is to be conducted by a mediator who is independent of the parties and appointed by agreement of the parties. It is a condition precedent to the right of either party to commence arbitration or litigation other than for emergency interlocutory relief, that it has first offered to submit the dispute to mediation.