

# MEDIATION AGREEMENT

**THIS AGREEMENT** dated .....[/ as per the date the last signatory affixed their electronic signature, below]

## **IS MADE BETWEEN**

**Party A,** of

**Party B,** of

**Party C,** of

(together, referred to as '**the Parties**')

**The Mediator Kevin Gerald Smyth** of 11 South Street, Ditchling, East Sussex, BN6 8UQ

(a term which includes any agreed **Mediator Observer**)

And **Mediation Resolution** of 11 South Street, Ditchling, aforesaid

(together, the principal participants of "**the Mediation**" scheduled for the date/s of...)

**IT IS AGREED** by those signing this Agreement **THAT:**

**“The Mediation”**

1. The Parties agree to attempt in good faith to settle their dispute during the Mediation. The Mediator agrees to conduct and the Parties to participate in the Mediation in accordance with this Agreement to mediate and consistent with the Mediation Resolution’s Model Mediation Procedure and the CEDR Code of Conduct for Third Party Neutrals as published on CEDR’s website as at the date of this Agreement.
2. The Mediation shall commence and the terms of this Agreement will apply from the moment that the Mediator first communicates with either of the Parties and will continue until the date agreed by the Mediator and the Parties.
3. The Mediation may take place in person, remotely using telephone or video conferencing technology, or any combination of the aforementioned (or other media which is compliant with Mediation Resolution’s Model Mediation Procedure) as agreed by the Parties and the Mediator.

**Online/Remote Mediations**

4. The Parties agree that for the purposes of the Mediation the Mediator will be the Host and/or Organiser of any video conferencing software used, unless otherwise agreed by all Parties.

**Authority**

5.
  - 5.1 The person signing this Agreement on behalf of each Party warrants having authority to bind that Party to observe the terms of this Agreement.
  - 5.2 Each party warrants that a person with authority will participate in the mediation to authorise any settlement.

**Confidentiality and without prejudice status**

6. Each Party shall ensure that Mediation participants attending on their behalf are informed and agree to the confidentiality provisions set out in Section 7 below.
7. Every person involved in the Mediation:
  - 7.1 will keep confidential all information arising out of or in connection with the Mediation (in accordance with Section 9 of Mediation Resolution’s Model Mediation Procedure), including but not limited to communications relating to the set-up and scheduling of the Mediation, the discussions leading up to and at the Mediation, and terms of any settlement, unless otherwise agreed by the Parties in writing but not including the fact that the Mediation is to take place or

- has taken place or where disclosure is required by law, to prevent physical harm to self or to others, or to implement or to enforce terms of settlement or to notify their insurers, insurance brokers and/or accountants;
- 7.2 agrees that all such information passing between the Parties, the Mediator and/or Mediation Resolution, however communicated, is to be without prejudice to any Party's legal position and may not be produced as evidence or disclosed to any judge, arbitrator or other decision-maker in any legal or other formal process, except where otherwise disclosable in law;
  - 7.3 will not make any attempt to, or make any audio or video recording, of any part of the Mediation; and
  - 7.4 will ensure that where the Mediation or a portion thereof is taking place using video conferencing software or other remote means of communication, the only person(s) present in the room where the computer, phone or other communication device is located will be those persons notified in writing as attending to the Mediator and any and all other Party or Parties.
8. Where a Party privately discloses to the Mediator or Mediation Resolution any information in confidence before, during or after the Mediation, the Mediator or Mediation Resolution will not disclose that information to any other Party or person without the consent of the Party disclosing it, except under the circumstances provided in Section 9 of Mediation Resolution's Model Mediation Procedure. The Parties agree, however, that the Mediator may disclose such information to Mediation Resolution provided that such disclosure is made by the Mediator and received by Mediation Resolution in confidence.

#### **Settlement formalities**

9. No terms of settlement reached at the Mediation will be legally binding until set out in writing and agreed to either in writing (including by email) or by wet or electronic signature, by or on behalf of each of the Parties.

#### **Fees and costs of the Mediation**

10. The Parties will be responsible for the fees and expenses of Mediation Resolution and the Mediator ('the Mediation Fees') in accordance with Mediation Resolution's Terms and Conditions of Business current at the date of this Agreement (including any provision for additional hours if the Mediation process extends beyond the allocated hours).
11. Unless otherwise agreed by the Parties and Mediation Resolution in writing, each Party agrees to share the Mediation Fees equally and also to bear its own legal

and other costs and expenses of preparing for and attending the Mediation ('each Party's Legal Costs'). However, each Party further agrees that any court or tribunal may treat both the Mediation Fees and each Party's Legal Costs as costs in the case in relation to any litigation or arbitration where that court or tribunal has power to assess or make orders as to costs, irrespective of whether or not the Mediation results in settlement of their dispute.

### **Liability of CEDR and the Mediator**

12. Neither the Mediator nor CEDR shall be liable to the Parties for any act or omission in relation to the Mediation, including the use and operation of the video conferencing platform, unless the act or omission is proved to have been fraudulent or involved wilful misconduct.
13. The Parties understand that neither the Mediator nor Mediation Resolution give legal advice and agree that they will not make any claim against the Mediator or Mediation Resolution in connection with this Mediation. The Parties will not make an application to call the Mediator or any employee or consultant of Mediation Resolution, as a witness, nor require them to produce in evidence any records or notes relating to the Mediation, in any litigation, arbitration or other formal process arising out of or in connection with their dispute and the Mediation. Neither the Mediator nor any Mediation Resolution employee or consultant will agree to act as a witness, expert, arbitrator or consultant in any such process. If any Party does make such an application (as listed above), that Party will fully indemnify the Mediator, Mediation Resolution or the employee or consultant of Mediation Resolution in respect of any costs any of them incur in resisting and/or responding to such an application, including reimbursement at the Mediator's standard hourly rate for the Mediator's time spent in resisting and/or responding to such an application.

### **Law and Jurisdiction**

14. This Agreement is governed by the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to decide any matters arising out of or in connection with this Agreement and the Mediation.
15. The referral of the dispute to the Mediation does not affect any rights that exist under Article 6 of the European Convention of Human Rights, and if their dispute does not settle through the Mediation, the Parties' right to a fair trial remains unaffected.

### **Changes to this Agreement**

Any changes to this Agreement must be agreed in writing by the Parties, Mediation Resolution and the Mediator.

**Signed**

**Party A**

.....  
.....

[Sign and Print Name]

**Party B**

.....  
.....

[Sign and Print Name]

**Mediator**

.....  
.....

**Mediation Resolution**.....

**Dated:** .....20

Amended March 2023. © Mediation Resolution 2023

# MODEL PROCEDURE FOR BOTH FACE-TO-FACE AND VIRTUAL ONLINE MEDIATIONS

## 1. What is Mediation?

Mediation is a flexible process conducted confidentially in which a neutral person actively assists the parties in working towards a negotiated agreement of a dispute or difference, with the parties in ultimate control of the decision to settle and the terms of resolution.

The principal features of mediation are that it:

- involves a neutral third party to facilitate negotiations.
- is quick to set up and is inexpensive, without prejudice and confidential.
- involves party representatives with sufficient authority to settle.
- is flexible, with no set procedure, enabling the process to be designed and managed by the Mediator to suit the parties, in consultation with them.
- enables the parties to devise solutions which are not possible in an adjudicative process such as litigation or arbitration, and which may benefit all the parties, particularly if there is the possibility of a continuing relationship between them.
- can be used in both domestic and cross-border disputes, two-party and multi-party disputes, and irrespective of whether litigation or arbitration has been commenced.

Many commercial and government contracts now require parties to use mediation in accordance with a Model Procedure such as this one. While mediation is essentially flexible, the Model Procedure set out in this document, taken with the attached Mediation Agreement, will give sufficient certainty to enable the process to be set up and used.

Any contemplated or existing litigation or arbitration in relation to the dispute may be started or continued despite the mediation having been commenced, save for when the parties agree or a Court orders otherwise. If settlement terms cannot be agreed at a mediation, the parties are free to revert to litigation or arbitration.

## 2. Referral to Mediation

Referral of a dispute to a mediator for mediation usually occurs consequent upon:

- voluntary referral by all parties.
- referral by one party who asks Mediation Resolution to secure the involvement of the other party or parties to it in a mediation.
- responding to a Pre-action Protocol, the Civil Procedure Rules, a Court Order or a recommendation by a Judge before trial or a pending appeal.
- the provisions of a clause in a commercial or government contract requiring the use of mediation as a step in the parties' agreed dispute resolution process.

## 3. Choosing the Mediator

Parties may choose their own mediator directly or may ask Mediation Resolution to nominate one or more persons to act as the Mediator for a dispute in accordance with the wishes of the parties or any relevant Court Order (a copy of which must be supplied to Mediation Resolution by the parties as soon as possible after Mediation Resolution have been so instructed). If the parties require it, more than one mediator can be appointed to work as co-mediators, or the parties can agree on an independent neutral expert to advise the mediator upon any technical

issues or facts. Mediation Resolution will only nominate or appoint a mediator who, in their view, possesses the relevant skills and experience to mediate the dispute for the parties effectively, and who will comply with the current CEDR Code of Conduct for Mediators to which the Mediator is obliged to adhere (“the Code”). Any nominated Mediator will be required to confirm immediately to Mediation Resolution if there is any matter which might prevent the nominated Mediator from complying with the Code in relation to the mediation of the dispute, such as a conflict of interest. Mediation Resolution will then notify the parties of any such matter immediately it is disclosed to them.

The parties may be asked by Mediation Resolution to approve the appointment by them of an assistant mediator (who will be an Accredited Mediator) or an observer to attend a mediation at no cost to the parties, provided though that they too comply with the Code in respect of the mediation of that dispute. The identity of any assistant mediator or observer proposed to attend the mediation will be made known in advance of the mediation to the parties, who are free to object to any such nomination or decline any such appointment. The Mediator’s signature on the mediation agreement binds any assistant mediator or observer to its terms.

#### **4. Preparation for the Mediation**

Either Mediation Resolution or the Mediator when agreed or appointed, will make the necessary arrangements for the mediation as required or agreed by the parties or under the terms of any scheme, including:

- providing a pro forma mediation agreement and assisting with the completion of it.
- facilitating agreement as to the date, venue and start time for the mediation.
- writing up a suggested timetable for all pre-mediation day preparation and circulating the same for the parties to agree soon after the mediator has been appointed.
- Once such has been agreed by the parties and the Mediator, the latter will ‘police’ the parties’ adherence to the preparation timetable.
- organising exchange of document bundles as well the parties’ position statements/case summaries as between the parties and the mediator.
- setting up any pre-mediation meetings or telephone conferences agreed by the parties and the Mediator.

The parties will:

- agree the appointment of the Mediator or a process to select or appoint the Mediator.
- agree with the Mediator or Mediation Resolution the date, venue (unless it is to be an online mediation in which case see paragraph 8 below) and start time for the mediation.
- pay Mediation Resolution’s fees and expenses as agreed under Mediation Resolution’s Mediation Terms and Conditions of Business.
- each prepare and exchange a position statement/case summary in respect of their approach to the dispute at the mediation and endeavour to agree with all other parties what documents are needed for the mediation.
- send to the Mediator (direct or through Mediation Resolution) a copy of their position statement/case summary and one copy of the document bundle within the timeline stipulated in the agreed pre-mediation timetable, making clear whether position statements/case summaries have or have not yet been exchanged, whether or not and when Mediation Resolution is to effect exchange, and whether all or any part of any position statement/case summary or particular item of documentation is intended to be confidential for the Mediator’s eyes only.
- notify the Mediator direct or through Mediation Resolution of the names and roles of all those attending the mediation on their behalf, so that Mediation Resolution can inform all parties and the Mediator in advance of the mediation.

- ensure that a lead negotiator with full authority to settle the dispute (or not) attends the mediation to sign the mediation agreement.
- alternatively notify the Mediator, Mediation Resolution and (unless very good reason exists to the contrary) the other parties of any limitation on authority to settle, for instance lack of legal capacity, or the need for ministerial committee or board ratification, in which case the lead negotiator will need to have power to recommend acceptance of any settlement. Late disclosure of limited authority to settle can call into question that party's good faith in the context of their involvement in the mediation process, thus perhaps having a detrimental effect on the prospects of success of any mediation.

The Mediator will:

- ensure at all times that the Code is complied with in respect of the mediation of the dispute, reporting any conflict of interest or other relevant matter, if any, to Mediation Resolution (subject to any question of confidentiality or privilege) the parties immediately it emerges;
- attend any pre-mediation meetings on terms and pursuant to any agenda agreed by the parties.
- read each position statement/case summary and document bundle submitted in advance of the mediation by the parties.
- make contact with a representative of each of the parties before the mediation to assist in preparation for the mediation.

## **5. Documentation**

Documentation intended to be treated as confidential by the Mediator or Mediation Resolution (such as a counsel's opinion, an undisclosed expert report, a draft proof of evidence or a confidential briefing for the mediator) must be clearly marked as such, and will not be circulated further without express authority.

One of the advantages of mediation is that its success is not dependent on exhaustive disclosure of documents. Bundles can usually be relatively limited in size, containing only key documents, and position statements/case summaries can be quite brief, and can to advantage be prepared jointly by the parties. The parties can ask Mediation Resolution to effect simultaneous exchange of position statements/case summaries if required.

While documents brought into existence for the purpose of the mediation, such as position statements/case summaries, are clearly privileged from later production in those or other proceedings, the fact that a document which is otherwise disclosable in proceedings is produced for the first time during the mediation does not normally confer privileged status on it. The parties must take legal advice on such matters if they arise.

## **6. The Mediation Agreement**

The agreement to mediate provides the essential legal basis for the mediation. Its signatories (the parties to the dispute, the Mediator and Mediation Resolution) all agree by signing it that the mediation is to be conducted consistent with both this Model Procedure and the Code.

A draft mediation agreement will be sent for approval to the parties as part of the preparation process for the mediation, and any proposed amendments can then be discussed and inserted if agreed. The mediation agreement will need to be approved by the parties and signed by them, the Mediator and on behalf of Mediation Resolution soon after the commencement of the mediation process; usually very soon after the Mediator's suggest pre-mediation



preparation timetable has been agreed. In any pre-mediation contact with the parties, Mediation Resolution's staff and any Mediator once appointed will observe its terms as to confidentiality, even though the agreement has not yet been signed.

## **7. Face to Face Mediations**

It is normal for each of the parties to have a private room for confidential consultations on their own and with the Mediator during the mediation. There should also be a further room large enough for all parties to meet with the Mediator jointly.

The Mediator will chair and take responsibility for determining the procedure at the mediation, in consultation with the parties.

The likely procedure will comprise:

- preliminary private meetings with each of the parties and their representatives when they arrive at the mediation venue.
- a joint meeting of all attending the mediation, at which each of the parties or their representatives will normally be invited to make an oral presentation.
- a mix of further private meetings and joint meetings (which may involve all or some of each party's team), as proposed by the mediator and agreed by the parties.

Professional advisers, particularly lawyers, can and usually do attend the mediation. Such advisers play an important role in the exchange of information and opinion on fact, evidence and law; in supporting their clients (particularly individuals) in the negotiations; in advising clients on the implications of settlement; and in drawing up the settlement agreement and any consent order.

No verbatim recording or transcript should be made of the mediation by the parties or the mediator in any form, but participants can make their own private notes which will not be disclosable to anyone else, including in any subsequent litigation or arbitration.

Mediations can last beyond a normal working day. Hence it is important that the key people present for each of the parties remain present or at worst, available by telephone for so long as the mediation continues. Any time constraints should be reported to Mediation Resolution or the Mediator as soon as known, as any unexpected departure can be detrimental to the progress of the mediation and perceived as disrespectful by other parties.

## **8. Virtual online Mediations**

Such can be requested by the parties and Mediation Resolution will be happy to set them up. The Internet software platform used will be that maintained and conducted using its Zoom Pro Account. No charge for this will be made by Mediation Resolution.

Such provides the significantly important facility of an unlimited number of secure breakout rooms which can be used and occupied virtually in the same way as individual rooms are used in a face-to-face mediation - see paragraph 7 above. Additionally, there will be no limit or restriction on the length of time that the platform can be used during any one mediation.

Additional facilities that will be included are:

- an inter active 'chat' facility which the parties and the Mediator can use on either a private or a 'group/everyone' basis.
- The sharing of documents (e.g. any one of those contained in the agreed mediation bundle) privately or on a 'group/everyone' basis.

- Security of a type which ensures that only 'invited participants' can come in online and remain on it.
- Mute and video disconnect buttons can be used for added privacy if required.

Mediations are not recorded and were they to be so, only the Mediator can activate the recording facility which if it were to be prompts an immediate signal cum warning on screen.

During the totality of the mediation, it will be the Mediator who manages the online virtual rooming arrangements and not the parties. Typically, the online mediation process proceeds in the following way:

- At the appointed time, all participants will click on the '**Join Meeting**' link contained within an emailed invitation sent to them by the Mediator 24 hours or so beforehand.
- All participants will enter the virtual waiting room and be received there by the Mediator.
- In turn he or she will introduce the parties and their individual representatives or ask them to do so themselves.
- Thereafter the Mediator will give an introduction to the mediation, set the scene and remind all present about the key elements of the mediation process e.g. confidentiality, mediation being a voluntary process, authority to settle etc., etc..
- He or she will then transport/assign each 'team' of participants (i.e. Party A's team or group and Party B's) into their dedicated secure private rooms which they can then treat and use as such throughout the mediation day;
- Thereafter the Mediator will conduct a private session with each party in their virtual private room the prime purpose of which will be to discuss any concerns, needs for clarification, the process and each party's objectives as well as wishes for the day;
- Typically, there will then follow further meetings, including a joint meeting, of the types described in paragraph 7 above.
- As and when necessary, it will be the Mediator who will online 'transport' different participants from room to room (e.g. when it is agreed that it might be in the best interests of the mediation process for each party's lead lawyer to engage in a private dialogue with the Mediator). Similarly, if it is decided that it would be beneficial for all participants to re-engage in a joint meeting.

It is the practice of Mediation Resolution and its Mediators to recommend strongly that a Zoom Practice Session be partaken in by all who are to attend the mediation online 48 hours or so beforehand. Such will be set up by the Mediator and conducted by him/her.

## **9. Confidentiality in relation to the Mediation**

Mediation Resolution's standard mediation agreement provides that what happens at the mediation is to be treated as confidential by the parties, Mediation Resolution, and the Mediator, including the fact and terms of settlement. However, the fact that the mediation is to take place or has taken place is not normally made confidential, as either or both of the parties may wish to claim credit for agreeing to engage in the process. If it is desired to make the fact that the mediation is taking place confidential also, the agreement can be amended.

Apart from where the parties agree in writing to consent to disclosure of what would normally be confidential, there may be rare circumstances in which the confidentiality of the mediation process cannot be preserved, such as where:

- the Mediator or any party or their representative is required by law to make disclosure.
- the Mediator reasonably considers that there is a serious risk of significant harm to the life or safety of any person if the information in question is not disclosed; or

- the Mediator reasonably considers that there is a serious risk of being personally subject to criminal proceedings unless the information in question is disclosed.

Such questions might arise in relation to duties under the Proceeds of Crime Act 2002 or related legislation or under any other legislation. Legal representatives (who may themselves be under a comparable duty of disclosure in their own capacity) must take full responsibility for advising their clients of the implications of disclosure in relation to any such matters at a mediation.

## 10. Conclusion of the Mediation

The mediation may end in several different ways:

- by settlement of the dispute in whole or part, when all agreed matters must be written down and signed by the parties for it to be binding.
- by one or more parties leaving the mediation before a settlement is achieved (but not if that party instructs and authorises his lawyer to continue with it on their behalf and furthermore authorises him or her to reach a binding settlement on their behalf and/or reject proposals for settlement).
- by an agreed adjournment for such time and on such terms as the parties and the Mediator agree.
- by withdrawal of the Mediator in accordance with the mandatory and optional circumstances set out in the Code.

The Mediator will facilitate the drawing up of any settlement agreement online, though the drafting is normally done by the lawyers representing each of the parties. It is they who will have the responsibility of ensuring that the terms of the agreement reached are recorded accurately in the settlement agreement and that it will be contractually binding upon all parties. Where proceedings **have not** been started in respect of the dispute, the settlement agreement will (if so intended and drafted) be a contract enforceable by legal action. Where proceedings **have** been issued in relation to the dispute, it is normal for a Consent Order (known as a Tomlin Order) to be agreed either at or after the mediation and later lodged with the court to end the proceedings on the terms agreed.

Settlement Agreements drawn up in online mediations are normally signed and exchanged online with the Mediator acting as a witness to the fact that all parties to the dispute have signed the mediation settlement agreement which subsequently is exchanged by email. If the software is available to the parties' legal representatives, often they use DocuSign which currently is said to be the World's most widely used electronic signature software platform.

Where the mediation does not end in complete settlement, the Mediator will usually contact the parties or their representatives thereafter to determine whether further progress towards a settlement might be possible and if so whether he or she might assist in that regard. Many disputes which do not settle at the mediation settle later, usually because of what occurred or was learned at the mediation.

Mediation Resolution will endeavour to contact all the parties after every mediation to obtain their feedback on both the process itself and, in particular, the Mediator. Any feedback obtained regarding the Mediator will be given in full to the him or her as part of the Mediator's continuing learning and development.

## 11. Complaints

Any formal complaint about Mediation Resolution or any Mediator nominated by Mediation Resolution should be addressed to Kevin Smyth at the email address shown below.

**Amended March 2023**

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## **TERMS AND CONDITIONS FOR CIVIL/COMMERCIAL MEDIATIONS (BOTH IN PERSON FACE TO FACE AS WELL AS ONLINE)**

Mediation Resolution's comprehensive ADR Service handles all elements of the mediation, leaving the parties and their advisers free to prepare for it, focus on the substantive issues in the case and on negotiating a settlement.

Mediation Resolution's fees will therefore cover:

- All preliminary advice and assistance pertaining to the desired mediation process.
- Assisting the parties in setting up the mediation, whether it is to be conducted on a face to face basis or virtually online.
- Preparing and circulating a draft pre-mediation preparation timetable for the parties to approve.
- If required, advising upon the format and terms of the Mediation Agreement.
- Providing the services of a CEDR Accredited Civil/commercial Mediator (and an Assistant Mediator if required).
- If the mediation is to be conducted virtually online, the provision and management of the platform (ZOOM Pro Account) for it as well as coaching upon its use together with a pre-mediation day practice session for the parties and their legal representatives to participate in.
- The Mediation Day itself (including the Mediator's fees but not any venue expenses which must be paid for directly by the parties).

### **FEE SCHEDULE**

Value of Claim Fee per party\* per 8 hour day of mediation

Up to £20,000	£395.00
£20,000 to £50,000	£495.00
£50,000 to £100,000	£595.00
£100,000 to £200,000	£995.00
£200,000 to £500,000	£1,200.00
£500,000 to £1,000,000	£1,400.00
£1,000,000 to £2,500,000	£1,700.00

£2,500,000 to £5,000,000	£2,000.00
£5,000,000 to £10,000,000	£4,000.00
£10,000.000 plus	£s negotiable
No assessed value	£s negotiable but the mediator's services are likely to be charged on an agreed hourly rate basis to which an agreed cap would be applied.

\* Fees for multi-party disputes are calculated on a 2- party basis plus 20% for each additional party.

If the duration of the mediation exceeds eight hours in any one day, the additional fees payable by each party for each additional hour, or part thereof, will be calculated at an hourly rate equivalent to one tenth of the aggregated daily rate, divided by the number of parties to the mediation.

### **Mediator's Preparation Time**

Charged as set out below. It is essential that the agreed mediation bundle (or any other documents) and the parties' position statements/case summaries are delivered to Mediation Resolution in accordance with the pre-mediation timetable agreed for each case to give the Mediator sufficient time to prepare. Mediation Resolution reserves the right to charge preparation time at higher rates where papers are delivered late; and to charge also for any courier or other administrative charges incurred due to the late delivery of papers.

### **Expenses**

Related expenses such as room hire, the Mediator's travel expenses, etc., are not included in the above rates, and are charged for at cost if paid for by the Mediator and/or Mediation Resolution.

### **VAT**

Mediation Resolution is not registered for VAT and hence such is not payable by the parties.

### **Claim Value**

The value of the claim will be determined by either that of the claim, or any counterclaim should there be one, whichever is the greater. When a claim value falls into two fee bands, the higher band and thus fee will apply.

### **Exceptional Administrative Back-Up**

Occasionally there may be an additional fee (which you will be notified before it is incurred) if exceptional back-up administration is required. Otherwise, all administrative back-up is included in the above fees.

## Preparation Time

Each party will be charged for the reading and preparation time (such to include all pre-mediation day correspondence, verbal communications and meetings, if any, with the parties and/or their legal representatives), spent by the Mediator at an hourly rate which will be one tenth of the aggregated daily rate for the Mediation Day(s) divided by the number of parties to the mediation.

The preparation time will not, without the consent of the parties, exceed:

- 8 hours for claims involving two parties; or
- 12 hours for claims involving three parties or more.

## Payment

As pre-condition to the Mediator conducting it, the fees payable for the Mediation Day(s) must be paid by each party no less than 21 days beforehand. Two, or maybe three, invoices will be issued.

- **The First invoice will cover:**

The fees for the Mediation Day(s) of eight hours duration (see above for rates).

- **Second invoice (such to be paid within 14 days of receipt) will cover:**

All pre-mediation reading/preparation time (as described above), expenses not included in the first invoice (e.g. travel, accommodation, etc.) and any additional fees payable as a consequence of the Mediation Day (or any booked additional Mediation Days) lasting more than eight hours. **However please note** that Mediation Resolution reserves the right to deliver a second invoice to be paid by all parties **prior to the mediation day** for all pre-mediation reading/preparation time (as described above) undertaken up until the day before the date of the second invoice (plus any expenses incurred up until that time) in cases where the duration of such time has been greater than usual, or otherwise when the Mediator in his or her own absolute discretion decides that it is appropriate for Mediation Resolution to deliver a second invoice then.

- **Third invoice (such to be paid within 14 days of receipt) will cover:**

Such will only be delivered when a second invoice was so prior to the Mediation Day. This will relate to the charging of all pre-mediation reading/preparation time (as described above) undertaken by the Mediator, as well as any additional expenses incurred, since the day before the delivery of the second invoice together with any additional fees payable as a consequence of the Mediation Day (or any booked additional Mediation Days) lasting more than eight hours.

## Cancellation

Notice of cancellation must be given **in writing** to Mediation Resolution. If received:

1. More than 21 days before the Mediation was due to take place, Mediation Resolution

will only be entitled to be paid for any irrecoverable expenses incurred by it and/or the Mediator.

2. Less than 21 days but more than 7 days before the Mediation was due to take place, Mediation Resolution will be entitled to:
  - 25% of the mediation fees; and
  - All the Mediator's reading/preparation time undertaken up until the time the cancellation notice was received; and
  - All expenses already incurred by Mediation Resolution and/or the Mediator.
3. Less than 7 days but more than 24 hours before the Mediation was due to be commenced, Mediation Resolution will be entitled to:
  - 50 % of the mediation fees; and
  - All the Mediator's reading/preparation time undertaken up until the time the cancellation Notice was received; and
  - All expenses already incurred by Mediation Resolution and/or the Mediator.
4. Less than 24 hours before the Mediation was due to be commenced, Mediation Resolution will be entitled to:
  - 100% of the mediation fees; and
  - All the Mediator's reading/preparation time undertaken up until the time the cancellation notice was received; and
  - All expenses already incurred by Mediation Resolution and/or the Mediator.

### **Face to face and online virtual mediations**

These Terms and Conditions are intended to cover or otherwise relate to both.

### **Complaints**

Mediation Resolution will deal with any complaints pursuant to its written Complaints Procedure a copy of which will be supplied on request by email to [kevinsmyh48@gmail.com](mailto:kevinsmyh48@gmail.com). This complies with the requirements of both the Civil Mediation Council, of which our lead mediator is a member, and the European Code of conduct for Mediators. The latter stipulates thus:

*“Mediation providers should establish and maintain fair and effective complaints and disciplinary mechanisms to deal with disputes concerning mediators or administrators of mediation processes. Mediation providers should subscribe primarily to amicable dispute settlement in their own matters through negotiation and mediation”.*

**Revised and effective from February 2022**  
**© Mediation Resolution 2022**