

## Terms of Business

### 1. Introduction

- 1.1. Thank you for instructing us to act as your Mediators. It is important that you have confidence in us when you seek our assistance. We therefore aim to give you reliable high quality professional services that demonstrate a thorough knowledge of the law and a clear understanding of your needs.
- 1.2. When you instruct us and we agree to act as your Mediators a contract is created between us, Mediation Consultants, and you which is subject to a wide variety of rules and regulations, both professional and statutory. In addition, we may work according to certain approved methods or standards.
- 1.3. This document sets out our standard terms of business. These terms will apply unless otherwise agreed in writing.
- 1.4. We usually supplement these terms of business with an email / letter of engagement and an Agreement to Mediate which sets out the specific terms of our engagement. The Agreement to Mediate will override these terms of business in the event of any inconsistency. We may need to provide further information to you depending on the nature of your instructions.
- 1.5. We specifically draw your attention to paragraph 17 below which sets out the scope of our liability.
- 1.6. If you have already asked us to start work for you, e.g. by providing an initial private meeting, we have done so on the understanding that, unless otherwise agreed, these terms apply from your initial instructions.
- 1.7. This firm is committed to promoting equality and diversity in all of its dealings with clients, third parties and employees, and is required to produce a written equality and diversity policy. Please contact us if you would like us to send you a copy.

### 1.8. Mediation Consultants

Mediation Consultants provides legal services in England and Wales, is authorised and regulated by the Family Mediation Council (FMC).

Resolution is a Member Organisation (MO) of the Family Mediation Council (FMC). Resolution has adopted the Code of Practice for Family Mediators, which is published by the FMC. All mediator members must adhere to the Code of Practice (May 2018) and is subject to these Standards and Regulations which you can access:

On the Resolution website at: [www.resolution.org.uk/](http://www.resolution.org.uk/)

By calling: 020 3841 0300 (inside the UK), 09.00 to 17.30, Monday to Friday.

- 1.9. We maintain professional indemnity insurance in accordance with the rules of the FMC. Details of the insurer and the territorial coverage of the policy are available for inspection at our offices.

- 1.10. In these terms of business 'we' or 'our' or 'us' or 'the firm' refers to Mediation Consultants Ltd ('MC Ltd') a limited company incorporated under registration number 13488350 registered office at Pantiles Chambers, 85 High Street, Tunbridge Wells, Kent, TN1 1XP. Any business conducted with us is solely with MC Ltd and the MC Ltd has sole legal liability for the work done for you and for any act or omission in the course of that work. No member, partner, principal, employee, associate or consultant of MC Ltd will have any personal liability for work undertaken for you. If a member, partner, principal, employee, associate or consultant signs in his or her own name any letter or other document in the course of carrying out that work it does not mean he or she is assuming any personal legal liability for that letter or document.
- 1.11. We use the term 'associates' or "partners" to refer to a member or members of MC Ltd. A list of the members of the MC Ltd is available on request.
- 1.12. If you have any queries in relation to anything in these terms or our Agreement to Mediate documentation, please speak to the person handling your matter.

### 2. Responsibility for your work

- 2.1. At the time of instruction of each matter we will confirm the name and status of the person who will deal with the matter.
- 2.2. Where relevant we will also confirm the name and status of his or her supervisor and if appropriate the associate who is responsible for your work either directly or with overall departmental responsibility.
- 2.3. To ensure your instructions are progressed it may be necessary for other members of the relevant department to work or assist on your matter. If they are to perform a continuing role, we will inform you who they are.
- 2.4. Your main point of contact will be the person named as dealing with your matter/s. In his or her absence, please refer to any member of the team or department for assistance.

### 3. Your Instructions

- 3.1. Your instructions are confirmed by these Terms of Business and the "Agreement to Mediate" you will receive with them. The two together form the basis upon which we accept those instructions and our contract with you.
- 3.2. It may be that we will exclude certain aspects from the scope of your instructions. If so, these will be set out in the "Agreement to Mediate".
- 3.3. Our standard exclusions are set out below. They may only be overridden or added to by notice from us in writing:
  - 3.3.1. **Tax information:** Except for personal finance matters, on which our mediation team are instructed, tax information is specifically excluded and you should consult a tax expert on any tax issues arising. We can recommend a tax expert to you.

## Terms of Business

- 3.3.2. **Financial:** We make no comment on the financial or commercial viability of any agreed terms you have negotiated, nor on the amount of any property valuation.
- 3.3.3. **Property:** We make no comment on the state and condition of any property and its services, nor on the contents of any valuation or survey sent to us, save for any part requiring specific legal comment. If you are in any doubt, you should consult a surveyor or structural engineer or other expert as appropriate.
- 3.3.4. **Accountancy:** Accountancy advice and services are specifically excluded from our contract with you and you should consult an accountancy expert on any such issues arising. We make no comment on the appropriateness of, or requirement for any accounting measures arising from your matter. We can recommend an accountancy professional to you.
- 3.4. Any information we give will be provided solely to the entity which or individual who instructs us as our client and solely for the purpose for which we were instructed.
- 3.5. Our documents produced in mediation are for the purpose of your personal mediation and can be shared with your solicitor for legal advice and should not be shared with any other any other person without our express prior written agreement.
- 3.6. Our mediation information may not be disclosed to any other person without our express prior written agreement.
- 3.7. We may transfer our rights / obligations under these Terms of Business to another organisation, and we will always notify you in writing if this happens, but this will not affect our rights or obligations under these Terms of Business.
4. **Fees**
- 4.1. At the time of instruction, we will discuss fees and the likely costs involved with you. We will either confirm our fees and any likely expenses for the matter or, where possible, give you our best estimate of these in the Engagement Email/Letter and the Agreement to Mediate. Evening appointments are available subject to the parties' prior agreement and may incur extra costs.
- 4.2. At the beginning of a matter it is not always possible to give a realistic estimate of the overall costs. If we are unable to give you an estimate at the start, we will when we can.
- 4.3. Where we give you an estimate this is based on the amount of time we anticipate we will spend on your matter/s and our hourly rates.
- 4.4. In the Engagement Email/Letter we will confirm the specific hourly rate applicable to your matter, where appropriate, or our estimate. We will also confirm details of any expenses or the fees of others that are known at that time.
- 4.5. Unless otherwise stated in the Engagement Email/Letter our estimate includes our time, any meetings with you, any drafting letters and documents; perusing and analysing any letters and documents received from you or anyone else in connection with your matter; and all telephone calls including both those made by and received by us.
- 4.6. Any estimate will not be fixed and will be based on the current information we have. Various factors may increase the estimate and/or our hourly rate such as: - particular urgency, greater complexity, more work required than expected, unsocial hours of working, the value and /or monetary importance of the subject matter involved.
- In particular, while we will suggest various points to be included within the documentation that we will prepare you may choose to deal with additional points, which may involve us carrying out extra work. Similarly, the position taken by the other parties and advisers may significantly affect the number of issues which we need to deal with and in the event that the other parties cause the matter to become protracted, then our fees may reflect this.
- We will advise you if and when any of these factors or events occurs.
- 4.7. Fees, expenses and are payable by you whether or not a mediation is successfully concluded or a transaction completed. If any case or transaction does not proceed to completion for any reason during the period in which we are instructed, then we are entitled to charge for work done on the basis set out in these terms.
- 4.8. If you wish to agree limits on our fees and the expenses which are not to be exceeded without your agreement, please contact the person dealing with the matter.
- 4.9. We will keep our estimate under review as the matter progresses.
- 4.10. We reserve the right to:
- 4.10.1. submit for payment interim bills for our fees and expenses on a monthly basis unless otherwise agreed with you in writing;
- 4.10.2. ask you for money in advance to cover our fees and likely expenses;
- 4.10.3. stop acting if you fail to pay.
- 4.11. Invoices are payable upon presentation. Our invoices are payable in advance of meetings taking place and documents drafted. Fees are charged and invoiced separately per client and payable in advance to releasing documents.
- 4.12. We reserve the right to charge interest at 2% over the base rate applicable at the time per month on amounts remaining unpaid after 30 days. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount. You must pay us interest together with any overdue amount.

## Terms of Business

- 4.13. Our fees and the expenses are exclusive of VAT which will be added to them where applicable.
- 4.14. Fees are payable no later than 14 days in advance of the MIAM or mediation.
- 4.15. All costs and fees are paid individually by each party unless otherwise agreed in writing.
- 4.16. If payment is not received prior to the mediation taking place, the mediation will only proceed if the solicitor representing any party that has not paid undertakes to pay the invoice(s) within seven days of the mediation taking place.
- 4.17. Failure to give this written undertaking at least one working day prior to the mediation will result in the mediation being cancelled and that party incurring charges for their share of the mediation fee.
- 4.18. If the mediation is cancelled as a result of either party failing to pay its invoice or providing this written undertaking Mediation Consultants will not be liable to any party for any loss or inconvenience so caused.
- 4.19. Failure to make a payment prior to the mediation will result in the mediation being cancelled and that party incurring 100 per cent cancellation charges for their share of the mediation fee.
- 4.20. You will be notified of all expenses in advance of them being incurred, and additional charges are payable on receipt of the mediator's invoice.
- 4.21. If someone else has agreed to pay our fees and expenses, but does not do so, you are still responsible for them.
- 4.22. We review our hourly rates annually. If this results in changes to the fees indicated to date, we will discuss this with you and confirm the position in writing.
- 4.23. You may also have the right to challenge our bill by making a complaint to the Legal Ombudsman as to which please see paragraph 21 below.

### Cancellation and Postponement

- 4.24. In the event of cancellation or postponement by either party received by MC Ltd in writing, all agreed expenses incurred by the mediator plus any preparation time chargeable at the Mediation Fee per hour and will be payable in full;
- 4.25. Fourteen days or less but more than seven days before the mediation was due to take place, MC Ltd will be entitled to 50 per cent of the mediation fees and all expenses incurred in relation to the mediation.
- 4.26. Seven days or less but more than 48 hours before the mediation was due to take place MC Ltd will be entitled to 75 per cent of the mediation fees and all expenses incurred in relation to the mediation.
- 4.27. 48 hours before the mediation was due to take place or less, MC Ltd will be entitled to 100 per cent of the mediation fees and all expenses incurred in relation to the mediation.

### 5. Timescale

The timescale for each matter will be discussed with you at the time of instruction and where possible agreed with you. In certain cases, it may be too early to give an accurate timescale for the matter. We will keep you informed as to progress.

### 6. Open Financial Information

- 6.1. When there are financial issues needing a settlement, we ask you both to provide accurate disclosure of your financial circumstances, by completing a Form E Financial Statement with supporting documents. We do not check the completeness and accuracy of the information provided. You will be asked to sign and date a statement confirming that you have made full disclosure; if it later emerges that full disclosure has not been made, any agreement based on incomplete information can be set aside and the issues re-opened.
- 6.2. The Mediator will produce the following documents during the mediation process:
  - 6.2.1. A privileged summary (the Memorandum of Understanding) of your proposals for settlement (legally privileged) which will include your proposals on all matters discussed in mediation, arrangements for any and each child, property, finance, maintenance, child support and any other matters discussed as appropriate to each of you. It may also include such evaluation as may be offered.
  - 6.2.2. An Open Summary (Statement of your Finances) detailing your financial circumstances (except in mediations which relate only to issues concerning children). These documents are provided to help you obtain separate and independent legal and/or other advice before entering into a legally binding agreement. It is also to safeguard you from making a legally binding agreement without fully understanding how it may affect your own individual position.
- 6.3. Your financial information is provided on an 'open' basis, which means that it is available to your legal adviser and can be referred to in court, either in support of an application made with your joint consent or in contested proceedings. This would be the case in any situation relating to financial disclosure on separation or divorce.
- 6.4. The exception many parents find helpful is that if arrangements for children are agreed and confirmed in mediation, they can be relied on by both parents.
- 6.5. Following the end of mediation, if there are any original documentation you would like returned, upon request this can be arranged; otherwise all materials (including our file and case notes) will be retained for one year in line with The General Data Protection Regulation (GDPR), but may then be destroyed without further reference to you.

## Terms of Business

### 7. Children and Mediation

- 7.1. Where there are children of the relationship, Mediators have a responsibility to consider with their parents the arrangements that are most likely to support the children's relationships and well-being, now and in the future.
- 7.2. We support the principle of child inclusive practice and the presumption that all young people aged ten and above should be offered the opportunity to have their voices heard during mediation unless there are strong reasons to the contrary. Our expectation is that, subject to your joint agreement, and there are no reasons to the contrary, we would meet with your child if they are age appropriate. In such circumstances, we will ask you to sign an additional agreement to cover this work.
- 7.3. We are 'processors' of personal data for the purposes of the Data Protection Act 1998. You consent to us processing your personal data for the purposes of this Agreement to Mediate. You understand that this includes our retaining and storing your personal data for as long as is necessary in connection with the Agreement. We may retain data for research and statistical purposes, but on the understanding that if used for this purpose, all identifying details will have been removed and you will not be personally identified.

### 8. Reporting

- 8.1. We will report to you on progress during the conduct of the mediation. In particular, we will inform you when important stages are reached. If there is any particular aspect you wish to be notified of, please let us know.
- 8.2. Once the mediation is completed we will not remind you of any important dates unless you give us written instructions to do so. If you do not, it is your responsibility to take note of such dates and any action needed.
- 8.3. For some types of work we may provide you with additional information as to the usual stages involved for your reference.
- 8.4. Regrettably delays sometimes occur. In such situations, whilst we will do our best to expedite matters, there may well be unexpected changes or aspects of the matter that are outside our control and for which we cannot be held responsible.

### 9. Bank fraud and Cyber-crime

- 9.1. As a result of the increased risk posed by cyber-crime especially in relation to bank account details, please note the following terms carefully.
- 9.2. The bank details of Mediation Consultants Ltd will not change during the course of your matter.
- 9.3. If you do send funds to us using details that we have provided to you by email then please telephone us first **before** sending the funds. Where you request us to send funds to you electronically we will ask you to verify the account details with us by letter or by phone using a phone number which you have previously given to us and we have used.

- 9.4. When we request payments from you that are to be paid directly to our bank account we will provide you with our bank details and to guard against fraud we take certain precautions when accepting funds from you or on your behalf or making payments to you or to a third party on your behalf.
- 9.5. If you receive an email or other communication attempting to amend our bank details, please contact the individual dealing with your matter by telephone (do not use any contact number contained in any such email/communication, but refer to our website). If he or she is not available please speak with another member of staff and, do not make any transfer of funds until you have done so.
- 9.6. Please ensure you check our email address corresponds with our initial email to you on your matter. Please be vigilant when opening emails, attachments or links and when responding to any requests for your bank details.
- 9.8. We will not accept responsibility for any losses arising from your transfer of funds to an incorrect bank account against our above advice, including any losses arising from your inability to complete a matter due to any such diverted transfer.

### 10. Confidentiality

- 10.1. Mediators have a professional duty of confidentiality. Discussions in mediation about proposals and possible terms of the settlement are 'without prejudice' and legally privileged, which means they cannot be disclosed to the court unless you agree to waive your privilege, as explained at paragraph 10.8.
- 10.2. Your file may be examined by external firms or organisations for regulatory or quality assurance purposes. These external firms or organisations are required to maintain confidentiality in relation to your files.
- 10.3. It may be necessary for us to recommend third parties, e.g. Independent Financial Advisers, Pensions Actuaries, Forensic Accountants or Medical Experts to assist in mediation. We will only do so for the proper conduct of your mediation.
- 10.4. If a third party requests access to documents that we hold about you or asks to interview us in connection with legal services that we have provided to you then we may be required, as a matter of law, to comply with this request. You will be responsible for our fees, disbursements and expenses if we have to deal with such a request.
- 10.5. In addition to the above, in order to enable us to provide our services to you where processing personal data is necessary for our legitimate interests, we may:
- 10.5.1. outsource the provision of IT support and our administration operations, the typing and production of some documentation;
- 10.5.2. provide some information about you to suppliers of business management services / computer software to help us develop our management systems and maintain our high standards of service by using specialist outsourced services.

## Terms of Business

Where we do pass your confidential information to third parties, we have in place suitable confidentiality obligations and requirements to protect your information.

- 10.6. The extent of the information we will need to disclose will depend upon the services you require. In some situations, this may include special categories of personal data. We will only do so for the proper conduct of your mediation. Please see our Privacy Policy for further detail.
- 10.7. At your request, either during mediation or at the end, we can prepare an interim or final confidential summary of arrangements for your children and/or your proposals for settlement of financial and property matters.
- 10.8. The 'without prejudice' privilege protects the content of mediation and its outcome from disclosure to the court (except where you give your written consent; you should take legal advice before you give such consent). If you are taking legal advice, a copy of your mediation summary can be shown or sent to your solicitors to assist in advising you.
- 10.9. Your legal advisor may accompany you to mediation sessions, by agreement with the Mediator. Once negotiations are underway and likely to move to a conclusion, if you both agree, then we will be happy to work with your legal advisers to find an acceptable way for all, but the rules relating to discussions of options and solutions in mediation will still apply; as will confidentiality.
- 10.10. Mediation is a confidential process. Only the parties involved in the mediation will be present during the mediation meeting. For mediation meetings carried out online remotely via FaceTime, Skype, Zoom or other calls, a third party must not be present in your meeting room environment.

### Exceptions of Confidentiality

- 10.11. Whenever an allegation is made within a mediation that someone (particularly a child) is at risk of harm, we have a duty to contact the appropriate authorities with or without your permission.
- 10.12. In common with all other relevant professionals, we may be required to disclose to the appropriate government authority information with regard to the commission of any relevant, previously undisclosed, criminal offence. Where we are required to make a disclosure to the appropriate government authority under the Proceeds of Crime Act 2002 and/or relevant money laundering regulations. The Mediator may also be under a linked obligation to make such disclosure without informing you and may have to discontinue the mediation without further notice.
- 10.13. We may disclose personal data in connection with the alleged or established commission of an unlawful act.
- 10.14. We are 'processors' of personal data for the purposes of the Data Protection Act 1998. You consent to us processing your personal data for the purposes of this Agreement to Mediate. You understand that this includes our retaining and storing your personal data for as long as is necessary in connection with the Agreement. We may retain data for research and statistical purposes, but on the understanding that if used for this purpose, all identifying details will have been removed and you will not be personally identified.

10.15. Specific requirements are set out below in relation to data protection (Privacy), money laundering and email communication.

10.16. See also paragraph 11 of these terms in relation to our Privacy Policy and our duties under the Data Protection Legislation (defined below).

### 11. Privacy

11.1. For the purpose of this paragraph, "Data Protection Legislation" shall mean applicable privacy and data protection laws including the General Data Protection Regulation (EU) 2016/679) and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of personal data and the privacy of electronic communications as amended, replaced or updated from time to time, including the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426), Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426).

11.2. We and you will comply with all applicable requirements of the Data Protection Legislation. Paragraph 11 is in addition and does not relieve, remove or replace, either our obligations or your obligations under the Data Protection Legislation.

11.3. You acknowledge that for the purposes of the Data Protection Legislation, we are the controller of personal data (where **controller** and **personal data** have the meanings as defined in the Data Protection Legislation).

11.4. How we will use your personal data. We may process your personal data for the following purposes:

- 11.4.1. verification of your identity or of officeholders of your organisation;
- 11.4.2. the provision of legal services;
- 11.4.3. the payment of legal services;
- 11.4.4. the administration of files and records;
- 11.4.5. transfers of data between other professionals and advisers notified to us by you;
- 11.4.6. the marketing and promotion of our services; and
- 11.4.9. legal compliance.

11.5. We may also process your special categories of personal data (as defined by the Data Protection Legislation) for the purposes specified above. We will not process your special categories of personal data for any other purpose without your express consent unless permitted or required by law or other regulatory requirements to do so.

## Terms of Business

- 11.6. We only process your personal data when a condition set out in the Data Protection Legislation applies. This will normally be because of the contract between us. Following the end of our services we may continue to process your personal data in accordance with the Data Protection Legislation or when legally permitted to do so.
- 11.7. Depending upon the nature of the work carried out for you, your personal data may be transferred outside the European Economic Area (EEA) where the data protection regulations may not offer the same protection as within Europe. If you would prefer that we did not transfer your personal data outside the EEA, please write to the person handling your matter set out in the Engagement email/Letter.
- 11.8. For more details about how we process personal data, including the legal basis for processing, the criteria we apply to retaining your personal data and your rights as an individual, please see our Privacy Policy which can be found on our website at [www.mediationconsultantsuk.com](http://www.mediationconsultantsuk.com)
- 11.10. See also paragraph 10 of these terms in relation to our duty of confidentiality to you.
- 12. Instructions and Communications**
- 12.1. We will assume that whoever gives us instructions to provide legal services has actual authority to do so and we will be entitled to rely on any information provided to us by that individual.
- 12.2. Where we are jointly instructed by you and another client or clients, we will assume that any one of you is authorised to provide us with instructions unless you advise us otherwise.
- 12.3. In order to progress your mediation we need your help and therefore ask that you:
- 12.3.1. provide us with clear, timely and accurate instructions
  - 12.3.2. respond to our communications promptly
  - 12.3.3. provide money in advance as requested
  - 12.3.4. tell us your contact details if they change
  - 12.3.5. tell us if you will be unavailable for any reason
  - 12.3.6. provide all documentation and information that we reasonably request in a timely manner
  - 12.3.7. safeguard any documents that may be required for your mediation, including documents that you may have to disclose to another party
- If you do not, this may cause delay, miss deadlines and prevent us from providing an efficient service.
- 12.4. Please let us know if you have a preferred method of communication. Unless you advise us otherwise, we will use whatever method of communication appears appropriate in the circumstances. This will include sending communications by email, as to which please see paragraph 13 of these terms below.
- 13. Email communications**
- 13.1. Email communications with you are on the basis that you accept the risks involved, including that:
- 13.1.1. email is not a secure means of communication and our messages to one another could be read, changed or deleted by third parties without either your or our knowledge
  - 13.1.2. certain attachment may be caught in our firewall
  - 13.1.3. there may be delay in receiving email and receipt is not guaranteed
  - 13.1.4. differences between our systems may cause text to be indecipherable or lost
  - 13.1.5. whilst we make every effort to ensure that we do not transmit viruses through the use of virus checking software and a computer firewall system, viruses may be transmitted via email. Accordingly, you should ensure that you have appropriate virus protection in place to safeguard your systems.
- 13.2. We do not accept liability for any loss caused as a result of communication via email, including for breach of confidentiality.
- 13.3. To protect our computer system certain types of attachment may be caught in our firewall. If you wish to send attachments, please ensure they are of a size and type that will not be caught by our firewall, as delay may occur in these circumstances. No liability is accepted by us for this.
- 13.4. We reserve the right not to give undertakings on your behalf, nor accept them from your solicitors by email.
- 13.5. There may be certain instructions from you that we will not accept from you by email. We will advise you accordingly in such a situation.
- 14. Data Rooms**
- 14.1. Whilst we are willing to use third party data rooms for sharing documentation with you and other parties involved in your matter, this is on the basis that you accept the risks involved, including that:
- 14.1.1. data rooms are not necessarily a secure means of document sharing, and documents could be read, changed or deleted by third parties without either your or our knowledge;

## Terms of Business

- 14.1.2. it is possible that viruses may be transmitted via the data room. Accordingly you should ensure that you have appropriate virus protection in place to safeguard your systems;
- 14.1.3. we do not accept liability for any loss caused as a result of using a data room to share documentation with you, including for delay and breach of confidentiality.
- 14.2. Where additional terms apply to the use of data rooms, a copy will be provided to you. Use of a data room is subject to your acceptance of those terms.
15. **Social media**
- 15.1. Whilst we are willing to communicate with you via social business media such as LinkedIn we do so on the following basis:
- 15.1.1. there may be delay in receiving communications via social media and receipt. Is not guaranteed.
- 15.1.2. social media is not a secure means of communication and our messages to one another could be read, changed or deleted by third parties without either your or our knowledge. Accordingly, we will not communicate with you via social media in relation to any legal work we may be doing, or have done, on your behalf;
- 15.1.3. viruses may be transmitted via social media. Accordingly you should ensure that you have appropriate virus protection in place to safeguard your systems;
- 15.1.4. we do not accept liability for any loss caused as a result of communicating via social media with you, including for delay and breach of confidentiality;
- 15.1.5. if you wish to instruct us, or provide information to us about those instructions via social media, you do so on the basis that you fully accept the risks associated with such media. We reserve the right to request separate confirmation from you as to those instructions/information via an alternative method of communication outside of social media;
- 15.1.6. we may invite you to connect with us via social media, but this is on the understanding that it is entirely your choice whether you do so and is on the basis set out above.
- 15.2. We reserve the right to cease acting for you if you use social media to post malicious or defamatory comments about MC Ltd or anyone employed by the firm.
16. **Papers and documents**
- 16.1. We are entitled to keep all your papers and documents (including any held electronically) until our final bill is paid. Generally you may then collect your papers.
- 16.2. We will process your data for the duration of the matter and thereafter will retain the data relating to the specific matter, including the personal data within it in accordance with our Privacy Policy.
- 16.3. We will only retain your personal data for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, regulatory or reporting requirements.
- 16.4. To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements.
- 16.5. Unless we agree otherwise, we retain the copyright in any documents we prepare for you. You may use such documents only for the purposes for which they were prepared for you.
17. **Scope of liability**
- 17.1. If you are successful in bringing a claim against us for breach of our duties to you and are liable to compensate you agree that our liability is limited in the following respects:
- 17.1.1. it is Mediation Consultants Ltd that is liable, not an individual associate, partner or member of staff; you agree to make no claim against an individual except for fraud;
- 17.1.2. our maximum aggregate liability for any mistake (except for fraud) is £1 million (unless a different amount is agreed with you in writing);
- 17.1.3. this overall limit applies whether the mistake affects just one piece of work we do for you or several, so long as it is the same or a similar mistake;
- 17.1.4. for the purpose of the overall limit, more than one mistake on a matter or transaction is considered as one mistake;
- 17.1.5. we are liable for loss that we directly cause and for any indirect or consequential loss or loss of anticipated profit or other benefit, where that total liability does not exceed £1 million. Otherwise we have no liability for any direct, indirect or consequential loss or loss of anticipated profit or other benefit;

## Terms of Business

17.1.6. We are not liable to the extent that our mistake results from something you do or fail to do (such as giving us the wrong information, or not giving us information at the time we ask for it);

17.1.7. if others are also responsible for your loss, our liability is limited to our fair share, whether or not you are able to recover the rest from the others; and

17.1.8. We are not liable for acts or omissions of agents appointed by us in good faith.

Mediation Consultants Ltd  
Pantiles Chambers  
85 High Street, Tunbridge Wells  
Kent TN1 1XP

Telephone: 0800 488 0840 / 0800 488 0850

You may do this in writing (by email or letter), at a meeting or by telephone. In this latter case, we may ask you to put your concerns to us in writing to ensure we fully understand the position.

18.2. The limits in paragraph 17.1 apply to the extent that they are permitted by law, for example, we do not exclude or limit in any way our liability for fraud or exclude or limit our liability if our negligence causes death or personal injury.

18.3. If you are a business client, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from our relationship with you.

18.4. Nothing in these terms shall restrict or limit your general obligation at law to mitigate a loss which you may incur as a result of any mistake we make.

18.5. Paragraph 20 will survive the termination of our appointment.

### 19. Variation of these terms and other changes

These terms may be supplemented or varied at the outset in correspondence with you or subsequently by agreement with you in writing, but cannot be varied verbally. Other changes to our relationship may occur by law, changes to necessary we will update you appropriately.

### 20. Effective date

20.1. These terms are effective from 1 May 2020 and supersede all other conditions sent to you.

### 21. Comments and problems

21.1. If you feel there is any way in which we can improve our service to you, please let us know. We keep under review our service to our clients and your suggestions may be very helpful. We also use surveys to obtain client feedback and would ask you to complete any such survey if you receive one from us or any agency on our behalf.

21.2. We aim to offer all clients a friendly and efficient service and we hope you will be pleased with the work we do for you. However, if any difficulty should arise, including any in relation to our fees (as to which see also paragraphs 4.15 – 4.17 above), please first raise your concern with the person responsible for your matter and, failing that, with the supervising partner who has ultimate responsibility for your work. Should you still have any queries or concerns about the service provided by us then please contact our Director, Andrew Weir, either by letter, email or telephone call as follows:

### Legal Ombudsman

22.3. If for any reason we are unable to resolve the problem between us, you may raise your concerns with the Legal Ombudsman (although see paragraph 22.6 below) which is an independent complaints handling body set up under the Legal Services Act 2007. It deals with complaints of poor service by certain legal professionals. You may contact the Legal Ombudsman via their website at [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk) or Helpline: 0300 555 0333.

The Legal Ombudsman website contains information as to how they deal with complaints.

22.4. As a general rule the Legal Ombudsman will require you to have first raised your concerns with us before they become involved and you should do so as soon as possible. If, at the end of using our internal complaints handling process, you are not satisfied with how we have dealt with the matter you may raise your concerns with the Legal Ombudsman. Normally you will need to do so within 6 months of receiving our final written response regarding your complaint.

22.5. On request we will provide you with a copy of our complaints procedure.

22.6. The right to complain to the Legal Ombudsman is not open to all types of client, If this affects you then we will let you know and confirm what action you may be able to take.

### Alternative Dispute Resolution (ADR) bodies

23.9. In addition to the Legal Ombudsman, alternative complaints bodies exist (Alternative Dispute Resolution (ADR) bodies) which are competent to deal with complaints about legal services from consumers, should a client and law firm wish to use such a scheme and they are contained in a list held by the Chartered Trading Standards Institute. As with the Legal Ombudsman, these can only be used at the end of any internal complaints handling process.

### ODR Platform

23.10. If we are unable to resolve your complaint, and it relates to a contract we entered into online or by other electronic means, you may also be able to submit your complaint to an approved alternative dispute resolution (ADR) provider in the UK via the EU 'ODR platform'.



## Terms of Business

23.12. The ODR platform is an interactive website offering a single point of entry for disputes between consumers and traders relating to online contracts. The ODR platform is available to consumer clients only, i.e. where you have instructed us for purposes outside your trade, business, craft or profession.

23.13. The website address for the ODR platform is:

<http://ec.europa.eu/odr>

23.14. We are not required to and have chosen not to adopt an ADR process because we consider the service offered by the Legal Ombudsman to be the most appropriate means of resolving complaints about legal services.

### 24. Termination

24.1. This sub-paragraph applies only if you did not instruct us face to face. You may withdraw any new instructions within 14 working days of giving them without incurring any fee. This right will cease if we start to act on those instructions with your consent within that time.

24.2. This sub-paragraph applies only if you and we have entered into the contract for our services either at your home or place of work. In this case you have the right to cancel this contract if you wish to do so. That cancellation must be provided to us in writing within 14 days of receiving our Engagement Letter. If this applies, our Engagement Letter will confirm this and provide a Notice of Cancellation for your use. However, if you would like us to start work straightaway then, even if you cancel the contract, you agree to pay for time spent and any work undertaken by us before the cancellation. In this case we will not start work until we have received the enclosed duplicate of the Engagement Letter duly signed by you.

24.3. Otherwise, although you may terminate our appointment at any time, you will be liable for our fees and expenses up to the date of termination.

24.4. Our rules of professional conduct govern in what circumstances we may terminate the contract between us including without limitation the non-payment of bills or payments on account, or where a conflict of interest arises, either between you and us, or you and another party in the matter that was not present at the beginning of your matter. If we terminate the contract between us, we will notify you and give reasons unless we are prohibited by law from doing so.

### 25. Severance

25.1. If any court or competent authority finds that any provision of these Business Terms (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these terms shall not be affected.

25.2. If any invalid, unenforceable or illegal provision of these terms would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

### 26. Governing law

The law of England and Wales will govern our professional and contractual relationship with you notwithstanding that you may be based, or our services provided to you, in Scotland or elsewhere.

### 27. Agreement

27.1. Whilst your continuing instructions will amount to your acceptance of these Terms of Business please sign and date the accompanying letter and return it to us immediately.

27.2. We hope that by sending this document we have addressed your immediate queries about the day-to-day handling of your work and our Terms of Business. However, if you have any queries, please do not hesitate to contact your professional adviser.

This is an important document which we would urge you to keep in a safe place for future reference.