



**SELINA MORGAN-GAYLE**

**CIVIL, COMMERCIAL, WORKPLACE AND EMPLOYMENT MEDIATOR**

**MEDIATION AGREEMENT**

**(Half Day Online)**

**1. PARTIES**

**1.1** The parties to the dispute (“Parties”) are set out in the Mediation Party at the end of this agreement.

**2. MEDIATOR**

**2.1.** Selina Morgan-Gayle, of SMG Mediation Ltd, 5 Chancery Lane, London, WC2A 1LG will be the Mediator.

Collectively the (“Parties”) hereby agree to have Selina Morgan-Gayle to be the Independent Mediator and mediate their dispute on the following terms and conditions:

**3. MEDIATION AGREEMENT**

**3.1.** The mediation shall be held and conducted according to this Mediation Agreement.

**3.2.** The mediation meeting itself will be referred to throughout this agreement as the mediation (“mediation”)

**3.3.** Parties will attend the mediation personally or with authorised legal representative, or in the case of corporations, through their authorised representatives. An authorised representative must have full authority of the represented party to settle. Any restriction on this authority is to be raised with the Mediator prior to the mediation.

**3.4.** The Parties understand that the Mediator will seek to facilitate an agreement resolving the dispute and that she has no power or authority to render binding a decision or award.

**3.5** The Parties understand that the Mediator will not offer any legal advice to any of the Parties.

**3.6** The Parties agree to enter the mediation in good faith with the aim to achieve a Settlement.

**3.7** The Mediation will be held online on a digital platform Skype/Zoom the Parties and the Mediator will decide on a date agreed between them.

#### **4. AUTHORITY TO SETTLE**

**4.1** The Parties warrant that they will have someone present at the mediation who will have authority to settle the dispute and bind that party to any agreement reached.

#### **5. MEDIATION FEES, EXPENSES AND COSTS**

**5.1.** The Mediator's fees and any other expenses associated with the mediation will be shared equally between the parties unless agreed otherwise. Payment of these fees and expenses will be made to SMG Mediation Ltd in accordance with SMG Mediation's terms and conditions of business.

**5.2.** Each Party will pay its own costs and expenses in instructing any legal representative to prepare for, and/or participate in the mediation. Unless agreed otherwise, these costs will be costs in the cause.

Mediation Fees as Follow:

**5.3** Standard rate: £1,025 per day (or part) per party for a mediation scheduled to last up to 4 hours (10am to 2pm). The mediation is deemed to run continuously with no deduction made for lunch.

**5.4** Additional hourly rate: £190 per hour (or part) per party. (Any party who will not be able to exceed the scheduled period of 4 hours must inform the Mediator before or at the beginning of the mediation.

**5.5** The Mediation fee includes all administration and time. No further charges will be made for time and preparation.

**5.6** All fees are inclusive of Tax.

**5.7** The Standard fee is payable no less than 7 days prior to the mediation. The Parties will receive invoices for this sum. If the Standard fee is not paid by all the parties by that time the Mediator may at its discretion refuse to hold the mediation and will refund fees paid by other parties. Any further fees will be invoiced and are payable after the mediation and are payable within 14 days of receipt of an invoice.

Cancellation Fees: This takes effect once a date for a mediation has been confirmed.

**5.8** If the mediation is cancelled less than 3 working days prior to the scheduled mediation the Mediator remains entitled to the standard fees.

**5.9** If the mediation is cancelled less than 7 working days prior to the scheduled mediation the Mediator remains entitled to half the standard fees.

**5.10** If the mediation is cancelled less more than 7 working days prior to the scheduled mediation the Mediator remains entitled to £700 per party.

**5.11** All fees are inclusive of Tax.

**5.12** A Party's Solicitors shall be liable to the Mediator for any Fees not paid by the Party.

**5.13** Unless otherwise agreed during the mediation or ordered by the court, each Party shall pay its own costs in connection with mediation.

## **6. CONSULTING WITH LEGAL ADVISERS**

- 6.1** A Party does not require legal representation to attend the mediation.
- 6.2** Where a Party is not legally represented, such Party is advised to obtain independent legal advice before, during and after the mediation and prior to finalising any agreement reached pursuant to the mediation.
- 6.3** The Parties recognise neither SMG Mediation Ltd nor the Mediator offer legal advice or act as a legal adviser for any of the Parties of the mediation nor will they provide any party with a legal analysis to protect any party's legal position or rights.

## **7. PRIVATE SESSIONS**

- 7.1.** The Mediator may hold private sessions with one Party at a time. These private sessions are designed to improve the Mediator's understanding of the Party's position and to facilitate the Mediator in expressing each Party's view point to the other side.
- 7.2.** Information gained by the Mediator through such a session is confidential unless (a) it is in any event publicly available or (b) the Mediator is specifically authorised by that party to disclose it. This clause is subject to Clause 8.

## **8. CONFIDENTIALITY**

- 8.1.** The Mediator and the Parties undertake to one another that, save as may be otherwise agreed in writing by the Parties or their respective solicitors, they will maintain confidentiality in respect of all statements and matters arising in the mediation. The confidentiality provisions in this Agreement are however subject to the following exceptions:
- 8.2** Confidentiality does not apply when any Party needs to disclose any such statements and matters in order to comply with any statutory obligation or obtain professional advice.
- 8.3** Without Prejudice to the generality of the above, the mediator has an absolute obligation under the Proceeds of Crime Act 2002 to report to the National Crime Intelligence Service any knowledge or suspicion relation to the involvement of the proceeds of crime (including tax invasion) and is precluded by the law from informing the parties of his intention to do so.
- 8.4** The Parties recognise that the mediation is for the purpose of attempting to achieve a negotiated settlement and as such all information provided during the mediation is without prejudice and will be inadmissible in any litigation or arbitration of the dispute.
- 8.5** Evidence which is otherwise admissible shall not be rendered inadmissible as a result of its use in the mediation.
- 8.6** The Parties will not subpoena or otherwise require SMG Mediation, a Director, or employee of SMG Mediation, the Mediator or any other person attending the mediation under the auspices of SMG Mediation to testify or produce records, notes or any other information or material whatsoever in any future or continuing proceedings.
- 8.7** if a Party makes an application that is inconsistent with clause 8.4 then the Party will indemnify the Mediator and SMG Mediation Ltd (or assistant or observer) in respect of any costs relating to any such action which shall include (but not limited to)

reimbursement of an hourly rate of £300 including VAT for anytime resisting, responding or otherwise dealing with any such application, or complying with any order that a court or any judicial body may make.

**8.8** Every person involved in the mediation including (Parties, Mediator, assistant Mediators and Observers) will keep confidential and not use for any collateral or ulterior purpose the fact that the Mediation is to take place or has taken place, other than to inform a court dealing with any litigation relating to the dispute of the fact.

**8.9** Where the mediation has taken place as a result of a Court order, the Parties agree that the Court can be notified of the fact that the case has resolved through mediation. The notification will come from the parties and take the form of a letter agreed between the parties at the conclusion of the mediation. The notification will not disclose the terms of any settlement, unless otherwise agreed by the Parties.

**8.10** All documents, statements, information and other material produced prior to or during the course of the mediation, save to the extent those documents disclosed already and in the domain of the litigation, whether in writing or orally, shall be held in confidence by the Parties and shall be used solely for the purposes of the mediation.

**8.11** After the mediation the Mediator will destroy all papers received by her or will return them to the party that sent them to her. All notes taken by the Mediator during the course of the mediation will be destroyed.

**8.12** No recordings may be made of the mediation.

## **9. TERMINATION OF THE MEDIATION**

**9.1** Any of the Parties or the Mediator shall be entitled, in their absolute discretion,

**9.2** terminate the Mediation at any time without giving a reason therefore.

**9.3** The Parties or the Mediator may, at any time, adjourn the mediation in order to consider further information or specific issues raised during the mediation, obtain further information or for any other reason which the Parties or the Mediator consider helpful in furthering the mediation process. The Mediator and the Parties will liaise with each other to reconvene the mediation.

## **10 SETTLEMENT**

**10.1** Any settlement reached in the mediation will not be legally binding until it has been reduced to writing by the Parties or their representatives and signed by, or behalf of, each of the Parties. This term is vital to ensure certainty and no party will seek to argue that this clause is not binding whether by estoppel or otherwise.

## **11 EXCLUSION OF LIABILITY**

**11.1** Neither the Mediator nor SMG Mediation shall be liable to the Parties for any act or omission in connection with the services provided by them in, or in relation to, the Mediation, unless the act or omission is shown to be fraudulent or in bad faith. This exclusion clause applies subject to any applicable law.

## 12 LAW AND JURISDICTION

**12.1** This Mediation Agreement shall be governed by, construed and take effect in accordance with English Law in England & Wales and the courts of England & Wales.

## 13 SIGNATURE OF THIS MEDIATION AGREEMENT

**13.1** This Mediation Agreement is to be signed by the instructed legal representative of each Party attending the mediation (if represented) on behalf of that Party. The Parties, Mediator, any assistants and Observers (Mediation Party).

**13.2** The legal representative is liable for the costs of the mediation in the same way as they are liable for disbursements incurred in the course of litigation.

### Mediation Party

The Mediation Agreement is made between:

<b>Party A</b>  Name:  Address:  <b>Signature:</b>  <b>Date:</b>	<b>Party A Solicitors</b>  Name:  Address:  <b>Signature:</b>  <b>Date:</b>
<b>Party B</b>  Name:  Address:	<b>Party B Solicitors</b>  Name:  Address:

<b>Signature:</b>  <b>Date:</b>	<b>Signature:</b>  <b>Date:</b>
<b>Mediator</b>  Name:  <b>Signature:</b>  <b>Date:</b>	<b>Mediator assistant/observer</b>  Name:  <b>Signature:</b>  <b>Date:</b>

**Signed by all other persons at the mediation who agree to be bound the confidentially clause referred to in paragraph 8 above.**

Name:  <b>Signature:</b>  <b>Date:</b>	Name:  <b>Signature:</b>  <b>Date:</b>
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