

MEDIATION AGREEMENT

Appointment of the Mediator

1. The persons specified in Item 1 of the Schedule (“the parties”) jointly and severally appoint Guy Michael West Harley (“the mediator”) and the mediator accepts an appointment to conduct Family Dispute Resolution, as defined in section 10F of the Family Law Act (1975), (“the mediation”) between the parties in accordance with the terms of this agreement (“the agreement”).

Purpose of the Mediation

2. The mediation is an informal process designed to assist parties to resolve the type of matter specified in Item 2 of the Schedule.

Mutual Obligations

3. The mediator will fairly and impartially assist the parties to identify and discuss matters in issue between them with the objective of resolving the dispute.
4. Each party agrees to make a genuine effort to resolve the matter and to act in good faith at all times.
5. Each party shall complete prior to the mediation conference an online intake as organised by the mediator.

Conduct of the Mediation

6. The mediation will be conducted in compliance with Division 3 of Part II of the Family Law Act (1975).
7. The mediation will otherwise be conducted in a manner the mediator considers appropriate to an efficient and expeditious resolution of the dispute.
8. The mediator is not required to offer legal advice.
9. The mediator may express opinions and make recommendations.
10. Any advice offered, opinions expressed, or recommendations made are of no legal effect, the mediator does not warrant their accuracy and it is provided subject to the parties obtaining their own independent legal advice in relation to

such matters.

11. The mediator may give directions in relation to the conduct of the mediation and each party agrees to comply with any reasonable directions so given.

Confidentiality and Privilege

12. The mediation is conducted on a without prejudice basis and all written and oral communications, negotiations and statements made during the mediation will be treated as privileged settlement discussions, are absolutely confidential and will not be disclosed or relied upon or be the subject of a subpoena to give evidence or to produce documents in any legal proceedings.
13. The parties and the mediator will not discuss the mediation or any written or oral communications, negotiations and statements made during the mediation publicly or on social media.
14. Subject to any legal obligation, the mediator will not disclose any information or document provided to him on a confidential basis to another party unless he is authorised to do so by the party who provided the information or document.
15. The mediator is permitted to disclose information pursuant to section 10H of the Family Law Act (1975). In particular he:
 - 15.1. Must disclose a communication if he reasonably believes the disclosure is necessary for the purpose of complying with a law of the Commonwealth, a State or a Territory.
 - 15.2. May disclose a communication if consent to the disclosure is given by:
 - 15.2.1. Where the communication was made by a person who is 18 or over, that person; or
 - 15.2.2. Where the communication was made by a child under 18:
 - (a) Each person who has parental responsibility for the child; or
 - (b) A court.
 - 15.3. May disclose a communication if he reasonably believes that the

disclosure is necessary for the purpose of:

- 15.3.1. Protecting a child from the risk of harm (whether physical or psychological);
- 15.3.2. Preventing or lessening a serious and imminent threat to the life, health or property of a person;
- 15.3.3. Reporting the commission, or preventing the likely commission, of an offence involving violence or a threat of violence to a person;
- 15.3.4. Reporting the commission, or preventing the likely commission, of an offence involving intentional damage to property of a person or a threat of damage to property; or
- 15.3.5. Assisting an Independent Children's Lawyer to properly represent a child's interests.

15.4. May disclose a communication in order to provide information (other than personal information within the meaning of section 6 of the Privacy Act 1988) for research relevant to families.

15.5. May disclose information necessary for him to give a certificate under subsection 60I(8) of the Family Law Act (1975).

Termination

16. Either party may terminate the mediation at any time by giving notice to the mediator and to the other party.

17. The mediator may terminate the mediation if the mediator determines in his sole discretion that:

17.1. The mediation process is not going to resolve the matters in issue between the parties.

17.2. A party has failed to comply with the reasonable directions of the mediator or is otherwise not acting in good faith.

17.3. There is a breach of this agreement by a party.

17.4. Family Dispute Resolution is not appropriate, or he is otherwise required to terminate pursuant to Regulation 25 of the Family Law (Family Dispute Resolution Practitioners) Regulations 2008.

Fees

18. The mediator's fees are as set out in Item 3 of the Schedule and are payable by the party specified in Item 4 of the Schedule.
19. The sum specified in Item 5 of the Schedule shall be paid prior to the commencement of the mediation as a pre-payment of fees.
20. Unless otherwise stated in the Schedule, the fee does not include:
 - 20.1. Any travel and accommodation expenses for a mediation held outside the Adelaide Metropolitan Area.
 - 20.2. The cost of any mediation rooms.
21. Unless otherwise stated in the Schedule, the fee includes:
 - 21.1. Any correspondence, invitations or communications to schedule the mediation.
 - 21.2. Any intake or assessment conducted by the mediator in accordance with Regulation 25 of the Family Law (Family Dispute Resolution Practitioners) Regulations 2008.
 - 21.3. The provision of any certificate in accordance with section 60I of the Family Law Act (1975) and Regulation 27 of the Family Law (Family Dispute Resolution Practitioners) Regulations 2008.
22. If the mediator is requested to review extensive material, a higher fee may be chargeable after negotiation with the parties.
23. The mediator will forward an account to each of the parties and such account, after deduction of any money paid to the mediator pursuant to clause 19, shall be paid by the person specified in Item 4 of the Schedule within seven (7) days of receipt of the account. The mediator may render an account for pre-payment

of his fees prior to the provision of a service and is not required to provide such service until the invoice is paid. The parties acknowledge that any pre-payment of the mediator's fees is not trust money as defined by the Legal Practitioners Act

24. This agreement is binding on any party who signs it notwithstanding that any other party may not have signed it.

Cancellation/Postponement Fee

25. The mediator shall be entitled to be paid a fee if the mediation is postponed or cancelled on the following terms:

25.1. 50% of the fee is payable if the mediation is postponed or cancelled within 4 days of the date appointed for the mediation plus disbursements incurred by the mediator.

25.2. The full fee is payable if the mediation is postponed or cancelled within 2 days of the date appointed for the mediation plus disbursements incurred by the mediator.

Exclusion of Liability and Indemnity

26. The mediator is not liable for any act or omission in connection with the mediation or this agreement other than fraud and the parties jointly and severally indemnify the mediator in respect of all other liabilities, claims and associated costs arising from the mediation.

Legal Practitioners Act

27. The mediator is not required to provide any legal advice to the parties.

28. The parties acknowledge that:

28.1. The mediator is not providing any legal services as defined in section 5 of the Legal Practitioners Act 1981;

28.2. The mediator is not practising the profession of the law as defined in section 21(2) of the Act by virtue of the mediation; and

