

Model Mediation Agreement for Online Mediations

A large, light grey watermark of the CEDR logo is positioned behind the main title text.

2020 Edition



CEDR Model Mediation Agreement for Online and Telephonic Mediations

2020 Edition


THIS AGREEMENT dated IS MADE BETWEEN

Party A

..... of

Party B

..... of

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


The Mediator

..... of

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

and

CEDR of 70 Fleet Street, London EC4Y 1EU

in relation to a mediation to be held by video conference/ telephone using the following software:

.....

((**the Communication Service Provider**)

(together '**the Mediation**')

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 using the Communications Service Provider. The Mediator agrees to conduct and the Parties to participate in the Mediation in accordance with this Agreement to mediate and consistent with the CEDR Model Mediation Procedure and the CEDR Code of Conduct for Third Party Neutrals current at the date of this Agreement.
2. The Mediation will begin 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 Host shall mean any and all of the following:
 - 3.1 the person allocated the role of ["Host"] by the Communication Service Provider;
 - 3.2 the person who is the lead participant; or
 - 3.3 the person in control of the Communications Service Provider platform.
4. The Parties agree that for the purposes of the Mediation the Mediator will be the Host of the Communications Service Provider, unless otherwise agreed by all Parties.

Authority and status

5. The person signing this Agreement on behalf of each Party warrants having authority to bind that Party and all other persons present on that Party's behalf at the Mediation, or any part thereof, to observe the terms of this Agreement, and also having authority to bind that Party to the terms of any settlement.
6. Neither the Mediator nor CEDR shall be liable to the Parties for any act or omission in relation to the Mediation, including the use of the Communication Service Provider, unless the act or omission is proved to have been fraudulent or involved wilful misconduct.

Confidentiality and without prejudice status

7. Every person involved in the Mediation:
 - 7.1 will keep confidential all information arising out of or in connection with the Mediation, including but not limited to communications relating to the set-up and scheduling of the Mediation, the discussions had 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, or to implement or to enforce terms of settlement or to notify their insurers, insurance brokers and/or accountants;
 - 7.2 acknowledges that all such information passing between the Parties, the Mediator and/or CEDR, however communicated, is agreed 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 only those persons notified in writing by a Party to the Mediator and other Party prior to the commencement of any part of the Mediation may be present in the room where that Party's computer is located.

8. Where a Party privately discloses to the Mediator or CEDR any information in confidence before, during or after the Mediation, the Mediator or CEDR 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 8 of the CEDR Model Mediation Procedure. The Parties agree, however, that the Mediator may disclose such information to CEDR provided that such disclosure is made by the Mediator and received by CEDR in confidence.
9. The Parties understand that the Mediator and CEDR do not give legal advice and agree that they will not make any claim against the Mediator or CEDR in connection with this Mediation. The Parties will not make an application to call the Mediator or any employee or consultant of CEDR, or any employee or consultant of the Communication Service Provider, 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; nor will the Mediator nor any CEDR employee or consultant 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, CEDR or the employee or consultant of CEDR 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.

Settlement formalities

10. 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 electronic signature, by or on behalf of each of the Parties.

Fees and costs of the Mediation

11. The Parties will be responsible for the fees and expenses of CEDR and the Mediator ('the Mediation Fees') in accordance with CEDR'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).
12. Unless otherwise agreed by the Parties and CEDR 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, whether or not the Mediation results in settlement of their dispute.

Legal status and effect of the Mediation

13. 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.
14. 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

Agreed changes to this Agreement and/or the Model Procedure are set out below

Signed

Party A
[Sign and Print Name]

Party B
[Sign and Print Name]

Mediator

CEDR

