

# **ART RESOLVE**

## **Mediation Rules**

1. Mediation can be used to resolve disputes between two or more Parties. Parties will enter into an Art Resolve (“AR”) mediation agreement, which incorporates these rules.
2. In these rules the term “Mediator” is used to mean one or more Mediators. Parties can either select a Mediator themselves or ask AR to help them select a Mediator, in which case AR will suggest at least two potential appointees, having first ensured that they do not have conflicts of interest which prevent them from accepting the appointment. AR may recommend that the Mediator is accompanied by a Pupil or Co-Mediator and, if so, will assist the Parties in selecting such a person if appropriate. (References in these Rules to a “Mediator” shall also include a co- mediator and/or pupil, as the case may be and references to a male Mediator shall include a female Mediator.)
3. A Mediator is impartial, independent and neutral and the Parties accept that in relation to the Dispute neither the Mediator nor AR is an agent of or acting in any way on behalf of any of the Parties. If it becomes clear to the Mediator that they have prior knowledge of the dispute through a previous involvement with the case or as a solicitor, counsellor, consultant or in any other professional role, or if a conflict or perceived conflict of interest arises or emerges, then the Mediator will withdraw from the mediation.
4. The Mediator agrees fees and payment terms with the Parties directly.
5. No Mediator can be required by the Parties to act as a witness, consultant or expert in any subsequent proceedings, or to produce any documents. The

Mediator cannot serve as an Arbitrator if the dispute goes to arbitration. The Mediator can however act as an expert in a subsequent expert determination of the Dispute.

6. Neither the Mediator, nor AR undertake any responsibility to the Parties for any act or omission, including acts or omissions amounting to negligence, in connection with the Mediation, except where bad faith is shown.
7. The Mediation process is voluntary, and any Parties and the Mediator may withdraw from the Mediation at any time. In such an event, that Party/Mediator must inform all other Parties and the Mediator in writing within two days of their decision to withdraw.
8. The existence of the Mediation and the Mediation process are confidential and without prejudice to any current or future proceedings. In addition, matters disclosed to the Mediator in confidence remain confidential until the Party which made the disclosure authorises further disclosure. All information exchanged arising out of or in connection with the Mediation of whatsoever nature will be without prejudice, privileged and not admissible as evidence in or disclosable in any current or future proceedings or litigation of whatever nature.
9. Paragraph 8 will not apply:
  - a. where any person is, or seems to be, at risk of significant harm. In such a case the Mediator has a duty to contact the relevant authorities.
  - b. where information is communicated to the Mediator with the intention of furthering a criminal purpose. In such a case the Mediator is required by law to comply with the Proceeds of Crime Act 2002 (the "Act"), The Terrorism Act 2000, the Serious Organised Crime and Police Act 2005 and The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and all other

regulations made under the Act including legislation amending, extending or re-enacting existing legislation ('the Regulations'). The Act also covers conduct overseas, which, although lawful outside of the UK, may be or would have been unlawful if committed in the UK. First, the Regulations require the Mediator to carry out proper client identification procedures (see below) and to keep the information about identification up to date. Furthermore, if the Mediator becomes aware in the course of the Mediation that either Party has engaged or may have engaged in any criminal conduct, he shall be obliged to report that knowledge or suspicion to the National Crime Agency (NCA), and by entering into this agreement, the Parties authorise him to make such reports to the NCA as are appropriate under the Regulations.

- c. to any information that would have been admissible or disclosable in any such proceedings in any event.
- d. insofar as any such information is necessary to implement and enforce any settlement agreement arising out of the Mediation.

10. Under the terms of the General Data Protection Regulation and the Data Protection Act 2018 the Parties acknowledge that the Mediator will process their personal data for the purposes of the Agreement to Mediate. The Parties understand that this includes the Mediator retaining and storing their personal data for as long as is necessary in connection with the Mediation Agreement. The Mediator may retain data for research and statistical purposes but on the understanding that if used any information or details about the Parties has been removed so that they cannot be personally identified.

11. In order to comply with the obligations as to client identification, each Party must supply the Mediator with a photocopy of their passport (photograph page) or driving licence, together with an original utility or credit card or utility bill showing their current address which is not less than three months old.

12. The Mediator controls the procedure at the Mediation. The Mediator can meet and communicate with the Parties separately prior to the Mediation, if requested by the Parties or if the Mediator thinks it is appropriate and the Parties agree. The Mediator decides, in consultation with the parties, what meetings should take place and when.
13. Each Party to the Mediation must appear or be represented by a person with full authority to settle the Dispute and the Mediation agreement will state the names of the Parties and all those present who act for and on behalf of the Parties and who have full authority to settle the Dispute. Professional advisors and/or colleagues may also be present to represent and/or advise the Parties (although the Mediator may, if he considers it appropriate, suggest that some of the meetings between the Parties be without their professional advisors from time to time). Parties are obliged to disclose to the Mediator and to each other, in advance, the identity and the role of all those intended to be present at mediation meetings.
14. If during the course of the mediation it would be helpful for the Mediator to draw up an Interim Summary on a without prejudice basis to record interim decisions on minor matters or options/proposals discussed, he will do so. Such a document would be privileged and could not be produced in evidence to a court.
15. Unless otherwise agreed each Party will send to the Mediator at least three weeks before the Mediation a summary of their case and accompanying documentation together with sufficient copies for each party which the Mediator will then send to the other Party(ies).
16. The Parties may also send to AR any further information or documentation which they would like the Mediator to see in confidence and such information or documentation will not be forwarded to the other Party(ies) providing it is clearly marked confidential to the Mediator.

17. AR will draw up the Mediation Agreement and, where possible, assist in finding a suitable venue for the Mediation (which shall be for the cost of the parties in equal shares). All persons signing the Mediation Agreement are deemed to be bound by these Mediation Rules.
18. At the Mediation, the Mediator shall convene an initial meeting at which the Parties are all present and may make presentations, which is usually followed by separate meetings between the Mediator and each Party. No record or transcript of the Mediation is made.
19. The Mediation shall continue until a settlement is reached or the Parties or the Mediator withdraws. The Mediator will, if appropriate, assist the Parties in drafting the terms of any settlement agreement. Any settlement will not be binding unless it is recorded in writing and signed and dated by or on behalf of the Parties.
20. Regulations require AR to notify the Parties of their right, if they are consumers, under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 as amended to withdraw their instructions in cases where the Mediator was not initially instructed face-to-face. Please note however that, in those very rare circumstances, the Parties' signature to the duplicate of these Terms will constitute agreement by them that the Mediator may start work before the relevant period of 14 days expires.
21. The Mediator will do his best to help both parties and ask the Parties to give their commitment to the mediation process and to co-operate as fully as possible in looking for workable solutions.