

TERMS AND CONDITIONS

{These Terms and Conditions govern access to and the use of applications and/or websites, and the content and Services, provided by The Mediation Hub (“we”, “our”, “us”).}

1. DEFINITIONS

1.1. In these Terms and Conditions:

“Costing” means our proposal to you setting out the Scope of Work and the Price.

“Force Majeure Event” means an event, or a series of related events, that is outside the reasonable control of the party affected (including government orders, pandemics, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars).

“Intellectual Property Rights” means all intellectual property rights including current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trade marks, trade secrets, know-how, confidential information, patents, invention and discoveries and all other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation 1967 and 'Intellectual Property' has a corresponding meaning.

“Loss” includes loss of profits, savings, revenue or data, and any other claim, damage, loss, liability and cost, including legal costs on a solicitor and own client basis;

“Party” or “Parties” in these Terms and Conditions shall mean You and/or Us separately or together as the context indicates;

“Personal Information” means information about an identifiable, living person;

“Price” means the purchase price payable for the Services as agreed between the parties in accordance with clause 6 below;

“Scope of Work” means the agreed range of Services we will provide, as set out in our Costing;

“Services” means services available for purchase and performed for you by us subject to these Terms and Conditions;

“Terms and Conditions” means these terms and conditions which govern the use of our Website and which sets out the agreement between you and us;

“Underlying System” means any network, system, software, data or material that underlies or is connected to the Website;

“We, us or our” means The Mediation Hub, a service provided by Smith and Partners Limited, a private limited liability company incorporated in New Zealand, company number 938755;

“Website” means the website at themediationhub.co.nz;

“You”, “your” or “yours” means you, being the person accessing the Website, or if clause 3.1.2 applies, both you and the person on whose behalf you are acting.

2. INTERPRETATION

2.1. In these Terms and Conditions, unless expressly state otherwise:

2.1.1. a reference to a statute or statutory provision includes a reference to:

- that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- any subordinate legislation made under that statute or statutory provision;

2.1.2. headings do not affect the interpretation;

2.1.3. “persons” includes companies, partnerships, limited liability partnerships, unincorporated associations and trusts;

2.1.4. “including” and similar words do not imply any limit.

3. ACCEPTANCE OF TERMS AND CONDITIONS

3.1. By accessing and/or using the Website:

3.1.1. you agree to be bound by these Terms and Conditions; and

3.1.2. where your access and use is on behalf of another person (e.g. a company), you confirm that you are authorised to, and do in fact, agree to these Terms and Conditions on that person’s behalf and that, by agreeing to them on that person’s behalf, that person is bound by them.

3.2. If you do not agree to these Terms and Conditions, you are not authorised to access and use the Website, and you must immediately stop doing so.

4. CHANGES

4.1. We may change these Terms and Conditions at any time by updating them on the Website. Unless stated otherwise, any change takes effect immediately. You are responsible for ensuring you are familiar with the latest Terms and Conditions. By continuing to access and use

the Website, you agree to be bound by the Terms and Conditions as amended from time to time.

4.2. We may change, suspend, discontinue, or restrict access to, the Website without notice or liability.

4.3. These Terms and Conditions were last updated on {insert date}.

5. YOUR OBLIGATIONS

5.1. You must provide true, current and complete information in your dealings with us, and must promptly update that information as required so that the information remains true, current and complete.

5.2. You indemnify us against all Loss we suffer or incur as a direct or indirect result of your failure to comply with these Terms and Conditions.

6. PRICE

6.1. The Price payable for Services shall be the price displayed on our Website, or as quoted to you in writing, and as altered by us at our sole discretion from time to time.

7. PAYMENT

7.1. Time for payment of the Price being of the essence, the Price will be payable by you on the date/s determined by us at our sole discretion, which may be:

7.1.1. payment in full prior to the Services being provided; or

7.1.2. in accordance with any other payment terms we have agreed with you in writing.

7.2. Payment must be made in cleared funds by on-line banking or by any other method stipulated or approved by us.

7.3. Unless otherwise stated the Price excludes GST. You must pay GST at the relevant rate (as set out in the Goods and Services Tax Act 1985), without deduction or set off of any other amounts, at the same time and on the same basis as you pay the Price. In addition, you must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

7.4. Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of one and a half percent (1.5%) per calendar month (and at our sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

7.5. If you owe us any money you shall indemnify us from and against all costs and disbursements incurred by us in recovering the debt

(including but not limited to internal administration fees, legal costs on a solicitor and own client basis, collection agency costs, and bank dishonour fees).

8. CANCELLATION

- 8.1. We reserve the right to cancel any order for Services subject to these Terms and Conditions, and/or to cancel provision of the Services at any time before the Services are performed, by giving you written notice at our sole discretion. On giving such notice, we shall promptly repay to you any sums paid in respect of the Price to the extent to which the Services have not been performed.
- 8.2. In the event we exercise our rights pursuant to clause 8.1, we shall not be liable for any Loss arising from such cancellation.

9. EFFECTS OF CANCELLATION

- 9.1. Upon cancellation of any order for Services, all the provisions of these Terms and Conditions will cease to have effect, save for those provisions intended to and that will survive and continue to have effect (in accordance with their terms or otherwise indefinitely).
- 9.2. Cancellation of any order for Services will not affect either party's accrued liabilities or rights (including, where relevant, any accrued rights to be paid) as at the date of cancellation.

10. CONFIDENTIALITY

- 10.1. The provisions of these Terms and Conditions are strictly confidential to the parties. Neither party may disclose or permit to be disclosed any provision of, or any information (and particularly any financial information) relating to the contract the subject of these Terms and Conditions to any person not a party to them without first obtaining the written consent of the other party as to both the person to whom disclosure is to be made and the terms of such disclosure.

11. INTELLECTUAL PROPERTY

- 11.1. We (and our licensors) own all proprietary and intellectual property rights in the Website (including all information, data, text, graphics, artwork, photographs, logos, icons, sound recordings, videos and look and feel), and the Underlying Systems.
- 11.2. To the extent that we develop or create any intellectual property as the result of performing the Services, we shall retain ownership of all the rights in that intellectual property and any commercial applications thereof.
- 11.3. The rights to intellectual property as set out in this clause 11 shall not limit our confidentiality obligations as provided by clause 10.

12. FORCE MAJEURE EVENT

- 12.1. Where a Force Majeure Event gives rise to a failure or delay in either Party performing its obligations required by this agreement (other than obligations to make payment), those obligations will be suspended for the duration of the Force Majeure Event.
- 12.2. Where a Party's obligations have been suspended pursuant to clause 12.1 for a period of 90 days or more, the other party may immediately terminate this Agreement by giving notice in writing to the other Party.

13. DISCLAIMERS

- 13.1. To the extent permitted by law, we and our licensors have no liability or responsibility to you or any other person for any Loss in connection with:
 - 13.1.1. the Website being unavailable (in whole or in part) or performing slowly;
 - 13.1.2. any error in, or omission from, any information made available through the Website;
 - 13.1.3. any exposure to viruses or other forms of interference which may damage your computer system or expose you to fraud when you access or use the Website. To avoid doubt, you are responsible for ensuring the process by which you access and use the Website protects you from this; and
 - 13.1.4. any site linked from the Website. Any link on the Website to other sites does not imply any endorsement, approval or recommendation of, or responsibility for, those sites or their contents, operations, products or operators.
- 13.2. We make no representation or warranty that the Website is appropriate or available for use in all countries or that the content satisfies the laws of all countries. You are responsible for ensuring that your access to and use of the Website is not illegal or prohibited, and for your own compliance with applicable laws in your jurisdiction.

14. LIABILITY

- 14.1. To the maximum extent permitted by law:
 - 14.1.1. you access and use the Website at your own risk; and
 - 14.1.2. we are not liable or responsible to you or any other person for any Loss under or in connection with these Terms and Conditions, the Website, or your access and use of (or inability to access or use) the Website. This exclusion applies regardless of whether our liability or responsibility arises in

contract, tort (including negligence), equity, breach of statutory duty, or otherwise.

15. SUSPENSION AND TERMINATION

- 15.1. Without prejudice to any other right or remedy available to us, if we consider that you have breached these Terms and Conditions or we otherwise consider it appropriate, we may immediately, and without notice, suspend or terminate your access to the Website (or any part of it).
- 15.2. On suspension or termination, you must immediately cease using the Website and must not attempt to gain further access.

16. DISPUTE RESOLUTION

- 16.1. No Party to this agreement shall commence any court or arbitration proceedings relating to any dispute arising out of this agreement (including any dispute as to the validity, breach or termination of this agreement or as to any claim in tort, in equity or pursuant to any statute) unless that Party has complied with the provisions of this clause 16.
- 16.2. Any Party who claims that a dispute has arisen under or in relation to this agreement must give written notice to every other Party specifying the nature of the dispute.
- 16.3. On receipt of such notice by a Party, the Parties to this agreement:
 - 16.3.1. Must co-operate and use their best endeavours to resolve the dispute expeditiously.
 - 16.3.2. If they do not resolve the dispute within seven days of the receipt of the notice (or such further period as they may agree in writing), they must refer the dispute to mediation ("the mediation").
- 16.4. The mediation shall be conducted by a mediator and at a fee agreed by the Parties, and failing agreement between the Parties, the mediator shall be selected by the President for the time being of NZ Law Society.
- 16.5. A Party who seeks urgent interlocutory relief may, by written notice to each other Party to the dispute, elect not to comply with the provisions of clauses 16.1 to 16.4, but only to the extent of the relief sought and for the period required to dispose of the application for such interlocutory relief. Except to that extent, on the disposal of the application the provisions of clauses 16.1 to 16.4 inclusive shall once again take effect.

17. GENERAL

- 17.1. If we need to contact you, we may do so by email or by SMS message. You agree that this satisfies all legal requirements in relation to written communications.
- 17.2. These Terms and Conditions, and any dispute relating to them or the Website, are governed by and must be interpreted in accordance with the laws of New Zealand. Each party submits to the exclusive jurisdiction of the Courts of New Zealand in relation to any dispute connected with these Terms and Conditions or the Website.
- 17.3. For us to waive a right under these Terms and Conditions, the waiver must be in writing.
- 17.4. If any part or provision of these Terms and Conditions is or becomes illegal, unenforceable, or invalid, that part or provision is deemed to be modified to the extent required to remedy the illegality, unenforceability or invalidity. If a modification is not possible, the part or provision must be treated for all purposes as severed from these Terms and Conditions and the remainder of these Terms and Conditions will continue to be binding and enforceable.
- 17.5. These Terms and Conditions set out everything relating to your use of the Website and supersede and cancel anything discussed, exchanged or agreed prior to you agreeing to them. You accept and acknowledge that you have not relied on any representation, warranty or agreement relating to the Website that is not expressly set out in these Terms and Conditions, and no such representation, warranty or agreement has any effect from the date you agreed to these Terms and Conditions.