

Mediation Agreement

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and the clients:

A:for the purposes hereof duly represented
by:..... and assisted by
.....

and

B:for the purposes hereof duly represented
by:..... and assisted by
.....

HEREWITH AGREE AS FOLLOWS:

1. Outline of the issue

.....

2. Mediation

2.1 The clients and the mediator shall exert their best efforts to settle the issue between the clients, outlined in paragraph 1, by means of mediation in accordance with the MfN- Mediation Rules (*MfN-Mediation Reglement*), (hereinafter referred to as: "the Rules") These Rules, as well as a copy of the applicable MfN Code of Conduct are included in this Agreement in attachment 2.

2.2 The clients herewith grant, and the mediator herewith accepts, the instruction to guide the communication and negotiation processes as referred to in the Rules.

- 2.3 The mediator shall be responsible for guiding the process. The clients themselves shall be responsible for the content of the resolution of their Issue.
- 2.4 In addition to the provisions set forth in the Rules, the clients bind themselves towards the mediator and towards each other to refrain from any acts or conduct that would aggravate or obstruct the Mediation to a serious degree.
- 2.5 The mediation start at [date]. The provisions of the Rules are applicable to the mediation as of this moment.

3. Voluntary Participation

Participation in Mediation is voluntary. Each Party, as well as the mediator, may put an end to the mediation at any time. Termination shall take place by means of a joint (closing) meeting with the mediator, and clients explicitly agree to this. Any deviation thereof requires mutual agreement. Termination of the mediation shall not affect the confidentiality and payment obligations of the clients.

4. Confidentiality

- 4.1 The mediator and the clients oblige themselves without reservation to the confidentiality requirements defined in the articles 7 and 10 of the Rules.
- 4.2 The clients confirm that they will not make any audio or video recordings of the mediation discussions, tele-conversations or any other activities undertaken in the framework of the mediation, to safeguard confidentiality.
- 4.3 In combination with the Rules, the present agreement shall be an evidentiary agreement as referred to in the law, see Article 7:900 of the Netherlands Civil Code in conjunction with Article 153 of the Netherlands Code of Civil Procedure. In order to guarantee the desired confidentiality arrangements, the mediator and the clients thereby intend to deviate in certain ways from the applicable law of evidence.

5. Representation

- 5.1 Natural persons shall be present at the meetings in person. Legal persons shall be represented in accordance with the provisions set forth in paragraph 5.2. The person who signs the present agreement shall be present at the meetings.
- 5.2 Each client guarantees that its representative is duly authorized on behalf of that client to perform all legal acts necessary in the context of the mediation, including concluding an agreement as referred to in article 7.1, and that the representative will observe the confidentiality requirements referred to in the Rules.

6. Personal data

For the execution of the mediation the mediator will have to process personal data, relevant for the matter as outlined in article 1. This can regard sensitive and / or special data related to the clients. By signing this agreement, clients give their express permission to the mediator to use these personal data conform the privacy declaration as set out in attachment 3 to this agreement. This permission is a prerequisite with respect to the start of the mediation.

7. Fees and Expenses

- 7.1 The fee and additional costs for the activities of the mediator are set out in Attachment 1 to this agreement.
- 7.2 If clients do not sign the mediation agreement, and the mediation as a result will not start, the mediator will bear the interview costs incurred so far.
- 7.3 The mediator invoices the fee and costs referred to sub 7.1, increased with the Value Added Tax (VAT) legally due on a monthly basis. The invoice [shall be borne by the clients on a 50 %/50% basis / shall be borne by client A/B].
- 7.4 In addition the clients shall each bear their own costs.
- 7.5 The clients are held to pay the fees and expenses incurred by the mediator regardless of the outcome of the Mediation.

8. Recording the Outcome of the Mediation and Interim Agreements

- 8.1 Any resolution of the Issue reached amicably shall be set forth in a written agreement to that effect signed by the clients.
- 8.2 Any agreements made by the clients during the mediation shall bind them only to the extent such agreements have been set forth in writing between them and signed by them, and if they contain the express provision that the agreements shall continue to exist even if the mediation does not lead to any further consensus.
- 8.3 The clients have the right to review the concept agreement with their advisor (such as a lawyer) prior to signature of the agreement.
- 8.4 Upon signature, the clients can request the court, via their lawyers, to include the agreement in their minutes, decision or judgement.

Thus agreed and drawn up and signed in on

	(for)	(for)
mediator:	Client A:	Client B:

.....
	(.....)	(.....)

- Attachment 1: Fees and additional costs for the activities of the mediator
- Attachment 2: MfN Mediation rules, MfN explanatory notes to the Mediation rules and MfN Code of Conduct for mediators
- Attachment 3: Privacy Statement

Attachment 1 Fees and additional costs for the activities of the mediator

Hourly fee	€ 147.90 per hour, ex VAT
Travel expenses (for travel > 30 km from Eindhoven)	€ 73,95 per hour, ex VAT
Rental costs location	€ As incurred
Costs and fees related to third parties, if and when involved by the mediator	€ As incurred

* The hourly fee includes the following activities of the mediator: all forms of discussions and correspondence with the clients and (after agreement) identified third parties or experts, including any interviews, the reading of documentation, preparation and written debriefings of discussions, drafting of agreements. Office costs are not separately charged.

The invoice of the mediator will be accompanied by an overview of costs, specified per hour, activity and date.

Attachment 2

MfN Mediation rules and MfN explanatory notes to the Mediation rules Januari 2020
MfN Code of Conduct for mediators Januari 2020

MfN-MEDIATION RULES

MfN - Mediation rules Article 1 - Definitions

In these rules the following terms have the following meaning:

- a. issue: the issue described in the mediation agreement.
- b. certifying institution: the institution which issues certificates of professional competence to mediators on the basis of a certification schedule recognized or accepted by the MfN.
- c. mediation: procedure in which the parties make an effort to resolve their issue under the supervision of a mediator in accordance with the rules.
- d. mediation agreement: the written agreement in which the parties agree to endeavour to resolve the issue through mediation, and instruct the mediator to act as mediator in respect of the issue and the mediator accepts this instruction.
- e. mediator: the person who conducts the mediation and who is listed in the register.
- f. the SKM: the Quality Foundation for Mediators (Stichting Kwaliteit Mediators), having its registered office in Rotterdam.
- g. MfN: Netherlands Federation of Mediators (Mediatorsfederatie Nederland).
- h. party/parties: the parties who wish to resolve the issue through mediation.
- i. register: the register of mediators kept by the SKM.
- j. the rules: these rules.
- k. secretariat: the secretariat of the SKM.

Article 2 – Appointment of the mediator

2.1. The parties shall themselves appoint a mediator.

2.2. If the parties wish to be assisted by the SKM in selecting a mediator, they must file a written request thereto with the secretariat. This request must contain the names, (e-mail) addresses, telephone and fax numbers of the parties and their representatives, if any, as well as a general description of the issue.

2.3. Upon receipt of the request, the secretariat will send to the parties:

- a. a list with the names of the mediators who, on the basis of the description of the issue and/or the relevant criteria stated by the parties, are considered eligible;

- b. a copy of the rules and a copy of the Code of Conduct for MfN-registered mediators;
- c. an invoice for administrative charges.

2.4 The parties will together select a mediator from the aforementioned list. The parties may then contact the mediator directly. If the parties do not wish to contact the mediator directly, they must inform the secretariat in writing which mediator they have selected.

Upon receipt of this letter the secretariat will inform the mediator concerned of the request and of his having been selected, so that the mediator may then contact the parties.

2.5 If the parties fail to jointly agree on the selection of a mediator, they (or either one of them) may request the secretariat to make a written proposal for a mediator who may be appointed by the parties.

2.6. On acceptance of the instruction the mediator will draw up a mediation agreement. The parties and the mediator will then sign the mediation agreement.

Article 3 – Commencement of mediation

3.1 The mediation will commence as soon as the mediation agreement has been signed by the parties and the mediator, unless a different time is agreed in the mediation agreement.

Article 4 – Activities of the mediator and process supervision

4.1 The activities of the mediator relate to the mediation sessions, but may also comprise other activities such as reporting, contacts with the parties (either electronically, in writing or by telephone), studying papers, contacts with third parties, and drawing up agreements, all this from the commencement of the mediation onwards.

4.2 The mediator shall decide, after having consulted the parties, on the manner in which the mediation will be conducted.

4.3 The mediator may communicate with the parties separately and confidentially.

4.4 The parties and the mediator shall do their best to ensure that the mediation proceeds in an expeditious manner.

Article 5 - Voluntariness

5.1. The mediation shall take place on the basis of voluntariness of the parties. Each party, as well as the mediator, may put an end to the mediation at any time.

5.2. Agreements in the interim shall bind the parties only insofar as the parties explicitly lay down the binding nature of these agreements in a signed agreement. They shall not be bound by the positions adopted or proposals made by them or by the mediator during the

mediation. The parties shall be bound only by what has been laid down in the agreement referred to in article 10.1 and signed by them.

Article 6 – Privacy

6.1 No persons other than the Mediator and the Parties and/or their representatives are involved in the Mediation. In the event that persons other than those mentioned above are involved in the Mediation, the consent of the Parties is required. If the Mediator so wishes, he may receive secretarial support in the Mediation from a person designated by him for that purpose. In any case, the Mediator ensures that all persons involved in the Mediation sign a confidentiality agreement.

6.2 If a Party makes use of a representative during the Mediation, the representative must be authorized to carry out all (legal) actions that are necessary for the Mediation, including entering into an agreement as referred to in article 10.1.

At the Mediator's request, a written power of attorney that demonstrates the representative's authorization must be shown.

Article 7 – Confidentiality

7.1 The Parties shall not disclose to third parties – including judges or arbitrators – any details regarding the progress of the Mediation, the positions taken therein by the persons involved in the Mediation, proposals made or any information provided orally or in writing, directly or indirectly.

7.2 The Parties undertake not to disclose to third parties – including judges or arbitrators – nor cite, quote, paraphrase or otherwise rely on documents if these documents have been revealed, shown or otherwise disclosed by a person involved in the Mediation during or in connection with the Mediation. This obligation does not apply insofar as the person concerned already had or could have had access to this information independently of the Mediation.

Documents as referred to in this article are understood to include:

- the Mediation Agreement;
- notes from the Parties or the Mediator in the context of the Mediation;
- reports;
- the Agreement referred to in article 10.1, except if and insofar as the Parties have agreed that (the content of) that agreement, or a part thereof, is not confidential;

- other data carriers such as audio tapes, video tapes, photos and digital files in any form whatsoever.

7.3 Articles 7.1 and 7.2 also apply to the Mediator.

7.4 The Parties hereby waive the right, in court or otherwise, for anything that has been provided and/or has emerged during the Mediation to be presented as evidence against each other, and/or for the MfN/SKM, (former) board members of the MfN/SKM or persons employed at MfN/SKM or otherwise involved in MfN/SKM, each other, the Mediator or others involved in the Mediation to be heard or proposed to be heard as witnesses or otherwise concerning information that has been provided and/or has emerged during or in connection with the Mediation, or concerning the content of the Agreement as referred to in article 10.1, all in the broadest sense of the word. The Parties are deemed to have concluded an evidence agreement for this purpose.

7.5 The Mediator shall handle all information that is provided to him by one of the Parties in the absence of the other Party as confidential, except insofar as the Party concerned explicitly grants permission for that information to be broached during the Mediation.

7.6 The provisions of articles 7.1 to 7.5 do not apply in the event of:

- a. information concerning criminal conduct for which there is a statutory reporting obligation or a statutory right to report.
- b. information concerning the threat of a crime.
- c. a complaint, disciplinary or liability proceeding against the Mediator. In that case, the Mediator is released from the confidentiality obligation applicable to him insofar as necessary for him to defend himself against the claims and/or call upon his professional liability insurance. The obligation of confidentiality lapses for all persons involved insofar as necessary to handle the complaint.
- d. a request from the Certifying Institution to the Mediator to provide anonymized information as evidence of working practice provided that the Certifying Institution commits itself to confidentiality in writing.
- e. a request from a reviewer appointed by the SKM to the Mediator to provide information as evidence of working practice provided that the reviewer commits himself to confidentiality in writing.

Article 8 – End of the mediation

8.1. The mediation shall end:

- a. through a written statement from the mediator to the parties stating that the mediation has ended;
- or
- b. through a written statement from one party to the other party or parties and to the mediator stating that it withdraws from the mediation.

8.2. After termination of the mediation, the confidentiality and payment obligations of the parties under the mediation agreement shall remain intact.

Article 9 – Other proceedings

9.1. Any legal or similar proceedings already pending on commencement of the mediation regarding the issue or parts thereof – with the exception of steps to safeguard rights – shall be stayed by the parties for the duration of the mediation.

9.2. The parties undertake for the duration of the mediation not to institute any proceedings as referred to in article 9.1 against each other, with the exception of steps to safeguard rights.

9.3. If a party takes steps to safeguard rights, or institutes proceedings other than those referred to in article 9.1, that party shall be obliged to notify this to the mediator and to the other party or parties within 24 hours after having taken such steps or after having instituted such proceedings.

Article 10 – Recording the result of the Mediation

10.1 The Mediator ensures that everything that the Parties have agreed is properly recorded in an agreement, whether or not by or with the help of an expert third party.

The Parties are and remain responsible for the content of the agreement, to the exclusion of the Mediator. The Parties have the right to be advised by an external expert.

10.2 The Mediator is not liable for the content of the agreement to be concluded by the Parties nor any damage resulting therefrom.

10.3 The Mediator ensures that the Parties determine jointly and in writing the extent to which (the content of) the agreement to be concluded is confidential. In any case, the content of the concluded agreement may be submitted to the court if this is necessary in order to demand compliance.

Article 11 – Limitation of liability

Any liability of the Mediator, in the event of damage as a result of his acts or omissions in the Mediation, is limited to at most the amount paid out by his professional liability insurer in the relevant insurance agreement, plus the amount of the deductible payable by the Mediator in accordance with that insurance agreement in the relevant case.

Article 12 – Rules of conduct and complaints

The mediator shall be bound by the Rules of Conduct for MfN-registered mediators (MfN-registermediator) adopted by the Board of the MfN and shall be subject to the SKM complaints scheme and disciplinary rules in accordance with the rules of the foundation “Stichting Tuchtrechtspraak Mediators”. A party may lodge a complaint with the SKM within twelve months from the termination of the mediation in accordance with the SKM Complaints Scheme at that time in force.

Article 13 – Cases not provided for by these rules

In all cases not provided for by these rules the mediator shall decide. In doing so the mediator shall act in accordance with the purport of these rules.

Article 14 – Amendments to the rules and/or deviations from the rules

- 14.1 If and insofar as the parties wish to deviate from the MfN-Mediation rules, this shall be possible only by means of an agreement in writing with the explicit consent of the mediator.
- 14.2 The MfN shall have the power to amend the rules at any time. Such amendments shall not affect mediations that are already ongoing at that time. The version of the rules in force at the time of the commencement of such ongoing mediations shall apply to such mediations.

Article 15 – Applicable law

These rules shall be governed by Dutch law.

The same shall apply in respect of the agreement referred to in article 10.1.

Explanatory note to accompany the MfN-Mediation rules

Article 1 – Definitions

In the definitions the word “dispute” has been replaced with “issue”. This is because a mediation does not always involve a dispute. A mediation may also be aimed towards establishing a relationship rather than restoring a relationship (article 1a).

The definition of “mediation agreement” now explicitly states that this must be a written agreement (article 1d).

Article 2 – Appointment of the mediator

The basic principle is that the parties themselves should appoint a mediator. If desired the MfN can help them to choose a mediator. For this the parties must submit a request in writing to the secretariat. The secretariat will then send the parties a list of eligible mediators from which the parties can select a mediator together. They can then contact this mediator. If the parties fail to reach agreement on the chosen mediator, the parties can ask the secretariat to propose a mediator to be appointed by the parties.

Article 3 – Commencement of mediation

The mediation officially commences once the mediation agreement has been signed by the parties and by the mediator. It is possible to deviate from this rule if this is agreed in writing by the parties and the mediator in the mediation agreement. The moment of commencement of the mediation is important as the mediation rules take effect from that moment onwards.

Article 4 – Activities of the mediator and process supervision

The mediation rules contain a clause concerning the activities of the mediator and process supervision. In practice it has emerged that parties are not always aware of the activities that belong to the work of a mediator. In order to clarify this matter, a clause relating to the (possible) activities of the mediator has been included. The question of which activities belong to the work of a mediator is relevant in relation to the mediator’s time budgeting and consequently the fee charged (article 4.1).

The mediator decides how the mediation should be conducted after consulting with the parties. This consultation may take place before or after the mediation agreement has been concluded (article 4.2).

Paragraph 3 states that it is possible for the mediator to communicate with the parties separately and confidentially.

According to paragraph 4, both the parties and the mediator must do their best to ensure that the mediation proceeds in an expeditious manner. This means that the process should run smoothly and show progression. Both the mediator and the parties are responsible for preventing stagnation in the mediation process.

Article 5 – Voluntariness

The mediation takes place on a voluntary basis. Both the parties and the mediator have the right to terminate the mediation at any time.

As indicated in paragraph 2, mediation is not free of obligation. If the parties agree to resolve an issue via mediation, that agreement must in principle be considered as binding and enforceable. Mediation is in that respect not free of obligation.

Article 6 – Privacy

The Mediation takes place in private: in principle, only the Mediator, Parties and any representatives and advisers are involved in a Mediation. If other persons (other than those mentioned above) are involved in the Mediation, the consent of the Parties is required.

It is generally acknowledged that in order to increase the chance that a Mediation will be successful, at least one representative of each Party must be authorized to legally represent the Party and also to sign a binding agreement as referred to in 10.1.

Although every participant in the Mediation is entitled to representation during the Mediation, it is important that there is agreement between the Mediator and the Parties at all times about the persons who are involved in the Mediation. An important guiding principle of mediation is voluntariness; see article 5 of the Rules.

The Mediator ensures that all persons involved in the Mediation sign a confidentiality agreement. With regard to the Mediator and the Parties, this requirement is in many cases already met by their signature of the mediation agreement. In addition, it is recommended that any lawyers of the Parties also sign a confidentiality agreement. The Mediator does not require the consent of the Parties for the Mediator's secretarial support as referred to in paragraph 1 of this article.

Article 7 – Confidentiality

The mediation agreement, the agreement referred to in article 10.1 and digital files in any form whatsoever are confidential (articles 7.2 and 7.3).

Paragraph 6 stipulates that the provisions of articles 7.1 to 7.5 lose their applicability in a number of specific exceptional cases. In these situations, an even higher interest than the confidentiality of mediation is at stake. The obligation of confidentiality lapses for all persons involved in the event of a complaint, disciplinary or liability proceeding against the Mediator, insofar as necessary to handle the complaint. The Mediator may defend himself against the claims in these proceedings.

Article 8 – End of the mediation

The moment of termination of a mediation is relevant with respect to the moment of instigation of possible legal proceedings or the period during which a complaint can be lodged in accordance with the SKM complaints scheme. For example, during the mediation parties are not permitted to instigate proceedings against one another, but after termination of the mediation this is allowed (article 8.1).

As laid down in paragraph 2, the confidentiality and payment obligations of the parties continue to apply even after termination of the mediation. Anything discussed during the mediation sessions must be treated confidentially by the parties after the mediation has ended.

Article 9 – Other proceedings

If any legal proceedings are already taking place before the mediation commences, these will be suspended for the duration of the mediation. During the mediation the parties will not instigate any proceedings against one another. However, measures aimed at safeguarding rights (such as the seizure of assets or the lodging of an appeal) may be taken via legal proceedings.

Article 10 – Recording the result of the Mediation

It is the Mediator's task to properly record the parties' arrangements in an agreement. The precise meaning of "proper recording" depends, among other things, on the circumstances of the case and on the parties. A proper recording is in any case formulated clearly and unambiguously. The parties themselves are responsible for the content of their arrangements. The Mediator ensures that all important points for the Issue are

discussed in the final arrangements, including the confidential status of the agreement. The Parties jointly determine to what extent (the content of) the agreement is confidential. This must be recorded in writing. If (for any reason whatsoever) no arrangements are made regarding the confidential status of the agreement, then the agreement is in principle confidential. In any case, the content of the concluded agreement may be submitted to the court if this is necessary in order to demand compliance.

The Rules deliberately do not speak of a “settlement agreement”. This is because not all recorded arrangements take the form of a settlement agreement.

The Mediator can engage an expert to assist him with recording the arrangements in an agreement. This is particularly intended for mediators who do not have sufficient legal or technical knowledge to record specific topics. The Parties also have the right to be assisted by an external expert. Now that this has been recorded, the Parties can no longer complain retrospectively that they did not understand the consequences or wordings of the agreed arrangements.

Article 11 – Limitation of liability

Due to the requirements of consumer law, the complete exclusion of liability has been partly replaced with a new liability regulation. The new liability regulation for mediators is in line with the regulations for other professional service providers. As a result, it is very important for the Mediator to take out professional liability insurance. Without this insurance, the Mediator will have to compensate the damage himself in the event of culpable conduct.

Article 12 – Rules of conduct and complaints

The mediator must act in accordance with the Code of Conduct for MfN-registered mediators. The MfN mediation agreement model is based on the assumption that the parties have received a copy of the Code of Conduct before commencement of the mediation.

If a party has a complaint, it is important for this to be lodged as soon as possible so that the relevant facts are still fresh in everyone’s memory. A period of twelve months is considered reasonable for this.

Article 13 – Cases not provided for by these rules

The mediation rules provide the mediator and the parties with a framework within which the mediation process can be conducted. A conscious choice has been made not to regulate and specify everything in these rules. In cases that are not provided for by the rules, the mediator decides. In doing so he will act in accordance with the purport of the mediation rules. He is further expected to deal with the mediation expeditiously and ensure continued progression.

Article 14 – Amendments to the rules and/or deviations from the rules

It is possible for the parties and the mediator to deviate from the mediation rules. However, there are certain preconditions that have to be observed by the mediator in this regard, as may be specified in the Code of Conduct. For example, if the parties agree in a contractual mediation clause to deviate from certain provisions in the mediation rules, the mediator can expressly grant his permission for this through the acceptance of the assignment by signing the mediation agreement.

Article 15 – Applicable law

Dutch law applies to the mediation rules and also to the agreement referred to in article 10.1.

Code of Conduct for MfN-registered mediators (MfN- registermediator)

This Code of Conduct forms a guideline for the conduct of MfN-registered mediators. It also serves as information provision for the parties involved and as criterion for the disciplinary tribunal when reviewing the actions of a mediator.

1 – Professional ethics and integrity

The mediator shall behave as may be expected of a mediator.

Explanation

This rule is the basis for the actions of the mediator and the foundation for all other rules of conduct, which are derived therefrom. Integrity is a core value for the mediator. The mediator may be expected to comply with and enforce his professional code and general social and ethical norms and values, even in the event of outside pressure to deviate therefrom. The mediator shall at least act as a reasonably competent and reasonably acting mediator.

2 – Transparency

The mediator shall explain the mediation process to the parties.

Explanation

Transparency means that the mediator gives the parties clarity about the mediation process, including his own role therein. The mediator will make it possible to discuss issues with or between the parties and will be clear about his approach and what the parties may expect of him. Openness and clarity are essential for building up confidence and a good working relationship with the parties. This helps the mediator to avoid difficulties at a later stage.

3 – Party autonomy

1. 3.1 The Mediator ensures that all persons involved in the Mediation respect the autonomy of the Parties.
2. 3.2 The Mediator makes no pronouncements on the Issue.

Explanation

The mediator protects the autonomy of the parties and verifies their commitment and voluntary participation in the mediation. The parties make their own choices and are responsible for them. The mediator goes between the parties and supports them in making their choices and searching for a solution. The mediator can provide parties with information where necessary, so that they can form a carefully considered picture and determine their position.

The mediator makes no pronouncements on the issue or a part thereof. He therefore does not make any decisions about the content of the conflict between the parties. The mediator is also cautious in giving his opinion or advising on what a party should or should not do. An opinion or piece of advice is usually not value-free or impartial and is difficult to reconcile with party autonomy and the neutral role of the mediator. If necessary, the mediator informs the parties of the possibility to consult external advisers or experts during the mediation.

In the event that the mediator, upon the explicit request of all parties, nevertheless wishes to make a pronouncement, whether binding or not, he will unequivocally have to give up his role as mediator. For the parties, it must be clear in which capacity the mediator is acting. The mediator records this change of role in writing.

4 – Independence

4.1 The mediator shall take an independent position. He has no interest which could affect his impartiality.

4.2 If the mediator cannot supervise the issue in an independent manner, he shall not accept the assignment or he shall withdraw.

Explanation

A mediator who has an interest in the mediation which affects or could affect his independence, will not accept his appointment. This interest could be a personal or commercial relationship which the mediator or one of his colleagues has or has had with the parties or with one of them, or in the outcome of the mediation. He must also be aware of the possible appearance of dependence and act accordingly. The mediator will clarify his position to the parties if his independence is or could be a matter of discussion. He will then ask the parties whether they wish to continue with him on this basis. The mediator will see to it that he safeguards his independence both during and after the mediation. He will withdraw, if necessary.

5 – Impartiality

5.1 The mediator represents the interests of all the parties. He is impartial and acts without prejudice.

5.2 If the mediator cannot supervise the issue in an impartial manner, he shall not accept the assignment or he shall withdraw.

Explanation

A mediator is characterised by his neutral, impartial role. The mediator is there for all the parties. He has a confidential position with regard to each of them. In neither word nor deed shall a mediator indicate a preference for or disapproval of (one of) the parties and he will act without prejudice with regard to the parties. The confidence of the parties that the mediator

is impartial, is essential for the quality of the mediation process.

The mediator will only act in respect of issues in which he can retain his impartiality. He will endeavour to ensure that his impartiality is not affected by prejudice based on such things as personal characteristics, position, religion or background or by an opinion on positions or interests introduced by the parties.

The mediator may be expected to critically review his own actions and continually monitor his neutral, impartial position. If it is impossible for the mediator to monitor the mediation in an impartial manner, he will withdraw.

6 – Confidentiality

6.1 The Mediator ensures that all persons involved in the Mediation undertake to respect the confidentiality of the Mediation.

6.2 The Mediator has an obligation of confidentiality.

6.3 The obligation of confidentiality continues after the termination of the Mediation.

Explanation

The mediator ensures that he and all other persons involved in the mediation explicitly commit themselves to the obligation of confidentiality in order to facilitate the mediation process. The guiding principle is that everything that is exchanged orally and in writing during a mediation is confidential. This information may not be used outside the mediation during or after completion of the mediation, unless the parties explicitly make arrangements with each other and with the mediator that deviate therefrom, for example if feedback is required for the progress of the mediation.

Information that was already public or well-known before the mediation falls outside the obligation of confidentiality. The obligation of confidentiality applies to all persons involved in the mediation process and, in particular, to the mediator, who is primarily responsible for ensuring that the persons involved commit themselves to the confidentiality obligation and respect confidentiality.

The mediator has an obligation of confidentiality with regard to everything that he learns in his capacity as mediator in his conversations with the parties and their advisors, both in plenary sessions and separately. His confidentiality obligation also applies to exploratory discussions with parties before a mediation agreement has been concluded with them. Any feedback of information by the mediator to referrers or clients that goes beyond a notice of termination of the mediation only occurs in consultation with and under the approval of all parties.

The mediator's confidentiality obligation lapses insofar as the mediator requires this to defend himself in proceedings, including complaint or disciplinary proceedings.

The mediator's confidentiality obligation is subject to a few exceptions, which can be found in the Mediation Rules for MfN-registered mediators.

7 – Competency

The mediator shall only accept a mediation if he possesses the necessary qualities for the mediation to run smoothly.

Explanation

A mediator may be expected to possess the knowledge, skills, professional attitude and the personal qualities which are necessary to safeguard the smooth progress of the mediation. If this is not the case or it is not sufficiently the case, he will not accept the mediation. Should the mediator already have accepted the mediation, he will withdraw.

The mediator is expected to have knowledge of communication and conflict resolution, negotiating concepts and intervention techniques. The expected knowledge can also encompass substantive expertise in the area of the conflict if the parties have precisely appointed the mediator with that in mind. The skills which may be expected of the mediator are, for example, intervention techniques geared to improving the communication between the parties, clarifying the problem and the related emotions and interests and supervising the negotiations between the parties. The mediator possesses more technical skills, such as discussing and making a mediation agreement and recording agreements in a settlement agreement.

The essence of the professional attitude is that the mediator has integrity and is reliable, carries out his work to the best of his ability and is willing to follow continual schooling and to develop further as mediator. Personal qualities are essential for the mediator. The mediator may be expected to be balanced, flexible, empathic and decisive and that he operates well in a context in which pressure and conflicting interests play an undeniable role.

8 – Working method

8.1 The mediator is responsible for the mediation process and shall monitor the course thereof.

8.2 Prior to the mediation, the mediator shall make a written mediation agreement with all parties which shall at least lay down the duty of confidentiality and the fact that the mediation is voluntary.

8.3 The mediator shall not involve any third parties in the mediation, subject to consent of the parties.

Explanation

The essence of the mediator's task is to monitor the mediation process. The mediator will handle the mediation with the necessary expedience and will make sufficient time available

for the mediation. He will explain the mediation process, the contents of the mediation agreement and the Rules. The mediator verifies whether the parties understand what conditions and consequences are attached to the signing of the mediation agreement.

The mediator will see to a balanced handling of the issue and will promote as much as possible that each party gets its turn in equal measure, has sufficient access to the necessary information and has the scope to consult financial, legal, psychological or other advisers if necessary.

The mediator is responsible for the contractual recording in the mediation agreement of the duty of confidentiality of the parties and the mediator himself. The parties have no statutory duty of confidentiality. The duty of confidentiality of the parties is primarily intended to promote that they can speak freely during the mediation discussions and that confidence can be built. The parties shall jointly determine the scope of the duty of confidentiality. They will evaluate whether it is necessary for the progress of the mediation which has taken place with certain persons outside of the mediation table consultation. The mediator will see to it that the scope of the duty of confidentiality is recorded.

The mediator will see to it that third parties engaged in the mediation sign a confidentiality agreement. The consent of the parties is not necessary for secretarial support of the mediator referred to in article 6.1 of the Rules.

9 – Fees and costs

9.1 The mediator shall agree his fees and the additional costs with the parties in advance and shall record this agreement in the mediation agreement.

9.2 Unless the mediator has good grounds for presuming that the parties would not qualify for a mediation supplement, he is obliged to inform the parties of the possibility thereof. If parties may possibly qualify for a mediation supplement but nonetheless choose not to claim this supplement, the mediator shall record this in writing.

9.3 The mediator shall not demand or receive remuneration in any form whatsoever for a mediation to which he is assigned on a supplement basis, apart from the own contribution imposed by the Dutch Legal Aid Board.

9.4 The mediator is permitted to agree a fixed amount for the mediation.

9.5 The mediator shall provide a clear, orderly invoice.

Explanation

At the start of the mediation the mediator will make clear agreements relating to his fees (or a fixed sum for the mediation process) and possible additional costs. The mediator will agree with the parties who is to bear the costs of the mediation. The mediator will provide a clear, itemised invoice. He will keep a record of his activities and will produce this if requested so that the parties can clearly see which costs are charged for which activities.

Parties may qualify for a mediation supplement from the Dutch Legal Aid Board in various legal fields, such as personal and family law, labour and dismissal, agreements and contracts, tenancy law and administrative law. Upon commencement of the mediation the mediator is obliged to investigate whether one or more parties qualify for a mediation supplement. This obligation may cease to apply if the mediator has good grounds for presuming that one or more parties do not qualify for a supplement.

For instance, this may be the case if the nature of the dispute does not meet the substantive requirements of the Dutch Legal Aid Board or if the financial capacity of the parties exceeds the income limit set by the Dutch Legal Aid Board (see www.rvr.org). Mediators who are not registered with the Dutch Legal Aid Board refer parties who qualify for a mediation supplement to a mediator who is registered with the Dutch Legal Aid Board. If parties qualify for a mediation supplement but refrain from claiming this, this is recorded in writing by the mediator.

Apart from the own contribution, the mediator may in no circumstance whatsoever charge any amount to a party who is receiving mediation on a supplement basis. Charging costs to a party receiving mediation on supplement basis contravenes the provisions of the Dutch Legal Aid Act (article 33e paragraph 3 and article 38 paragraph 1) as well as article 11 paragraph 4 of the Registration Conditions for Mediators laid down by the Dutch Legal Aid Board – although, of course, the mediator will receive remuneration from the Dutch Legal Aid Board for activities performed on supplement basis.

10 – Disciplinary procedure

The mediator is subject to the disciplinary procedure in accordance with the Rules of Stichting Tuchtrechtspraak Mediators.

Explanation

Every mediator who is registered in the MfN-register at the start of a mediation, is subject to this disciplinary procedure.

Attachment 3 Privacy Statement

Privacy statement JustBiz / mrs L.A.C.J. Verweij

This is the privacy statement of JustBiz / Mw mr L.A.C.J. Verweij, based at Floralaan West 157 in Eindhoven, the Netherlands (further herein: the '**mediator**' or '**we**').

This privacy statement applies to the processing of personal data of our clients, potential clients and other persons visiting our website or being in contact with us.

In this privacy statement you will find information about the way in which we treat personal data. If after having read this privacy statement you still have questions about the way in which we deal with personal data, if you want to exercise your rights pursuant to the General Data Protection Regulation ('**GDPR**') set out in this privacy statement or other legislation and regulations about personal data, or if you want to lodge a complaint about the use of your personal data, you can contact us via e-mail: <mailto:info@justbiz.nu>.

If you are not satisfied with the way in which your complaint has been dealt with or if you prefer not to lodge your complaint with us, you can also lodge them with the Dutch Authority of Personal Data via the website autoriteitpersoonsgegevens.nl.

The mediator is responsible for processing your personal data and in doing so will do it with the greatest possible care and obviously comply with the rules arising from the GDPR.

1 Which personal data do we process?

Mediation file

If you give instructions to the mediator, the mediator will process personal data which you and the other party(ies) in your case provide to the mediator. These are in any event your contact details such as your name, address, e-mail address and telephone number. Moreover, there are personal details which are relevant to the file. Depending on the subject of the mediation, this might also be sensitive and/or special personal data.

Invoicing

If you make use of our services, we also process data which are necessary for sending invoices and processing payments for the services which the mediator performs. Apart from your contact details, this relates to your bank account and any other payment details.

Contact

If you contact us via the contact form on the website, via e-mail or by phone, we process the data you provide. This then relates to the contact details you give us and the reason why you contact us (for instance because you have a question).

Analysis of website visitors

Finally, we process analytical data about (the computers of) visitors to our website via cookies which are placed when you visit the website. Via these cookies (a part of) the IP address of the visitor will be stored.

2 For which purposes and on what basis do we process personal data?

Mediation file

The mediator uses the personal data which you have provided in connection with the agreed mediation. Because it may be the case that sensitive and/or special personal data are processed during the mediation process (and this is not always clear in advance), we ask your consent to process your personal data.

Invoicing

We use the payment details you have provided in order to invoice our activities. This processing is necessary in order to carry out the agreement which you have formed with us.

Contact

We use the contact details you give us to contact you when necessary, for instance to answer a question. We process these personal data because it is necessary for representing our justified interest, namely the interest of being able to carry out our activities and to secure new assignments.

Analysis of website visitors

The data we collect about visitors to the website are only used to collect statistics about the website visits (for instance to be able to see which pages are most frequently viewed). The data are stored in an anonymous form.

3 How long do we store your personal data?

Mediation file

In principle we store the mediation file and the personal data included in it for seven years after the file has been closed.

Administration

We retain our administration including the invoices and other records on which the personal data of the parties are stated, for a period of seven years after the close of the financial year in order to be able to comply with the fiscal retention obligation.

In exceptional cases we store a file for more than seven years, for instance if the period of limitation has been interrupted or if the mediator is of the opinion that there is another justified interest to store the file for a longer period

Other contact details

We store other contact details for one year after the most recent contact, unless you submit a request to us to remove the data sooner.

Analysis of website visitors

The details of website visitors are retained for two years after the visit to the website; these are the standard settings of Google Analytics.

4 Who do we share your data with?

Your data are stored in a digital file and may appear in e-mails which the mediator sends or receives, and are stored with them (and therefore processed) by our ICT provider. Moreover, the payment details which you gave to the mediator for invoicing, are passed on to the party who keeps the financial accounts for the mediator. The mediator has entered into a processor agreement with these parties in which at least the same level of security and confidentiality has been stipulated as you may expect from us.

If you or another party, who has been involved in a mediation, lodges a complaint against the mediator which relates to the treatment of a mediation file which includes your personal data, your personal data can be provided to the Quality Foundation for Mediators (*Stichting Kwaliteit Mediators*) (SKM) and/or the foundation “Stichting Tuchtrechtspraak Mediation” (STM). Your data will be dealt with confidentially by both bodies.

We will not provide your data to any further third parties, unless we are obliged to provide certain data pursuant to applicable legislation and regulations, for instance to the police in connection with preliminary investigation proceedings.

5 How are your data secured?

We have taken suitable technical and organisational security measures to protect your personal data against loss, abuse and unauthorised access by third parties. In addition, we also oblige our ICT provider to take such suitable technical and organisational security measures.

6 What are your rights?

You have the following rights:

- ✓ The right to inspect your personal data and to receive a copy of them.
- ✓ The right to rectification of your personal data if they are inaccurate or incomplete.
- ✓ The right to object to the processing and/or - in certain cases - the right to restrict the processing of your personal data.
- ✓ In certain cases: the right to have your personal data deleted ('right to be forgotten').
- ✓ The right to obtain your personal data in a structured, common and machine readable form and to transfer those data to another.

For more information about these rights and when you can exercise them: see Articles 15 up to and including 20 of the General Data Protection Regulation.

You can exercise your rights by contacting us via the e-mail address or telephone number stated at the beginning of the privacy statement,

7 Amendments

Sometimes there might be a change in the personal data which we process or the applicable regulations. In that case we may adjust this privacy statement. In the event of major changes, we will place a notification on the website and inform you of the amendment via e-mail.