



## **CONTRACT FOR THE APPOINTMENT OF A MEDIATOR**

The parties named in the Letter of Appointment (a copy of which is attached) (the “**Parties**” and each “**Party**”) have contacted Mediation4Construction Limited (“**M4CI**”) and themselves chosen and agreed to appoint the Mediator named in the Letter of Appointment from the M4CI Panel listed on [www.mediation4construction.com](http://www.mediation4construction.com) as Mediator (the “**Mediator**”) and the Parties now by signing (either themselves or via someone each Party warrants as being a person fully authorised to sign on their behalf) enter into this contract with M4CI and the Mediator for the appointment of the Mediator (the “**Contract**”) and agree to be bound by its terms as set out below:

### **SECTION A: APPOINTMENT**

#### **Parties, Mediator, Date and Venue**

1. The Parties agree to appoint the Mediator for a mediation on the date recorded in the Letter of Appointment (the “**Mediation**”).
2. The venue for the Mediation (the “**Venue**”) is recorded in the Letter of Appointment. If any charge is made to M4CI for or by this Venue, the Parties shall be jointly and severally liable for any such charge and for all expenses incurred.

#### **Accreditation and Role of Mediator and M4CI**

3. The Mediator confirms and warrants that he or she is fully trained or accredited in the field of ADR work in which he or she holds himself out, undertakes to comply with all relevant professional standards in respect of mediators, including the M4CI Code of Conduct and undertakes at all times to have suitable and sufficient professional indemnity cover in place and to provide a copy of the certificate to M4CI upon request.
4. The Parties appoint the Mediator to use his or her skills, knowledge and personal experience to test the Parties’ positions (but not to decide upon the merits of the dispute between the Parties) in order to facilitate a settlement.
5. Neither M4CI, its employees, agents or consultants nor the Mediator, in performing their functions, will represent or give legal advice or uphold or protect (or attempt to uphold or protect) any rights of any Party to the Mediation whether that Party is legally represented or not and the Parties accept that no comments made by M4CI, its employees, agents or consultants nor the Mediator during the Mediation should be construed as legal advice.

6. The Mediator confirms that he or she has reviewed and understands the effect of the clauses in this Contract and the mediation agreement referred to below and agrees to be bound by the same.

#### Conflicts of Interest

7. Except in the case of Mr Christopher Reeves, the Mediator is an independent contractor and is not an employee or agent of M4CI and communications from that Mediator will come from their usual place of business set out on their profile at [www.mediation4construction.com/our-mediators](http://www.mediation4construction.com/our-mediators). All mediators on the M4CI Panel are independent of each other.
8. Prior to appointment, M4CI and/or the Mediator will carry out a conflict check (including at their usual place of business) and, on the basis of the information given by the Parties about the case at that date, the Mediator will confirm if he or she can accept the appointment.
9. By signing this Contract, each Party agrees that it knows of nothing that would prevent the Mediator accepting this appointment and further agrees to immediately disclose (always preserving confidentiality) to M4CI and/or the Mediator anything they discover that may prevent the Mediator continuing with his or her appointment.
10. If, following the appointment of the Mediator, the Mediator becomes aware of any circumstances that may create a conflict of interest (or be perceived to do so), the Mediator may withdraw from his or her appointment or (always preserving confidentiality) disclose that fact to the Parties.
11. On disclosure of any information referred to above each Party may or may not object to the Mediator continuing with his or her appointment. Any objection must be made in writing to the Mediator and/or M4CI within 48 hours of notice of such information. On receipt of such an objection, the Mediator will withdraw from his or her appointment. The Mediator may withdraw from his or her appointment even if no objection is received.
12. This appointment as Mediator will not prevent the Mediator from acting in any capacity in other disputes where the Parties or the representatives for the Parties are involved, unless there is a direct conflict of interest.

#### The Agreements

13. Prior to the commencement of the Mediation, the Parties shall enter into a separate mediation agreement with M4CI and the Mediator.
14. M4CI will provide the M4CI Mediation Agreement (without responsibility) for use by the Parties and the Mediator. The Parties and the Mediator must satisfy themselves as to the form and terms of any agreement, including the terms of this Contract.

#### Papers and Mediator's Notes

15. Any notes of the Mediator are confidential to the Mediator and shall not be available to the Parties at any time, nor subject to a summons for production as evidence in any proceedings in court, arbitration, adjudication or other form of dispute resolution.

16. No documents sent to M4CI and/or the Mediator by the Parties (including Position Papers and Mediation Bundles) will be returned to the Parties and the Mediator and/or M4CI shall be entitled to dispose of them.

#### M4CI and the Mediator not Witnesses

17. The Parties to the Mediation will not seek evidence from and/or seek to call the Mediator or any employee, agent or consultant of M4CI as a witness or expert in any litigation, arbitration, adjudication or other form of dispute resolution in relation to and/or connected with the Mediation or arising out of the dispute the subject of the Mediation.
18. If, notwithstanding the above, any Party does so seek evidence and/or seek to call the Mediator or any employee, agent or consultant of M4CI as a witness or expert, then that Party (or Parties if more than one) shall fully indemnify and hold the Mediator and M4CI harmless from and against all legal costs, expenses and disbursements that the Mediator and/or M4CI incurs and shall pay to the Mediator and/or M4CI all sums due in respect of that full indemnity, together with the cost of the time thereby spent by the Mediator and M4CI.

#### Exclusion of liability

19. Neither M4CI, any of its employees, agents or consultants nor the Mediator shall be liable to any of the Parties (and/or their representatives or others attending the Mediation for or on their behalf) for any act or omission in connection with the services provided by them in, or in relation to, the Mediation unless the act or omission is proved to have been fraudulent, dishonest, or involved wilful misconduct.

### **SECTION B: FEES AND PAYMENT**

#### Mediation Fees

20. The Parties shall pay the fee for the Mediation recorded in the Letter of Appointment which includes for the Mediator spending up to 4 hours preparing and up to 8 hours on the Mediation date (the “**Fee**”).
21. If the Mediator spends more than 4 hours preparing for the Mediation or more than 8 hours at the Mediation, that additional time shall be charged to the Parties at the rate of 10% of the Fee per hour plus VAT (the “**Hourly Rate**”).
22. If no settlement is reached on the Mediation date and the Mediator, at the request of any Party, spends time working on the Mediation after the Mediation date, that additional time shall be charged to the Parties at the Hourly Rate.
23. The Parties shall pay all reasonable travel and accommodation expenses incurred by the Mediator in reaching the Venue at cost.
24. The Parties shall pay any charge by the Mediator for his or her travel time recorded in the Letter of Appointment.
25. The Parties and the Mediator acknowledge and agree that M4CI is the sole agent of the Mediator for the purposes of this Mediation and that all fees and expenses due in accordance with this Contract shall be paid direct to M4CI.

26. The Mediator hereby agrees that M4CI shall be under no liability to the Mediator in respect of any fees and expenses unpaid by the Parties.

#### Venue Charge and other Expenses

27. The Parties shall pay any charges by the Venue and other additional expenses recorded in the Letter of Appointment.

#### Fee split between Parties

28. Unless otherwise agreed, all fees and expenses shall be paid by the Parties in equal shares.

#### Invoicing

29. Unless otherwise agreed, pursuant to paragraph 28 above, M4CI will invoice each Party for an equal share of the Fee, together with any charges by the Venue and other additional expenses (referred to above). Those invoices shall be payable no later than 14 days before the Mediation date with the payer bearing all and any charges.
30. Further (unless otherwise agreed) pursuant to paragraph 28 above, M4CI will separately invoice each Party for an equal share of any additional fees and expenses (referred to above). Those invoices shall be payable within 14 days of the date of the invoice with the payer bearing all and any charges.

### **SECTION C: CANCELLATION FOR CONSUMERS**

#### Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (the "Regulations")

#### THIS SECTION APPLIES TO INDIVIDUAL CONSUMERS ONLY

31. If the Regulations apply to you, you have the right to cancel the appointment of the Mediator on any new matter within 14 days, unless this Contract appointing the Mediator was made or confirmed by you at a meeting, or unless you have in the meantime agreed that M4CI can begin work in making arrangements for the Mediation and/or that the Mediator can begin work.
32. The cancellation period will expire 14 days from the date all Parties to the Mediation agree this Contract.
33. To exercise the right to cancel, you must inform M4CI of your decision to cancel this Contract by a clear statement (e.g. a letter sent by post, fax or e-mail) to the contact details provided at the end of this Contract. You may use the attached model cancellation form, but it is not obligatory.
34. To meet the cancellation deadline, it is sufficient for you to send your communication exercising your exercise of the right to cancel before the cancellation period has expired.
35. If you cancel this Contract, you will be reimbursed all payments received from you in connection with your appointment of the Mediator.

36. The reimbursement will be made without undue delay, and not later than 14 days after the day on which M4CI was informed about your decision to cancel this Contract appointing the Mediator.
37. The reimbursement will be made using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of the reimbursement.
38. If you requested M4CI to begin work in making arrangements for the Mediation or the Mediator to begin the performance of services during the cancellation period and then subsequently exercise your right of cancellation during the cancellation period, you shall pay an amount which is in proportion to what work has been performed by the Mediator until you have communicated to M4CI your cancellation of this Contract, in comparison with the full contracted service.
39. You have no right to cancel this Contract once it has been fully performed, provided you have expressly requested that the supply of the service should begin during the cancellation period and acknowledged that your cancellation rights will be lost once the Mediator has fully performed the service.

## **SECTION D: CANCELLATION & RESCHEDULING**

### **Commencement of Work**

40. Each Party requests immediate performance of this Contract and acknowledges they will lose any right of withdrawal from this Contract once this Contract is fully performed.

### **Cancellation**

41. Subject to Section C above, any cancellation by any Party must be notified immediately by email to [admin@m4ci.org.uk](mailto:admin@m4ci.org.uk).
42. Subject to Section C above, if either Party cancels the Mediation, the Parties will pay in equal shares:
- (a) As to the Fee, if notice of cancellation is given in accordance with paragraph 41 above:
    - (i) more than 7 days before the Mediation: 50% of the Fee; or
    - (ii) less than 7 days before the date of the Mediation: 100% of the Fee.
  - (b) All non-refundable travel or accommodation expenses incurred by M4CI and/or the Mediator; and
  - (c) All venue charges arranged by M4CI for which M4CI has incurred a liability to the venue.

### **(the “Cancellation Charges”)**

43. M4CI will invoice each Party for their equal share of the Cancellation Charges, which shall be payable within 7 days of the date of the invoice with the payer bearing all and any charges.
44. In the event that a cancellation is made after payment of any fees or expenses by any Party, M4CI shall be entitled to set off the value of the invoiced Cancellation Charges before returning the balance to the Parties.

45. Subject to Section C above, in the event of the re-scheduling of the Mediation, whenever and for whatever reason, the Parties shall pay in equal shares a re-scheduling fee amounting to 25% of the Fee, plus any additional charges incurred pursuant to Section B above within 7 days of invoicing of the same.

## **SECTION E: OTHER TERMS**

### **Interest**

46. Interest will be charged to the Parties on overdue fees, expenses and/or other charges set out in this Contract at 5% above the Bank of England base rate and levied on a monthly basis.

### **Language**

47. The language of the Mediation shall be English. Any Party producing documents or participating in the Mediation in any language other than English shall, at that Party's own expense, provide the necessary translations and interpreters.

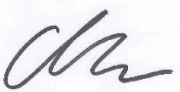
### **Signature in Counterpart**

48. This Contract may be signed in counterpart and therefore separately by each Party.

### **Governing Law**

49. This Contract shall be governed by, construed and take effect in accordance with the law of England and Wales.

**SIGNED:**

	NAME OF PERSON FULLY AUTHORISED TO SIGN AND THEIR SIGNATURE
<b>Mediation4Construction Limited</b>	 Christopher Reeves
<b>Claimant*</b>	Signed.....  Name.....
*This is a legal document, designed to create legal rights and obligations. I have read, understood and considered the meaning and effect of this Contract and enter into it on the basis of having had the opportunity to take legal advice on the same.	
<b>Claimant's Solicitors*</b>	Signed.....  Name.....
<b>Defendant*</b>	Signed.....  Name.....
*This is a legal document, designed to create legal rights and obligations. I have read, understood and considered the meaning and effect of this Contract and enter into it on the basis of having had the opportunity to take legal advice on the same.	
<b>Defendant's Solicitors*</b>	Signed.....  Name.....
<b>Mediator</b>	Signed.....  Name.....

**Date:**.....

Cancellation Form under the Consumer Contracts (Information, Cancellation And Additional Charges) Regulations 2013 (the “**Regulations**”)

THIS SECTION APPLIES TO INDIVIDUAL CONSUMERS ONLY

Complete and return this form only if you wish to withdraw from the Contract

To: [INSERT]

I/We hereby give notice that I/We cancel my/our contract for the supply of the following service [INSERT]

Ordered on [INSERT]

Name of consumer(s), [INSERT]

Address of consumer(s), [INSERT]

Signature of consumer (s) (only if this form is notified on paper),

Date [INSERT]