

# KJ ADR.

## Model Mediation Procedure Rules 2020 Edition (OFFLINEv29.01.20)

### 1 Introduction

1.1 The KJ ADR Mediation Model Mediation Procedure (KJ ADR Mediation) has been developed by KJ ADR Mediation (KJ Mediation/we/us) to facilitate the resolution of commercial disputes by mediation. By mediating the issues rather than going to arbitration or the courts, disputes are often settled more quickly, making them less expensive and less of a burden on the business.

1.2 KJ ADR Mediation is managed online using the KJ ADR Mediation eFiling Platform provided by DisputesEfilng.com Limited. Please register or log in at [www.oneplatform.disputesefiling.com](http://www.oneplatform.disputesefiling.com) (the Platform). All documents are to be filed (uploaded) there. The Platform is simple to use with familiar tools to view documents and to upload and download documents and start new cases. A range of Support is available via the red button on the Platform marked Support in the top right hand corner of each page of the Platform.

1.3 KJ ADR Mediation does not apply to disputes where any of the parties have already started legal proceedings, unless all parties or the courts agree to suspend that legal action.

1.4 Any party to the dispute can apply for KJ ADR Mediation although all parties must agree in writing before the mediation can start.

1.5 All parties should read the KJ ADR Mediation Information Notes before referring a dispute to us.

1.6 Service of all documents on each user registered in a mediation takes place upon a document being uploaded to the Platform.

1.7 When we receive a referral for KJ ADR Mediation we understand that the parties wish to appoint Karolina Jackowicz of KJ ADR as a Mediator.

1.8 KJ ADR Mediation usually applies to disputes between two parties but, if the parties and the Mediator agree, the procedure may cover disputes involving three or more parties. If there are more than two parties to the dispute, we may renegotiate the cost of KJ ADR Mediation before any costs arise in connection with it.

1.9 There are no registration or application fees. Case fees are shown in the case fee table under Section 3.2.

1.10 We manage KJ ADR Mediation and are responsible for appointing the Mediator based on information provided to us at the time that the parties ask us to handle their dispute using KJ ADR Mediation.

1.11 The parties are responsible, together and separately, for paying all KJ ADR Mediation fees, and costs of accommodation, refreshments, travel and all other out-of-pocket expenses.

## **2 KJ ADR Mediation procedure**

2.1 Before KJ ADR Mediation can start, we must receive a communication from all parties via the Platform confirming that they want us to appoint Karolina Jackowicz of KJ ADR a Mediator.

2.2 The Mediator is appointed once the KJ ADR Mediation fees are paid.

2.3 Once the communication is received, the Mediator will contact the parties to agree arrangements for the future conduct of the mediation, especially as regard the modes, forms and venues for the mediation. The Mediator will then also arrange for the signing of the KJ ADR Model Mediation Agreement.

2.4 KJ ADR Mediation takes the form of a session attended by each party to the dispute and up to one representative each (unless the parties and the Mediator agree otherwise). Each party is responsible for their own costs of going through KJ ADR Mediation, including the cost of having a representative, unless any settlement agreement states otherwise.

2.5 We may appoint an assistant mediator. The parties may refuse to accept an assistant but should bear in mind that any assistant is there to help the Mediator at no cost to the parties. We may also allow an observer to be present. This is common practice and the observer will have no role in the mediation and will be there solely to observe and gain experience as per best practice guidelines issued by the Civil Mediation Council.

2.6 KJ ADR Mediation will take place at a venue arranged by and paid for by the parties. The word “venue” is meant to include electronic venue if an online mediation is the preference of the parties.

2.7 Before starting KJ ADR Mediation, the Mediator will explain to the parties how he or she will conduct the session, and will ask the parties to sign the KJ ADR Mediation Model Mediation Agreement to confirm that they understand the process and their responsibilities within KJ ADR Mediation.

2.8 If the dispute is settled during mediation, the parties must make a written record of the agreement they have reached. This is known as the KJ ADR Mediation Settlement Agreement. The signed KJ ADR Mediation Settlement Agreement will be a binding contract and can be enforced by a court.

2.9 If the original Mediator resigns, dies or becomes unable to act competently or quickly enough, or without a conflict of interest, we will appoint another Mediator. There will be no extra charges made should this happen.

### **3 Costs of KJ ADR Mediation**

3.1 The parties are jointly responsible for the costs of KJ ADR Mediation which form the Mediator’s fees and our administration fee and include the Mediator’s fees and expenses as described in 1.9.

3.2 The cost of KJ ADR Mediation not including room hire, refreshments, travel time and other agreed disbursements is:

- ... plus VAT per day (... plus VAT) for disputes up to £100,000
- ... plus VAT per day (... plus VAT) for disputes between £100,001 and £750,000
- For disputes in excess of £750,000 we will provide a binding quote upon application

One day is defined as the equivalent of the time it takes to read and consider up to 100 sheets of A4 documentation in preparation time (50 sheets maximum per party) and eight hours mediation time. Payments are to be made by each party on application, and cover KJ ADR Mediation's administrative costs and the Mediator's fees. If more than eight hours are spent at the mediation or more than 50 sheets per party of pre-mediation reading is sent, then an additional fee of £... per hour plus VAT is payable by the parties for each additional hour spent on the mediation.

3.3 Each party must pay their own costs of preparing their case and attending any KJ ADR Mediation session. The parties agree that neither one of them will take legal action against the other to recover these costs.

## **4 Documents**

4.1 Each party may prepare for the other Parties and the Mediator prior to the KJ ADR Mediation the following, to be uploaded to the Platform:

- A Mediation Bundle – to be agreed between the Parties
- A Position Statement

4.2 In addition, but without obligation, each party optionally may elect to prepare a Confidential (for your eyes only) Position Statement and submit this privately and confidentially to the Mediator via the Platform. The fact of such submission as well as the contents of the Confidential Position Statement shall remain confidential between the Mediator and the party submitting it.

4.3 A Mediation Bundle containing documents the parties have agreed to produce to the Mediator, together with each party's Position Statement, shall be uploaded to the Platform for the attention of the Mediator only by close of business no less than 3 working days before the date of the KJ ADR Mediation unless other arrangements have been agreed with the Mediator. It is for the parties to determine in advance if they wish to exchange their Position Statements with each other prior to the KJ ADR Mediation taking place.

## **5 Confidentiality**

5.1 We, the Mediator, any assistant mediator and the parties to the dispute must not give any details of the mediation to anyone not involved in it unless this is necessary by law or to enforce the KJ ADR Mediation Settlement Agreement. Despite this we and the Mediator may:

- process information relating to the use of the procedure;

- compile, analyse, keep and publish anonymous information and statistics from the use of the procedure; and,
- monitor and review the use of the procedure

provided no personal or confidential information is published except with the relevant person's or party's permission.

## **6 Protection of KJ ADR Mediation**

6.1 We will not be liable for anything we do or fail to do in appointing the Mediator unless we act in bad faith. By accepting these rules, the parties agree to indemnify us against any possible legal action brought by any third party for anything we do or fail to do in appointing the Mediator (unless acting in bad faith).

6.2 We will not be liable for anything the Mediator (or his employees or agents) does or fails to do when acting as Mediator under these rules. By accepting these rules, the parties agree to protect us against any possible legal action arising from the Mediator's actions, unless we have acted in bad faith.

## **7 Mediator's protection**

7.1 The Mediator (and his or her employees or agents) will not be liable for anything they do or fail to do in meeting their responsibilities as Mediator, unless they act in bad faith. The parties will indemnify the Mediator and any assistant against any possible legal action arising from their actions.