**STANDARD TERMS OF ENGAGEMENT FOR MEDIATION**

**1. Services**

* 1. These Standard Terms of Engagement for mediation (“Terms”) apply to any current engagement with Rotherham Law Limited. We are entitled to change these Terms from time to time, in which case we will send you amended Terms. Our relationship with you is governed by New Zealand law and New Zealand courts have exclusive jurisdiction.
	2. The services we are to provide for you will be outlined in our letter of engagement along with any further instructions that you provide to us in writing or that we record in writing.
	3. You do not need to sign anything in order to accept our terms. Simply continuing to use our services will indicate acceptance of these.
	4. In order to provide you with efficient advice and services and to provide the most cost-effective service, it may be that party or all of your instructions will be delegated to other professionals in our firm.
	5. Before we start work for you we are likely to need to establish your identity and confirm that you have authority to enter into any mediated agreement binding any organisation you may be representing in mediation.
	6. It is important to us that we understand your requirements and expectations. If there is anything about our terms you do not understand please bring this to our attention.
1. **Fees**
	1. Rachael Rotherham’s mediator rate is $300 per hour plus gst and disbursements. We offer a fixed fee half day mediation to a maximum of 3 hours for $1000 plus gst and disbursements including a $50 opening file fee. This also includes a half hour pre mediation meeting with each party. After three hours if the matter is not concluded and you wish to continue, you will be charged at an hourly rate.
	2. If we agree to a fixed fee with you, we will charge this for the agreed work. Work which falls outside the scope of this will be charged on an hourly rate basis. We will advise you as soon as reasonably practical if it becomes necessary for us to provide services outside that scope. If requested, we will give you an estimate of the likely further costs.
	3. Where fees are calculated on an hourly basis, time spent is recorded in 6 minute units with time rounded up to the next 6 minute. Time recorded will include any initial meetings.
	4. In addition to fees above, we will also charge an office service fee of $50 (plus GST where applicable) to cover costs of setting up your file, forms, postage, toll calls and retention of your file. If significant photocopying is required we will charge this at 20c (plus GST where applicable) per page (black and white) and 50c (plus GST where applicable) per page (colour).

Disbursements and Expenses

* 1. In providing services we may incur expenses or have to make payments to other people or organisations on your behalf. These will be included in our invoice to you where the expense is incurred.
	2. These expenses include any accommodation and travel costs connected with work that we do for you, for example, airfares, taxis and use of private motor vehicles (at the IRD rate). These expenses may also include expenditure incurred while making any checks or inquiries in order to comply with our legal obligations when you instruct us to act for you.

GST (if any)

* 1. Goods and Services Tax is payable on our fees. The only exemption to this is if you reside overseas.

Payment

* 1. Our invoices are due when issued. Please use your invoice number and surname as a reference when making payments.
	2. If you have difficulty in paying any of our accounts, please contact us promptly so that we may discuss payment arrangements. We reserve the right to charge interest on accounts not paid within one month at a rate of 15% per annum on the balance of accounts outstanding at the end of each month. If your account is overdue, we may stop work on any matters in respect of which we are providing service to you until the overdue amount is paid in full. We may recover you costs we include (including on a solicitor/client basis) in seeking to recover the amounts from you including our own fees and fees of any collection agency. We may retain custody of your file until your invoice is paid in full.

Joint & Several Liability

* 1. Please note that participants in mediation will have joint and several liability in respect of meeting our mediation fees. Any agreement between the parties to mediate, that one will cover the entire costs of mediation, is a private agreement between you. By engaging in mediation, you are deemed to agree to meet our costs as invoiced in joint names either jointly or severally.

Third Parties

* 1. Although you may expect someone else to cover our fees and expenses, you still remain responsible for payment to us if the other personal or organisation fails to pay us, even if you have asked us to send the invoice to that person or organisation.
1. **Confidentiality and Privacy**
	1. When we engage you as a mediation client, we hold personal information about you. We collect information from you directly, but we also may come into possession of publicly available information through other sources or external third party providers (e.g. Companies Office, social media accounts, Internal Affairs, Police).
	2. We will treat all information we hold about you as private and confidential. We will not share any information we hold about you unless:
2. We are required to do so by law; or
3. You agree or ask us to do so.
	1. By instructing us to act for you in accordance with these terms and conditions you consent to our collecting, using and disclosing your personal information for the following purposes:
4. To comply with our legal obligations;
5. To assist you in mediation;
6. Manage any conflicts of interest;
7. Facilitate internal business proceedings such as sending invoices;
8. Make contact with you on future issues which may interest you, which may include sending of email updates, function invites, information about the services we offer or anything else we may consider relevant to you;
9. Debt recovery, including appointing an agent to collect any outstanding debts and listing defaults with a credit reporting agency verified with third parties’ databases, in order to comply with our obligations in relation to fraud prevention and the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, and any information you have given us, including any information we may collect from other sources.
	1. If you have given us your driver’s licence information, this information may also be disclosed to credit reporting agencies and/or the Ministry of Justice when carrying out any of the activities listed in the previous clause.
	2. If we disclose any of your personal information to a credit reporting agency, that agency may hold your information on their credit reporting database and use it for providing credit reporting services and for any other lawful purposes. They may also disclose your information to their subscribers for the purpose of credit checking or debt collection or for any other lawful purpose.
	3. Subject to the above confidential information concerning you will as far as practicable be made available only to those in our firm, Rotherham Law, providing mediation services to you.
	4. We will not disclose to you confidential information we have in relation to any other client.
	5. You have a right to access and correct any personal information we hold about you. If you would like to access this information, or you have questions regarding our privacy policy, then please email rachael@rotherhamlaw.co.nz or call +64 027 548 5548.
	6. You may also contact Office of the Privacy Commissioner – [www.privacy.org.nz](http://www.privacy.org.nz).
10. **Who can Authorise us to do Work**
	1. It is imperative that we are clear about who may authorise us to carry out work once we have accepted the initial instruction from you.
	2. If we are completing work for a couple or partnership either of them may authorise work to be completed.
	3. If we are completing work for a Trust any trustee may authorise work.
	4. If we are working for a company, any director or employee given authorisation may authorise work.
11. **Termination**
	1. You may terminate Rotherham Law’s authority to act as mediator for you at any time.
	2. Rotherham Law may terminate our relationship with you in any of the circumstances if we identify a conflict of interest, failure to pay outstanding invoices or if at Rotherham Law’s discretion we no longer consider it appropriate to continue to act as mediator.
	3. If our relationship is terminated, whether by us, or by you, you must pay all our fees due and disbursements, expenses and GST incurred up to the date and including the date of termination.
	4. We may stop work temporarily or in final for you if you have not:
12. Paid our accounts on time;
13. Given us information that we have asked for; or
14. Done something that we have asked you to do.
	1. Rotherham Law will not tolerate any abusive behaviour and reserves the right to terminate a client relationship if at any time our staff or employees are subjected to unacceptable abuse or aggressive behaviours.
15. **Files and Documents**
	1. You authorise us to hold all information electronically. Your information is stored by Action Step on servers in Australia and you directly authorise that company to store your personal and matter information.
	2. We will take all reasonable steps to protect your personal information that we hold. Our online database storage systems have restricted user access and are managed with password protection and multi-factor authentication.
	3. Rotherham Law hold some paper based files and documents, you authorise to destroy these automatically once your matter is closed and we will retain your electronic file for seven years after we complete work for you. We will not destroy any documents that we hold in safe custody for you or if you direct us to hold them. If Rotherham Law are directed to hold important documents there may be a storage fee associated with this.
	4. Rotherham Law will own the copyright and any other intellectual property rights in the documents we produce for you or your matter. You have the right to use these documents for their intended purpose provided you have paid our fees.
	5. If you wish to uplift your file you will need to pay our fees for the work we have completed for you and we will make copies or we will ensure we have copies before they are collected.
16. **Obligation to Disclose to Banks and Others**
	1. Rotherham Law is acting for you as mediators, however are an incorporated law firm subject to rules of conduct and client care which we uphold to the heights standard. The New Zealand law is designed to detect financing of terrorism and money laundering. As such, banks and other institutions, including lawyers, have duties to inquire about the source of funds in some situations. Even if we have no reason for any suspicion or concern, we may be obliged to report and provide information to banks or public authorities in this regard.
	2. Overseas legislation may mean that there is a need to report, for example because of the US legislation called the Foreign Account Tax Compliance Act (FATCA) and the associated inter-government arrangement signed by the New Zealand government. We will release information as required in these situations.
17. **Conflicts of Interest**
	1. We have procedures in place to identify and respond to conflicts of interest. If a conflict of interest arises we will advise you of this. We will follow requirements and the procedures set out in the Rules of Conduct and Client Care for Lawyers.
18. **Duty of Care**
	1. Our duty of care is to you. Advice we give you is for you and not any other person. Before any other person may rely on our advice, we must specifically agree to this.
	2. We will communicate with you and others by email and electronic processes. We are not liable for any damage or loss to your computer system. We will not be liable for any interference, interception, viruses, delay or failure of delivery.
19. **Scope of Work**
	1. Our primary areas of work are family law and mediation, including relationship property (separation and at the start of a relationship), care of children, guardianship, child support, protection of personal and property rights, Wills and Enduring Powers of Attorney.
	2. In our function as mediators, we do not provide any legal advice at all, including about:
20. The value of assets;
21. Tax or tax consequences; or
22. If you should buy, hold or dispose of investment or asset or property.
	1. We will act for you in respect of matters covered by your instructions for mediation only, whether or not they are given in writing or orally.
23. **General**
	1. These terms apply to the work we carry out for you now as mediators. As mediators we cannot and will not take on any future work from you relating to the matter we are mediating as it would result in a conflict of interest.
	2. We are entitled to change our terms from time to time, including our charge out rate. Revised terms will be available on our website, [www.rotherhamlaw.co.nz](http://www.rotherhamlaw.co.nz).
24. **Information for Clients**
	* 1. **Fees**

 Unless we have agreed otherwise in writing, our fees will be calculated on a time cost basis as set out in our Standard Terms of Engagement. Invoices are due to be paid when issued.

* + 1. **Professional Indemnity Insurance**

We hold professional indemnity insurance that meets or exceeds the Law Society’s minimum standards. We will provide you with details of the minimum standards on request.

* + 1. **Complaints**

We maintain a procedure for handling complaints by clients designed to ensure that the complaint is dealt with promptly and fairly. If you have a complaint about Rotherham Law’s service or charges or you may refer that to Rachael Rotherham as the director with overall responsibility for your work.

If you do not wish to refer your complaint to Rotherham Law, or you are not satisfied with the response, you can contact Arbitrators and Mediators Institute of New Zealand Incorporated.

The Law Society operates a lawyer’s complaint service [www.lawsociety.org.nz](http://www.lawsociety.org.nz).

* + 1. **Personal Responsible for the Work**

Rachael Rotherham is the director of Rotherham Law and will carry out and have overall responsibility for services provided to you.

* + 1. **What we are Responsible For**

The limits of our liability are set out in our Standard Terms of Engagement and any letter of engagement sent to you.