

SODR (Solution-Oriented Dispute Resolution) - for Families

Process Contract

This agreement to participate in a **SODR for Families** private dispute resolution process (“Process”) forms a binding contract between the signatories (“Parties”) and The Solutionist Group Pty Ltd (“TSG”) [ABN 19 833 605 578].

- 1. Fundamental Objectives:** To have a happier and more peaceful family, and to improve family relations, by resolving all significant issues, disputes and conflicts between us (the Parties) - as constructively as possible, and with finality.
- 2. The Parties:**
 - a) Are associated or connected as a Family, and/or through shared Family Business interests, responsibilities and expectations.
 - b) Commit to participating in the Process, in good faith, to resolve their issues.
- 3. Issues for Resolution.** The Parties have issues, problems, disputes and/or conflicts they wish to resolve including, but not limited to, the following:

	Issues for Resolution	<i>(may change during the Process)</i>
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

4. **Other Issues.** The Parties acknowledge that other issues may, and probably will arise during the course of the Process. It is agreed that they may be added to the list of Issues for Resolution, at the Facilitator's discretion.
5. **Engagement.** The Parties hereby engage The Solutionist Group ("TSG") to use its **SODR for Families** dispute resolution process ("Process") to resolve their issues.
 - a) TSG nominates Jon Kenfield to facilitate the Process, as a neutral dispute resolver.
 - b) By signing below, the Parties confirm Jon Kenfield's appointment as their Facilitator and (potentially) Determiner, for Phases (1) and (2) of the Process.
 - c) The Parties understand that another dispute resolver will be appointed to the role of Independent Decision Maker ("IDM"), if:
 - i. Phases (1) and (2) fail to produce agreed, or accepted final outcomes, and
 - ii. The Process moves on to Phase (3).
6. **Process Style.** The Process is designed to be very flexible to enable it to respond, rapidly and appropriately, to the unique issues, needs and interests likely to arise - and to do so as they emerge. The Parties authorise the dispute resolver(s) to do whatever, within reason, they believe will help achieve the Fundamental Objectives.
7. **Process Phases.** The Process comprises 3 separate and sequential Phases, some or all of which may be used to help resolve the issues:

Phase (1) Facilitate Private and Group Conversations to Explore and Resolve Issues

7.1.1 The Facilitator focuses and guides discussions, encourages problem solving, and may provide opinions. He can't make decisions on issues. The facilitation phase of the Process will include most or all of the following activities:

- Focus on creative problem solving, rather than allocating fault or blame.
- Identify everybody's needs and interests.
- Restore hope in a better future for the family and its members.
- Establish workable levels of respect and trust.
- Explore issues from all perspectives.
- Develop options and responses that could resolve the issues, disputes and conflicts.
- Build consensus by visualising how proposed solutions could actually work.
- Guide negotiations towards practical solutions and issue / dispute resolution.
- Document solutions, commitments and undertakings in a written Agreement.

7.1.2 Finality and Closure: If, at the discretion of the Facilitator, or on the request of the Parties, Phase (1) fails, or is deemed unlikely to produce an Agreement, the Process moves to Phase (2) ➡

Phase (2) Determine Facts, Issues and Outcomes

7.2.1 In Phase (2), the Facilitator becomes a Determiner (decider) of facts, issues and outcomes. In this capacity he is expressly authorised by the Parties, under this contract, to produce written Determinations on any remaining unresolved issues, using information obtained from the Process, including confidential information.

- The Determination will be written. Copies will be provided to all Parties.
- The Determiner must certify that the requirements of Natural Justice and Procedural Fairness have been met, sufficient to confirm the fairness of the Determination.
- Determinations can include directions to individuals to do, or to not do, things.
- Brief reasons will be provided for each issue determined and each direction given.
- Depending on choices made by the Parties to this contract, the Determination will either be: (a) Advisory, and non-binding, or (b) Binding, and legally enforceable, as a contract between the Parties:
 - a) Advisory Determination - reasoned opinions and recommendations. With the benefit of a formal statement of their Determiner’s views and suggestions on their situation, Parties can request further facilitated discussions on some or all issues. The Determiner returns to the role of Facilitator and the Process returns to Phase (1).
 - b) Binding Determination - legally enforceable contract. Under this Contract the Determination is final, binding and not subject to challenge, further discussion, or revision - unless otherwise agreed in writing, by all Parties.

Choose Option:	(A) Advisory (non-binding)	(B) Binding (legally enforceable)
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7.2.2 Finality and Closure:

Option A: Process ends with publication of the Advisory Determination. Parties use the advice received to organise their own following actions - to resolution and closure.

Option B: Process ends with publication of the Binding Determination. There’s no right of appeal. Parties can enforce the terms of the Determination as a contract.

Alternate Option: If the Parties unanimously agree, in writing, to: (a) reject the Binding Determination, or (b) request a binding decision from a different dispute resolver, the Process moves to Phase (3) ➡

Phase (3) Independent Decision on Facts, Issues and Consequences

7.3.1 In Phase (3), an Independent Decision Maker (“IDM”) replaces the original Facilitator / Determiner to make binding Decisions on the remaining issues in dispute:

- The remaining issues are referred to the IDM by the Determiner, and/or by all Parties, in writing. The IDM has no authority to consider or decide any issues that have not been formally referred to them, in writing, in accordance with this Process.
- The IDM obtains verbal or written briefings about the issues, hoped for outcomes, and the Process to date, including details of Determinations made, from: (a) all Parties, presenting together AND (b) the Facilitator / Determiner, either with the Parties present, or privately, at the Facilitator / Determiner’s discretion.
- The IDM may be able to make Decisions after the briefings. If they need more information they can make further enquiries, in any way they deem appropriate.
- The IDM’s Decisions will be written. Copies will be provided to all Parties.
- The IDM must certify that the requirements of Natural Justice and Procedural Fairness have been met, sufficient to confirm the fairness of the Decisions.
- Decisions can include directions to individuals to do, or to not do, things.
- Brief reasons will be provided for each issue decided and each direction given.
- Depending on choices made by the Parties to this Contract, the Decision will be either: (a) Advisory, and non-binding, or (b) Binding, and legally enforceable as a contract between the Parties:
 - a) Advisory Decisions - reasoned opinions and recommendations. With the benefit of a formal statement of their IDM’s views and suggestions about their situation, Parties can request further facilitated discussions on some or all issues. The IDM retires and the original, or an alternate Facilitator, is appointed. Procedurally, this is treated as a return to Phase (1) of the Process.
 - b) Binding Determination - legally enforceable contract. By authority of this Process Contract the Decision is final, binding and not subject to challenge, further discussion, or revision - unless all Parties agree otherwise, in writing.

Choose IDM Nominee:	
Choose IDM Option:	(A) Advisory (non-binding) (B) Binding (legally enforceable)

8. Costs (+GST). The Parties agree to the following cost arrangements (please select):

- (a) \$ 300.00 for a Preliminary Planning Meeting AND,
- (b) \$ 500.00 per hour, for all time reasonably spent by appointed Dispute Resolvers on the Process, OR
- (c) Capped Fees of: \$ 500/short conference or meeting (< 2 hours); \$ 2,000/half day (< 4 hours); \$ 4,000 full day (< 16 hours), for all time reasonably spent by appointed Dispute Resolvers on the Process, OR
- (d) Fixed Fee of: \$ for Phase (1) AND,
- (e) Fixed Fee of: \$ for Phase (2), if required AND,
- (f) Fixed Fee of: \$ for Phase (3), if required.
- (g) Costs will be shared / paid on the following basis:

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- (h) Significant out of pocket expenses are re-charged at cost. They must be pre-approved, and will be paid as per Process fees, unless otherwise agreed.
 - (i) Meetings cancelled or postponed with less than 2 full working days written notice to TSG may incur a cancellation fee of **\$500.00** (+ GST). TSG may waive, or allocate this cost to any Party(s), at its sole discretion.
 - (j) Process fees and costs are payable, irrespective of the final result.
 - (k) TSG will keep the Parties reasonably and regularly informed about costs.

9. Withdrawal. To help the Process achieve its fundamental objective of resolving all significant issues, disputes and conflicts between the Parties as constructively and finally as possible, all Parties agree to honour the following fundamental contract terms:

- (a) After signing this contract no Party may withdraw, or otherwise avoid their obligations and undertakings, even if they stop participating in the Process.
- (b) Remaining Parties may continue the Process in the absence of non-participating Party(s) (*ex parte proceedings*) to a conclusion by Agreement, Determination or Decision.
- (c) Under the terms of this contract, and to the maximum extent possible, a non-participant is morally and legally bound by the terms of any duly produced outcome, on the basis they are deemed to have agreed to: (a) Voluntary Agreements reached by the remaining Parties; (b) Binding Determinations or (c) Binding Decisions, whichever applies.

- 10. Participation.** The Parties confirm that they:
- a) Will participate in the Process openly, honestly, and in good faith.
 - b) Genuinely intend to resolve all relevant issues, with finality.
 - c) Have, or will during the Process disclose, and deal constructively with, all significant issues of concern known to them.
 - d) Will not raise any resolved issue for reconsideration, after the Process ends.
 - e) Have full authority to resolve any issues raised, that relate to them.
- 11. Representation and Assistance.** Parties may be assisted by lawyers, advisers, and support people, within reason.
- 12. Confidentiality.** All proceedings, negotiations and materials produced for this Process are confidential and are provided “without prejudice”. They may not be used or relied upon for any other purpose whatsoever outside the Process.
- 13. Subsequent Proceedings.** Neither TSG, nor any dispute resolver connected with the Process, may be called upon by anyone to provide any evidence or information about any Parties, proceedings, or content, unless formally required to do so by law.
- 14. Documented Outcomes.** The details of any Agreement reached will be put in writing, signed by all Parties, and witnessed by the dispute resolver. It will be printed, emailed, or photographed and sent at the time of signing, or as soon as possible thereafter.
- 15. Moral and Legal Authority.** Unless otherwise agreed by all Parties, in writing, the Parties agree to be legally and morally bound by the spirit, substance, and terms of whatever Agreements, Determinations and Decisions are generated in the Process.
- 16. Liability and Immunity.** The Parties confirm that they will not hold TSG, or any other person or entity associated or connected with TSG in any way, responsible for any acts or omissions of any nature whatsoever that are in any way connected with the Process, excepting irrefutable instances of fraud and gross negligence.
- To the maximum extent possible at law, TSG and its associates and entities are entitled to the same legal immunities as those enjoyed by a Judge of the Supreme Court of Victoria, in respect of anything done or not done in connection with this Process.
- 17. Indemnity.** The Parties jointly and severally indemnify, and undertake to reimburse TSG and any dispute resolvers involved in the process, for any and all claims raised against them, and for any extra expenses incurred, in connection with the Process.
- 18. Commitment.** By their signatures below the Parties and the dispute resolver confirm both their agreement to the terms of this Contract and their understanding that these terms are fundamental conditions of their participation in the process.

19. Family Rules and Discipline.

This Process can produce legally enforceable outcomes through the contractual authority created by this agreement, but many families are reluctant to initiate legal action against family members to enforce obviously necessary, hard won, and legitimate commitments.

If that is the case, the family must use (or create) both implicit authority and internal disciplinary processes to implement and enforce Process outcomes. This will only work when the family, as a group, is willing to impose serious consequences for “bad behaviours”. The form of those consequences will vary from family to family.

19.1. For purposes of enforcing the outcomes of the Process, is the family willing to initiate legal action against family members who fail to honour their commitments and obligations under this contract? YES / NO

19.2. For purposes of enforcing the outcomes of the Process, is the family willing to impose serious practical and other consequences on family members who fail to honour their commitments and obligations under this contract? YES / NO

19.3. The person primarily responsible for enforcing consequences is:

20. Process Timetable

Activity	Who	Date
Preliminary Planning Meeting	All	
Written Submissions: Issues, Evidence, Examples	Parties	
Exchange documents	Parties	
Exchange Experts' (and other) Reports	Parties	
Responses to Submissions	Parties	
Views/Inspections (if any)	Parties & DR	
Hearings / Meetings (1) (if required)	Parties & DR	
Hearings / Meetings (2)	Parties & DR	
Other (1)	Parties & DR	
Target Date for Agreement	Facilitator	
Target Date for Determination	Determiner	
Target Date for Independent Decision	IDM	

2. This agreement is made between: The Solutionist Group Pty Ltd *atf* The Dispute Solutions Trust (ABN 19 833 605 578) and:

Name: Sign: Date:

Name: Sign: Date:

Name: Sign: Date:

Name: Sign: Date:

Name: Sign: Date:

Name: Sign: Date:

Name: Sign: Date:

Name: Sign: Date:

Name: Jon Kenfield (Director) Sign: Date: