

SAGE MEDIATION  
INTERNATIONAL  
MEDIATION INSTITUTE  
CERTIFIED MEDIATION  
ADVOCATE  
ASSESSMENT

APPLICATION DOCUMENTS OF SAGE MEDIATION PTE LTD  
3 JANUARY 2020

# COMPETENCY FRAMEWORK

<u>S/No</u>		<u>Met Expectation</u>	<u>Assessor Remarks</u>
<u>Knowledge Competency Framework</u>			
1	Understands the nature, theory, procedure, practical application, methodology, appropriateness, benefits and disadvantages of the prevalent types of mediation, schemes or programmes, procedural rules and pertinent costs, and knows when mediation may and may not be a suitable process to address particular issues.		
2	Knows of hybrid dispute resolution processes (e.g., Arb-Med, Med-Arb, Arb//Med, Med-Con, Med//Con, MEDALOA) and their potential advantages and drawbacks in different circumstances.		
3	Knows of negotiation and solution-generating processes, as well as party and participant dynamics, as contextualised by the choice of mediation process/vehicle.		
4	Knows the relevant laws affecting mediation practice including structure and enforceability of mediation agreements (where relevant), confidentiality and privilege /professional secrecy, and structure and enforceability of settlement agreements.		
5	Familiar with methods of formulating solutions, including assessing alternatives (BATNA, WATNA, PATNA, RATNA [3] & preparing client and self for joint/caucus mediation meetings.		
6	Able to seek and understand the motivations behind individual positions as distinguished from the issues in dispute.		
7	Familiar with techniques like questioning, summarizing, (active/effective) listening, framing and re-framing, reformulating, reflecting and paraphrasing.		
8	Able to make strategic choices that can help strike a balance between positional claims that advocate the clients' interests and creating value based on interests.		
9	Understands cross-border and multi-cultural mediation paradigms.		
10	Able to adapt procedural parameters when dealing with multi-party or complex cases involving numerous participants.		
11	Understands professional and ethical standards and behaviors, and the use of ethics in generating, informing and/or setting norms.		

12	Able to understand and interpret settlement agreements and procedural options.		
13	Able to explain the nature, theory, procedure, practical application, methodology, appropriateness, benefits, advantages and drawbacks of prevalent types of mediation within or between relevant jurisdictions, court-connected mediation schemes, ad-hoc or institutional procedural rules, applicable costs, and professional applicable professional ethics codes.		
14	Knows the distributive (adversarial) approach to negotiation, in addition to the problem-solving (interest-based) approach and knowing when and why to apply each. Knows how to avoid and counter unhelpful adversarial attitudes, behavior and language.		
15	Knows how to use techniques for productively supporting the parties, their representatives, the mediator and the process, and using the mediator and the process effectively to generate a mutually accepted outcome.		
16	Knows how to effectively communicate with the mediator, prior to, during and after the mediation sessions.		
<u>Practical Skills Competency Framework</u>			
A	<b>Pre-mediation</b>		
1	Diagnoses the appropriate conflict (de)escalation and resolution approach.		
2	Convincingly conveys an understanding of (a) when a neutral third party can add value in a conflict and (b) how to assess the quality of that value.		
3	Uses dispute assessment & risk analysis methodologies appropriately.		
4	Correctly identifies relevant parties, stakeholders and participants to the process.		
5	Identifies the most appropriate conflict management process through a rigorous assessment of the pros and cons, and strengths and risks of each method.		
6	Designs, customises and implements an appropriate conflict resolution process		
7	Applies alternative analysis to define the client's BATNA, WATNA, PATNA and RATNA		
8	Defines accurate time frames for the process		
9	Understands the different levels of readiness of the client to accept mediation and is able to address their concerns effectively.		
B	<b>Clarifying and Initiating Process</b>		
1	Considers whether the parties wish to use norms, subjective interests, or a combination of the two to resolve the dispute, and what norms (if any) to use (e.g., laws, customs, community response).		

2	Considers the relevance of past, present or future events, and whether to focus on the past or the future as a basis for seeking resolution of the dispute.		
3	Explains mediation goals and process to effectively counsel clients, principals, participants and relevant stakeholders, as appropriate to identify and resolve procedural issues and options separately from substantive issues to be mediated, and if so when and how to mediate.		
4	Communicates effectively with the other side to bring them to mediation in the right frame of mind.		
5	Identifies and overcomes possible misperceptions (e.g., concerns of appearing to be weak if agreeing to negotiate).		
6	Collaborates and negotiates with other parties, their representatives and the mediator about process choice and design, logistics and timing. Sets appropriate mediator selection criteria with the other parties and their representatives and works strategically to identify, set and implement each mediation parameter with the other parties.		
<b>C</b>	<b>Selection of Neutral and Preparation</b>		
1	Selects the most suitable mediation procedure, style and approach (e.g. evaluative, transformative, facilitative, narrative, solution focused, eclectic, hybrid forms, co-mediation, joint sessions and/or caucus-based), including consideration of common mediation approaches used locally and elsewhere.		
2	Determines whether mediation should be institutional or adhoc.		
3	Works with the participants and the mediator(s) to determine the contents of a mediation agreement, select a venue, identify participants, and defines the timeline for exchange of written opening statements.		
4	Finds and appoints the most suitable competent mediator(s) for a case, taking into account the nature of the parties and the specific circumstances of the case.		
5	Knows when co-mediation is appropriate and how to select and convene a co-mediation team in collaboration with the other side.		
6	Constructively overcomes any obstructive or fencing behaviour of the other party or the party's representatives.		
7	Advises coherently on mediation clauses, mediation rules and regulations of mediation providers and professional bodies, ethical guidelines, codes of conduct, complaint schemes, disciplinary processes, liability issues, confidentiality, privacy, refusals to participate, mandates, and authorities to settle.		

8	Constitutes the adequate mediation team to properly convey relevant information and negotiate during the mediation. Drafts a cogent Position Statement		
9	Advises the client comprehensively on the roles of client and advocate, and prepares the client well for the mediation.		
10	Develops an information strategy: when (and when not) to share what information with whom. Determining information that is needed.		
11	Identifies the necessary documents to be exchanged with knowledge of applicable confidentiality rules.		
	<b>During the Mediation</b>		
1	Monitors progress and checks whether the process needs to be adapted to the circumstances.		
2	Works effectively with own client, the other party and the other party's representative to facilitate a constructive outcome based on problem-solving techniques.		
3	Provides relevant counsel to the client on financial, tax, social, legal, reputational, commercial and other interests.		
4	Makes an informed choice between several approaches and options for resolving the issues, and knowing when to suggest each approach (including whether and when to terminate the mediation process as necessary).		
5	Balances between (1) claiming value and advocating the client's interests and (2) creating value and motivating participants to reach a settlement.		
6	"Reality checks" the client to help them gain familiarity and confidence with the process, their relevant roles and whether their positions are compatible with their interests.		
7	Collaborates with the mediator, ensuring the mediator understands the client's core interests and constructively designing and implementing the mediation process from the perspective of all parties.		
	<b>Opening Statement</b>		
1	Understands what type and style of opening statement to use (e.g., argumentative, persuasive, explanatory, expressive etc.) as may be most effective, what to include and omit, and possibly proposing to defer to a later point in time or dispense with formal statements when this would be more effective.		
2	Creates constructive conditions for a productive mediation process. Identifies interests, topics for discussion, information to be exchanged (give and get) and possible impasses to be overcome.		
3	Defines the agenda and manages expectations		
4	Assists clients to prepare and deliver effective opening statements.		

5	Supports information exchange by summarizing facts and addressing queries from the other party, the other party's representative or from the mediator.		
6	Interprets the other party's opening statement and identifying key information, interests, opportunities and impediments.		
	<b>Exploration</b>		
1	Generates effective negotiation approaches, explanations of first offers, package deals, concession strategies and negotiation techniques.		
2	Elicits interests and distinguishing positions from interests.		
3	Applies communication skills like active listening, reformulation and non-positional communication skills.		
4	Deals with emotions, social and status issues, and international and cultural aspects and conveys this understanding to parties.		
5	Support the client and mediator in identifying, analysing and overcoming impasses and breaking deadlocks.		
6	Deals with clients' instructions that may be difficult to reconcile with opportunities and options and resolving those inconsistencies.		
7	Balances confidentiality and the need to provide the information necessary for resolving the dispute and reaching the best possible outcome.		
8	Applies reality-testing techniques to manage the expectations of the client and the other party.		
9	Identifies the right time to call for caucus, time-out, breaks, private client meetings, joint sessions, changes of venue and changes of negotiation team members.		
	<b>Caucus</b>		
1	Ensures the caucus is handled ethically and confidentially.		
2	Works with the client and mediator to provide information useful in resolving the dispute, and applies the appropriate norms to generate, set and/or advocate possible outcomes.		
3	Explores options with the mediator.		
4	Seeks and provides positive and constructive feedback to/from the mediator.		
	<b>Generating Options</b>		
1	Works with the client to effectively react to, and consider, unlimited possibilities.		
2	Creates and prioritises interests and options.		
3	Formulates useful first offers and constructive responses to first offers and uses the mediator to support and lead the parties and/or to help them formulate offers or responses.		

4	Ensures that the mediator presents the options proposed during private caucus accurately and maintains confidentiality.		
5	Works with the other party, the client, and the mediator to generate, develop, brainstorm and reality-test options. Engages in and consults on several methods for generating options.		
6	Utilizes the processes of negotiation, and party and participant dynamics, as contextualised by the choice of mediation process.		
7	Establishes mutually acceptable norms or reference criteria by which to assess feasibility and possible implementation of options.		
8	Deals effectively with unexpected surprises, inconsistent negotiation styles, or reactive devaluation.		
9	Checks for confirmation bias.		
10	Clarifies intentions and motivations of the participants at the mediation.		
11	Adapts communication styles and strategies in accordance with progress made and other participants' conduct.		
	<b>Closing</b>		
1	Facilitating the mediation to progress to a comprehensive, substantive, clear, valid and enforceable agreement, preserving such relations as may be desired between the parties.		
2	Secures the best available and workable outcomes that circumstances permit.		
3	Deciding whether and if so how to request a mediator's proposal.		
4	Decides whether to end or walk out of a mediation, and properly manages incomplete settlements by maintaining positive momentum and leaving a window open.		
5	Generating communication strategies and dealing with possible reporting or reputational impacts.		
6	Deals with parallel judicial, administrative, arbitral or other proceedings and considers possible compliance and enforcement requirements, and securing such appropriate court or tribunal recognition for a settlement (e.g., use of consent awards).		
7	Maintaining a good-faith approach towards the mediated settlement agreement and dealing with possible		

## **COMPLAINTS AND APPEALS POLICY**

Applicants who are dissatisfied with the result of the assessment may submit their written complaint or appeal to the Chief Executive Officer of Sage Mediation Pte Ltd. The complaint or appeal must include the name of the applicant, the date of the assessment, and the specific reasons why the result of the assessment is wrong and should be invalidated. It will be useful if the name of the assessor could also be included.

Any such complaint or appeal must be received within 3 months of the date of issuance of the result. Any complaint or appeal received after this time will not be entertained.

Upon receipt of a valid complaint or appeal, the CEO will conduct an investigation into the validity of the complaint or appeal before deciding to:

- a. Over-rule the appeal and uphold the result of the assessment;
- b. Uphold the appeal and organise a re-assessment for the participant with a different assessor; or
- c. Uphold the appeal and over-rule the result of the assessment.



## **DIVERSITY POLICY**

The Sage Mediation IMI-Certified Mediation Advocate Assessment is accessible on an equal basis to applicants regardless of their professional affiliations, gender, race, ethnicity, age, religion, sexual orientation or other personal characteristic.