



MTI EAST AFRICA CERTIFICATION / ACCREDITATION SYSTEM FOR PROFESSIONAL MEDIATORS

MTI East Africa promotes **Quality, Consistency and Accountability** of its professional mediators within the diversity of mediation practice in East Africa. It informs participants in mediation about what they can expect of an MTI East Africa Professional mediator.

Voluntary System

The system of standards, Accreditation and Certification provided by MTI International East Africa is a voluntary, 'opt-in' system. Certification is however an indication that the mediator is qualified, can be identified with other peers in the field of professional mediation world-wide and can be placed in our international mediators Directory and be recommended for any local and international business.

Role of mediators in a mediation process

A professional mediator uses the knowledge, skills and ethical principles that he is trained during our 50 hours professional mediation training program to assist participants to make their own decisions in relation to disputes, conflicts or differences among them.

Mediation is a process that promotes the self-determination of participants and in which participants, with the support of a professional mediator:

- (a) Communicate with each other, exchange information and seek understanding
- (b) Identify, clarify and explore interests, issues and underlying needs
- (c) Consider their alternatives
- (d) Generate and evaluate options

- (e) Negotiate with each other; and
- (f) Reach and make their own decisions

Approval requirements for Certification / accreditation as a professional Mediator

In MTI East Africa, we believe that before a person comes to the training workshop, they already possess 50% of the required mediation skills which they have acquired through the university of life (Social and emotional intelligence). An applicant must also be of good character and possess appropriate personal qualities and experience to conduct a mediation process independently, competently and professionally. An applicant must:

1. Disclose if they have been disqualified from any type of professional practice
2. Disclose any criminal conviction
3. Disclose any impairment that could influence their capacity to discharge their obligations in a competent, honest and professional manner.
4. Comply with the Approval Standards and Practice Standards, with any relevant legislation, professional standards and any other requirements that may be relevant to them.
5. Become and remain a member of MTI East Africa or ICMC or a member or employee of an Organization with a relevant ethical code or standard and a complaints and Disciplinary procedure that can address complaints against mediators.
6. Be covered by relevant professional indemnity insurance or have statutory Immunity.
7. An applicant must have completed a **50 hour** MTI East Africa Professional mediation training Programme which meets the General international requirements and must have met the assessment requirement set out therein.

The training requires:

- (a) A training course of a minimum of 50 hours in duration which shall be conducted as a single course or in modules over a period of five days

- (b) A training team of at least two trainers in which the principal trainer has more than 10 years' experience both as a Master accredited mediation trainer
- (c) Sufficient coaches for each trainee to be observed performing the role of Mediator in two simulated mediations each of at least 1 hour in duration;
- (d) Coaches who are accredited as mediation trainers by MTI East Africa and have at least two years or 50 hours mediation experience and who provide written feedback to the trainees they have observed; assessed by external assessors.
- (e) Each trainee participating in at least five simulated mediations, in at least two of which they perform the role of mediator;
- (f) Content that includes the knowledge, skills and ethical principles articulated in the Practice Standards.

STANDARDS FOR ACCREDITATION OF MEDIATORS FOR MEDIATION TRAINING INSTITUTE INTERNATIONAL EAST AFRICA

In order to qualify for certification as a professional mediator with MTI International East Africa, a candidate must:

- a) Undergo 50 hour professional mediation training and be assessed and certified as competent to mediate professionally
- b) Subjects himself / herself to the Code of Professional Conduct, and the **Complaints and disciplinary procedures** as set out in MTI International East Africa Code of conduct.

ASSESSMENT

The assessment will consist of :

- (1) a written component that tests the applicant's understanding of mediation Theory and practice; and
- (2) an assessment of the applicant's skills as a mediator in an actual mediation or an applicable role play by at least one external assessor among others.

When assessing an applicant, the assessor must certify a trainee as being of Competent standard, or if he or she does not meet the standards, recommend additional training and practice and re-assessment at a later date.

CONTINUED CERTIFICATION OF MEDIATORS

Lapsing of Certification

A mediator's certification with MTI International East Africa, shall automatically lapse after 25 months from the date of certification, and he /she will be required to apply for continued certification.

Requirements

In order to qualify for continued certification as a professional mediator an applicant must provide the following:

- a) Proof that he/she has attended one refresher course and one MTI round table seminar in one year
- b) Proof that he /she performed a minimum number of five mediations or an equivalent in skills maintenance activity.
- c) Proof that he / she participated in three or four continuing professional development programme on mediation once every 25 months.

ASSESSMENT OF MEDIATOR COMPETENCIES

The skills, qualities and characteristics on which candidates are tested are the following:

A. Introduction

- ~ Provides welcome and opening comments
- ~ Explains mediation process
- ~ Clarifies role of participants
- ~ Establishes ground rules
- ~ Discusses the Agreement to Mediate
- ~ Appears sensitive to clients' physical and emotional comfort

B. Information Sharing

- ~ Engages participation of clients
- ~ Understands issues and empathized with feelings
- ~ Accurately and briefly summarizes information and concerns
- ~ Balances time and focus between clients

C. Issue Clarification

- ~ Asks appropriate questions
- ~ Identifies interests, intentions, differences, Limitations and underlying problems

- ~ Identifies common ground
- ~ Reframes statements and issues

D. Generation of Options

- ~ Organizes and prioritizes issues amenable to mediation
- ~ Focuses on current and future needs rather than positions
- ~ Elicits multiple options and explored settlement possibilities

E. Resolution/Closure

- ~ Facilitates negotiation and bargaining
- ~ Assists parties to be realistic
- ~ Drafts agreement that is sufficiently specific and addressed all issues
- ~ Drafts agreement that is well organized, clearly stated, and easily readable
- ~ Assists in developing an agreement that is balanced, fair, realistic, understood, and not coerced
- ~ Discusses options for noncompliance or resolving future conflict
- ~ Exerted sufficient effort to assist parties in reaching agreement.

F. Personal Qualities

- ~ Appropriate dress and appearance
- ~ Develops rapport and trust, and conveyed a positive outlook
- ~ appears confident and in control of emotions
- Ability to treat the parties equally and fairly;

G. Professional Qualities

- ~ Allows adequate planning and preparation time
- ~ Possesses adequate knowledge of issues
- ~ Maintains neutrality, impartiality, and objectivity
- ~ Avoids giving advice, pressure, and judgment
- ~ Demonstrates respect for different values and lifestyles
- ~ Provides appropriate information and referral.

H. Communication Skills

- ~ Posture, gestures, and eye contact
- ~ Use of voice, tone, volume, and clarity
- ~ Verbal content and timing
- ~ Listening styles and other intuitive abilities
- ~ Paraphrasing and reframing skills

I. Special Techniques and Skills

- ~ Demonstrates appropriate use of caucus
- ~ Overcomes impasses, resistance, or difficult behavior
- ~ Deals with power imbalance or control issues

- ~ Handles intense emotions or difficult agendas
- ~ Displays flexibility and used creative strategies effectively Comments:

J. Overall Assessment

- ~ Demonstrates mastery of mediation process
- ~ Demonstrates an awareness of ethical issues
- ~ Engages in ongoing assessment of appropriateness of case for mediation
- ~ Demonstrates appropriate level of skill, competence, and effectiveness
- ~ Demonstrates ability to work with co-mediator and clients
- Avoids redundant time;
- Keeps the parties informed.

PEOPLE MANAGEMENT SKILLS:-

K. Creates and maintains a safe environment

- Establishes atmosphere in which anger and tension are expressed constructively
- Helps parties save face
- Sensitive to interpersonal and team dynamics
- Sensitive to power dynamics
- Balances assertiveness and cooperativeness
- Sensitive to impact of own behaviour on parties
- Demonstrates impartiality
- Works in a non-discriminatory way
- Shows respect and empathy
- Realistic and frank with parties
- Displays positive energy
- Gives parties equal attention, body language and eye contact
- Appears relaxed and confident
- Attentive to parties comfort

L. Builds and maintains rapport with the parties

- Establishes rapport quickly
- Listens actively
- Is not argumentative
- Paraphrases and summarizes facts and feelings fully and accurately
- Acknowledges feelings
- Asks more open than closed questions
- Recognizes own and others' perceptions and prejudices
- Deals appropriately with the impact of perceptions and stereotypes

- Uses reframing techniques to promote understanding and manage conflict
- Uses language flexibly
- Facilitates communication between the parties
- Manages emotions of parties
- Manages own emotions
- Manages conflict between the parties in joint session

PROCESS MANAGEMENT SKILLS

M. Manages the process with confidence

- Demonstrates confidence as the process manager
- Able to be flexible in management of process
- Demonstrates sensitivity to the mandating dynamic
- Stays in control of the process while maintaining rapport
- Respects confidentiality at all stages
- Manages the process with fairness and dignity for all
- Confidently keeps parties to process roadmap
- Manages process without determining content
- Handles process challenges while maintaining rapport

N. Works through the phases of mediation

- Prepares for the mediation
- Makes good use of environment
- Opens the mediation well, covering key points
- Communicates core principles of mediation to the parties
- Manages opening statements well
- Takes notes appropriately
- Makes sound choices about the order of meetings
- Opens and closes side meetings meticulously
- Explores issues before moving to generating options
- Moves the parties from positional styles of negotiation to Interest based styles
- Moves parties from a rights focus to an interests focus
- Effectively makes use of reality testing and explores BATNA at an appropriate stage in the process

- Facilitates the negotiation process
- Assists the parties manage the negotiator's dilemma
- Manages reactive devaluation
- Facilitates the drafting of a settlement agreement
- If appropriate, uses the single text process
- Adopts an appropriate pace

Problem Management Skills

O. Manages the content of disputes to maximize potential for settlement

- Allows the parties to manage the content and determine the outcome of the dispute without expressing a view
- Confidently works with parties, issues, needs and interests
- Demonstrates an understanding of the bigger picture
- Generates an atmosphere of creative problem -solving
- Contextualizes the problem
- Identifies and builds consensus
- Builds parties confidence in prospect of agreement
- Handles ethical challenges assertively

P. Explores content and options in a creative manner

- Accurately identifies the issues in dispute
- Explores positions, needs and interests
- Identifies common ground
- Assists the parties generate options to meet needs and interests as a basis for settlement
- Encourages the generation of mutual gains options
- Is able to work on a number of options simultaneously
- Assists parties assess options in relation to objective criteria, particularly needs
- Uses reality testing and BATNA to encourage parties to assess risk
- Encourages parties to source expertise and information Necessary
- Consolidates agreement and captures detail in agreement

The assessment requires:

- (a) An applicant, at a minimum, performing the role of A Professional mediator in a simulated Mediation of at least 3 hour;
- (b) An assessor observing a simulation using mediation observation sheet, without providing any coaching to the applicant during the simulated mediation;
- (c) Assessment criteria reflecting the knowledge, skills and ethical principles

Articulated in the Practice Standards;

- (e) An applicant being found competent by an assessor using an assessment observation sheet documenting the extent to which the applicant has met or has not met the assessment requirements; providing written feedback on the applicant's Performance and indicating the assessment outcome;

Certification renewal requirements

An accredited Professional mediator seeking renewal of Certification must attend at least one refresher course every year, and provide evidence to MTI East Africa that within the one year preceding application for renewal they have been conducting mediations and have attended a refresher course.

A professional mediator who has not met the requirement above due to lack of work opportunities, health or career circumstances must attend such supplementary training, refresher course, coaching and/or assessment as MTI considers necessary, to address the shortfall.

A Professional mediator must meet these requirements within two months of the due date for renewal of accreditation / re certification or accreditation/certification automatically lapses.

Accreditation/ re certification is done annually.

Leave of absence.

A professional mediator seeking leave of absence on the basis of health, career or other special circumstances must provide evidence of the circumstances upon which, and the period for which, leave is being sought. MTI East Africa may grant or refuse the request, or grant it subject to conditions, having regard to the Circumstances.

Where leave of absence is granted for a period of one year, MTI must remove the mediator's name from the Professional mediator's Directory for the period of leave and extend the due date for renewal of that mediator's re-certification / accreditation by an amount equivalent to the period of leave.

Suspension

Where a Professional mediator is significantly non-compliant with the Approval and Practice Standards, MTI East Africa may, subject to the requirements of procedural fairness, suspend the mediator's certification/ accreditation and, having regard to the circumstances; specify any conditions that must be met by that mediator prior to seeking re-instatement of accreditation.

Re-instatement of Certification / accreditation

An applicant seeking re-instatement after a period of leave of absence or lapsed or Suspended re certification/ accreditation, must:

1. Disclose the date from which they were first certified as professional mediators and specify the period of leave of absence or the date upon which their Certification/accreditation lapsed or was suspended;
2. Meet the approval requirements set out above.
3. Where the practice requirement above have not been met, undertake supplementary practical training, or a refresher course, coaching and/or assessment, as approved by MTI East Africa, to address the shortfall.

Waiver by MTI East Africa

In exceptional circumstances, MTI may, conditionally or otherwise, waive compliance with any provision of the Approval Standards on application by a professional mediator.

PRACTICE STANDARDS

These Practice Standards apply to all professional mediators.

The Practice Standards:

- (a) Specify the minimum practice and competency requirements of a professional mediator;
- (b) Inform participants and others about what they can expect of the mediation Process and The professional mediator ;

Where a professional mediator practices in any part of East Africa under a legislative framework and there is a conflict between a provision of the Practice Standards and a provision of that framework, the legislative framework will override the Practice Standards to the extent of any inconsistency.

THE MEDIATION PROCESS

In MTI East Africa, we train Professional Mediation and Advanced Mediation.

A Professional mediator uses the knowledge, skills and ethical principles acquired during the professional mediation training to assist participants to make their own decisions in Relation to disputes, conflicts or differences among them.

Mediation is a process that promotes the self-determination of participants and in which participants, with the support of a mediator:

- (a) Communicate with each other, exchange information and seek understanding
- (b) Identify, clarify and explore interests, issues and underlying needs
- (c) Consider their alternatives
- (d) Generate and evaluate options
- (e) Negotiate with each other; and
- (f) Reach and make their own decisions.

A Professional mediator does not evaluate or advise on the merits of, or determine the outcome of, disputes .

CONDUCTING MEDIATION: PRELIMINARY CONFERENCE OR INTAKE

In the preliminary conference or intake the mediator must ensure that participants are provided with the following:

- (a) A description of mediation and the steps involved including the use of joint Sessions, and separate sessions and other related matters

The preliminary conference or intake includes:

- (a) Assessing whether mediation is suitable and whether variations are required, establishing individual, institutional, procedural and substantive credibility of the mediator to the disputants
- (b) Explaining to participants the nature and content of any agreement or requirement to enter into mediation including confidentiality, costs and how they are to be paid.
- (c) Identifying who is participating in the mediation and to what extent participants have authority to make decisions.
- (d) Assisting participants to prepare for the mediation meeting including consideration of any advice or information that may need to be sought and/or exchanged.

- (e) Referring participants, where appropriate, to other sources of information, advice or support that may assist them.
- (f) informing participants about their roles and those of advisors, support persons, interpreters and any other attendees.
- (g) advising participants about how they or the mediator can suspend or terminate the mediation.
- (h) Confirming each participant's agreement to continue in the mediation.
- (i) deciding venue, timing and other practical issues.

THE MEDIATION MEETING

The mediation meeting will ordinarily include a joint session of the participants in which the participants communicate directly with each other to identify, clarify and explore interests, issues and underlying needs. The mediation meeting may also include separate sessions.

A Professional mediator may adjourn the mediation meeting and conduct the mediation over multiple meetings and in different locations.

The mediation meeting may conclude whether or not the participants have reached an agreement.

SUSPENDING OR TERMINATING MEDIATION

A professional mediator may suspend or terminate the mediation if they form the view that mediation is no longer suitable or productive, for example where:

- (a) a participant is unable or unwilling to participate or continue in the mediation

- (b) a participant is misusing the mediation
- (c) a participant is not engaging in the mediation in good faith
- (d) the safety of one or more participants may be at risk

A professional mediator should, where possible, advise of their intention to suspend or terminate the mediation

If terminating the mediation, the mediator where appropriate, should encourage the Participants to consider alternative procedures for achieving resolution.

POWER AND SAFETY

A professional mediator must be alert to changing balances of power in mediation and manage the mediation accordingly using the behavioral reflection tools that he/she has already been trained in.

A professional mediator must consider the safety and comfort of participants and where necessary take steps, which may include:

- (a) Agreeing on guidelines to encourage appropriate conduct;
- (b) Activating appropriate security protocols;
- (c) Using separate sessions, communication technology or other protective Arrangements;
- (d) Having a participant's friend, representative or professional advisor attend Mediation meetings;
- (e) providing participants with information about other services or resources; and
- (f) Suspending or terminating the mediation with appropriate steps to protect the Safety of participants.

PROCEDURAL FAIRNESS AND IMPARTIALITY

A Professional mediator must conduct the mediation in a fair, equitable and impartial way, without favoritism or bias in act or omission.

A professional mediator must identify and disclose any potential grounds of bias or conflict of interest before the mediation, or that emerge at any time during the process.

A professional mediator must not mediate in cases involving a conflict of interest without the informed consent of the participants, and then only if, in the mediator's view, the conflict would not impair his or her impartial conduct of the process.

A professional mediator must support participants to reach agreements freely, voluntarily, without undue influence and on the basis of informed consent.

A professional mediator must provide participants appropriate opportunities to speak to and be heard by one another in the mediation, and to articulate their respective interests, issues and underlying needs.

A professional mediator must ensure, so far as practicable, that participants have had sufficient time and opportunity to access sources of advice or information necessary for their decision-making.

A professional mediator must encourage and support negotiations that focus on the participants' respective interests, issues and underlying needs and must encourage participants to assess any proposed agreements accordingly and with reference to their long-term viability.

ETHICAL CONDUCT AND PROFESSIONAL RELATIONS

A Professional mediator must mediate only where they have the competence to do so.

A Professional mediator must not use information obtained in mediation for personal gain or advantage.

A Professional mediator trained by MTI must adhere to the ethical code or standards prescribed by the MTI International East Africa

A Professional mediator should encourage participants to consider the interests of any vulnerable stakeholders.

A Professional mediator should encourage participants to obtain other professional support when appropriate but should refrain from recommending the services of particular Individuals or firms.

A Professional mediator may liaise with other relevant professionals with permission from the relevant participant.

A Professional mediator should extend professional courtesy to other professionals engaged by the participants.

A Professional mediator should, where possible, engage in professional debriefing, peer Consultation and mentoring of less experienced mediators.

CONFIDENTIALITY

A professional mediator must respect the agreed confidentiality arrangements relating to participants and to information provided during the mediation, except:

- (a) With the consent of the participant to whom the confidentiality is owed; or
- (b) Where non-identifying information is required for legitimate research, supervisory or educational purposes; or
- (c) When required to do otherwise by law;
- (d) Where permitted to do otherwise by ethical guidelines or obligations;
- (e) Where reasonably considered necessary to do otherwise to prevent an actual or potential threat to human life or safety.

Before holding separate sessions with different participants, a professional mediator must inform participants of the confidentiality which applies to these sessions. With a participant's consent, a mediator may discuss the mediation, or any proposed agreement, with that participant's advisors or with third parties.

A professional mediator is not required to retain documents relating to mediation, although they may do so should they wish, particularly where duty-of-care or duty-to-warn issues are identified.

A professional mediator must take care to preserve confidentiality in the storage and disposal of written and electronic notes and records of the mediation and must take reasonable steps to ensure that administrative staff preserve such confidentiality.

KNOWLEDGE, SKILLS AND ETHICAL PRINCIPLES

(a) KNOWLEDGE

- (i) The nature of conflict, including the dynamics of power and violence.
- (ii) The circumstances in which mediation may or may not be appropriate.
- (iii) Preparing for mediation; assessing suitability; preliminary conferencing or intake.
- (iv) Communication patterns in conflict and negotiation.
- (v) Negotiation dynamics in mediation, including manipulative and intimidating tactics.
- (vi) Cross-cultural issues.
- (vii) The principles, stages and functions of the mediation process.
- (viii) The roles and functions of mediators.
- (ix) The roles and functions of support persons, lawyers and other professionals in mediation.
- (x) The law relevant to mediators and to the mediation process.

(B) SKILLS

- (i) Preparation for and dispute diagnosis in mediation.
- (ii) Intake and screening of participants and disputes to assess mediation suitability.
- (iii) The conduct and management of the mediation process.
- (iv) Communication skills, including listening, questioning, reflecting, reframing and summarizing, as required for the conduct of mediation.
- (v) Negotiation techniques and the mediator's role in facilitating negotiation and problem solving.
- (vi) Ability to manage high emotion, power imbalances, impasses and violence.
- (vii) Use of separate meetings.
- (viii) Reality-testing proposed outcomes in light of participants' interests, issues, Underlying needs and long -term viability.
- (ix) Facilitating the recording of the outcome of the mediation.

(c) Ethical Principles

- (i) Competence, integrity and accountability
- (ii) Professional conduct
- (iii) Self-determination
- (iv) Informed consent
- (v) Safety, procedural fairness and equity in mediation including withdrawing From or terminating the mediation process
- (vi) Impartiality including the avoidance of conflicts of interest
- (vii) Confidentiality privacy and reporting obligations

(viii) Honesty in the marketing and advertising of mediation and promotion of the Mediator's practice.

CHARGING FOR SERVICES

A professional mediator must obtain agreement from participants about the fees and charges Payable for the mediation and about how those fees and charges are to be apportioned between them.

A professional mediator must not charge fees based on the outcome of a mediation or calculated in a way that could influence the manner in which the mediator conducts the mediation.

If any fees or charges paid in advance exceed fees or charges payable for the mediation, the excess must be returned promptly upon conclusion or termination of the mediation.

PROVISION OF INFORMATION AND PROMOTION OF SERVICES

A professional mediator must accurately represent their qualifications and experience and how they conduct their mediations.

A professional mediator must not guarantee results or outcomes from the mediation process or make statements likely to create false expectations about favorable results.

A professional mediator certified and accredited by MTI International is entitled to use the following descriptor: **Certified Professional Mediator (CPM) MTI- A registered TM**

MTI PROFESSIONAL MEDIATOR STANDARDS BOARD

The President MTI E.A appoints members of this board and Regional Representative of MTI International in Africa, from a list of qualified professional mediators with more than five years' experience, who are also qualified mediation tutors. They serve for duration of three years and they offer voluntary and honorary service.

The board is responsible for the ongoing development, maintenance and review of the professional mediators and the Mediators Directory. The Board:

- amends the list of Certified/Accredited mediators as required;
- oversees the application of the Approval and Practice Standards with a view to achieving consistency, quality and public protection regarding mediation services and mediation certification;
- supports, complements and encourages professional mediators in their efforts to meet their responsibilities in relation to the Standards;
- promotes progressive development in the training and certification of mediators and the quality of mediation services;
- requires records to be maintained of mediators who are certified under the Standards;
- Carries out other functions and activities that are necessary or incidental to the above.

