

Manon Schonewille
MEDIATOR | NEGOTIATOR

UNIVERSAL DISCLOSURE PROTOCOL FOR MEDIATION (UDPM) of Manon Schonewille



Manon Schonewille is an endorser of the Universal Disclosure Protocol for Mediation ([UDPM](#))

The UDPM information is intended for informing the parties regarding the mediator's approach of the mediation and what they can expect by entering into a mediation process with this mediator. This promotes transparency and "process enlightenment," to encourage and support self-determination for all participants.

Across cultures and legal jurisdictions, there is a broad range of mediation styles and "norms." The concept of self-determination, the right and ability of the parties to freely and with understanding engage in the mediation process, is as close to a universal principle in mediation as can be found. Any mediation style, in the proper setting, can be effective, and any mediation style, mismatched to the parties without clarification, can be ineffective.

I. Conflict of Interest

This mediator checks in each case and where applicable clarifies her independence and impartiality and would reveal any relevant relationships as part of the intake procedure.

II. General Process with Manon Schonewille

- This mediator determines in consultation with the parties how to conduct the mediation process. This means that Manon Schonewille generally '*Mediates the proces first*'. Therefore, the mediation process starts with an intake meeting of 1 to 2 hours with each of the parties individually. During this pre-mediation meeting the participants expectations, preferences, any prior agreements regarding the mediation approach/style, the general style and approach of this mediator, are discussed. As well as practical aspects like who needs to participate, the venue, language, co-mediators, or process design options, impact of the venue or use of technology. After the intake meeting the mediator proposes to the parties the approach for this mediation and how to set up the process.
- When legal counsels are involved, they are welcome to be involved in the mediation process and attend the mediation meetings if the parties agree to that. They are required to co-sign the mediation agreement if the participate in person. If they are only functioning as a sparring partner in the background, they can sign a confidentiality declaration before receiving any information.
- One on one individual meetings ("caucus") with the mediator where participants can confidentially explore several options for resolution, vent emotions or share any sensitive information that is relevant for reaching resolution, form a regular part of the mediation process.
- The mediation commences upon the signing of the mediation agreement by the parties and the mediator.
- On the mediation agreement and mediation proceedings Dutch law is applicable. This has to do with the liability insurance of the mediator.
- Unless otherwise agreed in writing, the parties cannot be bound by positions they have adopted or proposals they have made during the mediation, nor by any statements they have made to the mediator or to the other party and/or to their advisors. This means that everyone can brainstorm and explore and think along with a proposal of the other party without any strings attached.



- The mediator can individually meet with the legal counsel or just the parties.
- The mediation is conducted on a voluntary basis. Each of the parties and the mediator are free to conclude the mediation at any time in the way specified in the mediation agreement. i.e.: (a) by the parties signing a settlement agreement or a list of arrangements; (b) by a written notification of withdrawal by the mediator (c) by a written declaration by one party that it terminates the mediation; (d) by a joint written notification to the mediator by all parties that they want to terminate the instruction of the mediator. If the parties so wish the mediator will support them in identifying and appointing a different mediator.
- After the conclusion of the mediation the mediator sends a neutrally formulated written notice of conclusion to the parties. This states the names and representatives of the parties, the date on which the mediation started as well as the date of conclusion of the mediation. Unless the parties and the mediator expressly differently agree in writing, this notice of conclusion is excluded from the non-disclosure and confidentiality obligations to allow the parties to prove that they attempted mediation.
- The mediator can invite all participants to provide feedback to comply with the mediator certification conditions of the International Mediation Institute.

III. Role of the Mediator and Parties

- Participants can expect a pro-active mediation style:
 - facilitating discussions on the relationship, personal, process, substantive and where applicable legal aspects and
 - active and directive on the process
 - suggesting possible routes for resolution and actively participating in brainstorming when desired by the participants.
- The mediator can on request of the party's: support with process design choices and e.g., involve a subject matter or legal expert to give a binding or non-binding (legal) assessment of the case or alternatively provide a 'mediator proposal' herself. This proposal is never binding and intended to facilitate resolution if the parties arrive at an impasse towards the later stages of the mediation.
- The general role division is that the mediator is responsible for the process, the parties for the substantive aspects and the agreements made, and the (legal) counsel is responsible for the legal aspects and are a sparring partner for their clients.
- Party autonomy and self-determination are the overriding principles used.
- The mediation can be conducted in English, Dutch or German. Other languages are possible with the support of an interpreter.
- Mediator is bound by the international [IMI Code of Professional Conduct](#) as well as the Dutch [MfN Code of Conduct](#) for Mediators (a copy of which shall be made available to the parties on request). If the parties or one of the parties believe the standards established in the MfN Code of Conduct have not been met, the mediator is subject to disciplinary law according to the Rules and Regulations of the Foundation 'Tuchtrecht Mediators' (Disciplinary Law Mediators). If the parties or one of the parties believe that the standards established in the IMI Code for Professional Conduct have not been met, they may activate the IMI Professional Conduct Assessment Process.
- Special obligations of the parties: The parties are expected to have commitment to the mediation and are requested to constructively cooperate in the mediation. This means to be willing to listen to each other and to cooperate to try to find a solution that is mutually acceptable. Parties should also refrain from actions or behaviour that may seriously



jeopardize or hamper the mediation and provide only correct and complete information to each other and to the mediator.

- If a party institutes judicial or other proceedings, they should inform the mediator and the other party immediately.

IV. Record Keeping and GDPR (AVG):

1. The mediator, unless otherwise agreed, provides after or at the end of a mediation meeting:
 - a) a summary of identified interests/concerns/needs and motivations,
 - b) (interim) decisions/progress made,
 - c) agreed on next steps and
 - d) time, date and preparations for the next mediation meeting.
2. Unless otherwise explicitly agreed with the parties, the mediator will not provide elaborate written minutes of the mediation meetings.
3. The mediator will not share any documents from the mediation with third parties. Except for fiscal, administrative and bookkeeping purposes (see VI), and the documents necessary for the mediator to showing proof of a mediation having taken place and to comply with registration at the Mediator federation Netherlands, MfN as part of the Peer Review Process (invoice, timesheets, mediation agreement, if applicable settlement agreement and notice of conclusion) and/or certification at the International Mediation Institute, IMI (anonymous feedback of the parties and their legal counsel for the Reviewer). The reviewer(s) and bookkeeper(s) are bound by a confidentiality agreement and the relevant documents will only be shared with them after they have signed a confidentiality declaration.
4. The Privacy statement GDPR/AVG on data that we process can be consulted in Toolkit Company's ("TC) General Rules on the website www.manonschonewille.com, (a copy of which shall be made available to the parties on request).

V. Confidentiality

- It is important that everyone can freely exchange information and ideas so any exchange/information provided will be treated confidentially, unless agreed otherwise. In the mediation agreement clauses are provided to ensure this. E.g., by entering into the mediation agreement, the parties waive the right to use as evidence against one another, in legal proceedings or otherwise, anything that was disclosed during the mediation in confidence. The confidentiality concerns information provided and/or recorded, or positions taken, or proposals made in any form.
The parties also agree not to take testimony from the mediator, or anyone else involved in the mediation. The mediation agreement provided constitutes an agreement regarding evidence as meant by Dutch law (Article 7: 900 paragraph 3 of the Netherlands Civil Code in conjunction with Article 153 Code of Civil Procedure).
- Information shared by a party and/or it's advisor in a caucus is confidential and will not be shared by the mediator with the other party or parties unless agreed otherwise.
- The confidentiality provisions do not apply in case of:
 - a) information concerning criminal acts for which there exists a statutory obligation or right to report,
 - b) information concerning the threat of a crime,
 - c) complaints, disciplinary or liability proceedings against the mediator. In such event the mediator shall be released from the obligation to observe confidentiality insofar as may



be necessary to defend against the claims and/or make a claim under professional liability insurance.

d) the notice of conclusion, described in II.

VI Liability exclusion

- Any liability of the mediator and/or TC in case of damage caused by any act or omission of the mediator in the mediation, shall be limited to the maximum amount payable under the mediator's professional liability insurance policy (a copy of which shall be made available to the parties on request). Except for intentional act on the part of the mediator ("*Opzet door een verzekerde veroorzaakte schade voor zover deze schade het beoogde of zekere gevolg is van de door deze verzekerde gemaakte fout.*"), the parties undertake to hold the mediator harmless and indemnify the mediator, including but not limited to legal expenses made in relation to this claim, in respect of all claims that a third party may institute against the mediator at any time related to acts or omissions of the mediator during the mediation or otherwise.
- The mediator shall not be liable to any party or their representatives or legal advisers for any view expressed by her during or in connection with the mediation and/or for any act or omission in connection with their conduct of the mediation, unless the view expressed, or the act or omission is shown to have been in bad faith.
- Unless expressly otherwise agreed in writing, the mediator's liability to the parties in contract, tort or otherwise for any act or omission in relation to the mediation shall in any event be restricted to the maximum amount that is charged by the mediator/TC in the specific case concerned, with a maximum amount of € 80.000,-

VII Invoicing, cancellation policy and fees

- The invoicing for mediation services of Manon Schonewille is carried out by Toolkit Company in The Netherlands. Where applicable 21% Dutch VAT will be added to the invoice.
- The administrative services provider/bookkeeper of Toolkit Company as well as the Dutch tax authorities will be provided with a copy of the invoices which contain the names of the parties and services provided. If desired by the parties, the invoices can be sent through the office of (legal) counsel to maintain full confidentiality. The administrative service provider / bookkeeper of Toolkit Company has signed a confidentiality declaration as stated in IV.3.
- The Privacy statement GDPR/AVG on data that we process can be consulted in Toolkit Company's General Rules.
- The mediator generally invoices monthly with a 14-day payment term. A deposit invoice may be sent beforehand, especially when substantial (travel) or other costs or time need to be invested upfront.
- Flexible rates that vary according to the nature of each mediation. Fees for mediation services are normally split evenly by the parties.
 - For a mediation with 2 parties the hourly rate € 295 - (€ 147,50 per party).
 - For mediations with more than 2 parties: € 147,50 per hour is added for each additional party.
 - For cross border cases the hourly rate is € 450, -, irrespective of the number of parties.

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- For one day mediations or mediations with more than 4 participants I generally work with a co-mediator. The hourly rate for 2 co-mediators together is € 475, - per hour.
- For distances up to 3 hours travel time including travel costs is invoiced at 50% of the hourly rate.
- For distances > 3 hours travel time is invoiced at 50% of the hourly rate and the travel costs are invoiced separately.
- Dutch VAT (21% btw) is added to all invoices where applicable (prices quoted are excluding 21% btw).
- *Special rates may be offered to start-ups, NGOs and participants from low GDP per capita countries.*
- *Full day rates or a fixed fee may be supplied upon request after the intake with all parties*
- Cancellation policy: mediation meetings can be cancelled or postponed with a 48 hours' notice. Within 48 hours for the mediator's time 1 hour of the relevant hourly rate and if applicable any other costs, will be invoiced for a planned mediation meeting of up to 4 hours. And 3 hours plus if applicable costs for a mediation planned for an surplus of 4 hours.

VII. Manon Schonewille is signatory of the Mediators Green Pledge.



This means that Manon Schonewille is committed to ensuring that the impact on the environment of every mediation is minimised. E.g.,:

- If screen sharing/video technology is appropriate, accessible and acceptable to all concerned, this is encouraged,
- The most environmentally friendly way to travel is considered, while also taking into account practical and cost aspects.
- Correspondence is through electronic means, unless hard copy correspondence is expressly required in the circumstances; while recognising that electronic communication itself is carbon emitting and should be limited to what is necessary.
- No hard copies of documents are requested by the mediator, unless there is a special need to do so.
- The most environmentally friendly venue for the mediation is considered and at mediation venues, an environmentally friendly approach is taken e.g. the avoidance of single-use plastic and reviewing the level of air conditioning and heating.
- The mediator also has a dedicated mediation venue available where parties can mediate on a pleasant neutral location in privacy. Several steps to reduce the environmental impact of this office/workplace are taken.