

## ELSA Negotiation Competition – Scoring Guidelines

### I. NEGOTIATION PLANNING

- How well did it appear that the team had **identified and assessed the client's important goals**?
- To what extent did it appear that the team had a **well-thought-out negotiation plan** to attempt to accomplish the client's goals?
- In planning the negotiation, did the team demonstrate an awareness of any potential **ethical issues** and an understanding of any **instructions limiting the team's authority**?

### II. QUALITY OF THE ARGUMENTS

- How skilful was the team in **obtaining and using relevant information** from the other team?
- How skilful was the team in **providing information to the other team**? How skilful was the team in **protecting confidential or negative information**?
- Did the team maintain an **ethically responsible approach** to the exchange of information, including **not inventing or inferring materially self-serving facts**?
- How well did this team manage its **pattern of offers and concessions and/or presentation of options**?
- How effective was the team in using the **time available for negotiation** in light of the client's interests and goals?
- Taking into account the team's **approach to the negotiation and its performance generally, how adaptable did this team appear to be to the developing negotiation** (as needed)—for example, to new information, to unforeseen moves by the opposing team, inventing or reacting to creative alternatives, etc.?
- How well did the team manage any **cross-cultural aspects** of the negotiation?

### III. FLEXIBILITY IN DEVIATING FROM PLANS OR ADAPTING STRATEGY

- How accurate was the team in identifying the **effectiveness of its strategy and performance**?
- How accurately, in your opinion, was the team able to **assess the impact of strategic decisions** it made on the outcome of the negotiation?
- To what extent did this team recognise (1) any potential or **actual issues of professional responsibility** that arose during the negotiation with respect to its client, the other team and that team's client, and the public, as well as (2) the **ethical implications of any strategic choices** the team made or avoided?

### IV. TEAM WORK

- How **well prepared** did this team appear to be (facts, research, planning, reasoning, arguments, etc.)?
- To what extent did this team appear to be **perceptive and skilful at reading the other negotiating team's cues**?

- To what extent did this team appear to **be reasonable and realistic?**
- To what extent did this team appear to be **persuasive and convincing?**
- To what extent did this team appear to **be self-controlled and not manipulated by the other team?**
- To what extent did the team appear to **be trustworthy and to display a wider understanding of professional responsibility, including the limits of “fair play” in advocating the client’s position?**

## V. RELATIONSHIP BETWEEN THE NEGOTIATION TEAMS

- Did the way this **team managed its relationship with the other team(s)** contribute to or detract from achieving its client’s interests and maintain an appropriate level of courtesy and professionalism?
- How effective were the negotiators in **working together as a team, providing mutual backup, and in sharing responsibility for presenting issues, ideas, and solutions?**

## VI. OUTCOME OF THE SESSION

- To what extent did agreement (given the client’s instructions) or non-agreement (given the last terms offered by the other party) **satisfy the interests of the team’s client?**
- Was the outcome the **best solution of all possible options**, given the parties’ interests, goals, and instructions?
- Did the outcome, even if there was no agreement today, have a **positive effect on any continuing or possible future relations** among the parties and/or their lawyers (including building the relationship or undermining it by, for example, having one party feel taken advantage of or unfairly treated)?
- Did the team achieve the outcome **without engaging in material misrepresentations** or other unethical behaviour, such as improper threats?

## VII. NEGOTIATION ETHICS

- Did the team **misrepresent** material facts?
- Did the team **exceed** its settlement authority?
- Did the team **invent or infer** self-serving material facts?
- Did the team and its **coach or coaches follow relevant competition rules?**
- Was the outcome achieved by **stretching ethics?**