ANNEXURE RB 1

RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA

DRAFT AMENDED MAGISTRATES' COURTS RULE 76

Functions and duties of clerks and registrars

76. (1) A clerk or registrar of the court must explain to all parties—

(a) the purpose of alternative dispute resolution, the meaning, objectives and benefits, including costs saving, of mediation; and

(b) their liability for the fees of the mediator.

(2) A clerk or registrar of the court must—

(a) inform the parties that they may be assisted by practitioners of their choice, at their own cost;

(b) in consultation with the parties, execute the duties in rules 77 and 78;

(c) if the parties agree to mediation, assist them to conclude a written agreement to mediate, which must be signed by the parties and accepted by the mediator; and

(d) upon conclusion of an agreement to mediate, forward to the mediator—

(i) a copy of the agreement to mediate;

(ii) copies of the statement of claim and statement of defence, if mediation is to occur prior to commencement of litigation;

(iii) in action proceedings, copies of the summons and plea, or statement of defence if no plea has been filed; and

(iv) in application proceedings, copies of the founding, answering and replying affidavits, or statement of defence, if no answering affidavit has been filed.

ANNEXURE RB 2

RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA

DRAFT AMENDED MAGISTRATES' COURTS RULE 84

Fees of mediators

84. (1) Parties participating in mediation are liable for the fees of the mediator, except where the services of a mediator are provided free of charge.

(2) Unless the parties agree otherwise, **[Liability]** liability for the fees of a mediator must be borne equally between opposing parties participating in mediation: Provided that any party may **[offer or]** undertake to pay in full the fees of a mediator.

(3) The tariffs of fees chargeable by mediators **[will]** shall be determined and published by the Minister together with the schedule of accredited mediators referred to in rule 86(2).

ANNEXURE RB 3

RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA

DRAFT AMENDED MAGISTRATES' COURTS RULE 86

Accreditation of mediators

86. (1) The qualification, standards and levels of mediators who will conduct mediation under these rules, **[will]** shall be determined and published by the Minister.

(2) A schedule of accredited mediators, from which mediators for the purposes of this Chapter must be selected, **[will]** shall be determined and published by the Minister.

ANNEXURE RB 4

RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA

DRAFT AMENDED FORM MED-6
(Rules 77(4) & 78(3))

4. MEDIATOR'S FEES

4.1 The Parties and the mediator agree that the fees to the mediator will be paid in accordance with the tariff determined by the Minister.

OR

4.1 The parties and the mediator record that no fees are payable to the mediator.

(Delete whichever is not applicable)

4.2 **[A deposit of R_____ toward the mediator's fees and expenses, as determined by the mediation clerk, will be paid to the clerk of the court prior to the commencement of mediation. Any unearned amount in fees, paid as deposit, will be refunded to the Parties.]** The mediator shall secure his or her fees by agreement with the parties.

4.3 The Parties shall be **[jointly and severally]** equally liable for the mediator's fees and expenses.

OR

4.3 The parties undertake to pay the mediator's fees in the following proportions or amounts:

Claimant: .....

Respondent: .....

(Delete whichever is not applicable)

4.4 Should payment not be timely made, the mediator may, at his/her sole discretion, stop all work on behalf of the Parties and withdraw from the mediation.

4.5 The Parties understand and agree that they shall be responsible for two hours of the mediator's time at the above stated rate for any appointment which they do not attend and do not provide at least 24 hours advance notice of the cancellation.

ANNEXURE RB 5

RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA

DRAFT AMENDED FORM MED-6
(Rules 77(4) & 78(3))

ACCEPTANCE BY MEDIATOR:

I .....hereby accept the terms and conditions of this agreement in so far as they relate to me.

SIGNED AT _____ ON _____

_____
MEDIATOR

ANNEXURE RB 6

RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA

DRAFT REPEAL OF FORM MED-7

Repeal of FORM MED-7

FORM MED-7 of the Rules is hereby repealed.