

Draft Model Practice Directions on Court-Connected Mediation



**NIGERIAN BAR ASSOCIATION
SECTION ON LEGAL PRACTICE**



**ADR Committee of the Nigerian Bar Association Section on Legal
Practice**

DRAFT

Nigerian Bar Association Section on Legal Practice
Lagos Court of Arbitration Building,
3rd Floor, 1A, Remi Olowude Street,
2nd Roundabout, Lekki - Epe Expressway
Okunde Bluewater Scheme
Lekki Phase 1, Lagos, Nigeria

Tel: +234 816 641 3698
info@nbaslp.org

The Nigerian Bar Association Section on Legal Practice (NBA-SLP) is focused on helping legal professionals adapt to modern demands. This includes adjusting to global trends, adopting new technologies, and responding to economic changes in Nigeria.

The NBA-SLP has four key objectives:

- Encouraging the exchange of ideas and experiences among members and other organisations in Nigeria and internationally.
- Helping members enhance their services to better serve the public.
- Engaging in activities approved by the Section's council.
- Providing ongoing education to keep members updated and skilled.

While the NBA-SLP has used its best effort in preparing this publication, it does not guarantee the accuracy or completeness of the content. It disclaims any implied warranties related to its use.

Explanatory Note

The NBA-SLP ADR Committee has developed the Model Practice Directions on Court-Connected Mediation to offer a clear, structured approach for resolving court-filed civil disputes through mediation. These directions guide the process from identifying suitable cases to conducting sessions and formalising settlement agreements.

High Courts can adopt and tailor these directions to meet their specific legal needs. Steps for effective implementation include:

- Review the directions for consistency with current laws and court procedures.
- Adjust the directions to reflect local legal practices and common dispute types.
- Organise training for judges, court staff, and mediators on the mediation process and the practice directions.
- Inform legal practitioners, disputing parties, and the public about the benefits of mediation through various outreach efforts.
- Develop a detailed plan with timelines, resource allocation, and stakeholder involvement.
- Designate coordinators to manage referrals and oversee the mediation process.
- Set up systems to regularly assess the programme, including collecting data on outcomes and participant satisfaction.
- Create channels for ongoing stakeholder feedback to ensure the directions remain effective and relevant.

ADR Committee Members

- Isaiah Bozimo SAN - Chair
- Prof Augustine Agom - Vice Chair
- Gloria Ohia - Secretary
- Yahaya Bello Abdurashheed - Member
- Laura Alakija - Member
- Babajimi Ayorinde - Member
- Kingsley Idisi - Member
- Hadiza D.S. Magaji - Member

Table of Contents

Model Practice Directions on Court-Connected Mediation	0
ADR Committee of the Nigerian Bar Association Section on Legal Practice	0
Model Practice Directions on Court-Connected Mediation	3
Article 1: Purpose, Scope and Definitions	3
Commentary on Article 1	5
Article 2: Identifying Cases Suitable for Mediation	6
Commentary on Article 2	8
Article 3: Referring Cases to Mediation	9
Commentary on Article 3	11
Article 4: Conducting the Mediation	12
Commentary on Article 4	14
Article 5: Monitoring and Addressing Issues in the Mediation	15
Commentary on Article 5	16
Article 6: Settlement Agreement	17
Commentary on Article 6	20
Article 7: Returning the Case to Court	21
Commentary on Article 7	24
Article 8: Training and Accreditation	25
Commentary on Article 8	27
Article 9: Data Collection and Evaluation	28
Commentary on Article 9	31
Article 10: Miscellaneous Provisions	31
Commentary on Article 10	37
Article 11: Implementation and Review	38
Commentary on Article 11	43

Mediation Referral Order Template.....	45
Mediation Progress Report Template	49
Mediation Feedback Form Template	52
Mediation Agreement Template	58
Data Collection Form Template	62
Initial Assessment Form.....	64
Interim Measures Request Form.....	68
Amendment Proposal Form	72
Pre-Mediation Checklist	75
Confidentiality Waiver Request Form.....	77
Agreement to Extend Mediation Deadline.....	79

DRAFT

Model Practice Directions on Court-Connected Mediation

Article 1: Purpose, Scope and Definitions

1. Purpose

These practice directions are designed to facilitate the settlement of disputes filed in the court through mediation. Mediation offers a quicker and more effective alternative to litigation. It encourages mutually acceptable outcomes, reduces court caseloads, and improves access to justice. These directions provide a clear guide for the judiciary, parties, legal representatives, and mediators throughout the mediation process, ensuring a fair and secure process for all involved.

2. Scope

These practice directions apply to civil disputes between individuals, organisations, or a combination of both, that are suitable for mediation. The scope covers the following types of disputes:

- (a) **Family Disputes:** Ancillary relief in matrimonial causes, including child custody, maintenance, property settlements, and related matters.
- (b) **Commercial Disputes:** Issues arising from business transactions, contracts, partnerships, and related commercial relationships.
- (c) **Land Disputes:** Disagreements over land ownership, boundaries, usage rights, and other land-related issues.
- (d) **Personal Injury Claims:** Cases involving compensation for injuries sustained in accidents or due to negligence.
- (e) **Other Civil Disputes:** Any other civil matters that the court deems appropriate for mediation, based on the specifics of the case and the interests of justice.

3. Definitions

The following definitions apply in these practice directions:

- (a) **Confidentiality:** The principle that all discussions, negotiations, and documents exchanged during mediation are private and cannot be disclosed outside the mediation process without the parties' consent, except as required by law or court order.

Draft Model Practice Directions on Court-Connected Mediation

- (b) **Court:** The High Court of [Jurisdiction/Name of State].
- (c) **Court-Connected Mediation:** Mediation initiated or conducted under the auspices of the court, either as part of a court program or through a referral by a judge.
- (d) **In-Camera Review:** A private review by the court of the parties' settlement agreement to confirm its compliance with legal standards, after which the agreement is returned to the parties or a designated custodian.
- (e) **Mediation Coordinator:** A court-appointed individual who may be a judge or another qualified court official with experience or training in mediation and conflict resolution, tasked with specific duties in the mediation process. These duties include conducting the initial assessment to determine a case's suitability for mediation, making recommendations, notifying parties of the mediation referral order, coordinating the scheduling of mediation sessions, and addressing procedural issues or disputes that arise during the mediation.
- (f) **Mediation Session:** A scheduled meeting or series of meetings during which the mediator and the parties discuss the issues and work towards a settlement.
- (g) **Mediation:** A process in which a neutral third party, known as a mediator, assists the disputing parties in reaching a voluntary and mutually acceptable settlement.
- (h) **Mediation referral order:** An order issued by the court directing the parties to participate in mediation, outlining the scope, timelines, and responsibilities of the mediation process.
- (i) **Mediator:** A neutral and impartial individual who facilitates communication between the parties, helping them to identify issues, explore options, and negotiate an agreement. The mediator does not impose a decision on the parties.
- (j) **Multi-Factor Authentication (MFA):** A security process requiring users to provide two or more verification factors to access a system, account, or platform. These factors typically include something the user knows (such as a password), something the user has (such as a security token or mobile device), and something the user is (such as a fingerprint or facial recognition). MFA adds an additional layer of security beyond just a username and password, making it more difficult for unauthorised individuals to gain access.

Draft Model Practice Directions on Court-Connected Mediation

- (k) **Parties:** The individuals, organisations, or entities involved in a dispute subject to mediation.
- (l) **Progress Report:** A report submitted by the mediator to the court, providing an update on the status of the mediation without revealing substantive details of the discussions.
- (m) **Review Committee:** A group appointed by the chief judge, comprising 5 to 7 members, including judges, court staff, mediators, legal representatives, and independent experts in mediation or dispute resolution. The committee is chaired by a senior judge and oversees the evaluation process of the practice directions. It collects feedback, compiles evaluation reports, and recommends improvements.
- (n) **Settlement Agreement:** A written agreement reached through mediation, outlining the terms agreed upon by the parties to resolve their dispute and reflecting a voluntary and mutually acceptable settlement.
- (o) **Virtual Private Network (VPN):** A secure connection method that creates a private network across a public network, such as the Internet. It encrypts data and helps to protect online privacy by masking the user's IP address, making it more difficult for unauthorised parties to access the user's information or trace their online activities.

Commentary on Article 1

Article 1(1) - Purpose

Article 1(1) outlines the primary goal of these practice directions, emphasising mediation as a preferred method for settling disputes filed in the court. It highlights mediation as a faster and more effective alternative to litigation, guiding the judiciary, legal representatives, and parties towards reducing court caseloads and providing quicker settlements. This approach benefits the judiciary and disputing parties by promoting fairness, confidentiality, and mutually acceptable outcomes.

Article 1(2) - Scope

Article 1(2) defines the types of civil disputes suitable for mediation under these directions. It categorises common disputes, including family, commercial, land, and personal injury matters. Additionally, it allows the court the discretion to include other civil disputes, providing flexibility to encompass a broad range of cases within the mediation process based on the specifics of each case and the interests of justice.

Draft Model Practice Directions on Court-Connected Mediation

Article 1(3) - Definitions

Article 1(3) defines key terms used throughout the practice directions. This clarity is crucial for the consistent application and understanding by all parties involved, reducing misunderstandings and setting clear expectations for the mediation process. The definitions of roles, such as those of the Mediator and Mediation Coordinator, are particularly important in ensuring the structured and effective conduct of mediation, while terms like “Confidentiality” and “In-Camera Review” safeguard the integrity and privacy of the process.

Article 2: Identifying Cases Suitable for Mediation

1. Criteria for Suitability

When assessing whether a case is suitable for mediation, the judge, the parties, and their legal representatives shall consider the following factors:

- (a) **Nature of the Dispute:** Mediation is effective for disputes where the parties are open to resolving the matter through discussion and negotiation, even in cases involving complex issues.
- (b) **Relationship Between Parties:** Mediation benefits from parties willing to collaborate. It is particularly effective in cases where maintaining or improving the relationship is important, though it can also help de-escalate conflicts, even in strained relationships.
- (c) **Legal Complexity:** Mediation can address many issues, but some disputes may involve legal questions that require a judicial decision. While legal complexity does not preclude mediation, the court, parties, and legal representatives should assess whether the legal issues are suitable for resolution through mediation.
- (d) **Willingness to Mediate:** Mediation relies on the cooperation and active involvement of both parties. If one party is unwilling to participate, mediation may not be effective.
- (e) **Confidentiality Needs:** Mediation provides a private setting, making it ideal for cases requiring confidentiality, particularly in personal or sensitive matters.
- (f) **Potential for Settlement:** Mediation is most effective when both parties are open to compromise and genuinely interested in resolving the dispute. The court, the parties, and their legal representatives should consider the likelihood of reaching a settlement before opting for mediation.

2. Initial Assessment

The initial assessment determines if a case is suitable for mediation. This process is conducted after the statement of claim and statement of defence have been filed and involves several steps carried out by a judge or a mediation coordinator:

- a. **Case Review:** The judge or mediation coordinator reviews the available case details in the statement of claim, statement of defence, and any other relevant initial documents, such as supporting affidavits or front-loaded documents. This review includes examining the nature of the dispute, the relationship between the parties, the legal issues involved, and the willingness of the parties to mediate.
- b. **Consultation with Parties:** An initial consultation is held with the parties involved. During this meeting, the judge or mediation coordinator explains the mediation process, its benefits, and what is expected from the parties. This consultation assesses the parties' willingness to participate, their openness to compromise, and their understanding of the process.
- c. **Suitability Evaluation:** Based on the case review and consultation, the judge or mediation coordinator evaluates whether the case is appropriate for mediation. They consider factors such as the potential for settlement, the complexity of the legal issues, and the need for confidentiality.
- d. **Referral Decision:** If the case is deemed suitable for mediation, the next steps depend on who conducted the evaluation:
 - i. If the judge conducts the evaluation, the judge issues a referral order, directing the parties to proceed with mediation.
 - ii. If the mediation coordinator conducts the evaluation, they provide a recommendation to the judge. The judge then reviews the recommendation and, if in agreement, issues a referral order directing the parties to proceed with mediation.
 - iii. If the judge or mediation coordinator deems the case unsuitable for mediation, the case continues through the regular court process. The parties should be informed of the reasons why mediation was not deemed suitable.

For the purpose of this Article, **judge** means the judge to whom the case has been assigned.

3. Exemptions and Exclusions

Draft Model Practice Directions on Court-Connected Mediation

Certain types of civil cases may be exempt from mediation due to legal constraints or other considerations. These cases include:

- (a) **Criminal Elements:** Cases involving elements of criminal conduct, even if related to a civil dispute, are generally unsuitable for mediation. Such cases often require formal judicial intervention due to the severity of the issues involved.
- (b) **Urgent Matters:** Disputes requiring immediate court intervention, such as emergency injunctions or restraining orders, are inappropriate for mediation. These cases need swift judicial action to prevent harm or address urgent issues.
- (c) **Domestic Violence Cases:** Situations involving domestic violence or abuse are often exempt from mediation. The power dynamics and safety concerns in these cases make mediation inappropriate and potentially harmful.
- (d) **Complex Legal Issues:** Cases with highly complex legal questions that require judicial interpretation or precedent-setting decisions may be excluded from mediation. These cases benefit from the legal expertise and authority of a court.
- (e) **Public Interest Matters:** Disputes that significantly impact public interest or involve government policy may not be suitable for mediation. These cases often require a formal legal process to address broader societal concerns.
- (f) **Other Exemptions:** Any other cases the court deems inappropriate for mediation based on the specific circumstances and legal considerations.

Commentary on Article 2

Article 2(1) - Criteria for Suitability

Article 2(1) outlines the factors to consider when determining if a case is appropriate for mediation. The court, parties, and their legal representatives should assess the potential effectiveness of mediation by considering the nature of the dispute, the relationship between the parties, and the legal issues involved. The willingness of both parties to engage in the process is crucial, as mediation relies on consent and active participation. The private setting of mediation is particularly valuable for sensitive matters requiring confidentiality. Assessing the potential for settlement is essential to ensure mediation is pursued in cases with a realistic chance of reaching an agreement.

Article 2(2) - Initial Assessment

Draft Model Practice Directions on Court-Connected Mediation

The initial assessment helps identify cases suitable for mediation early in the proceedings. After the statement of claim and statement of defence have been filed, the judge or mediation coordinator reviews the case details, including relevant initial documents such as supporting affidavits or front-loaded documents, and consults with the parties and their legal representatives. This consultation explains the mediation process, its benefits, and expectations, while also gauging the parties' willingness to participate and their openness to compromise. The judge or mediation coordinator then evaluates whether the case is appropriate for mediation, considering factors such as settlement potential, legal complexity, and confidentiality needs. If deemed suitable, the judge issues a referral order, or if the mediation coordinator makes the assessment, they provide a recommendation to the judge for final approval.

Article 2(3) - Exemptions and Exclusions

Article 2(3) specifies cases generally exempt from mediation due to legal or practical considerations. Cases involving criminal elements are typically unsuitable for mediation and require handling by the criminal justice system. Urgent matters, such as those requiring emergency injunctions or restraining orders, are also excluded due to the need for immediate judicial intervention. Domestic violence cases are exempt to prevent potential harm, given the power imbalances and safety concerns involved. Complex legal issues and public interest matters are often excluded because they may require judicial interpretation, precedent-setting decisions, or formal legal processes to address broader societal concerns. Additionally, an omnibus clause allows the court to exempt other cases based on specific circumstances, providing flexibility in applying these directions.

Article 3: Referring Cases to Mediation

1. Referral and Mediation referral order

The process to refer a case to mediation is as follows:

- (a) **Initial Evaluation:** If a case is found suitable for mediation after the initial assessment, the judge or mediation coordinator begins the referral process.
- (b) **Issuance of Mediation referral order:** The judge issues a Mediation Referral Order, as defined in Article 1(3)(h), which formalises the referral of the case to mediation.
- (c) **Notification to Parties:** The court clerk assigned by the judge handling the case, or the mediation coordinator, notifies all parties involved, their legal representatives and the assigned mediator about the Mediation Referral Order,

Draft Model Practice Directions on Court-Connected Mediation

providing details about the mediation process and what is required from each party and their legal representatives.

- (d) **Scheduling the Mediation:** The court clerk assigned by the judge handling the case, or the mediation coordinator, coordinates with the parties, their legal representatives and the mediator to schedule the mediation sessions, considering the overall availability and convenience of all involved.

2. Contents of the Mediation referral order

The mediation referral order includes the following details:

- (a) **Scope of Mediation:** Defines the specific issues and matters to be addressed during mediation, ensuring clarity on what will be covered and limiting the scope to avoid unnecessary expansion.
- (b) **Deadlines and Timelines:** Sets clear deadlines for starting and completing the mediation process, including any interim milestones and the schedule for submitting periodic progress reports. Non-compliance with these deadlines, without justifiable cause, will be subject to review by the court.

The court may consider progress reports, along with other relevant information, before imposing sanctions, extending deadlines, or making other appropriate orders to ensure the integrity of the mediation process.

Any attempt to delay or obstruct the process, including failure to attend scheduled sessions, refusal to engage in good faith negotiations, or non-cooperation in scheduling, will result in specific sanctions determined by the court, such as fines, adverse inferences, or continuation of the case in the mediation process under stricter supervision.

- (c) **Confidentiality Requirements:** Specifies the rules for confidentiality during and after mediation, ensuring that all discussions, negotiations, and documents remain private, except as required by law. Any breach of confidentiality may result in penalties or exclusion of evidence in subsequent proceedings.
- (d) **Responsibilities of the Parties:** Outlines the specific obligations and expectations of each party and their legal representatives, including preparation, attendance, providing necessary documentation, and active participation in mediation sessions. Active participation includes, but is not limited to, attending all scheduled sessions, engaging in discussions in good faith, and adhering to the agreed-upon mediation procedures. Failure to comply may result in sanctions or adverse inferences.

Draft Model Practice Directions on Court-Connected Mediation

- (e) **Mediator Appointment:** The referring judge shall appoint a mediator from the court's pre-approved list, considering the specific needs and nature of the case. If either party has a valid objection to the appointed mediator, they must submit it within 3 days, and the judge will review and decide on the matter promptly.
- (f) **Criteria for the Selection of Mediators:**
 - (i) **Qualifications:** Lists the necessary qualifications and expertise required for the mediator, ensuring they are suitably equipped to handle the specific issues of the case.
 - (ii) **Experience:** Emphasises the importance of selecting mediators with relevant experience in the subject matter of the dispute to enhance the effectiveness of the mediation process.
 - (iii) **Impartiality:** Confirms that the mediator must be impartial, free of any conflicts of interest with the parties involved, and must disclose any potential biases or previous interactions with the parties. If the disclosed information indicates a clear and significant conflict of interest, the referring judge will immediately appoint a new mediator. For concerns that are less clear or disputed, the referring judge will conduct a prompt review to assess whether the mediator's impartiality is compromised and whether a new mediator should be appointed. Frivolous or tactical objections will be dismissed to avoid unnecessary delays.
- (g) **Guidelines for Identifying and Addressing Potential Conflicts of Interest:** Provides a clear process for identifying any potential conflicts of interest that a mediator may have and outlines the steps to address these conflicts, which may include selecting an alternative mediator if a conflict is identified. Failure to properly disclose conflicts may result in the disqualification of the mediator and other appropriate remedies.

Commentary on Article 3.

Article 3(1). Referral Process

The referral process is essential for formally directing cases to mediation. Article 3(1) outlines the steps that follow the initial assessment, making the process transparent and structured. The judge initiates the referral by issuing a Mediation Referral Order, which formalises the process and sets clear expectations. The court clerk or mediation coordinator is responsible for notifying the parties, arranging the mediation sessions, and handling the logistical aspects

Draft Model Practice Directions on Court-Connected Mediation

efficiently. This approach helps all parties understand their roles and responsibilities, making the transition to mediation smooth.

Article 3(2). Contents of the Mediation Referral Order

The Mediation Referral Order provides a detailed framework for the mediation process. It defines the scope of mediation to ensure that all parties know the specific issues to be addressed. It also sets deadlines and timelines, keeping the process on track and avoiding delays. Confidentiality requirements are crucial for creating a safe environment for open discussions. Outlining the parties' responsibilities clarifies their obligations and what is expected of them. The criteria for selecting mediators, including qualifications, experience, and impartiality, are vital for maintaining the integrity and effectiveness of the mediation process. Guidelines for identifying and addressing potential conflicts of interest ensure the mediation is fair and unbiased. These elements create a structured process that supports a successful mediation.

Article 4: Conducting the Mediation

1. Initial Mediation Session

The initial mediation session sets the foundation for the mediation process. The following steps shall be taken during this session:

- (i) **Introduction by the Mediator:** The mediator shall introduce themselves, explain their role as a neutral facilitator, emphasise the importance of neutrality and confidentiality, and outline the objectives and process of the mediation.
- (ii) **Overview of the Mediation Process:** The mediator shall provide an overview of the steps involved and the anticipated timeline, helping the parties understand the structure.
- (iii) **Setting Ground Rules:** The mediator shall establish and confirm guidelines for respectful communication, confidentiality, and participant conduct, ensuring that all parties agree to these rules.
- (iv) **Identifying Issues:** The parties shall outline the key issues they wish to address, focusing the discussions on the main areas of concern.
- (v) **Setting Expectations:** The mediator shall discuss the roles and responsibilities of each party, emphasising active participation, openness to compromise, and maintaining confidentiality.

Draft Model Practice Directions on Court-Connected Mediation

- (vi) **Agenda Setting:** The mediator shall work with the parties to set an agenda, outlining the topics to be discussed and their order.
- (vii) **Initial Statements:** Each party shall have the opportunity to make an initial statement, expressing their perspective and goals for the mediation. These statements should be concise to maintain focus and efficiency in the session.
- (viii) **Agreement on Process:** The mediator shall confirm that all parties agree to the mediation process and ground rules, setting a collaborative tone.

2. Confidentiality

All communications and documents shared during mediation are confidential and cannot be used as evidence in court or other proceedings, except as required by law. The mediator, the parties, and their legal representatives must adhere to these confidentiality rules throughout the mediation. Any breach of confidentiality may result in sanctions or exclusion of the disclosed information in subsequent proceedings.

3. Technology and Virtual Mediation

Mediation sessions may be conducted virtually using appropriate technology to accommodate parties who cannot be physically present. The following guidelines shall be followed:

- (a) **Technical Requirements:** All parties must have access to a reliable internet connection, a computer or mobile device with video conferencing capabilities, and the necessary software or platform for the virtual mediation.
- (b) **Confidentiality:** All participants, including legal representatives, must ensure that their virtual environment is private and free from interruptions. Confidentiality agreements must be upheld, and no unauthorised persons should be present during the sessions.
- (c) **Security Measures:** The video conferencing platform must offer strong security features, including encryption and secure access controls. Participants should use passwords, Virtual Private Networks (VPNs), and multi-factor authentication where possible, to protect the integrity of the sessions.
- (d) **Preparation:** Before the session, participants should test their equipment and become familiar with the video conferencing platform to avoid technical issues during mediation.

Draft Model Practice Directions on Court-Connected Mediation

- (e) **Documentation:** Any documents shared during virtual mediation should be exchanged through secure, encrypted methods. Participants should avoid using unsecured email or other vulnerable channels for sensitive information.
- (f) **Communication Protocols:** Clear communication protocols should be established to manage turn-taking, document sharing, and handling any technical difficulties during the session.

Commentary on Article 4

Article 4(1). Initial Mediation Session

The first mediation session lays the groundwork for the entire process. The mediator's introduction clarifies their role and sets the tone for neutrality. Explaining the mediation steps and timeline helps the parties understand how the process will unfold. Establishing ground rules encourages respectful communication and confidentiality, creating a safe space for productive discussions. Identifying the key issues keeps the focus on what matters most to the parties. Clarifying roles and responsibilities guides active participation and openness to finding common ground. Setting an agenda provides structure and direction. Allowing each party to make an initial statement ensures that everyone's perspectives are heard. Finally, confirming agreement on the process and ground rules helps build cooperation, which is vital for successful mediation.

Article 4(2). Confidentiality

Confidentiality is essential in mediation. It allows parties to speak freely, knowing their words and documents will remain private. This legal protection fosters honesty and openness, which are necessary for resolving disputes. The mediator, parties, and their legal representatives must strictly follow these rules throughout the mediation. Upholding confidentiality creates a trusted environment for dialogue and negotiation, leading to a resolution that all parties can accept.

Article 4(3). Technology and Virtual Mediation

Virtual mediation offers flexibility for parties who cannot meet in person. It allows the process to continue without geographical limitations. Reliable internet access, suitable devices, and necessary software are important for smooth communication. Maintaining confidentiality in a virtual setting requires private and secure spaces, as well as strong security measures like encryption, VPNs, and multi-factor authentication. Participants should test their equipment and become familiar with the platform to avoid technical issues. Documents shared during virtual mediation should be exchanged through secure methods, avoiding unsecured channels. Clear communication protocols are needed to manage the flow of the session and

Draft Model Practice Directions on Court-Connected Mediation

address any technical difficulties. When these guidelines are followed, virtual mediation can be just as effective as meeting in person, providing a practical way to resolve disputes remotely.

Article 5: Monitoring and Addressing Issues in the Mediation

1. Non-Interference Policy

Judges and court officials shall not intervene in mediation sessions or influence the mediator's substantive actions at any stage of the mediation process. This policy safeguards the neutrality and independence of the mediation, ensuring that discussions remain confidential and free from external pressures.

If a breach of this policy occurs, the referring judge shall take corrective action against the interfering party within five business days. This action may include issuing a formal reprimand, reporting the conduct to the appropriate oversight body, or taking other measures to preserve the integrity of the mediation process. If the referring judge is the party interfering, the matter should be escalated to the chief judge or an equivalent authority, who shall act promptly within five business days.

2. Progress Reports

Mediators shall submit progress reports to the judge who referred the case at regular intervals, not exceeding one month between reports. These reports shall summarise the status of the mediation without disclosing substantive details. If significant procedural issues have arisen and been addressed, this may be mentioned in the reports in a general manner. The reports shall inform the court about the progress of the mediation, including whether sessions are ongoing, any agreements reached, and plans for further sessions. The reports must maintain the confidentiality of the mediation process and provide only general updates on its status.

3. Addressing Issues

Procedural issues or disputes may arise during the mediation process. The following procedures shall be followed to address these issues:

- (a) **Raising Concerns:** Parties should first raise any procedural issues or disputes directly with the mediator during the mediation session.
- (b) **Mediator's Role:** The mediator shall attempt to resolve the issue through discussion, clarification of the mediation process, and reinforcement of the established ground rules. This should be addressed promptly, ideally within the same session or within 24 hours.

Draft Model Practice Directions on Court-Connected Mediation

- (c) **Escalation to Mediation Coordinator:** If the mediator is unable to resolve the issue, the mediator shall escalate the matter to the mediation coordinator. The coordinator will review the issue and collaborate with the mediator and parties to find a resolution within three business days.
- (d) **Intervention:** The mediation coordinator may provide procedural support, including making logistical adjustments or offering additional guidance on the mediation process, to ensure the mediation proceeds effectively. This role does not extend to influencing the mediator's substantive decisions or the content of the discussions, which remain confidential.
- (e) **Documentation:** Any procedural adjustments or resolutions made by the mediation coordinator must be documented and shared with all parties within two business days to maintain transparency.

Commentary on Article 5

Article 5(1). Non-Interference Policy

The non-interference policy is vital for preserving the fairness and confidentiality of mediation. Judges and court officials must not intervene in mediation sessions or influence the mediator. This rule creates a space where parties can discuss their issues openly, without fear of external pressure or bias. It allows the mediation process to focus solely on the needs of the parties and the guidance of the mediator.

Article 5(2). Progress Reports

Progress reports provide the court with updates on the mediation's status while maintaining the confidentiality of the discussions. Mediators submit these reports to the referring judge, summarising the progress made. This includes whether sessions are ongoing, any agreements reached, and plans for future sessions. These reports offer the court a clear view of how the mediation is proceeding, without revealing any sensitive details.

Article 5(3). Addressing Issues

During mediation, procedural issues or disputes may arise. Parties should first bring these concerns to the mediator, who will attempt to resolve them through discussion and clarification. If the mediator cannot resolve the issue, it will be escalated to a mediation coordinator. The coordinator reviews the matter and works with everyone involved to find a solution. Documenting any procedural changes or resolutions helps maintain transparency and trust in the process.

Article 6: Settlement Agreement

1. Formalising the Settlement

The following steps shall be taken to document a settlement agreement:

- (a) **Drafting the Agreement:** The mediator, with input from the parties, will draft the settlement agreement. This document must clearly outline the terms agreed upon by the parties, ensuring the mediator remains neutral throughout the process.
- (b) **Detailing Terms:** The agreement must include all essential terms, such as each party's obligations, deadlines, payment details (if any), and other relevant provisions. Clarity and specificity are necessary to prevent future disputes.
- (c) **Review by Parties:** Each party must carefully review the draft agreement within [X] days. They may seek legal advice to fully understand the implications of the terms.
- (d) **Signing the Agreement:** The parties will sign the settlement agreement. If required, the parties' legal representatives or a notary public may witness the signing.
- (e) **Court Approval:** The signed agreement must be submitted to the court for approval if required. This step is necessary if the parties wish to make the agreement enforceable as a court order. If the agreement is confidential, the submission and approval process will follow the guidelines in Article 6(4).
- (f) **Distribution of Copies:** Copies of the final, signed agreement must be provided to all parties involved and, if applicable, to the court.

2. Court Approval

The following guidelines apply to the court review and approval of settlement agreements:

- (a) **Submission for Review:** Parties shall submit the signed settlement agreement to the court for review. The submission must include all relevant documentation and a request for approval.

Draft Model Practice Directions on Court-Connected Mediation

- (b) **Review Process:** The court shall review the settlement agreement to verify that the terms are fair, lawful, and comply with public policy. For confidential agreements, this review may occur in-camera as outlined in Article 6(4).
- (c) **Hearing (if necessary):** The court may schedule a hearing if any issues arise or if further clarification is needed. The parties may be required to provide additional information or documentation.
- (d) **Approval or Revision:** The court may:
 - (i) **Approve the Agreement:** If the terms are satisfactory, the court will approve the agreement and issue an order or judgment reflecting the settlement terms.
 - (ii) **Request Revisions:** If there are concerns, the court may request specific revisions. Parties shall revise and resubmit the agreement within [X] days for the court's approval
- (e) **Final Order:** Once approved, the settlement agreement becomes enforceable as a court order. Copies of the approved agreement and the court order shall be provided to all parties involved.

3. Enforcing the Settlement

The following procedures shall be followed to enforce a settlement agreement:

- (a) **Converting the Agreement into a Court Order:** If the parties wish to make the settlement agreement enforceable as a court order, they shall submit the signed agreement to the court for approval. Upon approval, the court will issue an order or judgment reflecting the settlement terms.
- (b) **Addressing Non-Compliance:** If a party fails to comply with the terms of the settlement agreement, the following steps may be taken:
 - (i) **Notification:** The aggrieved party shall notify the non-compliant party in writing, specifying the breach and requesting compliance within 14 days.
 - (ii) **Court Enforcement:** If the non-compliance is not resolved within the specified timeframe, the aggrieved party may apply directly to the court to enforce the settlement agreement. In cases of minor issues, the aggrieved party may choose to involve the mediation coordinator first to facilitate compliance. For confidential agreements, this enforcement may occur in-

Draft Model Practice Directions on Court-Connected Mediation

camera as outlined in Article 6(4). The court shall prioritise the enforcement of settlement agreements to avoid undue delays.

- (c) **Available Remedies:** In cases of non-compliance, the following remedies may be available:
 - (i) **Specific Performance:** The court may order non-compliant parties to perform their obligations as specified in the settlement agreement.
 - (ii) **Compensatory Damages:** The court may award damages to compensate the aggrieved party for any losses resulting from the non-compliance.
 - (iii) **Contempt of Court:** The court may hold the non-compliant party in contempt, leading to additional penalties such as fines or imprisonment after a fair hearing.

4. Confidential Settlement Agreements

Confidential settlement agreements allow parties to resolve disputes privately, protecting sensitive information from public disclosure. The following guidelines govern the handling of such agreements:

- (a) **Summary Submission:** Parties may submit a summary or memorandum of understanding to the judge, confirming that a settlement has been reached. This document should not include detailed terms of the agreement to preserve confidentiality.
- (b) **Confidentiality Clauses:** Settlement agreements may include confidentiality clauses that explicitly outline the terms to be kept private. These clauses should clearly define the scope of confidentiality and the consequences of any breach.
- (c) **In-Camera Review:**
 - (i) **Private Court Review:** If necessary, the judge may review the entire settlement agreement in-camera to ensure that it complies with legal standards and public policy.
 - (ii) **Return of Documents:** After the in-camera review, the judge will return the entire settlement agreement to the parties or a designated custodian without retaining any copies.
- (d) **Enforcing Confidential Settlements:** If a confidential settlement agreement needs to be enforced:

Draft Model Practice Directions on Court-Connected Mediation

- (i) **Submission for Court Order:** The parties may submit the agreement to the judge for conversion into a court order. To maintain confidentiality, this submission may be reviewed in-camera.
- (ii) **Addressing Non-Compliance:** If a party fails to comply with the confidential settlement agreement, the aggrieved party shall follow the non-compliance procedures outlined in Article 6(3). To protect confidentiality during this process, the judge may use in-camera hearings and seal court records as needed.

Commentary on Article 6

Article 6(1). Formalising the Settlement

Documenting a settlement agreement is crucial for preventing misunderstandings later on. The mediator, with input from both parties, drafts the agreement, clearly outlining the agreed terms. Each party must review the draft carefully and may seek legal advice to fully understand its implications. Signing the agreement signifies their commitment to the terms. If required, submitting the signed agreement to the judge makes it enforceable as a court order. Distributing copies to all parties ensures that everyone has a record of the final terms.

Article 6(2). Court Approval

Court approval provides necessary judicial oversight, confirming that the settlement terms are fair, lawful, and comply with public policy. Parties submit the signed agreement and all relevant documentation to the judge for review. The judge may schedule a hearing if issues arise or clarifications are needed. The judge can approve the agreement, making it enforceable as a court order, or request revisions. Once approved, the settlement agreement becomes binding, and copies are provided to all involved parties.

Article 6(3). Enforcing the Settlement

To enforce a settlement agreement, it must first be converted into a court order. If a party does not comply with the terms, the aggrieved party notifies the non-compliant party and may seek the mediation coordinator's involvement if direct communication does not resolve the issue. If non-compliance continues, the aggrieved party may apply to the court for enforcement. Remedies include specific performance, compensatory damages, and contempt of court. These measures compel adherence to the settlement terms.

Article 6(4). Confidential Settlement Agreements

Draft Model Practice Directions on Court-Connected Mediation

Confidential settlement agreements allow parties to resolve disputes privately while protecting sensitive information. Parties can submit a summary or memorandum of understanding to the judge without revealing detailed terms. Confidentiality clauses within the agreement further protect the privacy of the settlement. An in-camera review by the judge ensures that the agreement complies with legal standards without public disclosure. Enforcing confidential settlements follows standard procedures, but with additional safeguards such as in-camera hearings and sealed records to maintain confidentiality throughout the enforcement process.

Article 7: Returning the Case to Court

1. Unsuccessful Mediation

(a) Criteria for Unsuccessful Mediation

Mediation is considered unsuccessful if any of the following criteria are met:

- (i) **Impassable Deadlock:** The parties reach a point where they cannot agree on key issues despite multiple attempts and reasonable efforts by the mediator.
- (ii) **Lack of Participation:** One or both parties consistently fail to attend scheduled mediation sessions or refuse to engage meaningfully.
- (iii) **Withdrawal from Mediation:** One or both parties formally withdraw from the mediation process, indicating their intention not to continue.
- (iv) **Mediator's Assessment:** The mediator determines that further mediation sessions are unlikely to result in a resolution due to the attitudes or positions of the parties.

(b) Procedures for Terminating the Mediation Process

- (i) **Mediator's Declaration and Notification:** If the mediation is unsuccessful, the mediator shall formally declare the mediation process terminated and notify the court within 3 business days. This notification shall include a brief report on the mediation process and the reasons for its failure, without disclosing any confidential details. The mediator will provide this notification to the judge currently assigned to the case.

Draft Model Practice Directions on Court-Connected Mediation

- (ii) **Record Keeping and Documentation:** The mediator shall document the termination and maintain all related records in the case file. These documents shall remain confidential in accordance with mediation rules.
- (iii) **Returning to Court Proceedings:** Upon receiving the mediator's notification, the judge shall resume the regular process regarding the case. The judge may schedule a hearing to discuss the next steps and set a new timeline for the continuation of the case.

2. Resuming Court Proceedings

Upon the termination of the mediation, the following steps shall be taken to resume court proceedings:

- (a) **Notification and Scheduling:** Once the mediator notifies the court of the unsuccessful mediation, the judge shall issue an order to resume court proceedings within 5 business days. This order will include a timeline for the next steps, including the date for the pre-trial conference.
- (b) **Filing Requirements:** The parties must submit any additional documents or updates necessary to proceed with the case within 10 days of the judge's order. This may include revised pleadings, updated witness lists, or new evidence that has emerged since the initial filing. Confidential discussions or documents from the mediation are excluded from this submission.
- (c) **Pre-Trial Conference:** The judge shall schedule a pre-trial conference within 15 days of the order resuming court proceedings. During this conference, the judge will:
 - (i) Review the issues remaining in the case.
 - (ii) Discuss the possibility of settlement or other forms of alternative dispute resolution.
 - (iii) Establish a trial date or dates for hearings on specific motions.
- (d) **Timelines and Deadlines:** The judge shall set clear deadlines for the remaining pre-trial activities, including:
 - (i) Filing of motions and responses.
 - (ii) Submission of pre-trial briefs and other required documents.

Draft Model Practice Directions on Court-Connected Mediation

- (iii) Scheduling of hearings for pending motions.
- (e) **Trial Preparation:** Both parties shall prepare for trial, adhering to the deadlines and requirements set by the court.
- (f) **Continued Monitoring:** The judge shall monitor the case's progress to ensure adherence to the set timelines and address any issues that may arise promptly.

3. Handling Partial Settlements

When parties reach a partial settlement, the following guidelines shall be followed to address unresolved issues and manage the continuation of proceedings:

(a) Documenting the Partial Settlement:

- (i) The mediator, with input from the parties, shall draft a settlement agreement outlining the resolved issues. This document must be clear and specific, detailing the agreed-upon terms.
- (ii) Each party shall review the draft agreement carefully and may seek legal advice to fully understand the implications of the terms.
- (iii) Once the parties agree on the terms, they shall sign the partial settlement agreement. The mediator may also sign as a witness.

(b) **Submission for Court Approval:** If required, the signed partial settlement agreement shall be submitted to the court for approval, following the procedure in Article 6(2). This submission should occur within 5 business days of the agreement's signing.

(c) Addressing Unresolved Issues:

- (i) Unresolved issues will automatically return to the regular court process for adjudication.
- (ii) The judge may schedule a pre-trial conference within 10 business days to discuss the unresolved issues, set deadlines for further discovery, and establish a timeline for the next steps.

(d) Bifurcating Proceedings:

- (i) If it will expedite the resolution of the case, the judge may bifurcate the proceedings to address resolved and unresolved issues separately. This

Draft Model Practice Directions on Court-Connected Mediation

allows the settled issues to be finalised independently of the ongoing litigation for unresolved matters.

- (ii) The judge shall issue orders to manage the bifurcated proceedings, ensuring the implementation of the partial settlement while continuing with the judicial process for the unresolved issues.

(e) **Continued Monitoring and Compliance:**

- (i) The judge shall monitor the implementation of the partial settlement to ensure compliance with its terms.
- (ii) Any non-compliance with the partial settlement shall be addressed using the procedures outlined in Article 6(3) for enforcing settlement agreements.

- (f) **Finalising the Case:** Once all issues—both resolved and unresolved—have been fully addressed, the judge shall issue final orders or judgments necessary to close the proceedings.

Commentary on Article 7

Article 7(1). Unsuccessful Mediation

Article 7(1)(a) outlines clear criteria for determining when mediation is unsuccessful. Signs such as an impasse, lack of participation, withdrawal, and the mediator’s assessment provide a structured way to evaluate the effectiveness of mediation. These criteria help manage expectations and give all parties a clear understanding of when mediation has failed.

The procedures in Article 7(1)(b) provide a systematic approach to ending mediation when it is deemed unsuccessful. The mediator’s formal declaration serves as an official record, ensuring transparency. A final mediation session can offer closure and clarify the reasons for termination, though its necessity should be carefully considered. Notifying the court promptly allows the judicial process to continue without delay, maintaining the case’s momentum. Detailed records of the mediation process, while maintaining confidentiality, ensure the integrity of the proceedings and provide a reference for any future actions.

Article 7(2). Resuming Court Proceedings

Once mediation is terminated, transitioning back to court proceedings must be smooth and efficient. Immediate notification and the prompt scheduling of court proceedings help establish a clear timeline for the next steps. Updated filing requirements ensure that all necessary documents reflect any new developments. The pre-trial conference plays a crucial

Draft Model Practice Directions on Court-Connected Mediation

role in organizing the remaining issues, exploring settlement possibilities, and planning the next stages of the case. Setting clear deadlines keeps the case on track, ensuring that all parties are prepared. The judge's active monitoring ensures that the case progresses efficiently and that any issues are promptly addressed.

Article 7(3). Handling Partial Settlements

Partial settlements are common and must be managed carefully to ensure that the unresolved issues are addressed effectively. Clear documentation of the partial settlement prevents future disputes and makes the agreement legally binding and enforceable through court approval. Identifying and addressing unresolved issues through regular court proceedings ensures continuity. If necessary, bifurcating proceedings can help manage the case more effectively by separating resolved issues from ongoing litigation. Continued monitoring ensures compliance with the settlement terms. Finalising the case once all issues are resolved provides closure, allowing all parties to move forward.

Article 8: Training and Accreditation

1. Mediator Training and Accreditation

To maintain high standards of mediation services, the following guidelines for mediator training, accreditation, and continuing education are established:

- (a) **Training Programs:** Mediator training programs must cover essential skills and techniques, including active listening, negotiation, conflict resolution, and impartiality. Training should be practical and interactive, using role-playing exercises and case studies to prepare mediators for real-world scenarios. Training programs must have a minimum duration of [X] hours to ensure comprehensive coverage of these topics.
- (b) **Accreditation Processes:** Mediators must complete accredited training programs and demonstrate competence through assessments and practical evaluations. Accreditation bodies shall evaluate mediators' knowledge, skills, and adherence to ethical standards. Accredited mediators must be listed on a publicly accessible register. Accreditation must be renewed every [X] years, with mediators required to demonstrate ongoing competence through periodic reassessment or additional certifications.
- (c) **Continuing Education:** Mediators must participate in continuing education programs to keep their accreditation. These programs should provide updates on mediation practices, legal developments, and advanced mediation techniques. Mediators are required to complete a minimum of 20 continuing

Draft Model Practice Directions on Court-Connected Mediation

education hours annually. Continuing education may include online courses, workshops, conferences, or other approved formats.

- (d) **Specialised Training:** Mediators handling complex or high-stakes cases, such as multi-party disputes or high-value commercial cases, must undergo specialised training. This training should focus on advanced negotiation strategies, managing multiple parties, and understanding the issues relevant to high-stakes disputes. Specialised training must be accompanied by additional certification, and the cases qualifying as “complex or high-stakes” will be defined by [relevant authority].

2. Judicial Training

Training programs for judges and court staff on mediation principles and practices are vital to support the mediation process effectively. These programs shall cover the following key components:

- (a) **Principles of Mediation:** Judges and court staff must understand the foundational principles of mediation, including its purpose, benefits, and methods. Training should emphasise the role of mediation within the judicial system and its relationship to traditional litigation. This knowledge promotes mediation as a viable alternative to litigation.
- (b) **Identifying Suitable Cases:** Training shall include guidelines on identifying cases suitable for mediation. This includes specific criteria or examples, understanding which disputes benefit from mediation, recognising parties’ willingness to participate, and assessing the potential for resolution outside the court.
- (c) **Supporting the Mediation Process:** Judges and court staff must know how to facilitate and support the mediation process, including:
 - (i) **Referral Procedures:** Steps to refer cases to mediation, issuing mediation referral orders, and notifying parties. Judges are primarily responsible for issuing orders, while court staff handle notifications.
 - (ii) **Monitoring Progress:** How to monitor mediation progress without interfering, including reviewing progress reports and addressing non-compliance. Judges should focus on reviewing reports, while court staff manage documentation.

Draft Model Practice Directions on Court-Connected Mediation

- (iii) **Confidentiality Protocols:** Ensuring all mediation communications and documents are kept confidential and understanding the legal protections in place.
- (d) **Practical Skills:** Training shall cover practical skills, such as:
 - (i) **Effective Communication:** Techniques for clear and respectful communication with parties and mediators.
 - (ii) **Conflict Resolution:** Basic strategies to support mediation and address procedural issues.
 - (iii) **Decision-Making:** Criteria for making informed decisions about mediation suitability and managing partial settlements. Judges should be trained in decision-making, while court staff focus on supporting the process.
- (e) **Continuous Education:** Judges and court staff shall engage in continuous education programs to stay updated on mediation practices and laws. Continuous education should occur at regular intervals, with a recommended minimum of [X] hours per year.

Commentary on Article 8

Article 8(1). Mediator Training and Accreditation

Mediator training programs are essential for preparing individuals to conduct effective and impartial mediation sessions. These programs equip mediators with the skills and knowledge needed to guide parties toward mutually agreeable solutions. Key components include understanding mediation principles, mastering communication and conflict resolution techniques, and adhering to ethical standards.

Accreditation serves as a formal verification that mediators meet established competency and professionalism standards. This process involves completing accredited training, gaining practical experience, and passing assessments. Continuing education is also crucial, enabling mediators to stay current with the latest practices and legal developments. Participation in workshops, seminars, and courses allows mediators to maintain and enhance their skills over time.

Specialized training is particularly important for mediators handling complex or high-stakes cases, such as multi-party disputes or high-value commercial cases. This training focuses on advanced negotiation strategies and in-depth understanding of specific legal and commercial

Draft Model Practice Directions on Court-Connected Mediation

issues, ensuring that mediators are fully prepared to navigate the unique challenges these cases present.

Article 8(2). Judicial Training

Training programs for judges and court staff are vital for effectively integrating mediation into the judicial system. These programs educate judges on the foundational principles of mediation, the process of identifying suitable cases, and the procedures for referring cases to mediation. Judges learn to assess factors such as the nature of the dispute and the parties' willingness to participate, which are critical in determining whether a case is appropriate for mediation.

Judicial training also includes practical skills such as effective communication and basic conflict resolution strategies, which are essential for supporting the mediation process without interfering. A strong emphasis is placed on maintaining confidentiality in mediation and understanding the legal protections that safeguard mediation communications and documents.

Continuous education is necessary to keep judges and court staff informed about the latest mediation practices and legal standards. Regular training sessions and updates ensure that they can support the mediation process effectively and adapt to changes in procedures and standards as they evolve.

Article 9: Data Collection and Evaluation

1. Data Collection

Protocols for collecting data on mediation outcomes, participant satisfaction, and process efficiency are essential for evaluating and improving the mediation process. The following guidelines outline the procedures for data collection and measures to protect the privacy and security of the collected data:

(a) Data Collection Protocols:

- (i) **Mediation Outcomes:** Record the resolution status of each case, noting whether an agreement was reached, if there was a partial settlement, or if the mediation was unsuccessful. Document the terms of the settlement when applicable. Data should be collected at key stages: upon completion of mediation and quarterly for ongoing cases.
- (ii) **Participant Satisfaction:** Collect feedback from participants through surveys or interviews. Assess their satisfaction with the mediation process,

Draft Model Practice Directions on Court-Connected Mediation

the mediator's performance, and the overall outcome. Surveys should be conducted immediately after the mediation process to ensure accurate feedback.

- (iii) **Process Efficiency:** Gather data on the duration of mediation sessions, the number of sessions held, and the time to reach a resolution. Monitor any delays or obstacles encountered during the process. Collect data regularly and review it periodically to identify patterns and areas for improvement.

(b) **Privacy and Security Measures:**

- (i) **Data Anonymisation:** Anonymise all personal data collected to protect participants' identities. Remove or code identifying information before analysis.
- (ii) **Secure Storage:** Store all collected data in secure, encrypted databases. Restrict access to authorised personnel only, using strong authentication measures.
- (iii) **Compliance with Data Protection Laws:** Follow relevant data protection laws and regulations. Implement data retention, access, and deletion policies to meet legal standards. Data should be retained for [X] years before deletion, unless otherwise required by law.
- (iv) **Confidentiality Agreements:** All personnel involved in data collection and analysis are required to sign confidentiality agreements. Train staff regularly on data protection practices and policies, with refresher courses held annually.

- (c) **Responsibility for Data Collection:** Designate specific court staff or a data management team to oversee the collection, anonymisation, and secure data storage. This team will also ensure compliance with privacy and security measures. The designated team should conduct periodic reviews of data security practices and compliance with regulations at least annually.

2. **Evaluating and Reporting**

Evaluation and reporting mechanisms are necessary to assess the success of court-connected mediation programmes and implement necessary improvements. The following methods and protocols shall be applied:

(a) **Methods for Evaluation:**

Draft Model Practice Directions on Court-Connected Mediation

- (i) **Regular Reporting:** Collect and analyse data on mediation outcomes, participant satisfaction, and process efficiency. Generate periodic reports quarterly or annually to provide stakeholders with insights into the program's performance.
 - (ii) **Stakeholder Reporting:** Share findings with relevant stakeholders, including judges, court administrators, and mediation coordinators. Highlight successful areas and recommend improvements where needed.
 - (iii) **Performance Metrics:** Develop and use performance metrics to evaluate key aspects of the mediation program, such as resolution rates, participant feedback, and adherence to timelines.
- (b) **Feedback Mechanism:**
- (i) **Anonymous Feedback:** Implement a system for participants to provide anonymous feedback on their mediation experience and the performance of mediators. This feedback will be collected through surveys or online platforms.
 - (ii) **Continuous Improvement:** Use the feedback to identify strengths and areas for improvement. Regularly update mediation practices and training programs based on participant insights and suggestions. Integrate feedback into training updates within [X] months.
 - (iii) **Mediator Performance Evaluations:** Incorporate participant feedback into the performance evaluations of mediators. Use this data to recognise exemplary mediators and provide additional training or support where needed. Mediator evaluations should be conducted annually, with feedback incorporated into the next cycle of training or support.
- (c) **Recommendations for Improvement:**
- (i) **Data-Driven Insights:** Use data collected from evaluations and feedback to make informed recommendations for enhancing the mediation program. Focus on increasing efficiency, satisfaction, and resolution rates.
 - (ii) **Action Plans:** Develop action plans based on recommendations. Set clear goals and timelines for implementing changes and monitor progress regularly. Designate a responsible team or individual for developing and monitoring these action plans, with a review of progress every [X] months.

Draft Model Practice Directions on Court-Connected Mediation

Commentary on Article 9

Article 9(1). Data Collection

Establishing clear protocols for data collection is essential for continuously improving the mediation process. Article 9(1) outlines procedures for recording resolution status, gathering participant feedback, and tracking process efficiency, providing a comprehensive view of mediation effectiveness. Protecting participant identities through data anonymisation, secure storage, and strict adherence to data protection laws is paramount. Confidentiality agreements and regular staff training further ensure that data is handled securely. Designated court staff or a data management team oversee the collection, anonymisation, and secure storage of data, ensuring all protocols are followed.

Article 9(2). Evaluating and Reporting

Evaluation and reporting are crucial for assessing the effectiveness of court-connected mediation programs and guiding improvements. Article 9(2) outlines methods for regular reporting and the use of performance metrics to analyse mediation outcomes, participant satisfaction, and process efficiency. These insights help identify strengths and areas for improvement in the program. Collecting anonymous participant feedback is key to understanding the mediation process's strengths and weaknesses, informing updates to practices, training programs, and mediator performance evaluations. Data-driven insights are used to develop action plans with clear goals and timelines, which are regularly monitored to ensure progress.

Article 10: Miscellaneous Provisions

1. Costs and Fees

The following provisions apply to the allocation of mediation costs and fees to promote fair access to mediation services:

(a) Allocation of Costs:

- (i) Mediation costs are generally shared equally between the parties unless they agree otherwise, or the court orders a different arrangement. Parties may agree to an alternative cost-sharing arrangement by submitting a written agreement to the court or mediator before the mediation begins.
- (ii) Costs include the mediator's fees, administrative expenses, and other expenses related to the mediation sessions.

Draft Model Practice Directions on Court-Connected Mediation

(b) **Fee Waivers and Reductions:**

- (i) Parties facing financial hardship may apply for a fee waiver or reduction. Applications must include evidence of financial need.
- (ii) The court or designated authority will review and decide on these applications based on the evidence provided. Decisions should be made within [X] days of receiving the application.

(c) **Application Process for Fee Waivers:**

- (i) Requests for fee waivers or reductions shall be submitted to the court or designated authority at least [X] days before the scheduled mediation begins.
- (ii) Applicants must provide relevant financial documents to support their request.

(d) **Decision and Notification:**

- (i) The court or designated authority will promptly review and decide on fee waiver applications. Reviews should be completed within [X] days of application submission.
- (ii) Applicants will be notified in writing of the decision, including details of any granted waivers or reductions.

(e) **Payment Procedures:**

- (i) Parties are responsible for paying their portion of the mediation costs as determined.
- (ii) Payments should follow the schedule set by the court or mediator. In cases of financial difficulty, parties may request an adjustment to the payment schedule.

2. **Accessibility and Inclusivity**

The mediation process must accommodate all parties, including those with disabilities or language barriers. The following measures apply:

- (a) **Interpreters:** Provide interpreters for parties not speaking the primary language used in mediation. Requests for interpreters should be made at least [X] days before the scheduled mediation session to ensure availability.

Draft Model Practice Directions on Court-Connected Mediation

- (b) **Physical Access:** Mediation venues must be accessible to individuals with mobility issues, including wheelchair access, appropriate seating, and accessible restrooms. Venues must comply with [specific accessibility standards/guidelines] to ensure full accessibility.
- (c) **Additional Support:**
 - (i) Offer assistive listening devices for the hard of hearing and materials in Braille or large print for the visually impaired. Parties should request these accommodations at least [X] days in advance of the mediation.
 - (ii) Facilitate remote participation through video conferencing for those unable to attend in person due to physical limitations.
- (d) **Pre-Mediation Communication:** Engage with all parties at least [X] days before the mediation to identify any specific needs or accommodations required.
- (e) **Mediator Training:** Provide mandatory training for mediators on handling cases involving parties with disabilities or language barriers. This training should be updated regularly to reflect current best practices.

3. Cultural Sensitivity and Competence

Mediators must be aware of and respect all parties' cultural backgrounds and practices. To promote cultural competence, the following measures apply:

- (a) **Training for Mediators:** Mandatory training on cultural awareness and sensitivity, focusing on different norms, communication styles, and conflict resolution practices. Training should be completed as part of the initial accreditation process and updated regularly.
- (b) **Ongoing Education:** Regular workshops and seminars will keep mediators updated on cultural issues and deepen their understanding of diversity. Mediators are required to attend these workshops at least [X] times per year to maintain their accreditation.
- (c) **Resource Materials:** Provide mediators with resource materials and access to cultural advisors to address specific cultural issues that may arise during mediation. Mediators should be informed of how to access these resources and whom to contact for cultural advice.

Draft Model Practice Directions on Court-Connected Mediation

- (d) **Respectful Communication:** Emphasise the importance of respectful and non-judgemental communication. Mediators should adapt their approach to suit the cultural contexts of the parties. This approach should be integrated into mediator training programs and reinforced through ongoing education.
- (e) **Inclusive Environment:** Create an environment where all participants feel their cultural identity is acknowledged and respected. Mediators and court staff should actively encourage inclusivity by being aware of cultural cues and accommodating cultural needs as they arise during mediation sessions.

4. Legal Representation and Advisers

The following guidelines clarify the participation and extent of involvement of legal representatives and advisers in the mediation:

- (a) **Participation:** Legal representatives and advisers may attend mediation sessions to support and advise their clients. Their participation should be agreed upon by the parties or approved by the mediator to ensure a smooth process.
- (b) **Advisory Role:** During mediation, legal representatives and advisers shall focus on advising their clients on legal matters, including the feasibility of proposed solutions and potential legal consequences. They should avoid influencing the mediator's impartiality or the parties' autonomy in decision-making.
- (c) **Active Involvement:** Legal representatives and advisers can participate in discussions but should not dominate the mediation process. The primary dialogue should occur between the parties, with the mediator facilitating. The mediator shall manage the involvement of legal representatives to ensure balanced participation.
- (d) **Confidentiality:** Legal representatives and advisers must adhere to the same confidentiality rules as the parties and the mediator. They shall not disclose any information shared during mediation without explicit consent. Breaches of confidentiality may result in legal or professional consequences.
- (e) **Preparation:** Legal representatives and advisers should help clients prepare for mediation by explaining the process, discussing potential outcomes, and advising on negotiation strategies. They should also prepare clients for the potential emotional aspects of mediation.
- (f) **Post-Mediation:** Legal representatives and advisers should assist their clients in reviewing and understanding the terms of any settlement agreements after mediation sessions. They can also help with drafting and finalising these

Draft Model Practice Directions on Court-Connected Mediation

documents to make them legally binding. They should advise clients on the implications of non-compliance with the settlement agreement.

5. Interim Measures During Mediation

During mediation, interim measures may be necessary to protect the parties' interests and maintain fairness. The following guidelines outline the procedures for requesting and implementing interim measures:

- (a) **Request for Interim Measures:** Either party may request interim measures to preserve their interests or maintain the status quo during mediation. Requests should be made in writing to the mediator as soon as the need for such measures becomes apparent, and preferably at least [X] days before the next scheduled mediation session to allow for timely consideration.
- (b) **Types of Interim Measures:** Interim measures can include orders to maintain current conditions, prevent asset transfers, or avoid actions that could undermine the mediation process.
- (c) **Mediator's Role:** The mediator will assess the request and facilitate a discussion between the parties to agree on the proposed measures. The mediator may recommend specific measures but cannot impose them without the parties' consent.
- (d) **Court Involvement:** If the parties cannot agree on interim measures or if the measures require legal authority, the mediator may refer the matter to the court. The court can then issue appropriate orders. If parties cannot agree on interim measures, the mediator may refer the matter directly to the court for an expedited ruling.
- (e) **Duration of Interim Measures:** Interim measures are temporary and will remain in effect until the mediation concludes or the court issues a final decision. If circumstances change, parties may request a review or adjustment of the measures.
- (f) **Compliance and Enforcement:** Parties must comply with any agreed-upon or court-ordered interim measures. Non-compliance may result in legal consequences, including contempt of court.
- (g) **Documentation:** Any agreed-upon or court-ordered interim measures shall be documented in writing. Copies should be provided to all parties and filed with the court if applicable. Documentation should include the rationale for the measures and any conditions attached to them.

6. Amendments

The steps apply to the amendment of these practice directions:

- (a) **Initiation:** Proposed amendments can be initiated by judges, court officials, mediators, or other stakeholders involved in the mediation process. Proposals should be submitted in writing to the office of the chief judge, using the prescribed format or template.
- (b) **Consultation:** Within 14 days of receipt, the office of the chief judge shall circulate the proposed amendments to all relevant stakeholders for review and input. This includes judges, court staff, mediators, legal representatives, and parties who regularly engage in the mediation process. Notification will be sent via email and posted on the court's official website.
- (c) **Feedback Collection:** Stakeholders have 30 days to provide feedback on the proposed changes. Feedback should be submitted in the specified format, either through written reports or online forms. This feedback is collected and reviewed by the office of the chief judge to assess the impact and practicality of the amendments.
- (d) **Review and Revision:** Based on the feedback, the proposed amendments are reviewed and revised as necessary by the office of the chief judge and a review committee. This may involve multiple rounds of consultation to refine the changes, with each round not exceeding 14 days. The process will be limited to a maximum of three rounds of consultation to ensure timely finalisation.
- (e) **Approval:** The final version of the proposed amendments is submitted to the chief judge for approval. Approval should be granted or denied within 30 days of submission.
- (f) **Implementation:** Once approved, the amendments shall be formally incorporated into these practice directions within 14 days. The updated practice directions are then distributed to all relevant parties and publicly available on the court's official website. The chief registrar will oversee the updating of public documents and the website to ensure consistency.
- (g) **Communication:** The office of the chief judge shall inform stakeholders of the amendments, their effective date, and any transitional provisions that may apply within 7 days of approval. This communication will be disseminated through email, public announcements, and postings on the court's official website.

Draft Model Practice Directions on Court-Connected Mediation

Commentary on Article 10

Article 10(1). Costs and Fees

Mediation costs should be allocated fairly to ensure that all parties can access mediation services. Typically, costs are shared equally between the parties unless they agree otherwise or the court orders a different arrangement. These costs include the mediator's fees and any administrative expenses. For parties facing financial hardship, fee waivers or reductions are available upon request. To apply, parties must submit supporting financial documents before the mediation begins. The court or designated authority will review these requests promptly, and decisions will be communicated in writing. Each party is then responsible for paying their portion of the costs as determined.

Article 10(2). Accessibility and Inclusivity

The mediation process must be accessible to all, including individuals with disabilities or language barriers. Interpreters should be provided for non-native speakers, and mediation venues must be physically accessible, with facilities such as wheelchair access and suitable seating. Additional support, such as assistive listening devices and materials in Braille or large print, should be available. Remote participation through video conferencing should be facilitated for those unable to attend in person. Pre-mediation communication helps identify specific needs, and mediators should receive training on handling cases involving disabilities or language barriers to foster an inclusive environment.

Article 10(3). Cultural Sensitivity and Competence

Cultural sensitivity is crucial in mediation. Mediators should undergo training to develop cultural awareness, including understanding different norms, communication styles, and conflict resolution practices. Ongoing education, through regular workshops and seminars, helps mediators stay informed about cultural issues. Mediators should also have access to resource materials and cultural advisors to address specific cultural concerns that may arise during mediation. Emphasizing respectful communication and adapting mediation approaches to fit the cultural contexts of the parties ensures an inclusive and effective process.

Article 10(4). Legal Representation and Advisers

Legal representatives and advisers play a supportive role during mediation. They may attend mediation sessions to provide legal advice and support to their clients. While they can participate in discussions, the primary dialogue should occur between the parties, with the mediator facilitating the conversation. Legal representatives and advisers must adhere to the same confidentiality rules as the parties and the mediator. They are also responsible for preparing their clients by explaining the mediation process, discussing potential outcomes,

Draft Model Practice Directions on Court-Connected Mediation

and advising on negotiation strategies. After mediation, they assist in reviewing, understanding, and finalizing any settlement agreements to ensure they are legally binding.

Article 10(5). Interim Measures During Mediation

Interim measures may be necessary during mediation to protect the interests of the parties and ensure fairness. Either party can request interim measures in writing to the mediator. Such measures can include orders to maintain the status quo, prevent asset transfers, or take other actions that support the mediation process. The mediator will assess the request and facilitate a discussion between the parties to reach an agreement on the measures. If the parties cannot agree or if the measures require legal authority, the mediator may refer the matter to the court. Interim measures are temporary and remain in effect until the mediation concludes or the court issues a final decision. Compliance with interim measures is mandatory, and all agreed or court-ordered measures should be documented in writing.

Article 10(6). Amendments

The process for amending these practice directions is structured to incorporate feedback from all relevant stakeholders and ensure the directions remain current and effective. Amendments can be initiated by judges, court officials, mediators, or other stakeholders involved in the mediation process. Proposals must be submitted in writing to the office of the chief judge. Within 14 days of receipt, the proposed amendments are circulated to relevant stakeholders for review and input. Stakeholders have 30 days to provide feedback, which is then reviewed by the office of the chief judge. Based on this feedback, the proposed amendments are revised and refined. The final version is submitted to the chief judge for approval, which should be granted or denied within 30 days. Once approved, amendments are formally incorporated into the practice directions within 14 days and communicated to all relevant parties. This process ensures that any updates to the practice directions are transparent, inclusive, and implemented efficiently.

Article 11: Implementation and Review

1. Implementation Plan

To implement these practice directions effectively, a comprehensive plan with clear timelines, resource allocation, and stakeholder engagement is required. This plan will promote mediation within the judiciary and legal community through education, awareness campaigns, and recognition of successful mediations and mediators. It comprises the following components:

(a) Timelines and Milestones

Draft Model Practice Directions on Court-Connected Mediation

The implementation plan shall specify timelines for each phase. Key milestones include:

- (i) **Initial Training:** The chief judge's office, in collaboration with accredited training providers, shall conduct training sessions for judges, court staff, and mediators within the first three months of adopting these practice directions.
- (ii) **Stakeholder Engagement:** The chief judge's office shall hold meetings with legal representatives, mediation coordinators, and relevant parties to discuss the new practice directions and their implications within the first month of adoption.
- (iii) **Public Awareness:** The court administration shall launch campaigns to highlight the benefits and processes of mediation within the first two months of adoption.
- (iv) **Continuous Monitoring:** The chief judge's office shall establish regular reviews and updates starting six months after implementation. If necessary, timelines may be adjusted based on progress and feedback to accommodate any unforeseen challenges.

(b) Resource Allocation

Proper resources must be allocated to support the implementation of the practice directions. This includes:

- (i) **Budget:** The court administration shall allocate funds for training, awareness campaigns, and other activities. Resource needs will be assessed regularly, and any shortfalls will be addressed promptly to ensure continuous support.
- (ii) **Personnel:** The chief judge shall assign specific court staff and mediators to oversee the process and provide support.
- (iii) **Materials:** The court administration shall develop and distribute educational materials, guidelines, and resource kits to all stakeholders.

(c) Stakeholder Engagement

Engaging stakeholders is essential for success. Steps include:

- (i) **Consultation:** The chief judge's office shall involve judges, court staff, mediators, legal representatives, and parties who regularly engage in mediation in the development and review of the implementation plan.

Draft Model Practice Directions on Court-Connected Mediation

- (ii) **Feedback Mechanism:** The chief registrar shall establish channels for stakeholders to provide feedback on the practice directions and the implementation process. Feedback will be collected through methods such as surveys, focus groups, and online platforms to ensure systematic input.
- (iii) **Regular Updates:** The chief judge's office shall provide updates to stakeholders on the progress and any adjustments made based on feedback.

(d) Promoting a Mediation Culture

To promote a mediation-friendly culture within the judiciary and legal community, the following initiatives will be undertaken:

- (i) **Ongoing Education:** The chief judge's office shall offer continuous training programs and workshops for judges, mediators, and legal representatives.
- (ii) **Awareness Campaigns:** The court administration shall conduct campaigns to raise awareness about the benefits of mediation.
- (iii) **Recognition:** The chief judge's office shall recognise and celebrate successful mediations and exemplary mediators through awards and public acknowledgements. Success stories and case studies will be identified through regular consultation with mediators and court staff, and shared via court publications and events to illustrate the positive impact of mediation.

(e) Monitoring and Evaluation

Regular monitoring and evaluation will track the progress of implementation and identify areas for improvement. This includes:

- (i) **Periodic Reviews:** The chief judge's office shall schedule periodic reviews to assess the effectiveness of the practice directions and the implementation process.
- (ii) **Data Collection:** The court administration shall gather data on mediation outcomes, participant satisfaction, and process efficiency.
- (iii) **Reporting:** The court administration shall generate regular reports to provide insights into the performance of the mediation program and share these with stakeholders. Any identified gaps or challenges will be addressed promptly to ensure the continuous improvement of the mediation program.

Draft Model Practice Directions on Court-Connected Mediation

2. Review Mechanism

To maintain the effectiveness and relevance of the practice directions, a structured review mechanism is established. The following guidelines outline the review process:

- (a) **Regular Evaluations:** The office of the chief judge shall schedule evaluations of the practice directions every two years to assess their effectiveness and identify areas for improvement. Additional reviews may be conducted if significant changes in the mediation landscape arise before the scheduled evaluation.
- (b) **Feedback Collection:** Feedback will be obtained from participants in the mediation process through surveys, interviews, and focus groups. Mediation coordinators will develop a standardised feedback form to capture insights on mediator performance, process fairness, and overall satisfaction. Feedback will be anonymised to encourage candid responses, and the collection process will be completed within [X] weeks following each evaluation period.
- (c) **Report Compilation:** The office of the chief judge, in collaboration with the review committee, will compile the feedback and other evaluation data into comprehensive reports. These reports will highlight key findings, identify areas for improvement, and recommend specific changes to the practice directions. The report compilation process should be completed within [X] weeks after the feedback collection period ends.
- (d) **Independent Review:** An independent review process will be included as part of the periodic evaluations to provide an unbiased assessment of the mediation programme's effectiveness. External reviewers with expertise in mediation and judicial processes will be engaged to conduct this independent assessment. Independent reviews will be conducted at each regular evaluation and integrated into the final report.
- (e) **Action Plan:** Based on the evaluation reports, an action plan will be developed to implement recommended improvements. The chief judge's office will assign responsibilities for each action item to relevant stakeholders and establish timelines for completion. A follow-up mechanism will be established to monitor the implementation of the action plan and make adjustments as necessary.

3. Public Reporting and Transparency

To promote transparency in the mediation program, the following measures shall be implemented:

Draft Model Practice Directions on Court-Connected Mediation

- (a) **Periodic Reports:** The chief judge or their appointee shall publish bi-annual reports on the performance of the mediation program. These reports will include aggregate data on outcomes, success rates, and areas identified for improvement. These reports will focus on key metrics and emerging issues, providing a streamlined overview of the program's performance.
- (b) **Data Inclusion:** The reports will present comprehensive data on the mediation program, covering aspects such as the number of cases mediated, the percentage of successful mediations, and common challenges faced during the process. Data will be presented in a clear and accessible format, with summaries and visual aids where appropriate.
- (c) **Confidentiality:** While providing transparency, the reports will maintain the confidentiality of individual cases. No personal or sensitive information about the parties involved in mediation will be disclosed. Data will be anonymised to ensure that no identifying details are included in the reports.
- (d) **Public Access:** The chief judge or their appointee shall make the published reports available to the public through the court's official website and other appropriate channels to ensure broad accessibility. Reports will also be made available through public libraries, legal forums, and other relevant channels to reach a wider audience.
- (e) **Stakeholder Engagement:** The chief judge or their appointee will engage stakeholders, including judges, court staff, mediators, and legal representatives, in the review of these reports to gather feedback and improve the mediation program continuously. Stakeholder feedback will be incorporated into the reports to ensure continuous improvement of the mediation program.
- (f) **Annual Summary:** At the end of each year, the chief judge or their appointee will compile an annual summary of the mediation program's performance, highlighting key achievements, trends, and recommendations for the future. This summary will build on the bi-annual reports, providing a comprehensive review of the year's performance. The annual summary will be published within [X] weeks of the year's end to ensure timely reflection on the program's performance.

4. Legal Framework and Compliance

To ensure that the practice directions align with existing legal frameworks and comply with relevant national and international laws and standards related to mediation and dispute resolution, the following measures shall be taken:

Draft Model Practice Directions on Court-Connected Mediation

- (a) **Alignment with National Laws:** The practice directions shall be reviewed and updated biennially or whenever significant changes in national laws occur.
- (b) **Compliance with International Standards:** The practice directions shall adhere to international standards and best practices in mediation. Relevant treaties, conventions, and model laws, such as the UNCITRAL Model Law on International Commercial Mediation, will guide compliance.
- (c) **Legal Review:** The chief judge or their appointee will conduct a legal review biennially and as needed following significant legal changes. This review ensures that the practice directions remain legally compliant. Routine reviews may be handled internally, with external legal experts consulted only for complex or significant changes.
- (d) **Consultation with Legal Experts:** The chief judge will consult with legal experts in mediation and dispute resolution as necessary to incorporate their insights and recommendations, particularly during significant reviews or updates.
- (e) **Trigger-Based Monitoring:** The chief judge or their appointee will monitor legal developments as needed, triggered by significant events such as the publication of new laws, important judicial rulings, or updates to relevant international standards.

Commentary on Article 11

Article 11(1). Implementation Plan

The implementation plan in Article 11(1) is structured to facilitate a smooth and efficient rollout of the practice directions. The plan prioritises initial training within the first three months to ensure that judges, court staff, and mediators are fully prepared to adopt the new guidelines. Stakeholder engagement meetings, scheduled within the first month, are essential for discussing the implications of these practice directions and collecting early feedback. Public awareness campaigns, launched within the first two months, aim to inform the broader community about the benefits of mediation, fostering a supportive environment for its use. Continuous monitoring, starting six months after implementation, allows for real-time adjustments based on feedback and practical experiences. Adequate resource allocation, including budget and personnel, is vital to support these activities, ensuring that the infrastructure and necessary support systems are in place to promote the success of the practice directions.

Article 11(2). Review Mechanism

Draft Model Practice Directions on Court-Connected Mediation

Article 11(2) introduces a structured review mechanism to keep the practice directions effective and relevant. Regular evaluations, conducted every two years, assess what is working well and identify areas needing improvement. Feedback is collected from participants in the mediation process through surveys, interviews, and focus groups, providing detailed insights into the practical application of the practice directions. The review committee, in collaboration with the office of the chief judge, compiles this feedback into comprehensive reports. These reports form the basis for recommending necessary changes. The inclusion of an independent review process, involving external experts, ensures that the evaluations are unbiased and thorough. The action plan developed from these evaluations assigns clear responsibilities and timelines, ensuring that improvements are implemented promptly and effectively.

Article 11(3). Public Reporting and Transparency

Transparency is crucial for building trust in the mediation program, as highlighted in Article 11(3). The regular publication of reports provides stakeholders and the public with clear insights into the program's performance, including aggregate data on outcomes and areas for improvement. These reports are designed to maintain the confidentiality of individual cases while offering a transparent view of the program's effectiveness. Public access to these reports, through the court's website and other channels, ensures broad dissemination of information. Engaging stakeholders in the review process enhances the quality of the reports by incorporating valuable feedback. An annual summary consolidates the year's achievements, trends, and recommendations, providing a comprehensive overview that guides future improvements.

Article 11(4). Legal Framework and Compliance

Article 11(4) ensures that the practice directions are aligned with national laws and international standards. The approach has been refined to adopt a trigger-based monitoring system, where legal developments are reviewed as they occur rather than through constant monitoring. Regular biennial reviews ensure that the practice directions remain consistent with national statutes and judicial precedents, with additional updates made when significant legal changes arise. Adherence to international best practices maintains the credibility and effectiveness of the mediation process. Legal reviews are conducted biennially or as needed, with input from legal experts when necessary. This approach ensures that the practice directions are both robust and flexible, able to adapt to legal changes without unnecessary burden.

Mediation Referral Order Template

In the High Court of [Jurisdiction]
In the [Division] Judicial Division
Holden at [Place]

Suit No: [Case Number]

Between: [Parties]

Referral to Mediation

Parties:

1. Plaintiff: [Plaintiff's Name]
2. Defendant: [Defendant's Name]

Order:

The court has determined that the above-mentioned case is suitable for mediation. The following details outline the mediation process and the responsibilities of the parties involved.

1. Scope of Mediation:

The mediation shall address the following issues:

- [Issue 1]
- [Issue 2]
- [Issue 3]

2. Deadlines and Timelines:

- **Commencement of Mediation:** The mediation process shall begin no later than [number] days from the date of this order.
- **Completion of Mediation:** The mediation shall be concluded within [number] days from the commencement date, unless extended by mutual agreement of the parties or by court order.

Draft Model Practice Directions on Court-Connected Mediation

- **Progress Reports:** The mediator shall submit progress reports to the court every [number] weeks, providing a general overview of the mediation's status without disclosing substantive details.

3. Confidentiality:

All communications, discussions, negotiations, and documents exchanged during the mediation process are strictly confidential. Parties, mediators, and legal representatives must adhere to the confidentiality rules outlined in the mediation agreement and relevant laws. Any breach of confidentiality may result in sanctions.

All parties must sign a confidentiality agreement before the first mediation session. Any breach of this agreement will be treated as contempt of court and may result in penalties, including fines or adverse inferences in subsequent court proceedings.

4. Responsibilities of the Parties:

- **Preparation:** Parties must adequately prepare for mediation sessions by gathering and reviewing all relevant documents and information.
- **Attendance:** All parties and their legal representatives, if any, are required to attend all scheduled mediation sessions.
- **Participation:** Parties must actively participate in the mediation process with a commitment to engage in good faith negotiations and a willingness to explore mutually acceptable solutions.

5. Selection of Mediator:

- **Mediator Appointment:** The referring judge has appointed [Name of Mediator] from the court's pre-approved list to mediate this case, considering the specific needs and nature of the dispute. Any objections to the mediator's appointment must be submitted in writing within 3 days of this order and must be based on substantial grounds, such as clear conflicts of interest or demonstrated bias. Frivolous or tactical objections will be dismissed by the court.
- **Impartiality:** The mediator must be impartial, disclose any potential conflicts of interest immediately, and ensure no bias or partiality during the mediation process.

6. Conflicts of Interest:

Draft Model Practice Directions on Court-Connected Mediation

The mediator must promptly disclose any actual or potential conflicts of interest to the parties and the court. If a conflict of interest is identified, an alternative mediator may be appointed by the court to ensure impartiality.

7. Interim Measures:

Parties may request interim measures to safeguard their interests or maintain the status quo during the mediation process. Such requests must be submitted in writing to the mediator at least [X] days before the next scheduled session or as soon as the need arises.

The mediator shall report on the implementation and compliance with any interim measures in the regular progress reports to the court. Non-compliance with interim measures will be reported immediately and may result in enforcement actions or sanctions.

8. Costs:

Mediation costs shall be equally shared between the parties unless otherwise agreed in writing or ordered by the court. Any disputes regarding cost allocation will be resolved by the court.

9. Enforcement of Deadlines:

Extensions of deadlines will only be granted in exceptional circumstances, with a clear justification. Any attempts to misuse this provision may result in sanctions, including the court imposing costs on the requesting party. The mediator or mediation coordinator is responsible for reporting any concerns regarding potential misuse or non-compliance with this provision to the judge overseeing the case. The judge will then determine the appropriateness of sanctions based on the information provided.

10. Final Agreement:

Any settlement agreement reached through mediation shall be documented in writing, signed by the parties, and submitted to the court for approval if required.

11. Non-Compliance:

In cases of non-compliance with this order or any agreement reached during mediation, the affected party may apply to the court for enforcement. The court may impose sanctions or other appropriate remedies to ensure compliance.

Judge's Signature: _____

Draft Model Practice Directions on Court-Connected Mediation

Judge's Name: [Name of the Judge]

Date: [Date]

Contact Information for Mediation Coordinator:

Name: [Name of Mediation Coordinator]

Phone: [Phone Number]

Email: [Email Address]

Please review and adjust this template as necessary to meet your specific requirements.

DRAFT

Mediation Progress Report Template

This report is strictly confidential and intended solely for the use of the court and relevant parties directly involved in this mediation. Any dissemination, distribution, or copying of this report or its contents is prohibited without prior consent from all parties.

1. Case Information:

- Case Number: [Case Number]
- Plaintiff(s): [Plaintiff's Name(s)]
- Defendant(s): [Defendant's Name(s)]
- Mediator: [Mediator's Name]
- Mediation Coordinator: [Coordinator's Name]

2. Mediation Sessions Held:

- Number of Sessions: [Number of Sessions]
- Dates of Sessions: [Dates of Sessions]
- Total Duration: [Total Hours] hours

3. Progress Overview:

Summary of Issues Discussed:

- Issue 1: [Brief Description]
- Issue 2: [Brief Description]
- Issue 3: [Brief Description]

Agreements Reached:

- Agreement 1: [Brief Description]
- Agreement 2: [Brief Description]

Remaining Issues:

Issue 1: [Brief Description]

- Likelihood of Resolution: [High/Moderate/Low]
- Need for Judicial Intervention: [Yes/No/To be Determined]

4. Participant Engagement:

Draft Model Practice Directions on Court-Connected Mediation

Plaintiff's Participation:

- Attendance: [Yes/No]
- Engagement Level: [High/Moderate/Low]
- Remarks: [Any specific comments]

Defendant's Participation:

- Attendance: [Yes/No]
- Engagement Level: [High/Moderate/Low]
- Remarks: [Any specific comments]

Overall Attendance Summary:

- Plaintiff: [Number of Sessions Attended / Total Sessions]
- Defendant: [Number of Sessions Attended / Total Sessions]

5. Challenges Encountered:

Delays or Obstacles:

- Description: [Brief Description]
- Impact on Mediation: [Brief Description]

Procedural Issues:

- Description: [Brief Description]
- Steps Taken to Resolve: [Brief Description]
- Escalation Required: [Yes/No/To be Considered]

6. Next Steps:

Upcoming Sessions:

- Scheduled Dates: [Dates of Next Sessions]
- Planned Agenda: [Topics for Next Sessions]

Actions Required from Parties:

- Plaintiff: [Specific Actions]
- Defendant: [Specific Actions]

Draft Model Practice Directions on Court-Connected Mediation

7. Interim Measures Status:

- Measures Implemented: [List any interim measures in place]
- Parties Required to Comply:
 - o Plaintiff: [Yes/No]
 - o Defendant: [Yes/No]
- Compliance Status:
 - o Plaintiff: [Compliant/Non-Compliant/Partial]
 - o Defendant: [Compliant/Non-Compliant/Partial]
- Impact on Mediation: [Brief description of how the interim measures are affecting the mediation process, if applicable].

8. Mediator's Assessment:

- Overall Progress: [Brief Summary]
- Likelihood of Settlement: [High/Moderate/Low]
- Barriers to Settlement: [If any, briefly describe potential concerns or obstacles]
- Additional Comments: [Any additional remarks, including extraordinary circumstances or potential concerns that may require court attention]

9. Mediation Coordinator's Feedback (Optional):

- Overview of Involvement: [Brief description of involvement]
- Comments on Process and Progress: [Any insights or observations]

Mediator's Signature: _____

Mediator's Name: [Name of the Mediator]

Date: [Date]

Contact Information for Mediation Coordinator:

Name: [Name of Mediation Coordinator]

Phone: [Phone Number]

Please review and adjust this template as necessary to meet your specific requirements.

Mediation Feedback Form Template

1. Participant Role in the Mediation:

- Plaintiff
- Defendant
- Legal Representative

2. Demographics

Age Group:

- Under 18
- 18-29
- 30-39
- 40-49
- 50-59
- 60+

Gender:

- Male
- Female
- Prefer not to say

Representation Status:

- Self-Represented
- Represented by Legal Counsel
- Other: [Specify]

3. Subject matter of the Dispute

- Family Dispute
- Commercial/Business Dispute
- Land Dispute
- Personal Injury Claim
- Other Civil Dispute (please specify): [Text Field]

4. Mediation Experience:

a. Mediation Process:

1. How would you rate your overall experience with the mediation process?

Draft Model Practice Directions on Court-Connected Mediation

- Excellent
- Good
- Satisfactory
- Poor

2. How clear were the instructions and information provided about the mediation process?

- Very Clear
- Clear
- Somewhat Clear
- Not Clear

b. Mediation Environment:

1. How would you rate the physical or virtual environment where the mediation took place?

- Excellent
- Good
- Satisfactory
- Poor

What did you like or dislike about the environment? [Open text]

2. How accessible and comfortable was the mediation setting?

- Very Accessible/Comfortable
- Accessible/Comfortable
- A little Accessible/Comfortable
- Not Accessible/Comfortable

Please describe the accessibility issues you encountered (if any): [Open text]

3. Did you feel that the confidentiality of the setting was maintained?

- Yes
- No
- Partially

c. Mediator Performance:

1. How would you rate the mediator's ability to facilitate discussions?

Draft Model Practice Directions on Court-Connected Mediation

- Excellent
- Good
- Satisfactory
- Poor

2. How impartial was the mediator during the sessions?

- Very Impartial
- Impartial
- Somewhat Impartial
- Not Impartial

3. How effective was the mediator in helping the parties explore options and negotiate?

- Very Effective
- Effective
- Somewhat Effective
- Not Effective

d. Participant Engagement:

1. How engaged were you in the mediation sessions?

- Very Engaged
- Engaged
- Only engaged a little
- Not Engaged

2. How would you rate the participation and cooperation of the other party?

- Excellent
- Good
- Satisfactory
- Poor

e. Technical Issues in Virtual Mediation (if applicable):

1. How easy was it to use the video conferencing platform?

- Very Easy
- Easy

Draft Model Practice Directions on Court-Connected Mediation

- A little Difficult
- Difficult

2. Did you experience any technical issues during the mediation sessions?

- No Issues
- Small Issues
- Some Issues
- Big Issues

Please describe the technical issues you encountered (if any): [Open text]

3. Did technical issues impact the mediation process?

- Not at All
- A Little
- Moderately
- A Lot

3. **Outcomes and Satisfaction:**

1. Were you able to reach a settlement agreement?

- Yes
- Partial Agreement
- No

2. How satisfied are you with the outcome of the mediation?

- Very Satisfied
- Satisfied
- Somewhat Satisfied
- Not Satisfied

4. **Evaluation of Support Services:**

1. If you used any support services (e.g., interpreters, accessibility aids), how would you rate their effectiveness?

- Excellent
- Good
- Satisfactory

Draft Model Practice Directions on Court-Connected Mediation

Poor

2. Were there any additional support services that you felt were needed?

Yes (Please Specify)

No

5. Impact on Future Disputes:

1. Based on your experience, would you be willing to use mediation again for future disputes?

Yes

No

Maybe

2. Would you recommend mediation to others?

Yes

No

Maybe

6. Areas for Improvement:

1. What aspects of the mediation process do you think could be improved? (Please provide specific suggestions)

[Open Text Field]

2. Were there any challenges or obstacles you faced during the mediation? (Please describe)

[Open Text Field]

7. Additional Comments:

Do you have any additional comments or feedback about your mediation experience?

[Open Text Field]

Thank you for providing your feedback. Your input helps us improve our mediation services.

Draft Model Practice Directions on Court-Connected Mediation

Confidentiality Notice: Your responses will be kept confidential and used only for evaluating and improving the mediation process. All data will be anonymised in any reports or analyses.

Please review and adjust this template as necessary to meet your specific requirements.

DRAFT

Draft Model Practice Directions on Court-Connected Mediation

Mediation Agreement Template

This Mediation Agreement ("Agreement") is made and entered into on this [Date] day of [Month], [Year], by and between:

A. Parties to the Mediation:

- [Name of Party 1]
- [Name of Party 2]
- [Additional Parties, if any]

B. Mediator:

- [Name of Mediator]

C. Other Personnel:

- [Names of Court Staff or Other Involved Personnel]

1. Purpose

The purpose of this Agreement is to establish the terms under which the parties agree to participate in mediation and to protect the confidentiality of all communications, documents, and information exchanged during the mediation process.

2. Definitions

- **Confidential Information:** Any information, whether written, oral, or in any other form, that is disclosed during the mediation process. This includes, but is not limited to, statements, discussions, documents, and records exchanged between the parties, the mediator, and any other involved personnel.
- **Mediation Process:** The series of meetings and discussions facilitated by the mediator, aimed at helping the parties reach a mutually acceptable settlement.

3. Agreement to Mediate

a. Voluntary Participation:

The undersigned parties agree to participate in mediation to resolve the dispute described in [Case Number/Name]. The mediation process shall be conducted by the

Draft Model Practice Directions on Court-Connected Mediation

appointed mediator, who will facilitate discussions impartially and without imposing a decision.

The parties commit to:

- Participate in good faith in all mediation sessions.
- Attend all scheduled sessions unless otherwise agreed upon.
- Engage constructively in the mediation process with a willingness to compromise where appropriate.

b. Scope of the Mediation:

The mediation will address the following issues:

- [Issue 1]
- [Issue 2]
- [Issue 3]

4. Roles and Responsibilities

a. Parties' Responsibilities:

- **Preparation:** Each party agrees to prepare adequately for mediation sessions, including gathering relevant documents and information.
- **Attendance:** All parties must attend scheduled mediation sessions.
- **Participation:** Parties must actively engage in the mediation process with an open mind and willingness to compromise.

b. Mediator's Role:

The mediator's role is to facilitate discussions impartially, helping the parties explore options and negotiate a resolution without imposing a decision.

5. Fees and Costs

The costs of mediation, including the mediator's fees, shall be shared equally between the parties unless otherwise agreed in writing or ordered by the court. Payment terms and schedules will be determined at the start of the mediation process.

6. Confidentiality Obligations

All parties and personnel agree to the following terms:

Draft Model Practice Directions on Court-Connected Mediation

a. Non-Disclosure:

All information shared during the mediation process is confidential and shall not be disclosed to any third party without the express written consent of all parties involved.

b. Use of Information:

This Agreement does not apply to information that is already in the public domain or is required to be disclosed by law or court order.

c. Exceptions:

This Agreement does not apply to information that is:

- Already in the public domain.
- Required to be disclosed by law or court order.

7. Return or Destruction of Information

Upon the conclusion of the mediation process, all confidential information, including notes and documents, shall be returned to the disclosing party or destroyed, as agreed by the parties. The parties shall agree on a timeline for the return or destruction of such information, which should be completed within 14 days of the conclusion of the mediation.

8. Consequences of Breach

Any breach of this Agreement may result in legal consequences, including, but not limited to, sanctions, monetary penalties, or other actions as determined by the court. The offending party may also be held in contempt of court or face other legal repercussions as appropriate.

9. Acknowledgement and Agreement

By signing this Agreement, all parties and personnel acknowledge that they have read, understood, and agree to be bound by its terms.

Signatures

Party 1:

Name: [Name]

Draft Model Practice Directions on Court-Connected Mediation

Date: [Date]

Party 2:

Name: [Name]

Date: [Date]

Mediator:

Name: [Name]

Date: [Date]

Court Staff/Other Personnel:

Name: [Name]

Date: [Date]

Contact Information for Mediation Coordinator:

Name: [Name of Mediation Coordinator]

Phone: [Phone Number]

Email: [Email Address]

Please review and adjust this template as necessary to meet your specific requirements.

Draft Model Practice Directions on Court-Connected Mediation

Data Collection Form Template

In the High Court of [Jurisdiction]
In the [Division] Judicial Division
Holden at [Place]

Suit No: [Case Number]

Between: [Parties]

Date: [Date]

Mediation Data Collection Form

This form is used to record mediation outcomes, participant satisfaction, and process efficiency.

Section 1: Mediation Outcomes

1.1. Resolution Status

- Was an agreement reached?
 - Yes
 - No

- If yes, specify type of agreement:
 - Full Settlement
 - Partial Settlement

- If no, specify reason for unsuccessful mediation:
 - Impasse
 - Withdrawal by party
 - Other (please specify): _____

1.2. Settlement Details

Summary of settlement terms (if applicable):

[Open Text Field]

Draft Model Practice Directions on Court-Connected Mediation

Section 2: Process Efficiency

2.1. Duration of Mediation

Number of mediation sessions held: _____

Total hours spent in mediation: _____ hours

2.2. Time to Resolution

Date of first mediation session: [Date]

Date of final mediation session: [Date]

2.3. Delays or Obstacles

Were there any delays or obstacles during the mediation process?

Yes

No

If yes, please specify:

[Open Text Field]

Section 3: Additional Information

Any other relevant information or observations:

[Open Text Field]

Signatures

Mediator:

Name: [Mediator's Name]

Date: [Date]

For Office Use Only

Data Recorded By:

Name: [Name]

Date: [Date]

Please review and adjust this template as necessary to meet your specific requirements.

Initial Assessment Form

In the High Court of [Jurisdiction]
In the [Division] Judicial Division
Holden at [Place]

Suit No: [Case Number]

Between: [Parties]

Date: [Date]

Initial Assessment Form for Mediation Suitability

Section 1: Case Information

Plaintiff(s): _____

Defendant(s): _____

Nature of the Dispute:

- Family Disputes
- Commercial Disputes
- Land Disputes
- Personal Injury Claims
- Other Civil Disputes (please specify): _____

Section 2: Case Review

2.1. Nature of the Dispute

Can this dispute be resolved through discussion?

- Yes
- No

Please provide details:

[Open text field]

2.2. Relationship Between Parties

Are the parties willing to collaborate?

Draft Model Practice Directions on Court-Connected Mediation

Yes

No

Is maintaining or improving the relationship important?

Yes

No

2.3. Legal Complexity

Does the dispute involve legal questions that need a judicial decision?

Yes

No

Please provide details:

[Open text field]

2.4. Willingness to Mediate

Are both parties willing to participate in mediation?

Yes

No

Have both parties agreed to mediation?

Yes

No

2.5. Confidentiality Needs

Does the case require confidentiality?

Yes

No

Please provide details:

[Open text field]

2.6. Potential for Settlement

Is there a likelihood of reaching a settlement?

Yes

No

Draft Model Practice Directions on Court-Connected Mediation

Are both parties open to compromise?

Yes

No

Section 3: Consultation with Parties

3.1. Initial Consultation

Date of consultation: [Date]

Parties present: _____

Summary of consultation:

[Open text field]

3.2. Parties' Understanding of Mediation

Do the parties understand the mediation process?

Yes

No

Are the parties aware of the benefits of mediation?

Yes

No

Section 4: Suitability Evaluation

4.1. Evaluation Outcome

Based on the case review and consultation, is the case suitable for mediation?

Yes

No

4.2. Referral Order Issued

Date of referral order: [Date]

Referral order issued by: [Judge's Name]

Section 5: Additional Comments

Draft Model Practice Directions on Court-Connected Mediation

Any additional comments or observations:

Signatures

Judge

Name: [Name]

Date: [Date]

Plaintiff's Representative:

Name: [Name]

Date: [Date]

Defendant's Representative:

Name: [Name]

Date: [Date]

Please review and adjust this template as necessary to meet your specific requirements.

Interim Measures Request Form

In the High Court of [Jurisdiction]
In the [Division] Judicial Division
Holden at [Place]

Suit No: [Case Number]

Between: [Parties]

Date: [Date]

Interim Measures Request Form

Use this form to request interim measures during mediation.

Section 1: Party Information

Requesting Party:

Name: _____
Address: _____
Phone Number: _____
Email: _____

Representative (if applicable):

Name: _____
Law Firm: _____
Phone Number: _____
Email: _____

Section 2: Case Information

Other Party:

Name: _____
Address: _____
Phone Number: _____
Email: _____

Section 3: Requested Interim Measures

Draft Model Practice Directions on Court-Connected Mediation

Type of Interim Measure Requested:

- Maintain current conditions
- Prevent asset transfers
- Avoid actions that could disrupt the mediation process
- Other (please specify): _____

Reason for Request:

Explain why the interim measure is needed:

[Open text field]

Section 4: Details of the Request

Specific Actions Requested:

Describe the specific actions you are requesting:

[Open text field]

Duration of the Interim Measure:

Specify how long the interim measure is needed:

[Open text field]

Section 5: Supporting Information

Evidence Supporting the Request:

List and attach any evidence or documents supporting your request:

[Open text field]

Potential Impact on Other Party:

Describe the potential impact of the interim measure on the other party:

[Open text field]

Draft Model Practice Directions on Court-Connected Mediation

Section 6: Declaration

- I declare that the information provided in this request form is true and accurate to the best of my knowledge.

Requesting Party/Representative:

Name: [Name]

Date: [Date]

Section 7: Other Party's Views

Response from the Other Party:

Do you agree with the requested interim measures?

Yes

No

If no, please explain why:

[Open text field]

Potential Impact on You:

Describe the potential impact of the interim measure on you:

[Open text field]

Other Party/Representative:

Name: [Name]

Date: [Date]

Mediator's Section

Mediator's Assessment:

Date of Assessment: [Date]

Summary of Assessment:

[Open text field]

Draft Model Practice Directions on Court-Connected Mediation

Mediator's Recommendation:

- Approve Interim Measure
- Modify Interim Measure
- Deny Interim Measure

Mediator:

Name: [Name]

Date: [Date]

Court's Section (if applicable)

Court's Decision:

- Approved
- Modified
- Denied

Comments:

[Open text field]

Please review and adjust this template as necessary to meet your specific requirements.

Amendment Proposal Form

Use this form to submit proposals for amendments to the practice directions.

Section 1: Stakeholder Information

Proposing Stakeholder:

Name: _____

Organisation: _____

Address: _____

Phone Number: _____

Email: _____

Representative (if applicable):

Name: _____

Position: _____

Phone Number: _____

Email: _____

Section 2: Current Practice Direction Information

Title of the Practice Direction: _____

Section/Article to be Amended: _____

Section 3: Proposed Amendment

Summary of Proposed Amendment:

[Open text field]

Explain why this amendment is necessary and what issues it addresses:

[Open text field]

Section 4: Benefits of Proposed Amendment

Expected Benefits:

Draft Model Practice Directions on Court-Connected Mediation

Describe the anticipated positive outcomes of this amendment:

[Open text field]

Impact on Stakeholders:

Explain how this amendment will affect various stakeholders, including any negative impacts:

[Open text field]

Section 5: Supporting Information

Evidence and Data:

Provide any evidence or data supporting the proposed amendment:

[Open text field]

Additional Documentation:

List and attach any additional documents relevant to the proposal:

[Open text field]

Section 6: Stakeholder Feedback

Consultation with Other Stakeholders:

Have you consulted other stakeholders about this proposal?

- Yes
 No

If yes, provide details of the consultation process, including who was consulted, and summarise the feedback received:

[Open text field]

Section 7: Declaration

- I declare that the information provided in this proposal is true and accurate to the best of my knowledge.

Draft Model Practice Directions on Court-Connected Mediation

Proposing Stakeholder/Representative:

Name: [Name]

Date: [Date]

Office Use Only

Received By:

Name: _____

Date: _____

Review Committee Comments:

[Open text field]

Decision:

Approved

Rejected

Requires Further Review

Comments:

[Open text field]

Chief Judge/Designate:

Name: [Name]

Date: [Date]

Please review and adjust this template as necessary to meet your specific requirements.

Pre-Mediation Checklist

This pre-mediation checklist should be completed well in advance of the mediation session to ensure all logistical and technical aspects are addressed, reducing the potential for disruptions and enhancing the overall effectiveness of the mediation process.

1. Confirmation of Mediation Date and Time

- Mediation Date: [Insert Date]
- Mediation Time: [Insert Time]
- Location: [Insert Location or specify if virtual]

Action Required:

- Confirm the date, time, and location (or virtual platform) of the mediation with all participants.
- Ensure the mediator and all involved parties have acknowledged the schedule.

2. Required Documents

- [Document 1]
- [Document 2]
- [Document 3]

Action Required:

- Verify that all necessary documents are prepared and will be brought to the mediation.
- Ensure documents have been exchanged between parties if required for review before the session.
- Confirm that all documents are relevant, complete, and up-to-date.

3. Attendance Confirmation

- Party 1: [Name]
- Party 2: [Name]
- Legal Representatives: [Names]
- Mediator: [Name]
- Third Parties (if applicable): [Name and Role, e.g., Interpreter]

Action Required:

Draft Model Practice Directions on Court-Connected Mediation

- Confirm the attendance of all required parties, including legal representatives and any third-party participants (e.g., interpreters).
- Ensure all participants are briefed on their roles and the importance of full participation.

4. Special Accommodations

[List specific accommodations, such as interpreters, assistive devices, or accessibility requirements]

Action Required:

- Arrange any necessary accommodations in advance to ensure they are available and functional during the mediation.
- Verify that all special needs are met, including accessibility and language assistance.

5. Technology Check (if virtual)

- Video Conferencing Platform: [Platform Name]
- Confirm that all participants have reliable internet access.
- Ensure participants have functional devices with video and audio capabilities.
- Verify that necessary software is installed, and participants are familiar with its use.

Action Required:

- Schedule and conduct a technology test with all participants prior to the mediation to prevent technical issues during the session.
- Address any technical concerns and ensure participants are comfortable with the virtual platform.

Completion Confirmation:

This checklist has been reviewed and completed by:

Name: [Name]

Role: [Role]

Date: [Date]

Confidentiality Waiver Request Form

This form is used when a party wishes to waive the confidentiality of specific information discussed during mediation.

Section 1: Party Information

- Requesting Party:
- Name: _____
- Address: _____
- Phone Number: _____
- Email: _____
- Representative (if applicable):
- Name: _____
- Law Firm: _____
- Phone Number: _____
- Email: _____

Section 2: Detailed Explanation of the Request

Provide a detailed explanation of why the waiver is being requested, including the circumstances that have led to this request.

Section 3: Specific Information to be Disclosed

Clearly specify the information or documents that are being requested to be disclosed.

Section 4: Parties' Consent

- Name: [Name]
- Signature: _____
- Date: _____

- Name: [Name]
- Signature: _____
- Date: _____

- Additional Parties (if applicable):
- Name: [Name]
- Signature: _____
- Date: _____

Draft Model Practice Directions on Court-Connected Mediation

Section 5: Mediator's Acknowledgment

- Name: [Mediator's Name]
- Signature: _____
- Date: _____

DRAFT

Draft Model Practice Directions on Court-Connected Mediation

Agreement to Extend Mediation Deadline

This form is used to request an extension of the mediation deadline when additional time is needed to reach a settlement.

Section 1: Current Deadline Information

- Current Deadline: [Current Deadline Date]
- Proposed New Deadline: [Proposed New Deadline Date]

Section 2: Reasons for Requesting Extension

Provide reasons why an extension is necessary, including any ongoing discussions, complexities in the case, or unforeseen circumstances.

Section 3: Parties' Agreement

- Name: [Name]
- Signature: _____
- Date: _____

- Name: [Name]
- Signature: _____
- Date: _____

- Additional Parties (if applicable):
- Name: [Name]
- Signature: _____
- Date: _____