

Interpretation.

2. (1) In this Law, unless the context otherwise requires:

“*ADR Window*” has the meaning given in Section 48(4) of this Law;

“*Application Windows*” has the meaning given in Section 48(4) of this Law;

“*Alternative Dispute Resolution*” means any procedure agreed upon by the parties to a dispute, in which they use the services of a neutral party to assist them in reaching an agreement and avoiding litigation in respect of the whole or part of the dispute. The term includes but is not limited to:

- (i) mediation, whether or not referred to a mediator under Court rules;
- (ii) early neutral evaluation;
- (iii) a judicial resolution conference;
- (iv) a settlement conference;
- (v) reference of a question, a civil proceeding, or part of a civil proceeding to a special referee or under an Interim Remedies Reference;
- (vi) expert determination;
- (vii) conciliation;
- (viii) arbitration.

“*Civil Dispute*” means a dispute which may result in the commencement of a civil proceeding;

“*Civil Proceeding*” means any proceeding in a Court other than a criminal proceeding or quasi-criminal proceeding;

“*Chief Judge*” means the Chief Judge of Delta State;

“*Court*” means the High Court of Delta State, unless the context otherwise requires;

“*Criminal Proceeding*” means a proceeding to which the Administration of Criminal Justice Law of Delta State applies and includes:

- (i) committal proceedings;
- (ii) proceedings relating to bail;
- (iii) proceedings relating to the sentencing of an accused;

“*Dispute Resolution Institution*” has the meaning given in Part XI of this Law;

“*Exceptional Circumstances*” mean circumstances of unusual hardship that will be caused by a course of action that may otherwise be taken under this Law;

“*Expert Witness*”, in relation to a civil proceeding, means a person who has specialised knowledge based on the person’s training, study or experience;

“*Gazette*” means the Delta State of Nigeria Gazette;

“*Interim Remedies Reference*” means an alternative dispute resolution mechanism by which the parties, with the assistance of a skilled neutral or panel of neutrals, work to agree to terms upon which a mutually acceptable interim order may be made by the Judge;

“*Legal Practitioner*” means a legal practitioner within the meaning of the Legal Practitioner’s Act Cap L11, Laws of the Federation of Nigeria, 2004;

“*Main Hearing Track*” has the meaning given in section 48(4) of this Law;

“*NIBOR*” means the Overnight Nigerian Inter-Bank Offered Rate;

“*Overarching purpose*” has the meaning given in Section 5(1);

“*Overarching obligations*” means the obligations set out in Sections 15 to 25 of this Law;

“*Paramount duty*” means the duty set out in section 13 of this Law;

“*Party*” means a party to a civil proceeding and, where the context so admits, their counsel;

“*Penalty interest*” means the interest ordered by the Court under section 26(1)(c)(i) of this Law;

“*Penalty interest rate*” means NIBOR plus 2% as of the date the Court makes an order under section 26(1)(c)(i) of this Law;

“*Person*” includes an individual, an entity however described, or a Government Body;

“*Pre-litigation requirements*” means the requirements set out in Section 32 of this Law;

“Procedural Caution” means notice issued by the Court under Section 51(2)(a) and (b) of this Law;

“Small Claims Courts” include mobile courts and special courts designated by the Chief Judge or established by a law of the House of Assembly, intended to simplify and expedite the handling of small claims and/or debts;

(2) References in this Law to any enactment or sections thereof shall include such statute as amended or substituted and any regulations published under it from time to time.

Application of this Law.

3.(1) (a) This Law applies to all civil proceedings in the High Court of Delta State.

(b) Notwithstanding paragraph (a) of this sub-section, Parts II and IV of this Law apply to civil proceedings in all Courts established by the State.

(2) Except for Sections 51(1)(a) and 76(2)(c) of this Law, if any inconsistency arises between this Law and any of the provisions of rules of practice and procedure or practice directions in force in the High Court of Delta State or any other court established by the State and this Law, the provisions of this Law shall prevail.

PART II
OVERARCHING PURPOSE AND OVERARCHING OBLIGATIONS

Overarching purpose.

4. (1) The overarching purpose of this Law is to facilitate the just, efficient, timely and cost-effective resolution of the real issues in dispute.

(2) Without limiting the generality of subsection (1) of this Section, the overarching purpose may be achieved by:

- (a) the Court’s determination of the proceeding;
- (b) an agreement between the parties;
- (c) any appropriate dispute resolution process:
 - (i) agreed by the parties; or
 - (ii) ordered by the Court.

Court to give effect to overarching purpose.

5. (1) The Court shall give effect to the overarching purpose in exercising or interpreting any of its powers, whether those powers are part of the Court’s inherent jurisdiction, implied jurisdiction or statutory jurisdiction.

(2) In giving effect to the overarching purpose, the Court shall always conduct its proceedings to accomplish the business scheduled for the day.

(3) No process or proceeding shall be struck out, set aside, or adjourned on account of any failure to comply with any procedural requirement, and the parties may agree, or the Court may make any orders required to rectify the procedural defect.

(4) Sub-sections (2) and (3) of this Section do not apply if a party establishes that it will suffer injustice or prejudice that costs cannot compensate unless the process or proceeding is struck out, set aside, or adjourned.

6. (1) In making any order or giving any direction in a civil proceeding, the Court shall advance the overarching purpose by applying the following objects:

Court's power to advance the overarching purpose

- (a) the just and timely determination of a civil proceeding;
- (b) the public interest in the early settlement of disputes by agreement between parties;
- (c) the efficient conduct of the Court's business;
- (d) the efficient use of judicial and administrative resources;
- (e) minimising the delay between commencing a civil proceeding and listing it for trial, beyond that reasonably required for any interlocutory steps necessary for:
 - (i) fairly and justly determining the real issues in dispute; and
 - (ii) preparing the case for trial;
- (f) conducting a civil proceeding in a manner proportionate to:
 - (i) the complexity or importance of the issues in dispute; and
 - (ii) the amount in dispute.

(2) For the purposes of subsection (1) of this Section, the Court may have regard to the following:

- (a) the extent to which the parties have complied with the pre-litigation requirements or any other mandatory or voluntary pre-litigation processes;
- (b) the extent to which the parties have used reasonable endeavours to resolve the dispute by agreement or to limit the issues in dispute;
- (c) the degree of promptness with which the parties have conducted the proceeding, including the degree to which each party has been timely in undertaking interlocutory steps concerning the proceeding;
- (d) the degree to which a party's failure to promptly undertake the proceeding has arisen from circumstances beyond that party's control;

- (e) the degree to which each person to whom the overarching obligations apply has complied with the overarching obligations in relation to the proceeding;
 - (f) any prejudice that a party may suffer as a consequence of any order the Court proposes to make, or direction the Court proposes to give;
 - (g) the public importance of the issues in dispute and the desirability of a judicial determination of those issues;
 - (h) the extent to which the parties have had the benefit of legal advice and representation.
- (3) Except as otherwise stated, this section does not:
- (a) limit any other power of the Court to make orders or give directions; or
 - (b) preclude the Court from considering any other matters when making any order or giving any direction.

Application of
overarching
obligations to
participants

7. (1) In any civil proceeding, the overarching obligations apply to:
- (a) any person who is a party;
 - (b) any legal practitioner or other representative acting for or on behalf of a party;
 - (c) any firm of legal practitioners acting for or on behalf of a party;
 - (d) any person who provides financial assistance or other assistance to any party insofar as that person exercises any direct control, indirect control or any influence over the conduct of the civil proceeding or of a party in respect of that civil proceeding, including, but not limited to:
 - (i) an insurer;
 - (ii) a provider of funding or financial support, including any litigation funder.
- (2) Subject to subsection (3) of this Section, the overarching obligations do not apply to any witness in a civil proceeding.
- (3) The overarching obligations in Sections 15, 18, 19, 21 and 23 of this Law apply to any expert witness in a civil proceeding.
- (4) Subsection (3) of this Section is in addition to and does not derogate from any existing duties applying to expert witnesses.

8. The overarching obligations apply to the conduct of any aspect of a civil proceeding in the Court, including, but not limited to:

Application of overarching obligations-civil proceedings

- (a) any interlocutory application or interlocutory proceedings;
- (b) any appeal from an order or a judgment in a civil proceeding;
- (c) any alternative dispute resolution undertaken in relation to a civil proceeding.

9. Subject to the paramount duty in Section 13 of this Law, the overarching obligations prevail over any legal obligation, contractual obligation, or other obligation which a person to whom the overarching obligations apply may have, to the extent that the obligations are inconsistent

Overarching obligations prevail over certain other obligations and duties

10. (1) The overarching obligations do not override any duty or obligation of a legal practitioner to a client, whether arising under common law, statute or otherwise, to the extent that those duties and obligations and the overarching obligations can operate consistently.

Overarching obligations and legal practitioners

(2) Notwithstanding subsection (1) of this Section, a legal practitioner or a firm of legal practitioners engaged by, or acting for, a client in connection with a civil proceeding shall comply with the overarching obligations despite any obligation the legal practitioner or the firm of legal practitioners has to act under the instructions or wishes of the client.

(3) If any inconsistency arises between any overarching obligation and a duty or obligation referred to in subsection (1) of this Section, or an instruction or wish referred to in subsection (2) of this Section:

- (a) the overarching obligation prevails to the extent of that inconsistency; and
- (b) in the case of the instruction or wish of a client, the legal practitioner is not required to comply with any instruction or wish of the client that is inconsistent with an overarching obligation.

11. A legal practitioner or a firm of legal practitioners engaged by, or acting for, a client in connection with a civil proceeding shall not by his, her or its conduct cause the client to contravene any overarching obligation.

Legal practitioner or firm of legal practitioners not to cause client to contravene overarching obligations

12. Nothing in this Part overrides any duty or obligation of a legal practitioner to the Court, whether arising under the common law, statute or otherwise.

Legal practitioner's duty to Court not overridden

- Paramount duty
13. Each person to whom the overarching obligations apply has a paramount duty to the Court to advance the administration of justice in any civil proceeding in which that person is involved, including, but not limited to:
- (a) any interlocutory application or interlocutory proceeding;
 - (b) any appeal from an order or a judgment in a civil proceeding;
 - (c) any alternative dispute resolution undertaken in relation to a civil proceeding.
- Overarching obligation to act honestly
14. A person to whom the overarching obligations apply shall always act honestly in a civil proceeding.
- Overarching obligation requirement for proper basis
15. A person to whom the overarching obligations apply must not make any claim or make a response to any claim in a civil proceeding that:
- (a) is frivolous; or
 - (b) is vexatious; or
 - (c) is an abuse of process; or
 - (d) does not, on the factual and legal material available to the person at the time of making or responding to a claim, as the case requires, have a proper basis.
- Overarching obligation to only take steps to resolve or determine dispute
16. To avoid unnecessary delay and expense, a person to whom the overarching obligations apply shall not take any step in connection with making or responding to a claim in a civil proceeding unless the person reasonably believes that the step is necessary to facilitate the resolution or determination of the proceeding.
- Overarching obligation to cooperate in the conduct of civil proceedings
17. A person to whom the overarching obligations apply shall cooperate with the parties to a civil proceeding and the Court in connection with the conduct of that proceeding.
- Overarching obligation not to mislead or deceive
18. A person to whom the overarching obligations apply shall not, in respect of a civil proceeding, engage in conduct which is:
- (a) misleading or deceptive; or
 - (b) likely to mislead or deceive.
- Overarching obligation to use reasonable endeavours to resolve dispute
19. A person to whom the overarching obligations apply shall use reasonable endeavours to resolve a dispute by agreement between the disputing persons, including, if appropriate, by alternative dispute resolution, unless:

- (a) it is not in the interests of justice to do so; or
- (b) the dispute is of such a nature that only judicial determination is appropriate.

20. If a person to whom the overarching obligations apply cannot resolve the entire dispute by agreement, the person shall use reasonable endeavours to:

Overarching obligation to narrow the issues in dispute

- (a) resolve by agreement any issues in dispute that can be resolved in that way; and
- (b) narrow the scope of the remaining issues in dispute, unless:
 - (i) it is not in the interest of justice to do so; or
 - (ii) the dispute is of such a nature that only judicial determination is appropriate.

21. A person to whom the overarching obligations apply shall use reasonable endeavours to ensure that legal costs and other costs incurred in connection with the civil proceeding are reasonable and proportionate to:

Overarching obligation to ensure costs are reasonable and proportionate

- (a) the complexity or importance of the issues in dispute; and
- (b) the amount in dispute.

22. To ensure the prompt conduct of a civil proceeding, a person to whom the overarching obligations apply shall use reasonable endeavours in connection with the civil proceeding to:

Overarching obligation to minimise delay

- (a) act promptly; and
- (b) minimise delay.

23. (1) Subject to subsection (3) of this Section, a person to whom the overarching obligations apply shall disclose to each party the existence of all documents that are, or have been, in that person's possession, custody or control, and:

Overarching obligation to disclose the existence of documents

- (a) of which the person is aware; and
- (b) which the person considers, or ought to reasonably consider, are critical to the resolution of the dispute.

(2) Disclosure under subsection (1) of this Section must occur at:

- (a) the earliest reasonable time after the person becomes aware of the existence of the document; or
- (b) such other time as the Court may direct.

(3) subsection (1) of this Section does not apply to any document that is protected from disclosure:

- (a) on the grounds of privilege which has not been expressly or impliedly waived; or
- (b) under any law.

(4) The overarching obligation imposed by this section:

- (a) is an ongoing obligation for the duration of the civil proceeding; and
- (b) does not limit or affect a party's obligations in relation to discovery.

Protection and use of information and documents disclosed under overarching obligation in Section 24 of this Law.

24. (1) A person who receives any information or documents provided by another person under Section 23 of this Law shall not use the information or documents, or permit the information or documents to be used, for a purpose other than in connection with the civil proceeding.

(2) The obligation under subsection (1) of this Section is an obligation to the Court, contravention of which constitutes contempt of Court.

(3) A person:

- (a) may agree in writing with the other parties to the civil proceeding to the use of information or documents otherwise than as protected under subsection (1) of this Section; or
- (b) may be released from the obligation imposed under subsection (1) of this Section with leave of the Court.

(4) Without limiting this section or discovery in any civil proceeding, any information or document exchanged in compliance with the overarching obligation in Section 23 of this Law shall be tendered in evidence in the civil proceeding to be admissible in that proceeding.

(5) Nothing in this section limits any other undertaking to a Court whether implied, specific, at common law or otherwise, in relation to information or documents disclosed or discovered in a civil proceeding.

Court may consider contravention of overarching obligations

25. (1) In exercising any power in relation to a civil proceeding, including the power to issue a Procedural Caution or to commit to prison for contempt under Section 51 (2)(a) and (b) of this Law, the Court may consider any contravention of the overarching obligations.

(2) Without limiting subsection (1) of this Section, in exercising its discretion as to cost, the Court may consider any contravention of the overarching obligations.

Court may make certain orders

26. (1) If the Court finds that, on a balance of probabilities, a person has contravened any overarching obligations, the Court may make any order it considers appropriate in the interests of justice, including, but not limited to making:

- (a) an order that the person pay some or all of the legal costs or other costs or expenses of any person arising from the contravention of the overarching obligation;
- (b) an order that the legal costs or other costs or expenses of any person be payable immediately and be enforceable immediately;
- (c) an order that the person compensates any other person for financial loss or other loss, to which the contravention of the overarching obligation materially contributed, including:
 - (i) an order for penalty interest at the penalty interest rate in respect of any delay in the payment of an amount claimed in the civil proceeding; or
 - (ii) an order for no interest or reduced interest;
- (d) an order that the person take any steps specified in the order which are reasonably necessary to remedy any contravention of the overarching obligations by the person;
- (e) an order that the person not be permitted to take specified steps in the civil proceeding;
- (f) an order precluding the person from receiving any legal costs or other costs or expenses to which the person would have otherwise been eligible to receive;
- (g) a Procedural Caution under section 51 (2)(a) and (b) of this Law;
- (h) any other order that the Court considers to be in the interests of any person who has been prejudicially affected by the contravention of the overarching obligations.

(2) The Court may make an order under this section:

- (a) on the application of:
 - (i) any party to the civil proceeding; or
 - (ii) any other person who, in the opinion of the Court, has a sufficient interest in the proceeding; or
- (b) on the Court's own volition.

(3) This section does not limit any other power of a Court to make any order, including any order as to costs.

Application for orders under section 26

27. (1) An application for an order under Section 26 of this Law shall be made:

- (a) in the Court in which the civil proceeding was, or is being heard; and
- (b) in accordance with the Court rules.

(2) An application for an order under Section 26 of this Law shall be made before the conclusion of the civil proceeding to which the application relates.

(3) For the purposes of subsection (2) of this Section, if an order, including an order in respect of costs, is made after the date the civil proceeding to which the application relates concludes, the date of making of the last of the orders is deemed to be the date of conclusion of that proceeding.

Extension of time for application.

28. (1) Notwithstanding Sub-section (2) of this Section, a person may apply to the Court to extend the time to apply for an order under section 27 after the conclusion of the civil proceeding.

(2) The Court may extend the time for making an application under Section 27 of this Law if satisfied that the party making the application was not aware of the contravention of an overarching obligation until after the end of the period specified in Section 27(2) of this Law.

PART III
PRE-LITIGATION REQUIREMENTS

Application of this Part.

29. This Part does not apply to:

- (a) a civil proceeding which is an appeal;
- (b) a civil proceeding under Chapter 4 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended);
- (c) a civil proceeding to which the Companies and Allied Matters Act 2020 applies;
- (d) a civil proceeding to which the Matrimonial Causes Act applies;
- (e) a civil proceeding to which the Child Rights Law applies;
- (f) a civil proceeding to which the Freedom of Information Law applies; and
- (g) a civil proceeding which is an application for Judicial Review.

Compliance with pre-litigation requirements prior to commencement of civil proceedings.

30. Each person involved in a civil dispute shall comply with the pre-litigation requirements in Section 31 of this Law before commencing any civil proceeding in a Court in relation to that dispute.

31. (1) Each person involved in a civil dispute must take reasonable steps, having regard to the person's situation and the nature of the dispute:

Pre-litigation requirements

- (a) to resolve the dispute by agreement; or
- (b) to clarify and narrow the issues in dispute if civil proceedings are commenced.

(2) For the purposes of this section, reasonable steps include, but are not limited to:

- (a) the exchange of appropriate pre-litigation correspondence, information and documents critical to the resolution of the dispute;
- (b) the consideration of options for resolving the dispute without the need for civil proceedings in a Court, including, but not limited to resolution through genuine and reasonable negotiations or alternative dispute resolution.

(3) Each person involved in a civil dispute must not unreasonably refuse to participate in genuine and reasonable negotiations or alternative dispute resolution.

32. (1) A person involved in a civil dispute, who receives any information or document provided by another person involved in a civil dispute in accordance with the pre-litigation requirements, must not use the information or document, or permit the information or document to be used, for a purpose other than in connection with:

Protection and use of information and documents disclosed under pre-litigation requirements

- (a) the resolution of the civil dispute between the persons involved in the civil dispute; or
- (b) any civil proceeding arising out of the civil dispute.

(2) The obligation under subsection (1) of this Section is an obligation to the Court, contravention of which constitutes contempt of Court.

(3) A person involved in a civil dispute, or a party to a civil proceeding may:

- (a) agree in writing to the use of information or documents otherwise protected under subsection (1) of this Section; or
- (b) be released from the obligation imposed under subsection (1) of this Section by leave of the Court.

(4) Without limiting this Section or discovery in any civil proceeding, any document exchanged under the pre-litigation requirements:

- (a) is required to be discovered in any subsequent civil proceeding to be admissible in that proceeding; and
- (b) may be available for use accordingly.

(5) Nothing in this section limits any other undertaking to a Court (implied or specific) whether at common law or otherwise, in relation to information or documents disclosed or discovered in a civil proceeding.

Proceedings may be commenced despite non-compliance with pre-litigation requirements.

33. (1) Unless a Court otherwise orders or Court Rules otherwise provide, a Court may not prevent the commencement of civil proceedings in the Court merely because of non-compliance with the pre-litigation requirements.

(2) Without limiting subsection (1) of this section, and notwithstanding anything contained in the Court Rules, any action in which urgent interim relief is sought may be commenced without complying with pre-litigation requirements, whether those requirements are provided for by this Law or by Court Rules.

Persons generally to bear their own costs of compliance with pre-litigation requirements

34. Subject to this Part, each person involved in a civil dispute or each party to a civil proceeding shall bear that person's or party's own costs of complying with the prelitigation requirements, unless the Court Rules otherwise determines.

Court may make orders as to costs of compliance with pre-litigation requirements

35. (1) Notwithstanding Section 34 of this Law, a Court may order that a party to a civil proceeding pay all or a specific part of another Party's costs of complying with the pre-litigation requirements if the Court is satisfied that it is reasonable to do so, having regard to furthering the overarching purpose.

(2) Notwithstanding Section 34 of this Law, a Court may order that a legal practitioner or representative of a party to a civil proceeding (in the legal practitioner's or representative's own capacity and instead of the party) pay all or a specific part of another party's costs of complying with the pre-litigation requirements if the Court is satisfied that, by the legal practitioner's or representative's conduct concerning compliance with the pre-litigation requirements, another party has unnecessarily incurred costs to comply with the pre-litigation requirements.

(3) In making an order under this section, a Court may order:

- (a) that the costs be taxed, assessed, settled or reviewed under Part XII of this Law;
- (b) that the costs be payable immediately and be enforceable immediately.

(4) A Court may make an order under this Section:

- (a) of its own motion; or
- (b) on the application of any party to the civil proceeding.

Court may consider failure to comply with pre-litigation requirement

36. (1) If a Court is satisfied that a party to a civil proceeding has failed to comply with the pre-litigation requirements, the Court may consider that failure in:

- (a) determining costs in the proceeding generally;
 - (b) making any order about the procedural obligations of parties to the civil proceeding;
 - (c) making any other order it considers appropriate.
- (2) A court may make an order under subsection (1) of this Section:
- (a) of its own motion; or
 - (b) on the application of any party to the civil proceeding.

37. For the purposes of this Part, the scale of fees or scale of costs in relation to compliance with the pre-litigation requirements may be fixed: Scale of fees and scale of costs.

- (a) by regulations issued by the Chief Judge; or
- (b) by Court Rules.

PART IV
ONLINE DISPUTE RESOLUTION SERVICES AND ELECTRONIC
FILING, SERVICE AND CERTIFICATION OF PROCESSES

38. (1) To facilitate an efficient and user-friendly litigation process in the High Court, the Magistrates' Courts and in any Small Claims Courts operated by the State, the Chief Judge may issue Regulations in the form of Court Rules or Practice directions to establish and regulate the provision of Online Dispute Resolution Services by the applicable Court. Online Dispute Resolution Services and Electronic Case Filing

(2) When making the rules and/or practice directions mentioned in subsection (1) of this Section, the principles set out in the First Schedule to this Law may guide the Chief Judge.

(3) The Chief Judge may issue Regulations in the form of Practice Directions to establish and regulate the use of an Electronic Case Filing system.

(4) The Practice Directions mentioned in subsection (3) of this Section may authorise the use of a Court Licensed Electronic Case Filing Agency.

(5) Where the Chief Judge makes Practice Directions authorising the use of a Court Licensed Electronic Filing Agency, those practice directions shall set out:

- (a) the criteria and procedure for licensing a Court Licensed Electronic Case Filing Agency;
- (b) the procedure for selecting a Court Licensed Electronic Case Filing Agency for a case;

- (c) the remuneration of the Court Licensed Electronic Case Filing Agency by the parties, on terms that fees paid to the Court Licensed Electronic Case Filing Agency are recoverable under a costs order made by a Court;
- (d) the duties and obligations of a Court Licensed Electronic Case Filing Agency to the parties and to the Court;
- (e) sanctions to be applied in the event of a breach of a Court Licensed Electronic Case Filing Agency's duty, including but not limited to suspending, revoking, or not renewing the licence of a Court Licensed Electronic Case Filing Agency.

(6) Where the breach of a Court Licensed Electronic Case Filing Agency's duty to the Court or to the parties amounts to an offence under any law of the State, the person(s) that manage or oversee the Court Licensed Electronic Case Filing Agency's affairs shall be liable to prosecution.

Authorisation for electronic filing

39. Processes in a case shall be filed under the Court's Electronic Case Filing system where:

- (a) (i) the Court has an Electronic Case Filing system, and
 - (ii) the parties have agreed to use the Electronic Case Filing system, or
- (b) a law, Court Rule, Practice Direction or Court order requires that parties should use the Electronic Case Filing system.

Electronic Service

40. (1) The Chief Judge may issue Regulations in the form of Practice Directions to supplement the provisions of this Part concerning the electronic service of Court processes.

(2) The Practice Directions mentioned in subsection (1) of this Section may authorise the use of Court Licensed Electronic Process Servers.

(3) Where the Chief Judge makes Practice Directions authorising the use of Court Licensed Electronic Process Servers, those Practice Directions shall set out:

- (a) the criteria and procedure for licensing Court Licensed Electronic Process Servers;
- (b) the procedure for selecting a Court Licensed Electronic Process Server for a case;
- (c) the remuneration of the Court Licensed Electronic Process Server by the parties, on terms that fees paid to the Court Licensed Electronic Process Server are recoverable under a costs order made by a Court;

- (d) the duties and obligations of a Court Licensed Electronic Process Server to the parties and to the Court;
- (e) sanctions to be applied in the event of a breach of a Court Licensed Electronic Process Server's duty, including but not limited to suspending, revoking or not renewing the licence of a Court Licensed Electronic Process Server.

(4) Where the breach of a Court Licensed Electronic Process Server's duty to the Court or to the parties amounts to an offence under any law of the State, the person(s) that manage or oversee the Court Licensed Electronic Process Server's affairs shall be liable to prosecution.

41. (1) A document may be served electronically if:

Authorisation for
electronic service

- (a) a law, Court Rule, Practice Direction, or Court order provides for electronic service; or
- (b) the recipient agrees to accept electronic service.

(2) In this section, electronic service means a notification to an electronic address, including but not limited to an email address, an instant message application or a social network portal, which:

- (a) provides a hyperlink to an electronic site where the Court process sought to be served may be downloaded; and
- (b) generates an electronic confirmation that the notification has been delivered to the electronic address.

(3) A party indicates their agreement to accept electronic service by:

- (a) filing in Court and serving on all other parties a notice as prescribed in the Sixth Schedule to this Law, or
- (b) electronically filing any document with the Court.

(4) A party who requests a Court order to serve a process electronically shall provide the Court with proof that the electronic service address to which the party proposes to send a notification of service has been used by the party intended to be served during a period not longer than thirty days preceding the request for electronic service.

(5) A document may be electronically served on a non-party if the non-party consents to electronic service or electronic service is otherwise provided for by law, Court Rules, Practice Direction or Court Order. All provisions of this Law that apply or relate to a party also apply to any non-party who has agreed to or is otherwise required by law or a Court Rule, Practice Direction or Court order to accept electronic service or to electronically serve documents.

Maintenance of
electronic service
lists

42. A Court shall maintain and make available electronically to the parties an electronic service list that contains any current electronic service addresses provided by the parties.

Service by the
parties

43. (1) Notwithstanding Section 42 of this Law, the parties are responsible for electronic service on all other parties in a civil proceeding.

(2) A party may serve a Court process electronically only if the Court process is one that a party may serve under the Court Rules.

Change of
electronic service
address

44. (1) A party whose electronic service address changes while the civil proceeding is pending shall promptly file a notice as prescribed in the Seventh Schedule to this Law and shall serve this notice electronically on all other parties.

(2) A party's election to contract with a Court Licensed Electronic Process Server to electronically serve documents or to receive electronic service of documents on the party's behalf does not relieve the party of its duties under subsection (1) of this Section.

Reliability and
integrity of
documents served
by electronic
notification

45. A Court Licensed Electronic Process Server or a party that serves a document by electronic notification shall:

- (a) ensure that the documents served can be viewed and downloaded using the hyperlink provided;
- (b) preserve the document served without any change, alteration, or modification from the time the document is posted until the time the hyperlink is removed; and
- (c) maintain the hyperlink until the case is concluded.

Proof of service

46. (1) Proof of electronic service shall be by a certificate in the form prescribed in Second Schedule to this Law.

(2) The Court Licensed Electronic Process Server shall send an electronic copy of the certificate referred to in subsection (1) of this Section to:

- (a) the Court's electronic address, and
- (b) the Court Licensed Electronic Case Filing Agency through which the process was filed under Section 39 of this Law, unless the same Agency performs the electronic case filing and electronic service, and
- (c) each party's electronic address.

Virtual Hearing.

47. (1) The court may conduct its proceedings virtually in Chambers, Courtrooms or any other location as the Chief Judge may direct.

(2) The court shall conduct a virtual hearing through any audio-visual platform that the court approves and shall provide a link to enable the parties, their counsel, and the public to observe the proceedings.

(3) Where the court adopts a virtual hearing for any proceeding, the Registrar shall notify the parties.

(4) Unless the court directs otherwise, the parties and counsel appearing in a virtual hearing shall observe all rules and practices on decorum and etiquette applicable in an in-person hearing.

(5) The Registrar shall indicate all cases designated for a virtual hearing on the court's cause list and shall:

- (a) publish the cause list on the court's official website or on any other platform that the court may designate; and
- (b) send notice of the cause list to the parties or their counsel by e-mail or other electronic means.

(6) The Chief Judge may, from time to time, issue Rules and/or Practice Directions to regulate virtual hearings in courts.

PART V CASE MANAGEMENT

48. (1) This Part and Part VII apply to a civil proceeding that a party commences 12 months from the commencement of this Law (the transition period); Provided that the Chief Judge may authorise one or more pilot schemes of the Case Management Meetings during the transition period.

Scheduling: The Case Management Meeting and Procedural Timetable.

(2) The parties shall meet with the assigned Judge to agree on a procedural timetable for the case (the Case Management Meeting). The Court shall notify the parties of the meeting, which shall take place within 30 days from the date on which the writ of summons or other originating process was served on the defendant or, in the case of multiple defendants, on the defendant last served.

(3) The Judge shall conduct the Case Management Meeting either in Chambers, in a meeting room within the Court premises, or by telephone conference or video conference.

(4) The Procedural Timetable agreed at the Case Management Meeting shall be in the form set out in the Third Schedule to this Law and shall schedule activities for the case under three different tracks as follows:

- (a) The Main Hearing Track, which shall consist of the activities set out in the first column of the Table in the Third Schedule to this Law;

- (b) The Application Windows which shall consist of the activities set out in the second column of the Table in the Third Schedule to this Law;
- (c) The ADR Window which shall consist of the activities set out in the third column of the Table in the Third Schedule to this Law.

(5) Except in exceptional circumstances or the parties agree, the activities in the Application Windows or the ADR Window shall not delay any action on the Main Hearing Track. Accordingly, the Judge and the parties shall schedule and implement activities in the Application Windows and in the ADR Window to run concurrently with events on the Main Hearing Track.

(6) On or before the date of the first Case Management Meeting, each party shall designate a case representative by using the filing and serving the form prescribed in the Eighth Schedule to this Law on all other parties in the case.

(7) A case representative shall be responsible for ensuring that the party complies with its paramount obligation and its overarching obligations under this Law and that all case management directions and agreements are implemented.

(8) Where a party is a natural person, the party's case representative shall be that party or another natural person that the party has appointed through the form prescribed in the Eighth Schedule to this Law, or in the event of the death of such party, the party's executors or administrators.

(9) Where a party is a non-natural person, the case representative shall be a staff of that party who has sufficient authority to make decisions regarding the management of the case, appointed through the form prescribed in the Eighth Schedule to this Law.

(10) Where a party is a non-natural person and its designated case representative leaves the employment of the party, the Directors of the party or, where the body has no Board of Directors, the members of its main decision-making body shall be jointly and severally responsible for ensuring that a new case representative is designated through the form prescribed in the Eighth Schedule to this Law.

Case Management
Meeting
Questionnaire

49. (1) In fulfilling the overarching purpose, and to ensure the efficient conduct of the Case Management Meeting, each party shall, no later than 7 days before the date on which the Case Management Meeting is scheduled:

- (a) complete and file the questionnaire in Part C of the Tenth Schedule to this Law (the Case Management Meeting Questionnaire); and
- (b) serve a filed copy of their completed questionnaire on all other parties in the civil proceeding.

(2) The Judge and the parties shall consider the responses to the Case Management Meeting Questionnaire in agreeing to a procedural timetable for the case.

50. A party's participation in the Case Management Meeting shall not constitute a waiver of any jurisdictional objection, and the Court shall, subject to Section 55 of this Law, schedule the hearing of any jurisdictional objection in accordance with the Procedural Time Timetable agreed at Case Management Meeting.

Participation in the Case Management Meeting is not a waiver of jurisdictional objections

51. (1) The Court shall strictly enforce any deadline or time limit in the Procedural Timetable in accordance with the following principles:

Enforcement of deadlines in the Procedural Timetable

- (a) Subject to paragraph (f)(i) and (ii) of this subsection, where a failure to comply with a deadline on the Procedural Timetable causes an adjournment of a hearing date or results in an increased demand on the Court's time, the defaulting party shall be liable to pay a default penalty:
 - (i) not below N250,000.00 (Two Hundred and Fifty Thousand Naira) for causing an adjournment or increasing demand on the court's time regarding a trial; and
 - (ii) not below N100,000.00 (One Hundred Thousand Naira) for causing an adjournment or increasing demand on the court's time regarding an application;

provided that the Chief Judge may amend the default rates through the Court's Rules or Practice Directions.

- (b) Subject to paragraph (f)(i) and (ii) of this subsection, where a failure to comply with a deadline on the Procedural Timetable results in wasted party costs, the defaulting party shall, at the Judge's direction, pay the wasted costs of the non-defaulting party on a full indemnity basis and such costs shall be assessed in accordance with the procedure and the principles set out in Part XII of this Law.
- (c) As soon as a party knows that it is unable to meet a deadline, it shall promptly notify the Court and the other party, and the Judge shall convene a Case Management Meeting in Chambers or, as the parties and the Judge may agree, by telephone conference, videoconference, or correspondence, to revise the Procedural Timetable.
- (d) If the responding party indicates that it will oppose the applying party's application to extend a procedural deadline, the applying party shall file an application for extension of time, which the Judge shall hear in Court.
- (e) The application for extension of time shall state:

- (i) the date on which the applying party first became aware of the circumstances giving rise to the failure to meet the procedural deadline, and
 - (ii) whether the circumstances were caused by:
 - (a) the applying party;
 - (b) the applying party's legal practitioner;
 - (c) another party in the case or
 - (d) the Court.
 - (f) Where a party's failure to meet a procedural deadline is caused by an act or omission of:
 - (i) the applying party, then the applying party shall pay the default penalty and/or the costs mentioned in subsection (1) (a) and (b) of this Section,
 - (ii) the applying party's legal practitioner, then the applying party's legal practitioner shall pay the default penalty and/or the costs mentioned in subsection (1) (a) and (b) of this Section;
 - (iii) another party in the case, then such other party shall not be entitled to a reimbursement of its wasted costs, but shall be liable to pay any default penalty and/or the costs mentioned in subsection (1) (a) and (b) of this Section as the Judge may direct;
 - (iv) the Court, then the Judge shall cause an inquiry to be made as to the circumstances of the act or omission and shall make a note of such circumstances in the Revised Procedural Timetable and, where applicable, in the Court's decision on the application for extension of time.
- (2) Where a party or its legal practitioner persistently defaults in meeting a procedural deadline, or persistently causes another party to fail to meet a procedural deadline, the following penalties will apply:
- (a) Where a party's act or omission causes that party or another party to fail to meet a procedural deadline on more than two occasions cumulatively:
 - (i) the Judge shall issue a Procedural Caution to the party in the form of a Court order as set out in the Fourth Schedule to this Law;
 - (ii) if, after issuing a Procedural Caution under subparagraph (a)(i) of this paragraph, the party to whom the Procedural Caution is issued does an act or make an omission that causes that party or another party to fail to meet a procedural deadline, the Judge may summarily commit the party's case representative, or where there is no case representative, the party (in the case of a natural person) or persons that manage or oversee that party's affairs (in case of a non-natural persons), to a custodial centre or contempt.

- (b) Where an act or omission of a party's legal practitioner causes that party or another party to fail to meet a procedural deadline on more than two occasions cumulatively:
 - (i) the Judge shall issue a Procedural Caution to the legal practitioner in the form of a Court order as set out in the Fifth Schedule to this Law;
 - (ii) if, after issuing a Procedural Caution under subparagraph (b) (i) of this subsection, the legal practitioner to whom the Procedural Caution is issued does an act or makes an omission that causes that party or another party to fail to meet a procedural deadline, the Judge may summarily commit the legal practitioner to a Custodial Centre for contempt;
 - (iii) in addition to subparagraph (b)(i) and (ii) of this paragraph, the Judge shall issue a report of the legal practitioner's conduct to the Legal Practitioners' Disciplinary Committee and the Legal Practitioners' Privileges Committee.

52. (1) The Court shall not list a civil proceeding for trial or hearing of the substantive dispute (as the case may be) unless it is satisfied that the case is ready for trial or hearing.

Trial Readiness Checklist.

(2) For the purposes of subsection (1) of this Section, the parties shall, on a date appointed by the Judge at the Case Management Meeting, but not later than 7 days before the first trial or hearing date indicated on the Procedural Timetable:

- (a) complete and file the checklist in Part D of the Tenth Schedule to this Law (the Trial Readiness Checklist); and
- (b) serve a filed copy of their completed checklist on all other parties in the civil proceeding.

(3) If the Court considers the parties' Trial Readiness Checklists and determines that the case is not ready for trial or hearing, it shall:

- (a) apply the penalties in Section 51 of this Law as appropriate, and
- (b) convene a Case Management Meeting in Chambers or, as the parties and the Judge may agree, by telephone conference, videoconference, or correspondence, to revise the Procedural Timetable.

53. (1) The Court may determine any non-contentious application in Chambers without the parties or their counsel appearing, where the applicant has complied with prescribed rules concerning the application.

Non-contentious applications.

(2) A party who does not intend to oppose an application shall file a notice of no-contest as shown in Part F of the Tenth Schedule to this Law within 7 days of receiving such application.

(3) Notwithstanding subsection (2) of this Section, the court shall be at liberty to deem an application as not contested after the 7-day period for filing a notice of no-contest expires.

Power of court to sit on weekends and public holidays.

54. (1) A court may sit on weekends, public holidays and during industrial actions or strikes to hear and determine urgent matters.

(2) For the purposes of subsection (1) of this Section, the Chief Judge shall designate courts that will sit and hear matters and Registries for filing such matters.

(3) Where a party desires the hearing of a matter under subsection (1) of this Section, that party shall apply by motion ex-parte.

(4) For the purposes of this Section, parties may file their processes electronically and the court will conduct its proceedings virtually.

Challenging the Courts jurisdiction.

55. (1) Where a defendant intends to challenge the court's jurisdiction, the defendant may apply to the court through a preliminary objection and:

- (a) the Court shall hear the preliminary objection with the claimant's substantive suit where the case does not involve the taking of oral evidence; or
- (b) the Court shall hear and determine the preliminary objection before hearing the claimant's substantive suit where the case involves the taking of oral evidence.

(2) A preliminary objection under this Section shall be:

- (a) filed within 30 days after service of the originating process on the defendant; and
- (b) supported by:
 - (i) an affidavit, where the objection is not based on a ground of law; and/or
 - (ii) a written address.

(3) Where the defendant does not file the preliminary objection within the period specified in subsection (2)(a) of this Section, the Court shall determine the preliminary objection in its final judgment.

PART VI
SUMMARY JUDGMENT

References to Claimant and Defendant in this Part

56. In this Part, a reference to a:

- (a) Claimant includes a reference to a Claimant by counterclaim; and
- (b) Defendant includes a reference to a Defendant by counterclaim.

57. A Claimant in a civil proceeding may apply to the Court for summary judgment in the proceeding on the ground that a Defendant's defence or part of that defence has no real prospect of success.

Claimant may apply for summary judgment in the proceeding

58. A defendant in a civil proceeding may apply to the Court for summary judgment in the proceeding on the ground that a Claimant's claim or part of that claim has no real prospect of success.

Defendant may apply for summary judgment in the proceeding

59. (1) Unless exceptional circumstances exist, a Court shall, on a party's application, give summary judgment in any civil proceeding if satisfied that the whole or part of a claim, a defence or a counterclaim has no real prospect of success.

Summary judgment if no real prospect of success

(2) When determining whether the whole or part of a claim, a defence or a counterclaim has no real prospect of success, a Court shall consider the documents or other evidence frontloaded with the claim, defence or counterclaim, and shall particularly consider:

- (a) in the case of a claim or counterclaim, whether the Defendant is entitled to a judgement dismissing or striking out the claim or counterclaim even if the defendant did not file any evidence at all;
- (b) in the case of a defence, whether the Claimant is entitled to a judgement for all or part of the claim or counterclaim even if the Claimant did not file any further evidence at all.

(3) When determining whether the whole or part of a claim, a defence or a counterclaim has no real prospect of success, a Court shall have the power to determine the admissibility of documents or other evidence frontloaded with the claim, defence, or counterclaim.

60. The powers of a Court under this Part are in addition to and do not derogate from any powers a Court has under the Court's Rules in relation to the summary disposal of any civil proceeding.

Interaction with Rules of Court

PART VII
ALTERNATIVE DISPUTE RESOLUTION

61. (1) The Court:

- (a) shall, at the Case Management Meeting, consider the propriety of referring the dispute to mediation or another appropriate Alternative Dispute Resolution (ADR) process; and
- (b) may at any stage of the case, if it is appropriate to do so based on the factors stated in subsection (2) of this Section, make an order referring a civil proceeding, or part of a civil proceeding, to ADR.

Court may order alternative dispute resolution in any proceeding

(2) In determining whether it is appropriate to refer a dispute to ADR, the Court shall, at the Case Management Meeting and at any other point it considers appropriate in the proceeding:

- (a) consider the parties' responses in the self-assessment questionnaire in Part A of the Tenth Schedule to this Law; and
- (b) consider the Judge's responses in the case diagnosis in the form shown in Part B of the Tenth Schedule to this Law.

(3) For the purposes of subsection (2) of this Section:

- (a) Each party shall attach its responses to the self-assessment questionnaire in Part A of the Tenth Schedule to this Law to its Case Management Meeting Questionnaire filed under Section 49(1) of this Law.
- (b) The Judge supervising the Case Management Meeting shall conduct a case diagnosis using the form in Part B of the Tenth Schedule to this Law before the Case Management Meeting.

(4) Subject to subsection (5) of this Section, and subject to any rules of Court, an order under subsection (1)(b) of this Section may be made without the consent of the parties if the type of ADR to which the civil proceeding or part of the civil proceeding is referred is not:

- (a) arbitration; or
- (b) expert determination; or
- (c) any other type of ADR which results, directly or indirectly, in a binding outcome.

(5) Unless the parties agree otherwise, no item on the Main Hearing Track and the Application Windows of the Procedural Timetable shall be suspended during the ADR process.

62. The powers of a Court under this Part are in addition to, and do not derogate from, any powers a Court has under any other law concerning ADR

PART VIII APPLICATIONS FOR EX-PARTE INTERIM REMEDIES AND THE INTERIM REMEDIES REFERENCE

63. (1) Where, in any civil proceeding, a party applies for or has obtained an *ex-parte* order by which a party or non-party is required to perform an act or is restrained from performing an act, a Court shall apply the following overarching principles when considering an application to grant or discharge such *ex-parte* order:

Interaction with
other laws and
Rules of Court

Provisions
regulating the grant
of *ex-parte*
restraining or
preservative orders

- (a) The Court shall only grant the order in deserving cases.
- (b) A case is deserving if the party who applies for the order demonstrates *prima facie* that:
 - (i) there is a real probability that the act which the party seeks to restrain or that the omission which the party seeks to prevent will occur by a date no longer than seven days after the date on which the application for the *ex-parte* order is made;
 - (ii) the party had no knowledge, and could not reasonably have had knowledge of the threat of the act or omission during any period prior to working days before the date on which the party filed the application for the *ex-parte* order, or circumstances exist that made it impracticable for the party to apply for the order within the prescribed time despite having such knowledge;
 - (iii) the party will suffer an injury that cannot be cured by an award of pecuniary damages unless the *ex-parte* order is granted;
 - (iv) the party has given an undertaking as to damages and shows the Court that it can pay those damages if it turns out that the *ex-parte* order was incorrectly granted, and
 - (v) the party has served on the other parties an *inter-partes* application for interlocutory relief on the same terms on the other parties or will do so within 24 hours after an *ex-parte* order is made.
- (c) Notwithstanding paragraph (b) of this subsection, a case is deserving if the order sought is an asset freezing, search or such other special type of *ex-parte* order and the application satisfies any special conditions prescribed by law for the grant of that order.
- (d) The Court shall promptly discharge an *ex-parte* order that is shown not to meet the requirements of paragraph (b) of this subsection, or that has been obtained in breach of a party's duty of full disclosure to the Court.
- (e) A party's duty of full disclosure to the Court includes a duty to disclose, in the affidavit supporting the application for the *ex-parte* order:
 - (i) Every case, argument, or order which, to the knowledge of the applying party or any party has made or obtained (as the case may be) that contradicts or opposes the allegations forming the basis of the applying party's case for substantive and interim relief;
 - (ii) Any written notice served by any party pursuant to subsection (2) of this Section.

- (f) A party does not satisfy the duty referred to in paragraph (e.) of this subsection by merely exhibiting a document to the affidavit supporting the application for an *ex-parte* order.
- (2) A person may, by written notice delivered to another person (in this subsection called the potential applicant) undertake:
- (a) to participate in any hearing scheduled to consider any application by the potential applicant for an *ex-parte* order, where the hearing is scheduled for a date not less than 48 hours from the service of the application for the *ex-parte* order on the party, and
 - (b) for a period not more than 7 days after the service of the application for the *ex-parte* order, to refrain from acting or failing to act in a manner that may pre-empt any order that may be made by the Court.
- (3) Where it is disclosed to a Court hearing an application for an *ex-parte* order that:
- (a) a person has given notice in the terms set out in subsection (2) of this Section, but
 - (b) the party applying for the *ex-parte* order has not served the application on the person giving the notice, the Court shall direct that the person giving the notice be served with the application for the *ex-parte* order;

Provided that the Court may proceed to hear and grant the application for the *ex-parte* order or deal with the matter in such other terms as the Court deems just if the person giving the notice does not appear at a hearing scheduled not less than 48 hours from the service of the application for the *ex-parte* order on the person.

- (4) Any *ex-parte* order by which a party or non-party is required to perform an act or not to perform an act shall include an endorsement in the following terms:

“This order shall remain in force until [specify date] and no person shall be required to comply with the terms of this order after the aforesaid date.”

- (5) No person shall be held to be in disobedience of an order bearing the endorsement set out in subsection (4) of this Section by virtue of any act done or omitted to be done by such person after the date referred to in the endorsement.

- (6) No person shall be absolved from civil liability for any act done or omitted to be done by such person to give effect to an order bearing the endorsement set out in subsection (4) of this section when such act was done or omitted to be done after the expiration of the date referred to in the endorsement.

(7) No person shall be held to be in disobedience of an order that does not bear the endorsement set out in subsection (4) of this section by virtue of any act done or omitted to be done by such person.

(8) No person shall be absolved from civil liability for any act done or omitted to be done by such person to give effect to an order that does not bear the endorsement set out in subsection (4) of this section.

(9) The date to be included in the endorsement set out in subsection (4) of this section shall be a date not longer than 20 days from the date on which the Court makes the *ex-parte* order.

(10) A Court may extend the date mentioned in the endorsement set out in subsection (4) of this section only if a party or non-party who is required to perform or refrain from performing an act has, by act or omission, precluded or delayed a prompt reconsideration of the *ex-parte* order at the *inter-partes* hearing referred to in subsection (11) of this Section.

(11) When a Judge makes an *ex-parte* order by which a party or non-party is required to perform or refrain from performing an act, the Judge shall schedule an *inter-partes* hearing to reconsider the *ex-parte* order on a date no longer than 14 days from the date on which the *ex-parte* order is made.

(12) At the *inter-partes* hearing scheduled to reconsider the *ex-parte* order, the Court shall:

- (a) hear any application to discharge the *ex-parte* order,
- (b) refer the parties to an Interim Remedies Reference under Section 64 of this Law, unless the parties have otherwise agreed to terms on which the *ex-parte* order may be continued or discharged, or upon which the Court may make a different type of order,
- (c) fix the date by which the Interim Remedies Reference must be concluded.

(13) At the *inter-partes* hearing to reconsider the *ex-parte* order, the Court may, after hearing the parties and after considering all the circumstances, make such other order in place of the *ex-parte* order as may, in the Court's estimation, achieve a fair balance between the parties, and such other order shall last until the earlier of:

- (a) the Court's decision on an application to discharge the *ex-parte* order, or
- (b) the Court's decision on an *inter-partes* application for an interlocutory injunction following the conclusion of an Interim Remedies Reference.

(14) The party who applied for the *ex-parte* order referred to in subsection (1) of this section shall seek and obtain the Court's confirmation, with a copy to the other parties, that the Judge who made the *ex-parte* order will be available for the *inter-partes* hearing to reconsider the *ex-parte* order.

(15) The Judge who made the *ex-parte* order shall, on a date not less than 4 days before the date scheduled for the *inter-partes* hearing to reconsider the *ex-parte* order, confirm to the parties that he or she will be available for the hearing.

(16) If the Judge who made the *ex-parte* order does not provide the confirmation required under subsection (15) of this section, it shall be the duty of the party who applied for the *ex-parte* order under subsection (1) of this Section to apply to the Chief Judge to appoint another Judge to conduct the *inter-partes* hearing to reconsider the *ex-parte* order by the scheduled date.

(17) The provisions of this Part shall operate without prejudice to any law which:

- (a) limits the circumstances in which the Court may grant mandatory orders;
- (b) provides for additional conditions that an applicant for an *ex-parte* restraining or preservative order must satisfy; or
- (c) provides for the grant of an asset freezing, search or other specific type of *ex-parte* order under special conditions.

The Interim
Remedies
Reference

64. (1) This Section applies to applications that a party files in a civil proceeding commenced 12 months from the commencement of this Law (the transition period), Provided that the Chief Judge may authorise one or more pilot schemes of the Interim Remedies Reference during the transition period.

(2) Whenever a party applies to a Court for any of the remedies mentioned in subsection (3) of this Section, the Court may make an order directing the parties to explore, through an Interim Remedies Reference, the possibility of agreeing, with the assistance of a neutral and under the rules of a licensed Dispute Resolution Institution, terms upon which:

- (a) the order may be made or refused, or
- (b) upon which a different type of order may be made, and the Court shall adjourn the hearing of the application for a period not exceeding 30 days, during which the Interim Remedies Reference must be concluded.

(3) This section applies to applications for:

- (a) Interim and/or interlocutory injunctions;
- (b) Interim preservation of property;

(c) Any other interim or interlocutory application, the purpose of which is to protect the subject matter of the litigation or of any evidence that is required for the purpose of the litigation.

(4) When adjourning the application as stated in subsection (2) of this Section, the Court shall, after hearing the parties, make any order for the interim preservation of the subject matter of the dispute, or such other order as the circumstances of the case require, to last until the date on which a Consent Order is made under subsection (6) of this Section, or until the *inter-partes* application is determined under subsection (9) of this Section.

(5) Where the parties agree to the terms on which the Judge may make a mutually acceptable interim order, they shall draw up such terms in the form of an Interim Terms of Settlement signed by the parties and the neutral.

(6) At the resumed sitting concerning the application, the Judge shall make a Consent Order in terms of the Interim Terms of Settlement.

(7) If the parties cannot agree on the terms on which the Judge may make a mutually acceptable interim order, the neutral will file a report with the Court stating his or her findings as to the measure(s) that will:

- (a) best preserve the value of the subject of the dispute; and
- (b) achieve the fairest balance between the parties' respective interests.

(8) At the resumed *inter-partes* hearing, the parties shall have the opportunity to comment on the findings of the neutral under subsection (7) of this Section.

(9) When determining the *inter-partes* application, the Judge shall consider the findings of the neutral under subsection (7) of this Section and the parties' comments concerning those findings.

PART IX ELECTRONIC RECORDING AND TRANSCRIPTION OF COURT PROCEEDINGS

65. (1) Subject to subsection (3) of this Section, all Court proceedings shall be recorded, transcribed, and provided to the parties in accordance with the provisions set out in the Ninth Schedule to this Law.

Verbatim
recording and
transcription of
court
proceedings

(2) Subject to subsection (3) of this Section, it shall no longer be required for Judges to record long-hand notes of proceedings, and the verbatim transcripts produced in accordance with the provisions set out in the Ninth Schedule to this Law shall be the only valid record of the proceedings of a court to which this Law applies.

(3) This Part applies to a civil proceeding that a party commences after 12 months from the commencement of this Law (the transition period) – Provided that the Chief Judge may authorise one or more pilot schemes of the verbatim recording and transcription of Court proceedings during the transition period.

PART X
INTERLOCUTORY APPEALS AND STAY OF PROCEEDINGS

No stay of
proceedings
pending
interlocutory appeal

66. (1) Except as stated in subsection (2) of this Section, a Court shall not stay any proceedings before it to await the outcome of an interlocutory appeal from a decision of that Court, and, notwithstanding that an interlocutory appeal has been filed, the parties and their Legal Practitioners shall take all steps required, and comply with all directions given by the Judge to ensure that the proceedings are completed in a prompt, cost-effective and efficient manner, and in accordance with the Procedural Timetable.

(2) Subsection (1) of this Section does not apply to the following:

- (a) An application for stay of proceedings under the Arbitration and Conciliation Act, under the Delta State Arbitration Law or the Delta State Mediation Law.
- (b) An application for stay of proceedings pending an appeal from a court's decision on an application referred to in paragraph (a) of this subsection.
- (c) An application to stay or strike out proceedings commenced in Nigeria where the parties have agreed to resolve their dispute in a court or other tribunal of another country.
- (d) An application for stay of proceedings pending an appeal from a court's decision on an application referred to in paragraph (c) of this subsection.

Remedies in place
of stay of
proceedings

67. (1) Where a party files an interlocutory appeal against a Court's refusal of that party's objection to a civil proceeding, the Court shall not deem that party to have waived the objection where the party takes all steps required and complies with all directions given by the Judge to ensure the completion of the proceeding.

(2) Where, in the circumstances described under subsection (1) of this Section, the Court proceeds to make a final decision requiring that party's payment of money, entitlement to property, or otherwise requiring the performance of an act, or refrain from performing an act:

- (a) the party's continued participation in the civil proceeding during the pending interlocutory appeal shall be deemed to be a special circumstance entitling such party to file an application for stay of execution or injunction pending an appeal against the Court's final decision; and
- (b) no execution, whether by writ of attachment, writ of possession, committal proceedings, garnishee proceeding or howsoever otherwise shall issue against such party until the Court has heard and determined the application for stay of execution.

PART XI
DISPUTE RESOLUTION INSTITUTIONS

Licensing of
Dispute
Resolution
Institutions

68. (1) The Chief Judge shall, upon the application of a Dispute Resolution Institution, license such institution to provide the services referred to in Sections 64 and 69 (2)(d) of this Law, provided that the Dispute Resolution Institution satisfies the eligibility criteria set out in subsection (2) of this Section.

(2) An Institution shall be eligible to be licensed under subsection (1) of this Section if it:

- (a) is incorporated under the Companies and Allied Matters Act or created under an enactment to provide Dispute Resolution Services;
- (b) has a registered office within the Court's jurisdiction;
- (c) has at least two officers among its operational staff who have legal qualifications (at least a first degree in law);
- (d) has rules of arbitration and/or mediation;
- (e) has a list of qualified experts in the disciplines that complement the service(s) it offers, including (where applicable):
 - (i) arbitration;
 - (ii) alternative dispute resolution;
 - (iii) accounting;
 - (iv) valuation; and
 - (v) such other disciplines as the Chief Judge may prescribe by Practice Direction.

PART XII
COSTS

General provisions
on costs

69. (1) A successful party in a civil proceeding is entitled to recover from the losing side its reasonable legal and other costs incurred in conducting the proceedings in an economical, expeditious and proper manner.

(2) Where the Court has made an order concerning costs, it shall determine the actual amount recoverable as follows:

- (a) If the parties have agreed on the amount in costs that will be paid pursuant to a costs order, then the Court shall determine the costs in accordance with such agreement;
- (b) Where the parties have not agreed on the amount that will be paid in costs, the party in whose favour a costs order has been made may opt for the costs to be assessed by the Court or assessed on taxation;

- (c) Where the party opts for assessment by the Court, the Judge shall make his or her own assessment of the amount a reasonable litigant is likely to have incurred in legal fees and disbursements, and award that amount;
- (d) Where the party opts for assessment by taxation, the Judge shall refer the case to taxation under its rules or to a licensed Dispute Resolution Institution, which shall appoint an expert to determine the costs.

Items recoverable as costs.

70. (1) A party may recover the costs that the party incurs in a civil proceeding for the following items:

- (a) legal practitioner's fees,
- (b) Court fees,
- (c) fees charged by expert witnesses,
- (d) reasonable travelling and hotel expenses for any witness travelling to the Court's jurisdiction to give evidence;
- (e) the fees of a Dispute Resolution Institution that has provided a service under this Law;
- (f) the fees of a Court Licensed Electronic Case Filing Agency;
- (g) the fees of a Court Licensed Electronic Process Server;
- (h) the fees of a Court Licensed Recorder and Transcriber;
- (i) any other expense that the successful party's legal practitioner has reasonably and properly incurred while conducting the proceeding, and which is not an expense that should normally be included in the overheads reflected in a legal practitioner's hourly, lump sum, or other rates.

(2) When fixing the costs to be paid as legal practitioner's fees, the Court or a taxing expert shall be guided by the principle that only costs reasonably incurred are reimbursable, and shall have regard to the reasonableness of:

- (a) the number of lawyers engaged to perform particular tasks;
- (b) the time spent in performing such tasks;
- (c) the hourly or other rates ascribed to each lawyer, in the light of any evidence as to comparable rates from other jurisdictions, or any scale of rates that the Nigerian Bar Association may publish from time to time.

(3) The fees and costs of a lawyer who is not a Legal Practitioner within the meaning of the Legal Practitioners Act are not recoverable unless they are incurred in obtaining expert evidence on foreign law.

71. (1) Where the successful party opts to determine the amount of that party's recoverable costs by taxation, the party shall submit a detailed Bill of Costs to the paying party within 14 days from the Court's costs order.

(2) The paying party shall respond with any objections to the claimed cost items within 14 days from the date the Bill of Costs is served on that party.

(3) When responding to the Bill of Costs, the paying party shall set out the items of costs to which the party agrees and which items to which it objects and shall give detailed reasons for such objection.

(4) If, within 7 days from the paying party's response, the parties do not agree on the amount of costs recoverable, the successful party shall commence formal taxation by applying to the Court to direct taxation under its Rules, or to appoint a licensed Dispute Resolution Institution for the purpose of the taxation.

(5) If the Court directs taxation under its Rules, the taxation shall proceed in accordance with those rules.

(6) If the Court appoints a Dispute Resolution Institution for the taxation, the Dispute Resolution Institution shall select a taxation expert and notify the parties of such selection within 14 days from the date that it receives the Court order appointing it.

(7) Within 7 days after the Dispute Resolution Institution notifies the parties of the taxation expert's selection, a party may state any objection to the expert on the ground that:

- (a) the expert is not qualified to perform the taxation, or
- (b) there are circumstances that give rise to reasonable doubts about the expert's independence or impartiality.

(8) If a party does not communicate an objection to the Dispute Resolution Institution within 7 days after the Dispute Resolution Institution notifies the parties of the taxation expert's selection, the Dispute Resolution Institution shall confirm the taxation expert's appointment and notify the parties.

(9) If a party objects to the taxation expert, the Dispute Resolution Institution shall determine the objection in accordance with its rules for the taxation of costs. If it rejects the objection, it shall confirm the appointment of the taxation expert. If it upholds the objection, it shall select another taxation expert and notify the parties.

(10) Within 7 days after it receives notice confirming the taxation expert's appointment, the successful party shall submit to the taxation expert, with a copy to the paying party and the Dispute Resolution Institution, a claim bundle consisting of:

- (a) its Bill of Costs accompanied by relevant supporting documents;
- (b) any objections to the Bill of Costs communicated by the paying party under subsection (7) of this Section;
- (c) its written submissions in response to any objections communicated by the paying party.

(11) If the paying party has not communicated any objections to the cost items claimed, the successful party shall apply to the taxing expert for a Costs Certificate in default for the full amount claimed.

(12) If the paying party has communicated an objection to the Bill of Costs, it shall submit written submissions in reply to those of the successful party within 14 days after it receives the claim bundle.

(13) The taxation expert shall conduct the costs determination in accordance with any rules for taxation of costs maintained by the applicable Dispute Resolution Institution and shall issue his or her decision in the form of a Costs Certificate setting out the amount that the paying party must pay.

Assessing the costs of a losing party that has appealed

72. (1) A losing party that has been adjudged liable to pay the costs of the successful party and who has appealed against the Court's judgement in the substantive case may:

- (a) at the time the successful party requests the Court to assess the costs under Section 69(2)(c) of this Law, require the Court to assess the losing party's costs as well;
- (b) at the time of submitting its response to a Bill of Costs under Section 71(2) of this Law, submit the losing party's Bill of Costs to the successful party.

(2) Where the losing party submits its own Bill of Costs to the successful party pursuant to subsection (1)(b) of this Section, the procedure set out in Section 71 of this Law shall apply to the losing party's Bill of Costs in the same manner as they apply to the successful party's Bill of Costs.

- (3) If an appellate court upholds the losing party's appeal, that party may:
 - (a) if the circumstances permit, request the appellate court to award costs in the amount certified by the taxation expert in respect of that party's Bill of Costs; or
 - (b) enforce the amount certified by the taxation expert in respect of that party's Bill of Costs as envisaged in Section 75 of this Law.

Review of taxation by a Judge

73. (1) If any party is dissatisfied with the amount of the Costs Certificate issued by the taxation expert, it may apply to a Judge to review the taxation expert's decision.

(2) The dissatisfied party shall make an application for review within 14 days after the date of the decision to be reviewed or within such other period as the Court may allow.

(3) The Court shall hear and determine the application in accordance with the Court Rules concerning the filing and determination of interlocutory applications.

74. (1) The taxation costs shall consist of:

Fees and costs of taxation

- (a) any Court filing fees;
- (b) the administrative fees of the Dispute Resolution Institution; and
- (c) the fees of the taxation expert.

(2) The taxation costs shall be recoverable and shall be included in the Costs Certificate issued by the taxation expert.

75. (1) The amount awarded by the taxation expert's Costs Certificate shall be enforceable as a judgment debt in the same way that an order of the Court for the payment of money is enforced.

Enforcement of Costs Certificate

(2) Proceedings for the assessment or taxation of costs shall not be stayed on account of an appeal from the judgment of the Court in the substantive dispute; provided that no amount awarded by the taxation expert's Costs Certificate shall be enforced until any application for stay of execution of the judgment has been determined.

76. (1) For the purposes of subsection (2) of this Section:

Cost for presenting a frivolous case or defence.

- (a) the defaulting party means any party that presents a frivolous claim or defence in any civil proceeding;
- (b) the innocent party means any party that defends a frivolous claim or faces a frivolous defence in any civil proceeding;
- (c) a frivolous claim or defence means one that lacks any arguable basis either in law or in fact

(2) Where, upon hearing and determining a case, the court finds that:

- (a) the Claimant's claim is frivolous or amounts to an abuse of the court's process and there was no justifiable reason to present the claim; or
- (b) the Defendant's defence is frivolous or amounts to an abuse of the court's process and there was no justifiable reason to present the defence;
- (c) a defaulting party shall be liable to pay costs of not less than N1,000,000.00 (One Million Naira) to an innocent party; provided that the Chief Judge may amend the default rate through the Court's Rules or Practice Direction.

FIRST SCHEDULE**SCHEME FOR COURT ONLINE DISPUTE RESOLUTION (COURT-ODR) SERVICES****Establishment and Scope of Court-ODR services**

- (1) To facilitate an efficient and a user-friendly litigation experience in the High Court, Magistrates' Courts and any Small Claims Courts Scheme operated by Delta State, the Chief Judge of Delta State may, by rules and/or Practice Directions establish a Court Online Dispute Resolution Scheme (Court-ODR) to provide:
 - (a) Informational web pages on the Court's website.
 - (b) E-filing, online applications/appending case files.
 - (c) Electronic template forms online.
 - (d) Costs calculator for court fees.
 - (e) E-payments.
 - (f) Tracking proceedings.
 - (g) E-services.
 - (h) Making legal submissions online.
 - (i) Online interaction between the Court and parties.
 - (j) Receiving decisions online.
- (2) Such rules or practice directions may provide for all aspects or some aspects of Court-ODR to be used in cases that are suitable to be heard "on paper", including, but not limited to Originating Summons, Originating Motions, and interlocutory applications.
- (3) Such rules or practice directions may also provide for all aspects or some aspects of Court-ODR to be used in cases where oral evidence is required but:
 - (a) there are few witnesses, and/or
 - (b) the parties agree that the examination of witnesses is not likely to be lengthy.
- (4) Such rules or practice directions may also permit a party to apply to the Court to allow all or particular aspects of a case to be heard on the basis of an Oral Court Hearing (OCH) rather than by Court-ODR.
- (5) An application under paragraph (4) above may be made on the grounds that:
 - (a) the case is not suitable for Court-ODR because the case requires oral evidence, or
 - (b) the Court will be assisted by oral submissions in an OCH.

- (6) If the Court finds that there is merit in such contention, the Court may direct that:
- (a) the case should be determined exclusively on the basis of an OCH; or
 - (b) the case should be determined on a hybrid ODR/OCH basis.

Mechanisms for delivery and funding

- (7) The rules and/or practice directions may provide for how Court-ODR services may be delivered, including, but not limited to:
- (a) Court-funded and Court-administered.
 - (b) Court-funded but partially Court-administered (Outsourcing contracts).
 - (c) Privately funded and fully or partially Court-administered (Concession contracts).

Court-funded and Court-administered

- (8) The rules and/or practice directions may provide for a scheme by which the Court will fund and administer the ODR service by:
- (a) acquiring the relevant technology for an ODR platform, and
 - (b) deploying skilled operators (e.g., by training existing staff or hiring new staff or a combination of both).

Court-funded but partially Court-administered (Outsourcing contracts)

- (9) Alternatively, or in addition, the rules and/or practice directions may provide for a scheme by which the Court will fund the scheme but outsource a part of the provision of the service to a private specialist technology company (“ODR service provider”). Under such scheme:
- (a) an ODR service provider owns the ODR platform and operates it subject to such directions as may be provided in rules and/or practice directions, including directions as to the allocation of tasks and responsibilities between personnel of the Court and personnel of the ODR service provider, and the overall supervision and regulation of the ODR service provider by personnel of the Court;
 - (b) the Court may licence any number of ODR service providers following an open and transparent bid process;
 - (c) the rules and/or practice directions may establish a process for performance evaluation and complaints in relation to the service of the ODR service provider;
 - (d) the Court will pay for the service of the ODR service provider;
 - (e) at the onset, there will be a determination of:
 - (i) the annual lump sum fee to be paid to the ODR service provider, based on a financial analysis to determine reasonable annual compensation (CapEx, OpEx and reasonable Return on Investment);
 - (ii) the feasibility of the Court funding the service, having regard to Court’s resources.

Privately funded, but partially Court-administered (Concession contracts)

- (10) Alternatively, or in addition, the rules and/or practice directions may provide for a scheme by which the parties will pay for the scheme and the Court will outsource a part of the provision of the service to a private specialist technology company ("ODR service provider"). Under such scheme:
- (a) an ODR service provider owns the ODR platform and operates it subject to such directions as may be provided in rules and/or practice directions, including directions as to the allocation of tasks and responsibilities between personnel of the Court and personnel of the ODR service provider, and the overall supervision and regulation of the ODR service provider by personnel of the Court;
 - (b) the Court may licence any number of ODR service providers following an open and transparent bid process;
 - (c) the rules and/or practice directions may establish a process for performance evaluation and complaints in relation to the service of the ODR service provider;
 - (d) the parties pay the private company for the service;
 - (e) where a Concession Contract model is adopted, rules may provide for the Court-ODR service to be on an "opt-in" basis at the instance of the claimant, i.e., the claimant activates the Court-ODR service by filing a claim under it;
 - (f) notwithstanding subparagraph (e) of this paragraph, a defendant may apply to the Court to allow the entire or a particular aspect of a case to be heard on the basis of an Open Court Hearing (OCH) rather than by ODR;
 - (g) an application under subparagraph (f) of this paragraph may be made on the grounds that:
 - (i) the case is not suitable for Court-ODR because the case requires oral evidence, or
 - (ii) the Court will be assisted by oral submissions in an OCH.
 - (h) If the Court finds that there is merit in such contention, the Court may direct that:
 - (i) the case should be determined exclusively on the basis of an OCH; or
 - (ii) the case should be determined on a hybrid ODR/OCH basis;
 - (i) the claimant who opts-in to use the ODR service pays the fees assessed by the ODR service provider and certified by the Court;
 - (j) the Defendant may be requested to deposit security for the costs, to abide by any costs order ultimately made by the Court;
 - (k) alternatively, in the event the cost of the ODR service provider fees is awarded against the defendant, the cost may be enforced through normal means of enforcement (writ of *feri facias*, garnishee, etc.).

SECOND SCHEDULE
PROOF OF ELECTRONIC SERVICE.
IN THE HIGH COURT OF DELTA STATE
IN THE [...] JUDICIAL DIVISION
HOLDEN AT [...]

SUIT NO:

BETWEEN:

[CLAIMANT/APPLICANT]

And

[DEFENDANT/RESPONDENT]

I, [Name of relevant officer in Court Licensed Electronic Service Agency] of [address of Court Licensed Electronic Service Agency] whose electronic address is [email address of Court Licensed Electronic Service Agency] do hereby declare under oath that:

(1) I electronically served a copy of the [specify process(es)] as follows:

(a) Name of person served: _____

(b) Electronic address of the person served: _____

On behalf of (name(s) of parties represented if the person served is a legal practitioner):

(c) On (date): _____

(d) At (time): _____

(2) I am not related to and I have no connection with either/any of the parties to this suit.

(3) I make this affidavit in good faith ... etc.

THIRD SCHEDULE

CASE MANAGEMENT – PROCEDURAL TIMETABLE

S/N	Main Hearing Track	Date	Application Windows	ADR Window
1.	Service of Statement of Claim		Application Window 1 <ul style="list-style-type: none"> Injunctions, Preservative orders, etc. 	ADR Window starts
2.	Case Management Meeting		Application Window 2 <ul style="list-style-type: none"> Jurisdictional objections. 	
3.	Statement of Defence and Counterclaim Date:		<ul style="list-style-type: none"> Summary judgment. Joinder. 	
4.	Statement of Reply ([...] days after (3))		<ul style="list-style-type: none"> Consolidation. 	
5.	Notice to Admit/Notice of Admission/Agreement on admitted issues and contested issues ([...] days after [...])		Application Window 3 <ul style="list-style-type: none"> Strike-out applications. Accounts. 	
6.	Discovery/Inspection ([...] days after [...])			
7.	Trial/Hearing			
8.	Date to file Trial Readiness Checklist (not later than 7 days before the Trial/Hearing date)			
9.	Respondent's Final Written Address ([...] days after (7))			
10.	Claimant's Final Written Address ([...] days after (8))			
11.	Respondent's Reply on Points of Law ([...] days after (9))			
12.	Adoption of Final Addresses/Oral submissions			
13.	Judgment			ADR Window ends

**FOURTH SCHEDULE
PROCEDURAL CAUTION TO PARTY
IN THE HIGH COURT OF DELTA STATE
IN THE [...] JUDICIAL DIVISION
HOLDEN AT [...]**

SUIT NO:

BETWEEN:

[CLAIMANT/APPLICANT]

And

[DEFENDANT/RESPONDENT]

To [Name and address of party]

TAKE NOTICE that if you further default in meeting a deadline on the Procedural Timetable, you will be liable to be committed to prison for contempt.

Dated this day of

JUDGE

**FIFTH SCHEDULE
PROCEDURAL CAUTION TO LEGAL PRACTITIONER
IN THE HIGH COURT OF DELTA STATE
IN THE [...] JUDICIAL DIVISION
HOLDEN AT [...]**

SUIT NO:

BETWEEN:

[CLAIMANT/APPLICANT]

And

[DEFENDANT/RESPONDENT]

To [Name and address of Legal Practitioner]

TAKE NOTICE that if you further default in meeting a deadline on the Procedural Timetable:

- I. You will be liable to be committed to prison for contempt.

- 2. Your conduct will be reported to the Legal Practitioners' Disciplinary Committee and the Legal Practitioners' Privileges Committee.

Dated this day of

JUDGE

SIXTH SCHEDULE

CONSENT TO ELECTRONIC SERVICE AND NOTICE OF ELECTRONIC SERVICE ADDRESS

**IN THE HIGH COURT OF DELTA STATE
IN THE [...] JUDICIAL DIVISION
HOLDEN AT [...]**

SUIT NO:

BETWEEN:

[CLAIMANT/APPLICANT]

And

[DEFENDANT/RESPONDENT]

Consent to Electronic Service and Notice of Electronic Service Address

Tick and complete as appropriate.

- 1. the following party or the legal practitioner for:

- (a) Claimant (name): _____
- (b) defendant (name): _____
- (c) other (describe): _____

consents to the electronic service of notices and documents in the above-captioned suit.

- 2. The electronic service address of the person identified in item (1) is (specify):

SEVENTH SCHEDULE

NOTICE OF CHANGE OF ELECTRONIC SERVICE ADDRESS

IN THE HIGH COURT OF DELTA STATE
IN THE [...] JUDICIAL DIVISION
HOLDEN AT [...]

SUIT NO:

BETWEEN:

[CLAIMANT/APPLICANT]

And

[DEFENDANT/RESPONDENT]

Notice of change of Electronic Service Address

Tick and complete as appropriate.

1. the following party or the legal practitioner for:

- (d) Claimant (name): _____
- (e) defendant (name): _____
- (f) other (describe): _____

is changing its electronic service address for the electronic service of notices and documents in the above-captioned suit.

- 2. The current electronic service address of the person identified in item (1) is (specify): _____
- 3. The new electronic service address of the person identified in item (1) is (specify): _____
- 4. All notices and documents regarding this action should be sent to the new electronic address as of (date): _____

EIGHTH SCHEDULE

NOTICE OF DESIGNATION/CHANGE OF REPRESENTATIVE

**IN THE HIGH COURT OF DELTA STATE
IN THE [...] JUDICIAL DIVISION
HOLDEN AT [...]**

SUIT NO:

BETWEEN:

[CLAIMANT/APPLICANT]

And

[DEFENDANT/RESPONDENT]

To: The Honourable Judge

[Delete as appropriate]

I/we hereby confirm that I/we shall serve as the [Claimant's/defendant's] representative in this case. **OR** I/we, [specify name or names], the undersigned, hereby designate [specify name], whose name and address appear below, as my/our representative in this case.

This designation shall remain valid until a written revocation of it, signed by me/us, is filed with the Honourable Court.

I undertake that I/we are authorised to make this designation and that the person named below has, by reading and appending his/her signature to this form, accepted to serve as my/our case representative.

Name and signature of representative:

Physical address:

Email address:

Phone number:

[Date]

[Name(s), signature(s) and address of the person(s) making the designation.]

NINTH SCHEDULE

VERBATIM RECORDING AND TRANSCRIPTION OF PROCEEDINGS

Selection of CLRTs

- (1) The Chief Judge shall license Recorders and Transcribers (“Court Licensed Recorders and Transcribers” or “CLRTs”). A list of licensed CLRTs will be published by the Court on its website and through other means by which the Court communicates with the public. CLRTs will be licensed on the basis of the following criteria:
 - (a) A CLRT shall be incorporated under the Companies and Allied Matters Act.
 - (b) A CLRT must have a paid up capital of not less than N....., or such other amount as the Chief Judge may prescribe by Practice Direction.
 - (c) A CLRT shall have at least two officers among its operational staff who have legal qualifications (at least a first degree in law).
 - (d) A CLRT must have the technical equipment required to:
 - (i) Record full-day sessions of all the cases heard in the Court to which the CLRT is assigned.
 - (ii) Record each case in a separate audio file.
 - (iii) Record each audio file in a format that can be zipped and transmitted by email (for example, without limiting the generality of the foregoing, MP3, MPEG, WMA, etc.).
 - (iv) Record the duration of each recording.
- (2) A CLRT will be assigned to as many Courtrooms as its proven capacity permits.
- (3) The license of a CLRT is valid for one year and will be renewed subject to:
 - (a) the criteria mentioned in paragraph (1) above, and
 - (b) the evaluation of the CLRT’s performance by the Judge and the parties’ legal practitioners.

Operation

- (4) The CLRT shall set up its audio recording equipment in the Court before the Court convenes each day.
- (5) The CLRT shall record each case for the day in a separate audio file.
- (6) Immediately after the Court session for the day, the CLRT will send the audio file in zipped format to email addresses provided by: (a) the Court and (b) the parties’ legal practitioners.
- (7) The CLRT shall transcribe the audio recording and send the transcript by email in Microsoft Word format to the parties within 48 hours from the date of the hearing.

Correction of Transcripts

- (8) Within 7 days after receiving the transcripts, the parties' legal practitioners will exchange their comments on the transcript by email, copied to the CLRT.
- (9) Within 7 days thereafter, the parties' legal practitioners will endeavour to agree on a common transcript.
- (10) When the parties' legal practitioners have agreed on a common transcript, they will communicate the common transcript to the CLRT by email.
- (11) If there are any aspects of the transcript on which the parties' legal practitioners cannot agree, the parties' legal practitioners will meet with the CLRT, who will make a final determination based on the recorded audio file and produce a common transcript.
- (12) The CLRT will transmit the common transcript to the Court in electronic and hard-copy versions, with the parties in copy.
- (13) A party may obtain a certified true copy of such common transcript from the Court.

Remuneration of CLRTs

- (14) A CLRT's fees for recording and transcribing will be computed by multiplying its hourly rates by the duration of the proceedings recorded.
- (15) The parties will pay the CLRT's fees directly to the CLRT, upon an invoice issued by the CLRT to the parties' legal practitioners.
- (16) Payment of the CLRT's fees shall be shared equally by the parties, and a Court shall have the same power to enforce the payment of the CLRT's fees as it has to enforce costs orders made by the Court.
- (17) The fees paid by a party to a CLRT shall be part of the party's costs in the action and shall be recoverable in the same manner as other costs incurred by the party.

Duty of CLRT and Performance Evaluation

- (18) A CLRT has a duty to the Court and to the parties to perform its duties with reasonable care and skill, and with utmost honesty and good faith.
- (19) Each time a CLRT transmits a common transcript to the parties' legal practitioners, it shall enclose with the transcript an evaluation form on which the Judge and the legal practitioners shall evaluate the performance of the CLRT on a performance scale of 1 to 3, where:

1 = Dissatisfied

2 = Impressed

3 = Very Impressed

- (20) A legal practitioner who has evaluated a CLRT shall transmit such evaluation to the Court and the other parties by email, with the CLRT in copy.
- (21) A Judge who has evaluated a CLRT shall transmit such evaluation to the other parties' legal practitioners by email, with the CLRT in copy.
- (22) Practice directions may provide for sanctions to be applied in the event of a breach of a CLRT's duty to the Court and to the parties, including but not limited to suspending, revoking or not renewing the license of a CLRT.
- (23) Where the breach of a CLRT's duty to the Court or to the parties amounts to an offence against the administration of justice under an Act of the National Assembly or a law of a State, the CLRT shall be liable to be prosecuted for such offence.

**TENTH SCHEDULE
CASE MANAGEMENT**

**PART A
SELF-ASSESSMENT QUESTIONNAIRE FOR PARTIES TO A DISPUTE**

Self-assessment questionnaire for parties to a dispute

The High Court of Delta State sitting at:
Suit No:

Full name of claimant(s)

Full name of defendant(s)/respondent(s)

The information below is to be completed by the parties:

Name: _____

Physical address: _____

Email address: _____

Phone number: _____

Provide answers, when possible, to the following questions. When the question is not relevant, or the answer is not clear choose the middle column "doubt".

	Yes	Doubt	No
1. Is this dispute delaying any decision or development opportunity for you and/or your business?			

2.	Is a quick solution to the dispute important for you?			
3.	Are you looking for a long-lasting solution to the dispute?			
4.	Is there an interest in saving/maintaining the business relationship with the other party?			
5.	Is there any point of the dispute that you would like to discuss/clarify with the other party apart from the strictly legal aspects of the dispute?			
6.	Would you prefer some elements of the dispute not to become public/remain confidential?			
7.	Do you have any doubt about the outcome of the trial?			
8.	Do you consider that the litigation costs will reduce or even exceed what you could recover through the lawsuit?			
9.	Do you have enough resources to dedicate to the dispute and to invest in litigation costs (including lawyer/technical experts etc.)?			
10.	Is it important for you to maintain control of the outcome of the dispute?			
11.	Is there any fact/aspect of the dispute that you consider would not be sufficiently discussed/dealt with during the trial? Would you have the opportunity to discuss it?			
12.	Do you fear that a Court decision may be difficult to enforce?			
13.	Will your allegations be easy to prove to the judge? Do you have strong evidence to support your allegations?			
14.	Can you handle the emotional burden generated by litigation?			
15.	Is there any likelihood that you don't need a legal precedent over the legal aspects of the dispute?			
16.	Are you looking for public vindication?			

17. Is there any other underlying reason for the trial?			
18. Are you looking for an apology from the/one of the other parties?			
19. Did your lawyer give you a clear evaluation of about the procedure and all aspects concerning the judicial proceedings? (Time, money, etc.)			

**PART B
CASE DIAGNOSIS FOR JUDGES**

Provide answers, when possible, to the following questions. When the question is not relevant, or the answer is not clear choose the middle column “doubt”.

Section A – Framework conditions	Yes	Doubt	No
1. Can the dispute be subject to a mediation settlement under the current legal framework?			
2. Can parties be referred to mediation or another ADR process at this stage of the proceedings?			
3. Are there any other pending proceedings involving the same parties or one of the parties on the same or cross related issues?			
4. Are there many parties involved in the trial or is it highly probable that the judge will order (a) third party/ies to join the action?			
5. Is there a mediation clause in the contract?			

Section B – Suitability of the dispute	Yes	Doubt	No
6. Based on your experience, is the settlement of this dispute possible?			
7. Is a quick resolution of the dispute important?			

8.	Will the litigation costs significantly reduce what could be recovered through judgment?			
9.	Do one or both parties have limited resources to dedicate to the litigation process?			
10.	Is there a high probability that the case will be complicated to rule upon (lack of evidence, complex or technical factual issues, etc.)?			
11.	Is there a need for privacy/keeping elements of the dispute confidential?			
12.	Does the case concern a matter of principle?			
13.	Is it likely that the dispute only represents a part of other underlying /not expressed conflicts?			

Section C – Parties’ attitude to ADR		Yes	Doubt	No
14.	Is it important for the parties to maintain a relationship with each other in future?			
15.	Is the outcome of the court decision particularly uncertain for the parties?			
16.	Is it important for the parties to be in control of the outcome of the dispute?			
17.	Is it important for the parties to be in control of the timing and organisation of the decisional process?			
18.	Is public vindication important for either party?			

Section D – Benefits of ADR to the parties	Yes	Doubt	No
19. Would mediation/ADR help parties to restore dialogue/relationship between them?			
20. Would mediation/ADR help parties to find a tailored solution that goes beyond the purely applicable legal framework?			
21. Would mediation/ADR help parties to disclose sensitive information in a confidential setting?			
22. Would mediation/ADR help parties to set the conditions for an apology if relevant?			

**PART C
CASE MANAGEMENT MEETING QUESTIONNAIRE**

**Case Management Meeting
Questionnaire**

The High Court of Delta State sitting at:

Suit No:

Full name of claimant(s)

Full name of defendant(s)/respondent(s)

Completed by:

who is the [STATE WHETHER CLAIMANT OR DEFENDANT] in this case.

This questionnaire must be completed and filed no later than 7 days before the date on which the Case Management Meeting is scheduled.

If you have settled this claim (or if you settle it on a future date) and do not need to have it heard or tried, you must let the Court know immediately.

A Settlement/Mediation

Under the Delta State Administration of Civil Justice Law, parties should make every effort to settle their case. At this stage you should still think about whether you and the other party(ies) can settle your dispute without going to a hearing. The Court will want to know what steps have been taken.

You may seek to settle the claim either by direct discussion or negotiation with the other party or by mediation. If a settlement is reached, parties may enter into a binding agreement which can be enforced if the terms of the agreement were to be breached.

Mediation is a way of resolving disputes without a Court hearing, where the parties are assisted in resolving their dispute with the help of an impartial mediator. If the claim is settled at this stage, the parties can avoid further court fees, costs and time involved in preparing and attending a hearing.

For legal representatives only

I confirm that I have explained to my client the need to try to settle; the options available; and the possibility of costs sanctions if they refuse to try to settle. I confirm

For all

- 1. Have you completed and attached the self-assessment questionnaire for parties to a dispute? Yes No
- 2. Since the Law requires you to try to settle the claim before the hearing, do you want to attempt to settle at this stage? Yes No
- 3. If yes, do you want a one-month stay of the proceedings? Yes No
- 4. If you answered 'No' to question 2, please state below the reasons why you consider it inappropriate to try to settle the claim at this stage.

Reasons:

B Pre-litigation requirements

You are expected to comply fully with the pre-litigation requirements in section 32 of the Delta State Administration of Civil Justice Law and section 10 of the Delta State Mediation Law. Have you done so? Yes No

If you have not complied, or have only partially complied, please explain why.

C	Applications
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Have you made any applications in this case? Yes No

If yes, what for? (e.g., extension of time, summary judgment, injunction).

For hearing on

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 /

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 /

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D	Witnesses
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Which witnesses of fact do you intend to call at the trial or final hearing including, if appropriate, yourself?

Witness name	Witness to which facts?

D Trial/Hearing

How long do you estimate the trial or hearing will take?

Give the best estimate you can of the time that the Court will need to decide this case. If later you have any reason to shorten or lengthen this estimate, you should let the court know immediately.

less than one day

one day

more than one day

Hours

State the number of days

Are there any days within the next 12 months when you or an essential witness will not be able to attend Court for trial or hearing?

If yes, please give details:

Name	Dates not available

Note: You should only enter those dates when your essential witnesses will not be available to attend Court because of a holiday or other commitments.

E Other information

Do you intend to make any applications in the future? Yes No

If yes, what for?

[Empty text box for providing details if the answer to the previous question is 'Yes']

In the space below, set out any other information you consider will help the judge to manage the claim.

Signature

Date

/ /

Please enter your name, full postal address, telephone and e-mail:

Name:	
Address:	
Phone number:	
Email:	

**PART D
TRIAL READINESS CHECKLIST**

Trial Readiness Checklist	The High Court of Delta State sitting at:
	Suit No: Date(s) fixed for trial/hearing:

Full name of claimant(s)

[Empty text box for claimant name]

Full name of defendant(s)/respondent(s)

[Empty text box for defendant name]

Completed by:

[Empty text box for completion signature]

who is the [CLAIMANT/DEFENDANT] in this case.

This form must be **completed** and **filed** in the Court on or before the date fixed by the Judge at the Case Management Meeting, which must be no later than 7 days before the trial/hearing date.

If the claim has been settled, or is settled before the trial date, you must let the court know immediately.

A Confirmation of compliance with directions

1. I confirm that I have complied with all Court directions that require my action Yes No

If you are unable to give confirmation, state which directions you still have to comply with and the date by which this will be done.

[Empty text box for non-compliance details]

2. I believe that additional directions are necessary before the trial takes place. Yes No

If yes, state all additional directions needed to enable the claim to be tried on the date, or within the trial period, already fixed.

[Empty text box for additional directions]

3. Have you agreed on the additional directions you are seeking with the other party/parties? Yes No

B **Narrowing issues& trial preparation**

- 1. Have the parties signed a statement recording the issues agreed upon and those in dispute between them? **(Statement to be attached)** Yes No
- 2. Have all required amendments to the pleadings taken place? Yes No
- 3. Are all discovery processes (if any) complete? Yes No N/A
- 4. Are there any points *in limine* and/or interlocutory issues which have arisen, or which are anticipated to arise? Yes No

If yes, of what nature?

C **Witnesses**

- 1. How many witnesses (including yourself) will be giving evidence on your behalf at the trial?
- 2. Are there any days within the trial period you or your witnesses would wish to avoid if possible? Yes No

Please give details

Name of witness	Dates to be avoided, if possible	Reason

Please specify any special facilities or arrangements needed at court for the party or any witness (e.g., witness with a disability or requirements for an interpreter).

D	The trial
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1. Has the estimate of the time needed for the trial changed? Yes No
 If yes, specify how long you estimate the whole trial will take, including both parties' cross-examination. days/hours/minutes
2. If different from the original estimate, have you agreed with the other party(ies) that this is now the total time needed? Yes No
3. If different from the original estimate, have you attached a proposed timetable for trial that you have agreed with the other party(ies)? Yes No

Signature

Date

		/			/				
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Please enter your name, full postal address, telephone and e-mail:

Name:	
Address:	
Phone number:	
Email:	

PART E
STATEMENT OF AGREED AND DISPUTED ISSUES
IN THE HIGH COURT OF DELTA STATE
IN THE [...] JUDICIAL DIVISION
HOLDEN AT [...]

SUIT NO:

BETWEEN:

[CLAIMANT/APPLICANT]

And

[DEFENDANT/RESPONDENT]

STATEMENT OF AGREED AND DISPUTED ISSUES

Claimant, [INSERT NAME], and Defendant, [INSERT NAME] hereby submit, through the undersigned counsel, the following:

A. Statement of Contested Issues

1. Whether [...].
2. Whether [...].

B. Statement of Agreed Facts

The following are the common facts between the parties:

1. [...].
2. [...].

Dated the [...] day of [...], 20[...]

Claimant's Counsel

[Address]
[Phone Number]
[Email]

Defendant's Counsel

[Address]
[Phone Number]
[Email]

**PART F
NOTICE OF NO CONSTEST**

**IN THE HIGH COURT OF DELTA STATE
IN THE [...] JUDICIAL DIVISION
HOLDEN AT [...]**

SUIT NO:

BETWEEN:

[CLAIMANT/APPLICANT]

And

[DEFENDANT/RESPONDENT]

NOTICE OF NO CONSTEST

By this notice, the [state party/parties giving notice] give notice that he/she/they do not intend to oppose the [state party that filed the application] motion on notice for [state the applicant’s primary relief(s)] filed on [insert date].

Dated the [...] day of [...], 20[...]

[Address]
[Phone Number]
[Email]

**ELEVENTH SCHEDULE
MODEL AGREEMENT TO MEDIATE**

THIS AGREEMENT dated IS MADE BETWEEN

Party A

..... of

Party B

..... of

(together referred to as ‘the Parties’)

The Mediator..... of

(a term which includes any agreed **Mediator Observer**) and

[Name of Dispute Resolution Institution] of

in relation to a mediation to be held on (date and time)

at (place)

(‘the Mediation’)

IT IS AGREED by those signing this Agreement THAT:

The Mediation

- (1) The Parties agree to attempt in good faith to settle their dispute at the Mediation. The Mediator agrees to conduct and the Parties to participate in the Mediation in accordance with this Agreement to mediate and consistent with the [Name of Dispute Resolution Institution] procedure and the Code of Practice prepared or approved by the Attorney-General of Delta State, in operation at the date of this Agreement.

Authority and status

- (2) The person signing this Agreement on behalf of each Party warrants having authority to bind that Party and all other persons present on that Party's behalf at the Mediation, [or any part thereof], to observe the terms of this Agreement, and also having authority to bind that Party to the terms of any settlement.
- (3) Neither the Mediator nor [Name of Dispute Resolution Institution] shall be liable to the Parties for any act or omission in relation to the Mediation unless the act or omission is proved to have been fraudulent or involved wilful misconduct.

Confidentiality and without prejudice status

- (4) Every person involved in the Mediation:
 - 4.1 shall keep confidential all information arising out of or in connection with the Mediation, including the terms of any settlement, unless otherwise agreed by the Parties in writing (but not including the fact that the Mediation is to take place or has taken place) or where disclosure is required by law, or to implement or to enforce terms of settlement or to notify their insurers, insurance brokers and/or accountants; and
 - 4.2 acknowledges that all such information passing between the Parties, the Mediator and/or [Name of Dispute Resolution Institution], however communicated, is agreed to be without prejudice to any Party's legal position and may not be produced as evidence or disclosed to any judge, arbitrator or another decision-maker in any legal or another formal process, except where otherwise disclosable in law.
- (5) Where a Party privately discloses to the Mediator or [Name of Dispute Resolution Institution] any information in confidence before, during or after the Mediation, the Mediator or [Name of Dispute Resolution Institution] shall not disclose that information to any other Party or person without the consent of the Party disclosing it.
- (6) The Parties understand that the Mediator and [Name of Dispute Resolution Institution] do not give legal advice and agree that they shall not make any claim against the Mediator or [Name of Dispute Resolution Institution] in connection with this Mediation. The Parties shall not make an application to call the Mediator or any employee or consultant of [Name of Dispute Resolution Institution] as a witness, nor require them to produce in evidence any records or notes relating to the Mediation, in any litigation, arbitration or other formal process arising out of or in connection with their dispute and the Mediation; nor shall the Mediator nor any [Name of Dispute Resolution Institution] employee or consultant or agree to act as a witness, expert, arbitrator or consultant in

any such process. If any Party does make such an application (as listed above), that Party shall fully indemnify the Mediator or the employee or consultant of [Name of Dispute Resolution Institution] in respect of any costs any of them incur in resisting and/or responding to such an application, including reimbursement at the Mediator’s standard hourly rate for the Mediator’s time spent in resisting and/or responding to such an application.

Settlement formalities

- (7) No terms of settlement reached at the Mediation will be legally binding until set out in writing and signed by or on behalf of each of the Parties.

Fees and costs of the Mediation

- (8) The Parties shall be responsible for the fees and expenses of [Name of Dispute Resolution Institution] and the Mediator (‘the Mediation Fees’) in accordance with [Name of Dispute Resolution Institution]’s Terms and Conditions of Business current at the date of this Agreement (including any provision for additional hours if the mediation process extends beyond the allocated hours).
- (9) Unless otherwise agreed by the Parties and [Name of Dispute Resolution Institution] in writing, each Party agrees to share the Mediation Fees equally and also to bear its own legal and other costs and expenses of preparing for and attending the Mediation (‘each Party’s Legal Costs’). However, each Party further agrees that any Court or tribunal may treat both the Mediation Fees and each Party’s Legal Costs as costs in the case in relation to any litigation or arbitration where that Court or tribunal has the power to assess or make orders as to costs, whether or not the Mediation results in settlement of their dispute.

Legal status and effect of the Mediation

- (10) This Agreement is governed by the laws of Delta State and the courts of Delta State shall have exclusive jurisdiction to decide any matters arising out of or in connection with this Agreement and the Mediation.
- (11) The referral of the dispute to the Mediation does not affect any rights that exist under Section 36 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), and if their dispute does not settle through the Mediation, the Parties’ right to a fair trial remains unaffected.

Changes to this Agreement

Agreed changes to this Agreement and/or the [Name of Dispute Resolution Institution] Procedure (if any) are set out below.

Signed

Party A.....
[Sign and Print Name]

Party B.....
[Sign and Print Name]

Mediator
[Sign and Print Name]

[Name of Dispute Resolution Institution]
[Sign and Print Name]

**TWELFTH SCHEDULE
MODEL MEDIATION SETTLEMENT**

THIS AGREEMENT dated IS MADE BETWEEN

Party A
..... of

Party B
..... of

(together referred to as '**the Parties**')

Background

- (a) The Parties have been in a dispute in relation to [set out brief details] ('the Dispute'), which is being litigated in [reference to the Suit Number] ('the Action').
- (b) The Dispute has been the subject of a mediation ('the Mediation') conducted under an agreement ('the Agreement to Mediate) between the Parties, [Name of Mediator] ('the Mediator') and [Name of Dispute Resolution Institution].
- (c) The Parties have agreed to settle the Dispute on the terms set out below ('the Settlement Agreement').
- (d) [Set out any other key facts or representations].

Agreed Terms

The parties have agreed as follows:

- (1) The [Name of Party] agrees to pay [Name of Party] the sum of [Amount] ('the settlement sum') in full and final settlement of the claim to be paid
by [date]
or
by instalment amounts of [Amount] per month for a period of months commencing on the [date] with a final payment of [Amount] due on [date].
- (2) [Any other terms].
- (3) The Action will be stayed, and the parties will consent to an order in accordance with the attached Court Terms of Settlement.
- (4) This Agreement is in full and final settlement of any causes of action whatsoever which the Parties have against each other.

[It is important that such a clause is only included after a careful check has been made as to whether there are any other possible outstanding causes of action between the Parties which can safely be compromised (or ought not to be compromised) in this way.]

- (5) This agreement supersedes all previous agreements between the parties [in respect of all matters relevant to the Dispute] except for those terms of the Agreement to Mediate of continuing effect including the confidentiality of the mediation process, the Parties' undertaking not to call the mediator to give evidence and the liability of the Mediator.

[Only necessary if there have been previous agreements.]

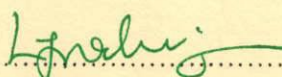
- (6) If any dispute arises out of this Agreement, the Parties will attempt to settle it by mediation before resorting to any other means of dispute resolution. To initiate any such mediation a Party must give notice in writing to the Mediator. Insofar as possible the terms of the Agreement to Mediate will apply to any such further mediation. If no legally binding settlement of such a dispute is reached within [28] days from the date of the notice to the Mediator, either party may institute Court proceedings.
- (7) The Parties will keep confidential and not use for any collateral or ulterior purpose the terms of this Agreement except insofar as is necessary to implement and enforce any of its terms or as otherwise agreed in writing by the Parties.

Signed

Party A.....
[Sign and Print Name]

Party B.....
[Sign and Print Name]

This printed impression has been carefully compared by me with the Bill which has passed the Delta State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.



.....
*Clerk
Delta State House of Assembly.*

ASSENTED to/~~not assented to~~ this 22nd day of December, 2022.



.....
*Governor
Delta State of Nigeria*