# **BIRMINGHAM BPC SHORTER TRIALS SCHEME**

# **STANDARD DIRECTIONS**

**Claim No. BHM-000001**

**IN THE HIGH COURT OF JUSTICE / COUNTY COURT**

**BUSINESS AND PROPERTY COURTS IN BIRMINGHAM**

**(………COURT / LIST)**

**SHORTER TRIALS SCHEME**

**BETWEEN:**

**A LIMITED**

**Claimant**

**-and-**

**B LIMITED**

**Defendant**

**BEFORE…………..**

**Upon Hearing Counsel for the Claimant and Defendant**

**IT IS ORDERED THAT:**

**Statements of Case**

1. The Claimant has permission to amend the Particulars of Claim in the form produced to the Court. Any such Amended Particulars of Claim shall be limited to no more than 20 pages in length and filed and served by [\*]
2. The Defendant has permission to serve an Amended Defence [and Counterclaim] in the form produced to the Court [consequential upon the Amended Particulars of Claim]. Any such Amended Defence [and Counterclaim] shall be limited to no more than 20 pages in length and filed and served by [\*].
3. [The Claimant has permission to file and serve an Amended Reply [and Defence to Counterclaim] in the form produced to the Court [consequential upon the Amended Defence] [and Counterclaim]. Any such Amended Reply [and Defence to Counterclaim] shall be limited to no more than 20 pages in length and filed and served by [\*].]
4. The costs of, and occasioned by, the amendments to the [ \*] shall be paid by [\*] in any event, such costs to be assessed on the standard basis by way of detailed assessment if not agreed.
5. The [\*] shall file and serve any Request for Further Information or Clarification of the [\*] statements of case by [\*]
6. [\*] shall file and serve Replies to the Request for Further Information or Clarification made by the [\*] on [date] in relation to the [statement of case] by [\*].

**Shorter Trials Scheme**

1. This action is to be managed in Birmingham Business and Property Court’s Shorter Trials Scheme in accordance with CPR Practice Direction 57AB paragraph 2.
2. The designated judge for these proceedings will be HHJ…………
3. The list of issues to be adjudicated at trial pursuant to CPR PD 57AB paragraph 2.38(c) is approved as attached to this order.
4. Any application in these proceedings must be addressed to the designated judge and dealt with in compliance with CPR PD 57AB paragraph 2.48 and in particular, will be dealt with without a hearing unless the judge considers one necessary.

**Disclosure**

1. Pursuant to CPR PD 57AB paragraph 2.42, the parties shall [within 4 weeks of the CMC] make and serve a disclosure list in the form required by CPR 31.10 (and including a disclosure statement containing a brief description of the steps taken to locate the documents) and serve copies of all documents where there is no objection to inspection.
2. The documents to be included in each party’s disclosure list are:
	1. The documents that party relies on as supporting their case;
	2. The documents requested by any other party not less than 14 days before the CMC which they agreed, or the Court at CMC ordered, them to provide.

**Witness Statements**

1. Signed statements of witnesses of fact (and any hearsay notices required by CPR 33.2), shall be exchanged not later than [\*]. In accordance with CPR PD 57AB paragraph 2.44, all statements shall be limited to no more than 25 pages in length and will comply with CPR PD 57AC.
2. In accordance with CPR 32.10, non-compliance with the above paragraph on witness statements will mean the witness cannot be called to give oral evidence unless the Court gives permission.
3. Unless otherwise ordered, the witness statements shall stand as the evidence in chief of the witnesses at trial.

**Experts**

In accordance with CPR PD57AB paragraph 2.46 on the use of experts in the Shorter Trials Scheme, the following directions apply:

*Single Joint Expert*

1. The parties shall have permission to adduce expert evidence in the following field(s) of expertise in the form of a written report by a single joint expert pursuant to CPR 35.7: (1) [Expertise] (2) [Issue(s) to be covered].
2. The parties shall identify and shall if possible give joint instruction to the single joint expert by [\*]. In the case of difficulty or disagreement, the matter shall be referred to the Court for directions at the earliest practicable date.
3. The report of the single joint expert shall be produced by [\*].
4. Any questions to the expert shall be put to him by [\*] and answered by [\*].
5. Any party may apply not later than [\*] for an order that the expert witness shall give oral evidence at the trial. The parties are reminded that if persuaded of the need for oral evidence, the Court is likely to limit it to identified issues.

*Experts called by each party*

1. Each party shall have permission to adduce expert evidence as follows:

(1) [Number]; (2) [Expertise]; (3) [Issue(s) to be covered]

1. Signed reports of experts shall be exchanged [sequentially as follows: by the Claimant’s expert by [\*] and by the Defendant’s expert by [\*]] [simultaneously by [\*].] [The parties may serve short supplemental experts’ reports, to be exchanged [sequentially] [simultaneously] by not later than [\*]
2. Experts of like disciplines shall by [\_\_\_\_\_\_\_\_\_\_]:

(1) Hold discussions pursuant to CPR 35.12(3) for the purposes of identifying the issues, if any, between them and, where possible, reaching agreement on those issues (or at least narrowing them); and

(2) Prepare a joint written statement pursuant to CPR 35.12(3), by [\*] stating:

(a) That they have met and discussed the expert issues;

(b) The issue(s) on which they agree;

(c) The issues on which they disagree; and

(d) A brief summary of the reasons for their disagreement.

1. If the experts’ reports cannot be agreed, a party wishing to call an expert must apply to Court for permission to call expert witnesses at the trial, limited to those experts whose reports have been exchanged under this order. The parties are reminded that if persuaded of the need for oral evidence, the Court is likely to limit it to identified issues.

**ADR**

*FDR*

1. The Claim shall be listed before a BPC District Judge for a without prejudice financial dispute resolution (‘FDR’) appointment on the following basis:
	1. The FDR shall take place in private on [date] [or a date to be fixed with a time estimate of [x] hours commencing at 11.00. Judicial pre-reading is estimated to take [x] hours.
	2. The parties and their representatives shall attend one hour beforehand for the purpose of seeking to narrow issues and negotiation. The FDR appointment must be treated as a meeting held for the purposes of discussion and negotiation. Parties attending the FDR appointment must use their best endeavours to reach agreement on all matters in issue between them. The parties must personally attend the FDR appointment unless the court directs otherwise.
	3. Not less than 7 days before the FDR appointment, the claimant must file with the court a bundle for the FDR appointment. Copies of all offers and proposals, and responses to them whether made wholly or partly without prejudice should be included in the bundle. The disclosure of offers to the court does not amount to a waiver of privilege.
	4. At the conclusion of the FDR appointment, the court may make an appropriate consent order and any documents filed under paragraph (3), and any filed documents referring to them, must be returned to that party and not retained on the court file and the court will not retain a record of the hearing. No non-party will be entitled to obtain a transcript of the hearing.
	5. The judge hearing the FDR appointment must have no further involvement with the claim, other than to conduct any further FDR appointment or to make a consent order or a further directions order.
	6. The costs of and associated with the FDR hearing shall be costs in case.

*Compulsory Mediation*

1. The parties shall engage in ADR procedures as follows:
	1. On or before [\*] the parties shall exchange lists of 3 neutral individuals who are available to conduct ADR procedures in this case prior to [\*]. Each party may [in addition] [in the alternative] provide a list identifying the constitution of one or more panels of neutral individuals who are available to conduct ADR procedures in this case prior to [\*].
	2. On or before [\*] the parties shall in good faith endeavour to agree a neutral individual or panel from the lists so exchanged and provided.
	3. Failing such agreement by [\*] the parties shall either agree a short list of 3, or shall send to the Court their own lists (limited to 3), so as to enable the Court to elect a neutral individual or panel; and all parties shall be bound by that selection.
	4. The parties shall take such serious steps as they may be advised to resolve their disputes by ADR procedures before the neutral individual or panel so chosen by no later than [\*].
	5. If the case is not finally settled, the parties shall inform the Court by letter prior to [disclosure of documents/exchange of witness statements /exchange of experts’ reports] what steps towards ADR have been taken and (without prejudice to matters of privilege) why such steps have failed.

**Or**:

1. In the period [ ] to [ ] the parties shall take such steps as they may be advised to try to settle the dispute by NDR or other means.”
2. The case shall be stayed from [\*] until [\*] so as to enable the parties try to settle the dispute by NDR or by other means.]
3. The Claimant/Defendant shall notify the court of the outcome of NDR (i.e. whether or not the case has settled) as soon it is known but in any event by no later than 7 days after [the conclusion of the NDR] [date by reference to end of ADR window].

**Pre-Trial Review**

1. There will be a pre-trial review on [\*]. The parties are reminded that pursuant to CPR 57AB paragraph 2.51, at Pre-Trial Review, the Court will review the case and fix the timetable for trial, including time for speeches and cross-examination.
2. The parties must seek to agree and file at Court 24 hours in advance of the PTR a draft trial timetable which is either agreed in full or to the extent possible with the areas of disagreement identified.
3. If the parties consider that the PTR is not necessary, they shall inform the Court not less than 3 clear days in advance stating why it is not necessary and enclosing any agreed further directions in relation to the trial. The Judge dealing with the PTR will inform the parties as soon as practicable thereafter whether the PTR is to go ahead or not and/or make any further appropriate directions in writing.
4. Where a party wishes to adduce evidence by video link or other remote means from a location outside England & Wales, that party must obtain any permission required from the local court or other authority in the jurisdiction concerned by no later than the PTR and must confirm to the Court at that hearing that no such permission is required or that any permission required has been obtained.

**Trial**

1. The trial of this claim shall commence on [\_\_\_\_\_\_\_\_\_\_], with a time estimate of 3 days (with 1 day for pre-reading).
2. The following pre trial directions will apply unless varied at a Pre-Trial Review:

(a) [Electronic (“soft copy”) trial and authorities bundles are to be prepared in accordance with the relevant Practice Directions Protocols and Guides and filed and served in PDF format.

(b) The Claimant is to serve a (hard copy) trial bundle on the Defendant no later than 4pm [28] days before trial.

(c) The parties are to use best endeavours to agree and file by no later than 4 pm [21] days before trial:

(i) a chronology cross-referenced to the trial bundle; and

(ii) a cast list.

(d) The Claimant is to file and serve by no later than 4pm [14] days before trial:

(i) a written opening and pre-reading list, both cross-referenced to the trial bundle.

(ii) a chronology, cross-referenced to the trial bundle.

(e) The Defendant is to file and serve by no later than 4pm [7] days before trial:

(i) a written opening and pre-reading list, both cross-referenced to the trial bundle;

(ii) an amended version of the Claimant’s chronology, cross-referenced to the trial bundle, unless the Claimant’s chronology is agreed;

(f) By no later than 4 pm [5] days before trial, the Claimant shall file with the Court

(i) a trial bundle and agreed [soft copy] authorities bundle; and (ii) Unless otherwise directed at the CMC or at a PTR (if one takes place) a hard copy trial bundle for use by witnesses at the trial.

**Costs**

36. Costs in the case.