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NATIONAL INDUSTRIAL COURT OF NIGERIA
ALTERNATIVE DISPUTE RESOLUTION (ADR)
CENTRE INSTRUMENT, 2015



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S. I. No. 9 of 2015

NATIONAL INDUSTRIAL COURT OF NIGERIA
ALTERNATIVE DISPUTE RESOLUTION (ADR)
CENTRE INSTRUMENT, 2015.

[6th Day of April, 2015]

Commence-
ment.

PREAMBLE

WHEREAS by the provisions of Section 254C(3) of the 1999 Constitution of the Federal Republic of Nigeria, (as amended by the Third Alteration Act, 2010), the National Industrial Court of Nigeria has power to establish an Alternative Dispute Resolution Centre, within the premises of the Court on matters on which jurisdiction is conferred on the Court ;

AND WHEREAS Section 1(2)(a) of the National Industrial Court Act, 2006 (NICA, 2006) confers on the President of the Court overall control and supervision of the administration of the Court ;

AND WHEREAS Section 20 of the National Industrial Court Act (NICA), 2006 empowers the Court to promote reconciliation, encourage and facilitate amicable settlement of disputes among parties thereto ;

AND WHEREAS there is need to refer some categories of cases to the Alternative Dispute Resolution Centre of the Court for mediation or conciliation as the case may be ;

AND WHEREAS the Alternative Dispute Resolution technique is aimed at assisting parties in dispute to arrive at mutually acceptable agreement in less costly, speedy and efficient manner thereby preserving and engendering industrial peace and harmony, providing a veritable platform for economic development, and more beneficial interpersonal relationship between parties ; and

In exercise of the powers conferred by Section 254C (3) of the 1999 Constitution of the Federal Republic of Nigeria (as amended by the Third Alteration Act, 2010) and all other powers enabling me in that behalf,

I, Hon. Justice BABATUNDE ADENIRAN ADEJUMO, OFR, MCIArb, GFSMN, CFIAR, FCIArb, FNILS President, National Industrial Court of Nigeria do hereby by virtue of this Instrument establish AN ALTERNATIVE DISPUTE RESOLUTION (ADR) CENTRE WITHIN THE PREMISES OF THE NATIONAL INDUSTRIAL COURT OF NIGERIA FOR THE SETTLEMENT OF CAUSES that qualify for referral to the ADR Centre.

ARTICLE 1—APPLICATION

Application of Provisions. (1) Without prejudice to the powers of the Industrial Arbitration Panel (IAP), established pursuant to Section 9(2) of the Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria, 2004 (as amended by the National Industrial Court Act, 2006), these provisions shall apply to the ADR Centre established pursuant to Section 254C (3) of the 1999 Constitution of the Federal Republic of Nigeria (as amended by the Third Alteration Act, 2010.)

ARTICLE 2—ESTABLISHMENT

Establishment. (1) There is hereby established an Alternative Dispute Resolution Centre in the premises of the National Industrial Court of Nigeria, hereinafter referred to as “**the Centre**”.

Headquarters of the Centre. (2) (a) The Headquarters of the Centre shall be within the premises of the Headquarters of the Court in the Federal Capital Territory, Abuja.
Provided that any building or premises or appurtenances, designated by the President of the Court as an Alternative Dispute Resolution Centre shall be regarded as being established within the premises of the Court.

Temporary Headquarters of the Centre. (b) Notwithstanding the provision of sub-paragraph (a) of this paragraph, the President of the Court may designate any of the building within the premises of any of the Divisions of the Court to serve as a temporary Headquarters of the Centre.

Location of ADR Centres in Zone. (3) (a) Without prejudice to the powers of the President of the Court to designate the ADR Centres in any part of the Federation there shall be established ADR Centres in each of the zones, which shall be located at the Judicial Divisions indicated as follows ;

(i) *North-Central Zone* : Abuja ADR Centre situate in Abuja Judicial Division ;

(ii) *North-East Zone* : Gombe ADR Centre situate in Gombe Judicial Division ;

(iii) *North-West Zone* : Kano ADR Centre situate in Kano Judicial Division ;

(iv) *South-East Zone* : Enugu ADR Centre situate in Enugu Judicial Division ;

(v) *South-South Zone* : Warri ADR Centre situate in Warri Judicial Division ;

(vi) *South-West Zone* : Ibadan ADR Centre situate in Ibadan Judicial Division ;

Provided that the Director of the Centre in consultation with the President of the Court may direct that Session(s) for mediation or conciliation be held at any of the States within any of the component States that made up the Zone.

(b) The President of the Court shall have power to relocate any of the Centres to any of the States comprising the Zone, in the interest of peace, security or any unforeseen contingency which may make the operation of the Centre impossible or unsafe.

(4) The Centre shall be—

(a) responsible for the resolution of disputes by applying mediation and/or conciliation mechanisms of alternative dispute resolution;

(b) under the overall supervision and control of the President of the Court who shall—

(i) assign and designate or direct the assignment and designation of a Director and other staffers to the Centre ;

(ii) receive regular updates on the overall activities of the Centre ; and

(iii) take any action or give any direction which he or she may consider appropriate or necessary for the overall effectiveness and growth of the Centre to enhance fast and effective justice delivery.

(5). The President of the Court may make rules that will govern the practice and procedure of the Centre.

(6) The President of the Court may from time to time issue Practice Direction that will guide the practice and procedure of the Centre.

Responsibility of the Centre.

Power to make Rules for the Centre.

Power to issue Practice Direction.

ARTICLE 3—PERSONNEL OF THE CENTRE, CONDITIONS OF SERVICE AND ORGANOGRAM

(1) For all intents and purposes, the members of staff of the Centre are part and parcel of the members of staff of the Court.

(2) The members of staff of the Centre shall be the members of staff of the Court deployed to the Centre from amongst the members of staff of the Court employed or appointed by the Federal Judicial Service Commission in accordance with the statutory requirements and directives of the Commission.

(3) The conditions of service of the members of staff of the Centre shall be the same as the members of staff of the Court.

(4) The President of the Court may assign from among the staff of the Court for the Centre, an officer to be designated as the “Director of the Centre”.

Status of Staff of the Centre.

Staffs of the Centre to be deployed from amongst Court Staff.

Conditions of Service of Staffs of the Centre.

Director of the Centre.

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Qualification of Director of the Centre.	(5) (a) A person shall not be qualified to be a Director of the Centre unless he or she has met the criteria for appointment to the position of Deputy Chief Registrar or Assistant Chief Registrar as stipulated and approved by the Federal Judicial Service Commission ;
Assignment or Designation as the Director of the Centre.	(b) In consideration of paragraph 4 of this Article above, the President of the Court may assign and designate a Deputy Chief Registrar or an Assistant Chief Registrar to the Centre as the Director of the Centre.
Duties of Director of the Centre.	(6) The Director of the Centre shall be responsible for the development, promotion and day to day administration of the Centre.
Line of Authority of Director of the Centre.	(7) (a) The Director of the Centre shall take instructions and directives from the President of the Court or a Judge of the Court as the case may be.
Director and staff of the Centre under the Chief Registrar.	(b) The Director and other staff of the Centre shall be under the administrative control of the Chief Registrar of the Court.
Notification of President of Court of referred matter and outcome of ADR session.	(8) For record purposes, the Director of the Centre shall notify the President of the Court of ; (a) any matter referred to the Centre for mediation or conciliation by a Judge of the Court. (b) the outcome of any mediation and/or conciliation process, whether settled or remitted back to the Court.
Management of Dockets of the Centre.	(9) The Director of the Centre may direct a member of staff of the Centre to manage the dockets of the Centre including preparation of reports.
Duty of the Director to assign Staff of the Centre.	(10) The Director of the Centre may assign any member of staff of the Centre to— (a) Effectively manage the dockets of matters with a view to ensuring an efficient case flow management and documentation ; and (b) Undertake other responsibilities as may be incidental to the overall purpose of the Centre.

<p>(11) The Director of the Centre shall have the responsibility—</p> <p>(a) to promote uniformity and quality of ADR programmes in the Centres ;</p> <p>(b) to monitor and evaluate all ADR Centre programmes and assist ADR staff in implementing same ;</p> <p>(c) to serve as a clearing-house for ideas, issues, and new trends relating to ADR ;</p> <p>(d) to develop ADR pilot projects to meet new needs ;</p> <p>(e) to monitor and ensure training and retraining of ADR officers ; and</p> <p>(f) to develop relationship on issues relating to Alternative Dispute Resolution techniques with the Nigerian Bar, relevant training institutions both local and international; and private providers of Alternative Dispute Resolution services.</p>	<p>Other Administrative Duties of the Director.</p>
<p>(12) The President of the Court may assign and designate an Assistant Chief Registrar or any other officer of equivalent rank in the Court as the Deputy Director of the Centre.</p>	<p>Assignment and Designation of Deputy Director.</p>
<p>(13) (a) The Deputy Director of the Centre shall take instructions from the Director of the Centre and report to him or her on the day to day administration of the Centre.</p> <p>(b) The Deputy Director shall be responsible for the supervision and coordination of the administration and activities of the Zonal ADR Centres.</p>	<p>Deputy Director to take instructions from the Director of the Centre.</p>
<p>(14) In the absence of the Director of the Centre, the President of the Court may direct the Deputy Director to act as the Director of the Centre.</p>	<p>When Deputy Director may act as the Director of the Centre.</p>
<p>(15) All other officers of the Centre shall be responsible to the Director of the Centre in the discharge of their official functions and duties.</p>	<p>Line of Responsibility of other Staff of the Centre.</p>
<p>(16) (a) The President of the Court may assign and designate an officer of the Court who is a qualified legal practitioner not below the rank of Registrar 1 as an Assistant Director of the Centre.</p>	<p>Assignment and Designation of Assistant Director.</p>

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Assistant Director to Head Zonal ADR Centre.

(b) A Zonal ADR Centre may be headed by an Assistant Director, who shall be in charge and be responsible for all the activities and day to day administration of the Zonal Centre.

Assistant Director to report to Deputy Director.

(c) The Assistant Director shall take instructions from the Deputy Director and report to him or her on the day to day administration and other activities of the Zonal Centre.

(d) Notwithstanding the provisions of sub-paragraph (c) of this paragraph, the Director may assign any duty to the Assistant Director who shall report directly to him or her.

ADR Officer.

(17) An ADR Officer shall be an employee of the Court whose primary duties may or may not be related to the legal profession, but shall be known and referred to as “ADR Officer” in the course of handling a matter which is assigned to him or her, or on which he or she is a member on a panel in a mediation or conciliation session.

Eligibility of a Legal Practitioner as ADR Officer.

(18) A person shall not be eligible to serve as an ADR Officer unless the person is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than seven years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria and with proven knowledge and skills in the art of Alternative Dispute Resolution.

Eligibility of any other Staff or Person other than a Legal Practitioner to serve as an ADR Officer.

(19) Notwithstanding the provisions of Article 2(4)(b)(i) of this Instrument, the President may assign any other officer of the Court other than a Legal Practitioner from any of the Departments of the Court who has knowledge and experience in mediation and conciliation to serve as a mediator or conciliator and who may also be referred to as “ADR Officer” on a panel where his or her expertise and experience is required.

Restriction of ADR officer to conciliate or mediate.

(20) Notwithstanding anything to the contrary contained in paragraph (19) above, an ADR officer so assigned shall function only in the conduct of mediation and/or conciliation session(s) either solely or as a member of a panel constituted by the President of the Court.

Line of Responsibility of ADR Officer.

(21) An ADR Officer shall be responsible to the Director of the Centre through the channel of communication as laid down in this instrument.

Assignment of an Officer of the Court as the Registrar of the Centre.

(22) The President of the Court may assign and designate an officer of the Court as “the Registrar of the Centre”.

<p>(23) A person shall not be eligible to hold the office of the Registrar of the Centre unless the person is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than eight years with considerable knowledge and experience in the law and practice of Labour and Industrial relations and employment conditions in Nigeria and the use of Alternative Dispute Resolution mechanisms.</p>	Qualification of the Registrar of the Centre.
<p>(24) The Registrar of the Centre shall be responsible to the Director of the Centre.</p>	Line of Responsibility of the Registrar of the Centre.
<p>(25) The Registrar of the Centre shall handle the supervision, monitoring and co-ordination of activities of the Centre’s Registry, including—</p> <p>(a) Acceptance, transmission and custody of documents of all matters referred to the Centre by the President of the Court or a Judge of the Court ;</p> <p>(b) Processing and service of all documents such as notices, additional documents submitted by parties on matters before the Centre ;</p> <p>(c) Preparation and proper keeping of records of all mediation and conciliation sessions ;</p> <p>(d) Proper keeping of written and signed settlement agreements of parties on matters before the Centre ;</p> <p>(e) Proper keeping of settlement agreements that have been adopted as judgments of the Court ;</p>	Duties of the Registrar of the Centre.
<p>(26) The President may assign and designate an officer of the Court as the “Deputy Registrar of the Centre”.</p>	Assignment and Designation of Deputy Registrar.
<p>(27) A person shall not be eligible to hold the office of the Deputy Registrar of the Centre unless the person is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than seven years with considerable knowledge and experience in the law and practice of Labour and Industrial relations and employment conditions in Nigeria and the use of Alternative Dispute Resolution mechanisms.</p>	Eligibility as Deputy Registrar.
<p>(28) The Deputy Registrar of the Centre shall be responsible to the Registrar of the Centre.</p>	Line of Authority of Deputy Registrar.
<p>(29) The Deputy Registrar of the Centre shall handle the supervision, monitoring and coordination of activities of all the Zonal ADR Centres’ Registries including ensuring:</p>	Duties of Deputy Registrar.

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(a) Acceptance, transmission and custody of documents of all matters referred to the Zonal ADR Centre by the President of the Court or a Judge of the Court ;

(b) Processing and service of all documents such as notices, additional documents submitted by the parties on matters referred to the Centre ;

(c) Preparation and proper keeping of records of all mediation and conciliation sessions ;

(d) Proper keeping of written and signed terms of settlement by parties on matters referred to the Centre.

(e) Proper keeping of terms of settlement that have been adopted as judgment of the Court ; and

(f) All other duties that may be assigned by the President of the Court to the Centre.

Assignment and Designation as Assistant Registrar.

(30) The President of the Court may assign and designate an officer of the Court as the Assistant Registrar of the Centre.

Qualification of Assistant Registrar.

(31) A person shall not be eligible to hold the office of an Assistant Registrar of the Centre unless the person is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than five (5) years and has knowledge in the law and practice of industrial relations and employment conditions in Nigeria with experience and background in the use of Alternative Dispute Resolution mechanisms for industrial relations, employment and labour matters.

Assistant Registrar to head Zonal ADR Centre's Registry.

(32) An Assistant Registrar may be in charge of the Registry of a Zonal ADR Centre to manage the activities of the Zonal ADR Registry.

Line of Authority of an Assistant Registrar.

(33) (a) Without prejudice to the powers of the Director of the Centre, the Assistant Registrar shall take instructions from the Deputy Registrar of the Centre and report on the day to day administration of the Registry of the Zonal ADR Centre to the Deputy Registrar of the Centre.

(b) Notwithstanding the provisions of sub-paragraph (a) above, the Registrar may assign any duty directly to the Assistant Registrar who shall report directly to the Registrar.

Official Process Server.

(34) (a) The President of the Court may assign and designate an officer of the Court as Official Process Server to serve any process or document of the Centre on any of the parties or their counsel or any other person in a matter before the Centre.

<p>(b) The President of the Court may also appoint an External Process Server to serve any process or document of the Centre on any of the parties or their counsel or any other person in a matter before the Centre.</p>	<p>External Process Server.</p>
<p>(35) (a) The President of the Court may assign and designate an administrative officer of the Court to function as the “Centre Manager”.</p>	<p>Assignment of Centre Manager.</p>
<p>(36) The Centre Manager shall be responsible to the Director of the Centre.</p>	<p>Line of Authority of Centre Manager.</p>
<p>(37) A person shall not be eligible to hold the office of a Centre Manager unless the person is a member of staff of the Court with administrative acumen, experience and background in the use of Alternative Dispute Resolution methods for the resolution of employment, Labour and Industrial Relation matters.</p>	<p>Eligibility of Centre Manager.</p>
<p>(38) The Centre Manager shall perform the following functions—</p> <ul style="list-style-type: none"> (i) Manage the Centre and its facilities, (ii) Ensure proper maintenance of the infrastructure and facilities of the Centre, (iii) Supervise other complementary staff of the Centre and all other independent service providers to the Centre, (iv) Manage and report to the Director on the performance of outsourced service providers to the Centre ; (v) Ensure proper arrangement of venues for sessional and caucus meetings for all mediation or conciliation sessions ; (vi) Organize and arrange meetings of all mediation and conciliation sessions ; (vii) Attend to the needs of the parties, and their counsel if any ; (viii) Ensure smooth and efficient management of administrative matters of the Centre ; and (ix) May perform any other duty as may be assigned to him or her by the President of the Court or the Director of the Centre. 	<p>Duties of Centre Manager.</p>
<p>(39) The President of the Court may assign and designate an officer of the Court to serve as an Assistant Centre Manager.</p>	<p>Assignment and Designation of Assistant Centre Manager.</p>
<p>(40) A person shall not be eligible to hold the office of an Assistant Centre Manager unless the person is a member of staff of the Court, with administrative acumen, experience and background in the use of Alternative Dispute Resolution mechanism for the resolution of employment, labour and industrial relation matters.</p>	<p>Qualification of Assistant Centre Manager.</p>

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- Line of Authority of Assistant Centre Manager. (41) The Assistant Centre Manager shall take instructions from the Centre Manager and report on the day to day management of the Centre to the Centre Manager.
- When Assistant Centre Manager may act as Centre Manager. (42) Subject to the approval of the President of the Court, the Assistant Centre Manager may act as the Centre Manager in the absence of the Centre Manager.
- Deployment of other complimentary staff of the Court to the Centre. (43) (a) The President of the Court may approve the deployment of needed and relevant complementary staff of the Court to the Centre to provide the necessary support services for the smooth, efficient and effective running of the Centre.
- Director to assign duties to deployed Staff. (b) Any member of staff deployed in line with sub-paragraph (a) above shall be responsible to the Director of the Centre, who shall assign to him or her, his or her schedule of duties as considered relevant to the operations of the Centre.
- Redeployment of Staff of the Centre to the Court. (c) The President of the Court may at any time recall any member of staff of the Court posted to the Centre pursuant to paragraphs (2) and (43) (a) of this Article for redeployment appropriately.
- Hierarchy of officers of the Centre. (44) The Principal officers of the Centre in the order of hierarchy are as follows :
- (a) The Director of the Centre.
 - (b) The Deputy Director of the Centre.
 - (c) The Assistant Director of the Centre.
 - (d) The Registrar of the Centre.
 - (e) The Deputy Registrar of the Centre.
 - (f) The Assistant Registrar of the Centre.
 - (g) The Centre Manager.
 - (h) The Assistant Centre Manager.
- Seal of the ADR Centre. (45) (a) The Centre shall have and may use a seal bearing a device or impression approved by the President of the Court with the inscription. "The NICN, ADR Centre".
- (b) The seal of the Centre shall be kept by the Director of the Centre.
 - (c) The Director of the Centre may authorize the duplicate Seal of the Centre to be in the custody of the Deputy Director, the Assistant Director or any other officer in charge of Zonal Centre.
 - (d) The seal shall be the seal of the Centre for all purposes for which it may be required under the provisions of any enactment or Rules of Court.

ARTICLE 4—MANDATES AND FUNCTIONS OF THE CENTRE

The mandates and functions of the Alternative Dispute Resolution Centre shall amongst other things be the application of Mediation or Conciliation technique in the settlement of disputes between or amongst parties, and —

Application of Mediation or Conciliation to settle disputes.

(1) To enhance and facilitate quick, efficient and equitable resolution of certain employment, labour and industrial relations disputes within the jurisdiction of the Court ;

Mandate of the Centre.

(2) To minimize, reduce, mitigate and eliminate stress, cost and delays in justice delivery by providing a standard Alternative Dispute Resolution framework for fair, efficient, fast and amicable settlement of disputes ;

Benefits of the Centre.

(3) To assist disputants in the resolution of their disputes without acrimony or bitterness ;

Advantage of the Centre.

(4) (a) The Centre shall perform its duties on the matters hereinafter listed in paragraph (5)(a-d) of this Article on referral of the matter to the Centre by the President of the Court or a Judge of the Court, or by parties in disputes mutually opting to use mediation or conciliation processes for the resolution of their matter, upon the commencement of an action and joining of issues ;

Centre to exercise its duties on matters referred or preference of parties.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, either of the parties in a dispute may upon filing of his or her action before the Court apply to the President of the Court for the action to be resolved through the process of mediation or conciliation of the Court.

Qualification for referral to the Centre.

(c) Any subject matter hereinafter listed in paragraph (5)(a-d) of this Article shall, without prejudice to sub-paragraph (a) above, qualify for referral to the Centre ;

Provided that such matter is :

(i) not on interpretation or challenge of the jurisdiction of the Court ;

(ii) on monetary claims as may be referred by the President or a Judge of the Court ; and

(iii) after issues have been joined by the parties or their counsel before the Court, the action was referred to the Centre at the discretion of the President of the Court or a Judge of the Court.

(5) The Centre shall only have the power to mediate or conciliate on the following subject matters on which the Court has jurisdiction as provided for in the following Sections of the 1999 Constitution of the Federal Republic of Nigeria, (as amended by the Third Alteration Act, 2010) :

Subject matters that qualify for mediation or conciliation.

Section 254C (1)(a)

(a) relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith ;

Section 254C(1)(c)

(b) relating to or connected with disputes arising from any strike, lock-out or any industrial action, or any conduct in contemplation or in furtherance of a strike, lock-out, or any industrial action and matters connected therewith or related thereto ;

Provided there is no *ex parte* or interlocutory application pending thereto.

Section 254C(1)(g)

(c) relating to or connected with disputes arising from payment or non-payment of salaries, wages, pensions, gratuities, allowances, benefits, and any other entitlement of any employee, worker, political or public office holder, judicial officer, or any civil or public servant in any part of the Federation and matters incidental thereto ; and

Section 254C(1)(k)

(d) provisions of Section 7(1)(a) and (b) of National Industrial Court Act, 2006 namely matters relating to—

- (i) labour, including trade unions and industrial relations ; and
- (ii) environment and conditions of work, health, safety and welfare of labour, and matters incidental thereto.

No extraneous matter or issue during mediation or conciliation.

(6) (a) Without prejudice to the provisions of paragraph (4)(a-b) of this Article, parties or their counsel, if any, shall not be allowed to bring in any extraneous matter or issue not contained in the originating process filed before the Court during any of the mediation or conciliation session(s) after the issues joined in the Court have been referred to the Centre.

Centre to keep within matters in originating process.

(b) The Centre shall keep within the subject matters contained in the originating process that gave rise to the action for mediation or conciliation.

President or Judge of Court to indicate specific matters for mediation or conciliation.

(c) The President of the Court or a Judge of the Court who referred the matter to the Centre shall specifically indicate the issues for consideration by the Centre during its mediation or conciliation session(s) as the Centre shall not go outside the matters contained in the originating process filed; upon which issues are joined by parties or their Counsel, if any, before the Court.

(7) The Centre shall not have the power to entertain any interlocutory application or grant any order or interpret any matter before it.

Centre has no power to entertain interlocutory application, grant of order or interpretation.

(8) (a) Any interlocutory application on any matter that qualifies for ADR shall be entertained by the Court before the referral of such matter to the Centre.

Interlocutory application, grant of order or interpretation only in Court.

(b) In furtherance of the above, once a matter is referred to the Centre for mediation or conciliation, no interlocutory process or application shall be filed until the Director of the Centre had submitted his report to the President of the Court or the Judge of the Court who made the referral.

(9) In exercising its mandates in causes and matters relating to mediation and conciliation, the venue shall be the ADR Centre within any of the premises of the Court or within the premises of any of the Registries of the Court in the Federation or any part thereof.

Venue of mediation or conciliation.

Provided that the President of the Court may direct that any matter referred to an ADR Officer or a panel of ADR Officers commenced in a Judicial Division or State Registry of a zone may continue to be mediated or conciliated upon and be concluded in another Judicial Division or State Registry of another zone different from the Division or State Registry of the zone where it was commenced as the justice of the case or convenience of the parties and the Centre may require.

(10) For the avoidance of doubt, the ADR Officer(s) shall not in the course of mediation or conciliation impose his, her or their personal opinion or view on the parties.

No imposition of views or opinion by mediator or conciliator.

(11) The Centre shall serve as a place for conciliation and mediation between parties and not as a Court.

Centre for ADR only not Court setting.

(12) The Centre shall in realization of its mandate operate in a very relaxed, simple and serene environment and with flexible formality.

Environment for Mediation or Conciliation.

(13) The mediation or conciliation shall be conducted in a conducive environment, with the provision of all necessary facilities for the convenience of the parties to the disputes to be resolved.

Facilities for Mediation or Conciliation process.

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Qualification for referral of matter to the Centre.

- (14) In order for a matter to qualify for referral to the Centre :
- (a) the claimant in the dispute must have complied with relevant provisions of the National Industrial Court of Nigeria, Rules, as may be amended or replaced from time to time, while
 - (b) the Respondent or Defendant must have complied with relevant provisions of the National Industrial Court of Nigeria, Rules, as may be amended or replaced from time to time.

Referral of pending or part heard matter to the Centre.

- (15) Notwithstanding anything to the contrary contained in this instrument and the provisions of section 20 of the National Industrial Court Act 2006, the Court may on application of party(ies), or *suo motu* refer a pending or part-heard matter filed before the commencement of this Instrument to the ADR Centre for mediation or conciliation.

Right of party to opt for ADR.

- (16) At any stage before judgment, any of the parties to a matter before the Court may apply to the Court to refer the matter to the ADR Centre for conciliation or mediation.

Application for referral of dispute to the Centre.

- (17) (a) Notwithstanding the provisions of paragraph (4) of this Article, any person(s) wishing to mediate or conciliate his or her dispute at the Centre may without filing an action before the Court apply to the President of the Court for his or her dispute to be referred to the Centre for mediation or conciliation in line with the provisions of this instrument and the Rules made thereunder.

(b) Where an amicable settlement has been reached after referral pursuant to sub-paragraph (a) of this paragraph any of the parties involved may apply to the President of the Court for the terms of settlement to be registered as binding agreement between the parties.

(c) Any of the parties to the registered terms of settlement may apply to the Court for enforcement of the agreement.

Constitution of Panel of ADR Officers.

- (18) The President of the Court may constitute a panel of three (3) ADR Officers to serve as mediators or conciliators in a matter where the President deems it necessary to do so.

Head of ADR panel during Session.

- (19). Where a panel of ADR officer(s) is constituted to conciliate or mediate on a matter, the most senior legal practitioner in the panel shall preside or chair the session(s).

Issuance and service of Hearing Notice for ADR Session.

- (20) Upon receipt of the referral, the Director of the Centre shall set the matter down for mediation or conciliation and cause notices stating the venue, date and time for the commencement of mediation or conciliation sessions to be issued and served on all the parties and counsel in the matter if any.

Appearance of party and Counsel.

- (21) Once a matter is referred to the Centre in accordance with the provisions of this Instrument, the parties thereto and their counsel, if any, shall appear before the Centre for the commencement of settlement of the disputes.

<p>(22) Without prejudice to the provisions of paragraph (21) of this Article, parties before the Centre are at liberty to agree to settle or not to settle their disputes.</p>	<p>Party's right to settle or not settle at ADR Centre.</p>
<p>(23) Upon conclusion of the mediation or conciliation session(s), a report of any matter referred to the Centre by the President of the Court or a Judge of the Court shall be made to the President of the Court or a Judge of the Court that made the referral.</p>	<p>Adoption and Endorsement of Terms of Settlement as Court's judgment.</p>
<p>(24) Where a matter is not resolved through the ADR process, the matter shall be remitted back to the President of the Court or a Judge of the Court who made the referral within 5 working days for adjudication in accordance with the Rules of the Court.</p>	<p>Remittal of unresolved matter back to Court.</p>
<p>(25) Where ADR Officer(s) remits a matter arising from the provisions of paragraph (24) of this Article back to the Court, the Court may fix the matter for continuation of hearing and trial from where it stopped before the matter was referred to the Centre.</p>	<p>Remittal to Court and continuation of hearing.</p>
<p>(26) The Director of the Centre shall ensure that the mediation or conciliation processes on matters referred to the Centre are completed within 21 working days from the date it commences the settlement of the matter.</p>	<p>Duration of ADR proceedings.</p>
<p>Provided that, if the ADR processes could not be completed within 21 working days, the President of the Court may grant an extension of 10 working days on request by the Director of the Centre. The request of the Director shall be made at least 5 days before the expiration of the stipulated 21 working days.</p>	
<p>(27) (a) At the end of a mediation or conciliation session(s) where parties agree to amicable settlement, the Director of the Centre shall submit a Report of the Conciliation or Mediation accompanied with the Record of proceedings of the sessions, to the Court, and certified true copies thereof to be made available to the parties or their counsel, if any, in the matter.</p>	<p>Reporting of terms of settlement with record of proceedings to the Court.</p>
<p>(b) if parties to the mediation or conciliation could not amicably settle their disputes, the Director of the Centre shall submit a memorandum to that effect to the President of the Court or a Judge of the Court who made the referral without accompanying it with the record of proceedings at the Centre.</p>	<p>Hearing and determination of unsettled matter by Court.</p>
<p>(c) Where parties are unable to settle their disputes through the mediation or conciliation, the Court shall set the case down for hearing and determination on its merit, and the procedure laid down for trial of cases shall be followed and adapted in determining the matter.</p>	<p>Setting unresolved matter for Court hearing.</p>

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- Issuance and service of notice for adoption of terms of settlement. (28) Upon receipt of a report of settlement of the matter referred to the Centre for mediation or conciliation, the Court shall cause notices to be issued and served on the parties and their counsel, if any, stating the venue, date and time, to appear before the Court that made the referral for the entry of the terms of settlement as the Court's final Judgment on the matter.
- Adoption and entry of terms of settlement as Judgment of the Court. (29) Upon adoption of the terms of settlement by the parties and their counsel, if any, the Court shall enter same as the judgment of the Court.
- Parties bound by Judgment of Court. (30) The terms of settlement of disputes submitted and entered as the judgment of the Court shall be binding on all the parties involved in the matter.
- ADR Officer not Judicial officer. (31) An ADR officer is not a judicial officer and as such shall not be eligible to perform any judicial function.
- ADR Officer is a Mediator or Conciliator. (32) The function of an ADR officer shall be purely mediatory and conciliatory.
- Disclosure of conflict of interest by ADR Officer. (33) A person assigned or designated as an ADR Officer shall through the Director of the Centre disclose to the President of the Court or a Judge of the Court who referred the matter to him or her any information likely to affect his or her neutrality in the matter assigned to him or her for mediation or conciliation.
- Power of President to remove an ADR Officer or replace member of panel. (34) The President of the Court may remove or replace an ADR officer or officers handling a cause or matter on ground of not being neutral or due to incompetence, negligence of duty or an act of misconduct or breach of any of the provisions of the Code of Conduct for judicial employees or neutrals.
- Party's right to request for change of panel. (35) A party or his or her counsel, if any, may for good reason(s) apply to the President of the Court for the removal or replacement of ADR officers(s). The President of the Court may after considering the application exercise his or her discretion to grant or refuse the application.
- Withdrawal from panel by ADR Officer. (36) ADR officer(s) may by giving good reason(s) apply to the President of the Court to withdraw from a particular cause or matter referred to him, her or them for resolution.

<p>(37) The President of the Court may transfer or remove any ADR officers or member of staff of the Centre for any of the following reasons :</p> <ul style="list-style-type: none">(a) Act(s) of Misconduct as contained in the Code of Conduct for Judicial Employees or the Federal Judicial Service Commission Regulations 2010 ;(b) Absence from session without lawful or reasonable excuse or notice to the parties of the absence ;(c) Inability to perform functions of his or her office, either on ground of ill health or unsound mind ;(d) Inefficiency ;(e) Negligence or any other act of misconduct ;(f) Turpitude ;(g) Interest or connection with subject matter ; or(h) Relationship with any of the parties or representative or counsel to any of the parties ;	<p>Grounds for transfer or removal of ADR Officers or staff of Centre.</p>
<p>(38) Notwithstanding anything to the contrary contained in this Instrument, the President of the Court may engage the services of a neutral(s) to participate in matters requiring specialized skills and expertise for the purpose of enabling the Centre effectively carry out its functions.</p>	<p>Engagement of a Neutral.</p>
<p>(39) For the purpose of paragraph (38) above, a neutral shall be a person who is qualified and experienced in his field of specialization and who has cognate experience in mediation or conciliation for a period of not less than ten years and who is not a staff of the Court.</p>	<p>Qualification of a Neutral.</p>
<p>(40) Where any party complains of bias against a neutral and has sufficient reasons or material fact to show the bias complained of, upon prove of the allegation, the President of the Court may terminate the service of the neutral.</p> <p>Provided the neutral has been informed of the allegation against him or her and has been given the opportunity to make his or her representation accordingly in reply to the allegation.</p>	<p>Termination of engagement of a neutral on allegation of bias.</p>
<p>(41) Any person engaged as a neutral shall be obliged to disclose to the President of the Court any information likely to affect his or her neutrality in the cause or matter assigned to him or her.</p>	<p>Disclosure of conflict of interest by a neutral.</p>
<p>(42) The President of the Court may terminate the service of a neutral on grounds of not being neutral or due to incompetence, bias, negligence of duty or an act of misconduct or breach of professional ethics or code of conduct.</p>	<p>Grounds of termination of service of a neutral.</p>

ARTICLE 5—ROLE OF COUNSEL

Role of Counsel.

(1) It shall be the responsibility of counsel to the parties in dispute for ADR to :

(a) Assist the ADR officer(s) in constructive dialogue or negotiation towards an amicable resolution of the matter ;

(b) Prepare their clients prior to mediation by explaining the procedure to be followed and particularly what the roles of both counsel and parties are ;

(c) Serve as advocates for their client’s interest ;

(d) Make brief opening summaries of the issues ;

(e) Allow the parties to engage and participate in the mediation or conciliation process.

Further duties of Counsel.

(2) Counsel shall :

(a) accord due consideration and support to suggestions, orders and directives from the Court towards an amicable settlement of the referral of on-going matter to the Centre ;

(b) accord regard and ensure that their clients accord respect to notices, invitations, instructions and directives from the Centre ; and

(c) Encourage the use of ADR and accord effect to the overriding objectives of the Centre.

ARTICLE 6—ROLE OF PARTIES BEFORE THE CENTRE

Parties—

To Co-operate with ADR Officers.

(1) are to cooperate and work together with the ADR Officer(s) of the Centre in the administration and handling of their matters.

At liberty to adopt ADR procedures.

(2) may consider the adoption of ADR procedures for resolving their claims or issues when encouraged to do so by the Court, their counsel or the Centre.

Personal, regular and punctual attendance.

(3) shall ensure personal, regular and punctual attendance of sessions and where a party is a Trade union, Corporation, Association, Commission, authority, public or private organization, any organ of the government or its agency or institution, a person at law or a head of a public or private body; shall be suitably represented by high ranking official(s) with letter(s) of authority to negotiate and agree on the terms of settlement of the dispute on behalf of the organization or workplace.

(4) shall attend ADR sessions in good faith without undue request for adjournments or unwarranted delays and comply with directives of the Court or the Centre :	Attend session in good faith.
(5) shall respect all the guiding principles set by the ADR Officers for the proceedings, such as, confidentiality of sessions, comportment, control of emotions, utterances, etc.	Respect ADR Guiding Principles.
(6) shall recognize that the ADR is aimed at a win-win situation, with due consideration for give and take.	ADR is win-win.
(7) shall prepare adequately for an ADR sessions, be actively involved and be willing to explore various options towards settlement.	Prepare adequately for Session.
(8) in a situation where an amicable settlement agreement has been reached and a term of settlement drawn through mediation or conciliation process but any of the counsel to the parties refused to execute the agreement, that party is at liberty to execute the terms of settlement on his or her or its own.	Liberty of Parties to Execute Terms of Settlement.
(9) shall appear before the Centre, but may or may not agree to settle their disputes at the ADR sessions.	Parties may or may not settle dispute at the Centre.

ARTICLE 7—FEES OF COUNSEL

(1) Notwithstanding anything to the contrary contained in this Instrument, the referral of a matter from the Court to the Centre shall be without prejudice to the payment of any professional fees agreed upon between the parties and their respective counsel.	Professional Fees of Counsel.
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ARTICLE 8—FINANCES OF THE CENTRE

(1) The Capital and Recurrent expenditures of the Centre shall be incurred from the Budget of the Court.	Financing of the Centre from Court Budget.
(2). The funds made available to the Centre from the budget of the Court shall be expended in the running, financing and management of the Centre by the Director of the Centre subject to the approval of the President of the Court or as the President of the Court may direct the Chief Registrar from time to time.	Management and Expenditure of Funds of the Centre.

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Expenditure of Centre to be processed through Chief Registrar.

(3) The expenditure of the Centre as may be prepared by the Director of the Centre shall be submitted to the President of the Court who may direct the Chief Registrar on processing of same by the Accounts and Audit Departments of the Court.

Staff and other service providers to be remunerated from Budget of Court.

(4) (a) The Director and staffers of the Centre and other independent service providers to the Centre shall be paid their salaries, allowances, fees and other entitlements, as the case may be from the budget of the Court.

(b) The remuneration or fees for the services rendered by neutral or consultant shall be paid by the Centre from the funds made available to the Court in line with paragraph (1) of this Article.

Duty of Director to apply funds of the Centre judiciously.

(5) The Director of the Centre shall be responsible for judicious expenditure of funds made available for the running, financing, maintenance and management of the Centre in line with paragraph (2) of this Article.

Service Provider.

(6) Notwithstanding anything to the contrary contained in this instrument, the President of the Court may engage the services of a service provider where the need arises and the fees of the service provider shall be paid from the budget of the Court.

ARTICLE 9—MISCELLANEOUS

Centre to make use of all Court's Facilities.

(1) The Centre shall make use of all the facilities of the Court including the libraries for purposes connected with the functions of the Centre.

Other duties of the Mediator or Conciliator.

(2) Before accepting a mediation or conciliation, a person who is requested to serve as a mediator or conciliator shall :

(a) make an inquiry that is reasonable under the circumstances to determine whether there are known facts that a reasonable person would consider likely to affect the impartiality of the mediator, including any pecuniary or personal interest in the outcome of the mediation or an existing or past relationship with a mediation party or foreseeable participant in the mediation or conciliation ; and

(b) disclose any such known fact to the mediation or conciliation parties as soon as is practicable before accepting a mediation or conciliation assignment.

Other disclosures by Mediator, Conciliator or Neutral.

(3) If a mediator or conciliator or neutral learns of any fact described in paragraph (2) (a) of this Article, after accepting mediation or conciliation, the mediator or conciliator or neutral shall disclose it as soon as is practicable.

(4) Where upon referral of a matter for mediation or conciliation, it was discovered that a conflict of interest exist, the President of the Court may reassign the matter to a different mediator or conciliator or neutral.

Other reasons for Reassignment of matter by President of the Court.

(5) If in the course of mediation or conciliation session, an ADR Officer is unable to complete the session due to ill-health, unsound mind, retirement, removal, death or any other unforeseen circumstance, the President of the Court may give direction to re-open the session de novo and assign new ADR Officer(s).

Inability of Mediator, Conciliator or neutral to complete session(s).

(6) If in the course of mediation or conciliation session(s), any member in a panel of ADR Officers is unable to complete the session(s) due to ill-health, unsound mind, retirement, removal, death or any other unforeseen circumstance the President of the Court may give direction to continue by assigning new ADR Officer(s) into the panel.

President to act on inability of ADR Officer to complete session.

(7) Notwithstanding anything to the contrary contained in this Instrument or the ADR Centre Rules 2015 (as may be amended) the President of the Court :

Power of the President to amend Instrument.

(a) shall have the power to amend this Instrument from time to time as the need arises.

(b) may issue Practice Direction to amend or regulate the practice and procedure of the Centre from time to time.

Power of the President to issue Practice Direction and amend Rules of the Centre.

ARTICLE 10—INTERPRETATION

(1) This Instrument shall be interpreted in accordance with the provisions of section 54(1) of the National Industrial Court Act 2006 and Article 10 of this Instrument.

Interpretation (192Cap LFN, 1990).

Provided that where words or phrases are not interpreted by this Instrument, recourse shall be made to the Interpretation Act, Cap 123 Laws of the Federation of Nigeria, 2004 as may be amended from time to time or with the aid of a Dictionary.

(2) In this Instrument, unless the context otherwise requires—

Context.

“*Act of Misconduct*” includes any act or behavior unbecoming of a responsible or upright person or a debasing or degrading act or action.

“*ADR*” means Alternative Dispute Resolution which for the purpose of this Centre includes mediation or conciliation that involves the use of Mediator, Conciliator or Neutral who may facilitates the resolution of a dispute before the Centre ;

“*ADR Centre*” or “*the Centre*” means the Alternative Dispute Resolution Centre established by the Court pursuant to Section 254(C)(3) of the 1999 Constitution (as amended) and by virtue of Article 2 paragraph (1) of this National Industrial Court of Nigeria ADR Centre Instrument, 2015 ;

“*ADR Officer*” means a mediator or conciliator who is an officer of the Court so appointed or designated by the President of the Court and it includes a neutral ;

“*Applicant*” includes a person who files a motion, an application, or appeal or any other process against a respondent or a defendant in any matter before the court ;

“*Cause*” includes any action, suit or other proceedings between a claimant and a defendant, an appellant and a respondent or any applicant and a respondent in any proceeding ;

“*Chief Registrar*” includes the Chief Registrar, Deputy Chief Registrar and Assistant Chief Registrar of the Court ;

“*Claimant*” is any person seeking any relief (otherwise than by way of counter-claim as a defendant) against any other person in any proceeding ;

“*Conciliation*” means bringing two opposing sides together to attempt settling the matter without proceeding to trial. It is also a process of an amicable settlement of disputes in a friendly and win-win situation ;

“*Constitution*” means the Constitution of the Federal Republic of Nigeria, 1999, as amended.

“*Counsel*” means a legal practioner licensed to practice law in Nigeria in accordance with the Legal Practitioners Act ;

“*Court*” means the National Industrial Court of Nigeria, established by Section 254A of the 1999, Constitution, (as amended) and Section 1(1) of the National Industrial Court Act 2006, and includes the President sitting as a single Judge or Judges of the National Industrial Court sitting together or separately ;

“*Court Process*” includes complaint or any other originating process, notice of appeal or other notices, pleadings, orders, motions, summons, warrants and all documents filed or written communication of which service is required or any other means of bringing dispute before the Court ;

“*Defendant*” includes a defendant to a counter claim ;

“*Director*” includes the Director, Deputy Director or Assistant Director of the Centre ;

“*External Process Server*” means a person or body corporate appointed by the President of the Court to serve any court process or document relating to a matter before the Centre on any of the parties or witness(es) in the matter before the Centre ;

“*Institution*” includes any private or public institution which is a creation of an Act or Law, or a company registered under the Companies and Allied Matters Act (CAMA) ;

“*Instrument*” means the Alternative Dispute Resolution Centre Instrument 2015, as may be amended ;

“*Issue*” means dispute or disagreement between or amongst the parties ;

“*Judge*” includes president of the Court and a Judge of the Court ;

“*Matter*” includes a suit or an action ;

“*Mediation*” is a dispute resolution technique in which an impartial third party, the mediator, or conciliator, neutral appointed by the President of the Court in line with these Instrument facilitates negotiation or mediation between or amongst the parties in a dispute, and in order to help them to arise at an amicable and acceptable settlement ;

“*Neutral*” means an impartial and unbiased individual appointed by the President of the Court in accordance with the provisions of National Industrial Court of Nigeria, ADR Centre Instrument to mediate or conciliate in a dispute or issue referred to the Centre.

“*Official Process Server*” means an officer of the Court designated by the President of the Court or the Rules to serve process(es) or any other document(s) relating to a matter before the Centre on any party(ies) or witness(es) in the matter ;

“*Organization*” Includes any workplace registered, incorporated or established by statute, an Act, Laws and enactment or otherwise recognized as workplace.

“*Part-heard*” means a cause or matter already placed under the hearing cause list, in which trial proceedings has commenced and still in progress.

“*Practice Direction*” means any directive that may be issued by the President of the Court from time to time.

“*President of the Court*” means the President of the National Industrial Court of Nigeria ;

“*Referral*” means a transfer of a matter or suit or application from the normal Court adjudicating process to the mediation or conciliation process of the Alternative Dispute Resolution Centre of the Court ;

“*Registrar of the Centre*” means any person or Officer of the Court so designated by the President of the Court to carry out functions in the Registry of the Centre including the Assistant Registrar of the Centre ;

“*Respondent*” includes a person against whom a claim, an application motion or an appeal before the Court is pending ;

“*Rules*” means—

(a) The National Industrial Court Rules 2007, as may be amended ; and

(b) The National Industrial Court Alternative Dispute Resolution Centre Rules, 2015, and any Practice Direction arising therefrom ;

“*Suit*” includes an action or matter ;

“*Terms of Settlement*” includes an agreement mutually reached and executed by parties and counsel, if any, in a matter before the Court ;

“*The Act*” means the National Industrial Court Act, 2006.

MADE at Abuja this 7th day of April, 2015.

HON. JUSTICE B.A. ADEJUMO, OFR

MCI Arb, GFSMN, CFIAR, FCI Arb, FNLS

President

National Industrial Court of Nigeria