

A BILL

FOR

AN ACT TO PROVIDE FOR THE RESOLUTION OF DISPUTES BY ARBITRATION
IN THE FEDERAL CAPITAL TERRITORY (F.C.T) AND FOR RELATED MATTERS

Sponsored by Senator Tanimu, Philip Aduda

[] Commencement

ENACTED by the National Assembly of the Federal Republic of
Nigeria as follows:

1 **1.** The provisions of this law are based on the following principles, General Principles
2 and shall be construed accordingly-

3 (a) The object of arbitration is to obtain the fair resolution of
4 disputes by an impartial tribunal without unnecessary delay or expense;

5 (b) Parties should be free to agree on how their disputes are
6 resolved, subject only to such safeguards as are necessary in the public
7 interest;

8 (c) An Arbitration Agreement between parties for the settlement of
9 any dispute shall be binding upon and enforceable against each of the parties
10 unless the parties expressly agree otherwise at any time or the agreement is
11 invalid, non-existence, ineffective or otherwise unenforceable; AND

12 (d) Parties, Arbitral Tribunals, Arbitral institutions, Appointing
13 Authorities and the Court shall do all things necessary for the proper and
14 expeditious conduct of the arbitral proceedings.

15 **2.** From the commencement of this Law, all Arbitration within the Application
16 Federal Capital Territory, Abuja, shall be governed by the provisions of this
17 Law except where the parties have expressly agreed that another Arbitration
18 Law shall apply.

19 **3.-(1)** Parties to a dispute shall enter into an Arbitration agreement Arbitration
20 to define their legal relationship whether contractual or not, to determine Agreement
21 issues that may arise between them.

1 (2) An Arbitration Agreement may be in the form of arbitration
2 provisions in a contract or in the form of a separate agreement.

3 (3) An Arbitration Agreement shall be in writing.

4 (4) 'Writing' includes data that provides a record of the Arbitration
5 Agreement or is otherwise accessible so as to be useable for subsequent
6 reference.

7 (5) 'Data' includes information generated, sent, received or stored by
8 electronic, optical or similar means, such as but not limited to Electronic Data
9 Interchange (EDI), electronic mail, telegram, telex or telecopy.

10 (6) An Arbitration Agreement is in writing if it is contained in an
11 exchange of written statements in the course of arbitration or legal proceeding
12 in which the existence of an agreement is alleged by one party and not denied
13 by the other party.

14 (7) For the avoidance of doubt, the reference in a contract or to a
15 document containing an arbitration clause constitutes an Arbitration
16 agreement in writing, provided that the reference is such that makes the
17 arbitration clause part of the contract or the Arbitration Agreement.

18 (8) Where subsection 7 of this section applies, the document
19 containing the arbitration clause constitutes the arbitration agreement for the
20 purposes of this law.

Arbitration
agreement in
irrevocable except
by agreement

21 **4.** Unless a contrary intention is expressed, an arbitration agreement
22 shall be irrevocable except by the express or written agreement of the parties.

Death of party

23 **5.**-(1) An Arbitration Agreement shall not be invalid by reason of the
24 death of any party to the agreement.

25 (2) The authority of an arbitrator shall not be revoked by the death of
26 any party by whom he was appointed.

27 (3) Nothing in this Section shall be taken to affect the operation of any
28 law by virtue of which any right of action is extinguished by the death of a
29 person.

30 (4) For the purpose of this Section, 'death' shall include the meaning

1 ascribed to it in Section 63(1).

2 **6.**-(1) A Court before which an action is brought in a matter subject Power to stay
3 to an Arbitration Agreement shall, if a party so requests, not later than when proceeding and
4 submitting the first statement on the substance of the dispute Stay make preservatory
5 Proceedings so long as they concern that matter. order

6 (2) Where an action referred to in subsection (1) of this Section has
7 been brought before a court, arbitral proceeding may nevertheless be
8 commenced or continued, and an award may be made by the Arbitral
9 Tribunal while the matter is pending before the court.

10 (3) Where a court makes an Order of Stay of Proceedings under
11 subsection (1) of this Section, the court may, for the purpose of preserving
12 the right of parties, make such interim or supplementary Orders as may be
13 necessary.

14 (4) For the purpose of this Section, a reference to a party includes
15 reference to any person claiming through or under such party.

16 **7.**-(1) The parties are free to agree on the number of arbitrators to Number of
17 constitute the Arbitral Tribunal and whether there is to be a presiding Arbitrators
18 arbitrator or umpire.

19 (2) Unless otherwise agreed by the parties, an agreement that the
20 number of arbitrators shall be two or any other even number shall be deemed
21 to require the appointment of an additional arbitrator to preside over the
22 arbitration.

23 (3) If there is no agreement as to the number of arbitrators, the
24 Arbitral Tribunal shall consist of a sole Arbitrator.

25 **8.**-(1) Subject to subsections (2) and (3) of this Section, the parties Appointment of
26 may specify in the Arbitration Agreement the procedure to be followed in Arbitrators
27 appointing an Arbitrator or they may designate or agree to designate an
28 appointing authority.

29 (2) When the Arbitration Agreement entitles each party to
30 nominate an arbitrator; and where the parties to the dispute are more than

1 two and such parties have not agreed in writing within 30 days that the
2 disputing parties represent two separate sides for the formation of the Arbitral
3 Tribunal as Claimant and Respondent respectively, then the appointing
4 authority shall have the power to appoint the Arbitral Tribunal without regard
5 to any party's nomination.

6 (3) Where the parties have not specified the procedure but they have
7 designated an appointing authority, the provisions of paragraphs (a) to (i) of
8 this subsection shall apply, that is if-

9 (a) A sole arbitrator is to be appointed, the parties may propose to each
10 other, one or more persons, to serve as the sole Arbitrator;

11 (b) Within thirty (30) days after the first proposal is delivered in
12 accordance with paragraph (a) of this subsection, and the parties have not
13 reached an agreement on the choice of a sole arbitrator, the sole arbitrator shall
14 be appointed by the designated appointing authority;

15 (c) In the case of an arbitration with three arbitrators, each party shall
16 appoint one arbitrator and the two so appointed shall appoint the third who
17 shall jointly act as the presiding arbitrators of the arbitral Tribunal;

18 (d) Within thirty (30) days after the receipt of the notification of the
19 appointment by a party of an arbitrator and the other party has not given the first
20 notification of the arbitrator he has appointed, the first party may request the
21 appointing authority previously designated by the parties to appoint the second
22 arbitrator;

23 (e) Within thirty (30) days after the appointment of the second
24 arbitrator and the two arbitrators have not agreed on the choice of the third and
25 presiding arbitrator, the third and presiding arbitrator shall be appointed by the
26 appointing authority on the request of either or both parties;

27 (f) The Arbitration agreement entitles each party to the Arbitration
28 Agreement to nominate an arbitrator; and where the parties to the dispute are
29 more than two in number, and such parties have not all agreed in writing within
30 30 days that the disputing parties represent two separate sides for the formation

1 of the Arbitral Tribunal as Claimant and Respondent respectively, then the
2 appointing authority shall have power to appoint the Arbitral Tribunal
3 without regard to any party's nomination;

4 (g) When the appointing authority is requested to appoint an
5 arbitrator pursuant to the provisions of this Section, the person making the
6 request shall send to the appointing authority a copy of the notice of
7 arbitration, a copy of the contract out of or in relation to which the dispute
8 has arisen and a copy of the Arbitration Agreement if the term is not
9 contained in the contract, and the appointing authority may require from the
10 requesting person, such information as it deems necessary to fulfil its
11 functions;

12 (h) When the names of one or more persons are proposed for
13 appointment as arbitrators, their full names, addresses and nationalities shall
14 be indicated, together with details of their qualifications;

15 (i) Except as otherwise agreed by the parties, no person shall be
16 disqualified from being appointed as an arbitrator by reason only of
17 nationality;

18 (j) In making the appointment, the appointing authority shall have
19 regard to such considerations as are likely to secure the appointment of an
20 independent and impartial arbitrator knowledgeable in the field of the
21 subject matter of the dispute and shall take into account as well, the
22 advisability of appointing an arbitrator of a nationality other than the
23 nationalities of the parties.

24 (4) Where no procedure is specified under subsection (1) of this
25 section and no appointing authority is designated or agreed to be designated
26 by the parties-

27 (a) In the case of an arbitration with three arbitrators, each party
28 shall appoint one arbitrator and the two so appointed shall appoint the third.
29 However, if-

30 (i) A party fails to appoint the arbitrator within thirty(30) days of

1 receipt of a request to do so by the other party, that other party, having duly
2 appointed its arbitrator, may give notice in writing to the party in default
3 proposing the appointment of its arbitrator to act as sole arbitrator;

4 (ii) The party in default does not within seven (7) clear days of that
5 notice being given, make the required appointment and notify the other party of
6 the name of its arbitrator as sole arbitrator whose award shall be binding on the
7 parties as if the sole arbitrator had been appointed by agreement; and

8 (iii) The two arbitrators fail to agree on the third and presiding
9 arbitrator within thirty (30) days of their appointments, the appointment shall
10 be made by the Federal Capital Territory Court of Arbitration on the
11 application of any party to the Arbitration Agreement.

12 (b) In the case of an arbitration with one arbitrator, where the parties
13 fail to agree on the arbitrator, the appointment shall be made by the Federal
14 Capital Territory Court of Arbitration on the application of any party to the
15 arbitration agreement made within thirty (30) days of such disagreement;

16 (c) Except as otherwise specifically provided under this Law, where
17 under an appointment procedure agreed upon by the parties-

18 (i) A party fails to act as required under the procedure;

19 (ii) The parties or two arbitrators are unable to reach an agreement as
20 required under the procedure; or

21 (iii) A third party, including an institution, fails to perform any duty
22 imposed on it under the procedure; and

23 (iv) Then any of the party or the arbitrator may request the Federal
24 Capital Territory Court of Arbitration to take the necessary measure, unless the
25 appointment procedure agreed upon by the parties provides other means for
26 securing the appointment.

27 (5) No appointment made pursuant to subsection (4) of this section
28 shall be challenged except in accordance with the provision of this Law.

29 (6) The Federal Capital Territory Court of Arbitration in exercising
30 the power of appointment under subsections (3) and (4) of this section shall

1 have due regard to any qualification required of the arbitrator by the
2 arbitration agreement and such other consideration as are likely to secure the
3 appointment of an independent, impartial and competent arbitrator.

4 (7) Under the provisions of this Law, all references to "third and
5 presiding" arbitrator shall be construed as including an "additional"
6 arbitrator appointed under section 7(2) of this Law.

7 **9.-(1)** Where the parties have agreed that there is to be an umpire, Umpire
8 they are free to agree on the functions of the umpire and in particular-

9 (a) Whether the umpire is to attend the proceedings, and

10 (b) When the umpire is to replace the other arbitrators as the
11 arbitral Tribunal with power to make decisions, orders and awards.

12 (2) If, there is no such agreement, the following provisions will
13 apply-

14 (a) The umpire shall attend the proceedings and be supplied with
15 the same documents and other materials as are supplied to the other
16 arbitrators;

17 (b) Decisions, orders and awards shall be made by the other
18 arbitrators unless they cannot agree on a matter relating to the arbitration. In
19 that event, they shall immediately give notice in writing to the parties and the
20 umpire, whereupon the umpire shall replace them as the Arbitral Tribunal
21 with power to make decision, orders and awards as if the umpire was the sole
22 arbitrator;

23 (c) If the arbitrators cannot agree but fail to give notice of that fact,
24 or if any of them fails to join in the giving of notice, any party to the arbitral
25 proceedings may (upon notice to the other parties and to the Arbitral
26 Tribunal) apply to the Federal Capital Territory Court of Arbitration which
27 shall give the required notice in writing to the parties and the umpire shall
28 replace the other arbitrators as the Arbitral Tribunal. He shall have the power
29 to make decisions, orders, and awards as if the umpire was the sole
30 arbitrator.

Grounds for
challenge

1 (d) The provisions of this Law in relation to the appointment,
2 challenge and removal of a third and presiding arbitrator shall also apply to the
3 appointment, challenge and removal of an umpire.

4 **10.**-(1) Any person who knows of any circumstances likely to give
5 rise to any justifiable doubts as to his/her impartiality or independence shall,
6 when approached in connection with an appointment as arbitrator, disclose
7 such circumstances to the parties.

8 (2) The duty to disclose imposed under subsection (1) of this Section
9 shall continue even after a person has been appointed as an arbitrator and
10 subsist throughout the arbitral proceedings, unless the arbitrator had
11 previously disclosed the circumstances to the parties.

12 (3) An Arbitrator may be challenged if-

13 (a) Circumstances exist that give rise to justifiable doubts as to the
14 arbitrator's impartiality or independence;

15 (b) The arbitrator does not possess the qualifications agreed by the
16 parties;

17 (c) The arbitrator is physically or mentally incapable of conducting
18 the proceedings or there are justifiable doubts as to his/her capacity to do so; or

19 (d) The arbitrator has refused or failed to use all reasonable dispatch
20 in conducting the proceedings or making an award, and that substantial
21 injustice has been or will be caused to the applicant.

Challenges of
Arbitration
procedure

22 **11.**-(1) The parties are free to agree on the procedure to be followed in
23 challenging an arbitrator in ad-hoc arbitration or may designate or agree to
24 designate an appointing authority of their choice for the purpose of challenging
25 an arbitrator.

26 (2) Where no procedure is agreed, a party who intends to challenge an
27 arbitrator shall, within fifteen (15) days of becoming aware of the constitution
28 of the arbitral Tribunal or becoming aware of any circumstances referred to in
29 section 10 of this Law, send to the Arbitral Tribunal and other parties, a written
30 statement of the reasons of the challenge.

1 (3) When an arbitrator has been challenged by one party, if the
2 other party agrees to the challenge or the challenged arbitrator, after the
3 challenge withdraws from office, then the appointment of the arbitrator shall
4 cease.

5 (4) Where the other party agrees to the challenge or the challenged
6 arbitrator withdraws, the procedure provided in Section 8 of this Law shall
7 be used in full for the appointment of the substituted arbitrator, even if
8 during the process of appointing the challenged arbitrator, a party had failed
9 to exercise his right or to participate in the appointment.

10 (5) Unless the arbitrator who has been challenged withdraws from
11 office or the other party agrees to the challenge, the arbitral Tribunal or
12 where the parties have designated an arbitral institution as the appointing
13 authority, or where such appointing authority is determined in accordance
14 with the provisions of this Law, the appointing authority shall decide on the
15 challenge.

16 **12.-(1)** A party to an arbitral proceeding may (upon notice to the
17 other parties, to the arbitrator concerned and to any other arbitrator) apply
18 to the court to remove an arbitrator on the grounds that-

Removal of an
Arbitrator

19 (a) Circumstances exist that give rise to justifiable doubts as to the
20 arbitrator's impartiality or independence;

21 (b) The arbitrator does not possess the qualifications required by
22 the Arbitration Agreement;

23 (c) The arbitrator is physically or mentally incapable of conducting
24 the proceedings or there are justifiable doubts as to the arbitrator's capacity
25 to do so; and

26 (d) The arbitrator has refused or failed to use all reasonable
27 dispatch in conducting the proceedings or making an award, and that
28 substantial justice has been or will be caused to the applicant.

29 (2) If there is an arbitral or other institution or person(s) vested by
30 the parties with power to remove an arbitrator, the court shall not exercise its

1 power of removal unless satisfied that the applicant has first exhausted any
2 available recourse to that institution or person.

3 (3) The Arbitral Tribunal may continue the arbitral proceedings and
4 make an award while an application to the court under this Section is pending.

5 (4) The arbitrator concerned is entitled to appear before and be heard
6 by the court with or without legal representation before it makes any other
7 Order under this Section.

8 (5) Where the court removes an arbitrator, it may make such Order as
9 it thinks fit with respect to the arbitrator's entitlement (if any) to fees and
10 expenses including indemnity for legal expenses, or refund of any fees or
11 expenses already paid.

Termination of
mandate

12 **13.** The mandate of an arbitrator shall terminate if-

13 (a) The parties agree to terminate the arbitrator's appointment; or

14 (b) The arbitrator is removed by an arbitral or other person(s) vested
15 by the parties with powers in that regard.

Resignation

16 **14.**-(1) The parties are free to agree with an arbitrator as to the
17 consequences of the arbitrator's resignation as regards

18 (a) The arbitrator's entitlement (if any) to fees or expenses, and

19 (b) Any liability incurred by the arbitrator.

20 (2) Where there is no such agreement the following provisions shall
21 apply-

22 (a) An Arbitrator who resigns may (upon notice to the parties) apply to
23 the court;

24 ((i) To grant the arbitrator relief from any liability incurred and

25 ((ii) To make such order as it thinks fit with respect to the arbitrator's
26 entitlement (if any) on fees or expenses or the repayment of any fees or expense
27 already paid.

28 (b) If the court is satisfied that in all circumstances it was reasonable
29 for the arbitrator to resign, it may grant such relief as mentioned in sub section
30 (2)(a) above on such terms as it thinks fit.

1	15.	(1) The authority of an arbitrator is personal and ceases upon	Death of an Arbitrator
2		the death of such arbitrator	
3		(2) The authority of an arbitrator shall not be revoked by the death	
4		of any party by whom the arbitrator was appointed	
5		16.	Cessation of office of an arbitrator
6		(1) Where an arbitrator ceases to hold office by reason of a	
7		challenge, termination, resignation or death, the parties are free to agree on	
8		the effect(if any), that such cessation of office may have on any appointment	
9		made by the arbitrator(alone or jointly).	
10		(2) Where there is no such agreement-	
11		(a) The Arbitral Tribunal(when reconstituted) shall determine to	
12		what extent the previous proceedings shall stand; and	
13		(b) The arbitrator's ceasing to hold office shall not affect any	
14		appointment made by the arbitrator (alone or jointly) of another arbitrator,	
15		and in particular, any appointment of a presiding arbitrator or umpire.	
16		17.	Appointment of substitute arbitrator
17		(1) Unless otherwise agreed by the parties, where the mandate	
18		of an arbitrator ceases, a substitute arbitrator shall be appointed in	
19		accordance with the same rules and procedure that applied to the	
20		appointment of the arbitrator who is being replaced.	
21		18.	Immunity
22		(1) An arbitrator is not liable for anything done or omitted in	
23		the discharge or purported discharge of his/her function(s) as arbitrator	
24		unless the act or omission is determined to have been in bad faith.	
25		(2) Subsection (1) above applies to an employee or agent of an	
26		arbitrator as it applies to the arbitrator.	
27		(3) The provision of this Section does not affect any liability	
28		incurred by an arbitrator by reason of resignation.	
29		19.	Jurisdiction
30		(1) An Arbitral Tribunal shall be competent to rule on questions	
		pertaining to its own jurisdiction and on any objections with respect to the	
		existence or validity of an Arbitration Agreement.	
		(2) For the purposes of subsection (1) of this Section, an arbitration	
		clause which forms part of a contract shall be treated as an agreement	

1 independent of the other terms of the contract and a decision by the Arbitral
2 Tribunal that the contract is invalid, non-existent or ineffective shall not
3 invalidate the arbitration clause.

4 (3) In any arbitral proceedings, a plea that the Arbitral Tribunal-

5 (a) does not have jurisdiction may be raised not later than the time of
6 submission of the points of dispute and a party is not precluded from raising
7 such plea by reason that the party has appointed or participated in the
8 appointment of an arbitrator; and

9 (b) is exceeding the scope of its authority, may be raised as soon as
10 the matter alleged to be beyond the scope of its authority is raised during the
11 proceeding; and the Arbitral Tribunal may, in either case admit a later plea if it
12 considers that the delay was justified.

13 (4) The Arbitral Tribunal may rule on any plea referred to it under
14 subsection (3) of this Section, either as a preliminary question or in an award on
15 the merits and such ruling shall be final and binding.

Substance of
Dispute

16 **20.**-(1) The Arbitral Tribunal shall decide the dispute in accordance
17 with such rules of law as are chosen by the parties and applicable to the
18 substance of the dispute.

19 (2) Any designation of the law or legal system of a given jurisdiction
20 or territory shall be construed, unless otherwise expressed, as directly referring
21 to the substantive law of that jurisdiction or territory and not to its conflict of
22 law rules.

23 (3) Failing any designation by the parties, the Arbitral Tribunal shall
24 apply the law determined by the conflict of law rules which it considers
25 applicable.

26 (4) The Arbitral Tribunal shall decide injustice and in good faith.

27 (5) In all cases, the Arbitral Tribunal shall decide in accordance with
28 the terms of the contract and shall take account of the usages of the trade
29 applicable to the transaction.

1 **21.**-(1) The Federal Capital Territory Court of Arbitration, or the
2 Arbitral tribunal shall have the power to issue interim measures for the
3 purposes of and in relation to arbitration proceedings as it has for the
4 purpose of and in relation to proceedings in the Courts and shall exercise that
5 power in accordance with the rules set out in the Schedule to this Law.

Power to issue
Interim Measures

6 (2) Unless otherwise agreed by the parties, the Arbitral Tribunal
7 may, at the request of a party, grant interim measures

8 (3) An interim measure is any temporary measure, whether in the
9 form of an award or in another form, prior to the issuance of the award by
10 which the dispute is finally decided, the Arbitral Tribunal may order a party
11 to:

12 (a) maintain or restore the status quo pending the determination of
13 the dispute;

14 (b) take action that would prevent, or refrain from taking action
15 that is likely to cause current or imminent harm or prejudice to the subject
16 matter of the dispute or the arbitral process itself;

17 (c) provide a means of preserving assets out of which a subsequent
18 award may be satisfied; or

19 (d) Preserve evidence that may be relevant and material to the
20 resolution of the dispute.

21 **22.**-(1) Without prejudice to any law in force in Nigeria guiding the
22 grant of interim measures, the party requesting an order of interim measure
23 under Section 21(3) (a), (b) and (c) shall satisfy the Arbitral Tribunal that:-

Conditions for
grant of interim
measures

24 (a) harm not adequately reparable by an award of damages is likely
25 to result if the measure is not ordered, and such harm substantially
26 outweighs the harm that is likely to result to the party against whom the
27 measure is directed if the measure is granted; and

28 (b) There is a serious issue to be determined on the merits of the
29 claim, provided that any determination shall not affect the discretion of the
30 Arbitral Tribunal in making any subsequent determination.

Application for
Preliminary Orders

1 **23.**-(1) Without prejudice to any Law in force in Nigeria guiding the
2 grant of interim measures, the parties may stipulate in their Arbitration
3 Agreement that a party may, without notice to any other party, apply to the
4 Arbitral Tribunal for a Preliminary Order directing a party not to frustrate the
5 purpose of the interim measure requested at the same time as it makes a request
6 for the interim measure.

7 (2) If the parties had previously stipulated as stated in subsection (1)
8 of this Section, the Arbitral Tribunal may grant a Preliminary Order provided it
9 considers that prior disclosure of the request for the interim measure to the
10 party against whom it is directed risks frustrating the purpose of the measure.

11 (3) The conditions prescribed in Section 22(1) of this Law shall apply
12 in the consideration of an application requested by a party pursuant to this
13 Section.

Specific procedure
for Preliminary
Orders

14 **24.**-(1) Immediately after the Arbitral Tribunal has made a
15 determination in respect of an application for a Preliminary Order, the Arbitral
16 Tribunal shall give notice to all parties of the Application for and decision upon
17 the Preliminary Order, the request for the interim measure, and all other
18 communication, written and oral, between any party and the Arbitral Tribunal
19 in relation to it.

20 (2) At the same time, the Arbitral Tribunal shall give an opportunity to
21 any party against whom a Preliminary Order is directed to present its case at the
22 earliest practicable time.

23 (3) The Arbitral Tribunal shall decide promptly on any objection to
24 the Preliminary Order.

25 (4) A Preliminary Order shall expire after (30) thirty days from the
26 date on which it is issued by the Arbitral Tribunal.

27 (5) The party against whom the Preliminary Order is directed must be
28 given notice and an opportunity to present its case prior to the grant of an
29 interim measure adopting or modifying the Preliminary Order.

- 1 **25.** The Arbitral Tribunal may extend, modify, suspend or
2 terminate any interim measures or a Preliminary Order it has granted, upon
3 application of any party or, in exceptional circumstances and upon prior
4 notice to the parties, on the Arbitral Tribunal's own initiative where-
- 5 (a) important facts were concealed from the Tribunal;
6 (b) the interim measures or preliminary order was obtained by
7 fraudulent representation;
8 (c) facts come to the knowledge of the Tribunal, which if the
9 Tribunal had known, it would not have granted the Order; and
10 (d) It is just and equitable in the circumstance to extend, modify or
11 suspend the Order.
- 12 **26.**-(1) The Arbitral Tribunal shall require the party applying for a
13 Preliminary Order to provide security in connection with the order unless
14 the Arbitral Tribunal considers it inappropriate or unnecessary to do so
15 where:
- 16 (a) Important facts were concealed from the Tribunal;
17 (b) the interim measures or Preliminary Order was obtained by
18 fraudulent misrepresentation;
19 (c) facts come to the knowledge of the Tribunal which if the
20 Tribunal had known, it would not have granted the Order; and
21 (d) It is just and equitable in the circumstances to extend, modify or
22 suspend the Order.
- 23 (2) The Arbitral Tribunal may require the party requesting an
24 interim measure to provide appropriate security in connection with the
25 measure.
- 26 **27.**-(1) The party applying for a preliminary order shall disclose to
27 the Arbitral Tribunal, all circumstances that are likely to be relevant to the
28 Arbitral Tribunal's determination whether to grant the Order, and such
29 obligation shall continue until the Arbitral Tribunal has made a
30 determination on the request for an interim measure.

Interim measures
and Preliminary
Orders by the
Arbitral Tribunal

Provision of
Security for
Preliminary Order

Disclosure of
material change
in circumstances

1 (2) The party who desires to maintain a Preliminary Order shall
2 disclose all circumstances that are likely to be relevant to the Arbitral Tribunal's
3 determination whether to maintain the Order, and such obligation shall
4 continue until the Arbitral Tribunal has made a determination on the request for
5 an interim measure.

6 (3) The party applying for an interim measure shall promptly disclose
7 any material change in the circumstance on the basis of which the measure was
8 requested or granted.

Costs and interim
damages

9 **28.** The party applying for a Preliminary Order or requesting an
10 interim measure shall be liable for costs and damages caused by the measure or
11 the Order to the party against whom it is directed if the Arbitral Tribunal later
12 determines that, in the circumstances, the measure or the Order should not have
13 been granted. The Arbitral Tribunal may award such costs and damages at any
14 point during the proceedings.

Recognition and
enforcement of
interim measures
by the High Court

15 **29.**-(1) An interim measure issued by an Arbitral Tribunal shall be
16 binding, unless otherwise provided by the Arbitral Tribunal, or recognized and
17 enforced, upon application to the High Court by a party in whose favour it i
18 nures, irrespective of the jurisdiction or territory in which it was issued subject
19 to the provisions of subsections (2) and (3) of this Section.

20 (2) The party who is seeking or has obtained recognition or
21 enforcement of an interim measure shall promptly inform the Court of any
22 termination, suspension or modification of that interim measure.

23 (3) The Court to which a request for recognition and enforcement of
24 an interim measure is presented may, if it considers it proper, order the
25 requesting party to provide appropriate security if the Arbitral Tribunal has not
26 already made a determination with respect to security or where such a decision
27 is necessary to protect the rights of third parties.

Grounds for
refusing recognition
or enforcement

28 **30.**-(1) Recognition or enforcement of an interim measure may be
29 refused only-

1 (a) at the request of the party against whom it is invoked if the Court
2 is satisfied that-

3 (i) such refusal is warranted on the grounds provided for in Section
4 57(2)(a),(i), (ii), (iii), (iv), (v),(vi) or (vii) of this Law;

5 (ii) the Arbitral Tribunal's decision with respect to the provision of
6 security in connection with the interim measure issued by the Arbitral
7 Tribunal has not been complied with; or

8 (iii) The interim measure has been terminated or suspended by the
9 Arbitral Tribunal or where so empowered, by the Court of the jurisdiction
10 or territory in which the Arbitration takes place or under the Law of which
11 that interim measure was granted.

12 (b) if the Court finds that-

13 (i) the interim measure is incompatible with the powers of the
14 Court, unless the Court decides to reformulate the interim measure to adapt
15 it to its own powers and procedures for the purpose of enforcement without
16 modifying its substance; or

17 (ii) Any of the grounds provided for in Section 56 subsection (2) (a)
18 and (b) apply to the recognition and enforcement of the interim measure.

19 (2) Any determination made by the Court on any ground in this
20 Section shall be effective only for the application to recognize and enforce
21 the interim measure, the Court where recognition or enforcement is sought
22 shall not, undertake a review of the substance of the interim measure

23 **31.**-(1) Except as otherwise agreed by the parties, the arbitral Arbitral procedure
24 proceedings shall be conducted in accordance with the procedure contained
25 in the Arbitration Rules of the Federal Capital Territory Court of Arbitration
26 in force from time to time.

27 (2) Where the rules referred to in subsection (1) of this Section,
28 contain no provision in respect of any matter related to or connected with a
29 particular arbitral proceedings, the Arbitral Tribunal may, subject to the
30 provisions of this Law, conduct the arbitral proceedings in such a manner

	1	as it considers appropriate so as to ensure fair hearing.
	2	(3) The power conferred on the Arbitral Tribunal under sub section (2)
	3	of this Section shall include the power to determine the admissibility,
	4	relevance, materiality and weight of any evidence placed before it.
Commencement of tribunal proceedings	5	32. Unless otherwise agreed by the parties, the arbitral proceedings
	6	in respect of a particular dispute shall commence on the date the request to refer
	7	the dispute to arbitration is delivered to the other party.
Place and time of arbitration	8	33. -(1) Unless otherwise agreed by the parties, the place, date and
	9	Time of the arbitral proceedings shall be determined by the Arbitral Tribunal
	10	having regard to the circumstances of the case.
	11	(2) Notwithstanding the provisions of Subsection (1) of this Section
	12	and unless otherwise agreed by the parties, the Arbitral Tribunal may meet at
	13	any place it considers appropriate for consultation among its members, for
	14	hearing witnesses, experts or the parties or for the inspection of documents,
	15	goods or other property.
Equal treatment of parties	16	34. In any arbitral proceedings, the Arbitral Tribunal shall ensure-
	17	(a) that the parties are accorded equal treatment and that the parties
	18	are given equal and fair opportunity of presenting their case;
	19	(b) A fair resolution of the dispute without unnecessary delay or
	20	expense.
Application of Limitation Laws to arbitral proceedings	21	35. -(1) Limitation Laws shall apply to arbitral proceedings as they
	22	apply to judicial proceedings.
	23	(2) In computing the time prescribed by the applicable Limitation
	24	Laws for the commencement of judicial, arbitral and other proceedings in
	25	respect of a dispute which was the subject matter of-
	26	(a) an award which the High Court orders to be set aside or declares to
	27	be of no effect, or
	28	(b) the affected part of an award which the Court orders to be set aside
	29	in part, or declares to be in part of no effect, the period between the
	30	commencement of the arbitration and the date of the order referred to in

1 paragraph (a) above shall be excluded.

2 (3) Notwithstanding any term in an Arbitration Agreement to the
3 effect that no cause of action shall accrue in respect of any matter required by
4 the agreement to be referred until an award is made under the agreement,
5 the cause of action shall, for the purpose of Limitation Laws, be deemed to
6 have accrued in respect of any such matter at the time when it would have
7 accrued but for that term in the agreement.

8 (4) "Limitation Laws" means such Limitation Laws as are
9 applicable under the Law governing the subject of the dispute.

10 (5) In computing the time for the commencement of proceedings
11 to enforce an arbitral award, the period between the commencement of the
12 arbitration and the date of the award shall be excluded.

13 **36.**-(1) The parties are free to agree on the language or languages to
14 be used in the arbitral proceedings, but where they do not do so, the language
15 to be used shall be English.

Languages of
Arbitral Proceedings

16 (2) Any language or languages agreed upon by the parties or
17 applied under subsection (1) of this Section, shall, unless a contrary
18 intention is expressed by the parties or the Arbitral Tribunal, be the language
19 or languages to be used in any written statements by the parties, in any
20 hearing, award, decision or any other communication in the course of the
21 arbitration.

22 (3) The Arbitral Tribunal may order that any documentary
23 evidence shall be accompanied by a translation into the language or
24 languages agreed upon by the parties or applied under sub section (1) of this
25 Section.

26 **37.**-(1) The claimant shall, in the points of claim and within the
27 period agreed upon by the parties or determined by the Arbitral Tribunal,
28 state the facts supporting the claim, the points in issue and the relief or
29 remedy sought and the response in respect of those particulars, unless the

Points of Claim
and Defence

1 parties have otherwise agreed on the required elements of the points of claim
2 and of defence.

3 (2) The parties may submit such further statements as they may agree
4 or as the Arbitral Tribunal may direct.

5 (3) The parties may submit with their statements under sub- sections
6 (1) and (2) of this Section, all the documents they consider to be relevant or
7 they may add as reference to the other evidence they hope to submit at the
8 arbitral proceedings.

9 (4) Unless otherwise agreed by the parties, a party may amend or
10 supplement their claim or defence during the course of the arbitral
11 proceedings, if the Arbitral Tribunal considers it appropriate to allow such
12 amendment or supplement, having regard to the time that has elapsed before
13 the making of the amendment or supplement.

Power of the
Arbitral Tribunal

14 **38.**-(1) The parties are free to agree on the powers exercisable by the
15 Arbitral Tribunal as regards remedies.

16 (2) Unless otherwise agreed by the parties, the Arbitral Tribunal has
17 the following powers-

18 (a) The Arbitral Tribunal may make a declaration as to any matter to
19 be determined in the proceedings;

20 (b) The Arbitral Tribunal may order the payment of a sum of money,
21 in any currency; and

22 (c) The Arbitral Tribunal has the same power as the Court-

23 (i) to order a party to do or refrain from doing anything;

24 (ii) to order specific performance of a contract (other than a contract
25 relating to land); and

26 (iii) To order the rectification, setting aside or cancellation of a deed
27 or other document.

28 (d) The Arbitral Tribunal shall, unless otherwise agreed by the
29 parties, have power to administer oaths to or take the affirmations of the parties
30 and witnesses appearing before the Arbitral Tribunal.

1 **39.**-(1) Subject to any agreement by the parties, the Arbitral Proceedings

2 Tribunal shall decide whether the arbitral proceedings shall be conducted -

3 (a) by holding oral hearings for the presentation of evidence and
4 oral arguments; or

5 (b) on the basis of documents or other materials; or

6 (c) by a combination of the methods described in paragraphs (a)
7 and (b) of this subsection, and unless the parties have agreed that no hearing
8 shall be held, the Arbitral Tribunal shall hold such hearings at an
9 appropriate stage of the proceedings if requested to do so by any of the
10 parties.

11 (2) The Arbitral Tribunal shall give to the parties sufficient advance
12 notice of any hearing and of any meeting of the Arbitral Tribunal requiring
13 the attendance of the parties.

14 (3) Except on the application for a Preliminary Order under
15 Section 24 of this Law, every statement, document or other information
16 supplied to the Arbitral Tribunal shall be communicated to the other party by
17 the party supplying the statement, document or other information, and every
18 such statement, document or other information supplied by the Arbitral
19 Tribunal to one party shall be supplied to the other party.

20 (4) A copy of any expert report or evidentiary document on which
21 the Arbitral Tribunal may rely in making its decision shall be delivered to the
22 parties.

23 **40.**-(1) Parties are free to agree-

24 (a) that the arbitral proceedings shall be consolidated with other
25 arbitral proceedings, or

26 (b) That concurrent hearing shall be held on such terms as may be
27 agreed.

28 (2) Where the parties have agreed under Subsection (1) above, the
29 Arbitral Tribunal shall give effect to the agreement unless it is of the view
30 that it is not in the interest of justice to do so.

Consolidation,
Concurrent hearing
and Joinder

Default of a
Party

1 (3) A party may, by an application and with the consent of the parties,
2 be joined to arbitral proceeding.

3 **41.**-(1) Unless otherwise agreed by the parties, if, without showing
4 sufficient cause where-

5 (a) the claimant fails to state the claim as required under Section 37(1)
6 of this Law, the Arbitral Tribunal shall terminate the proceedings unless the
7 respondent desires to present a claim;

8 (b) the respondent fails to state the defence as required under Section
9 37(1) of this Law, the Arbitral Tribunal shall continue the proceedings without
10 treating such failure in itself as an admission of the claimant's allegation; or

11 (c) Any party fails to appear at a hearing or to produce documentary
12 evidence, the Arbitral Tribunal may continue the proceedings and make an
13 award.

14 (2) The parties are free to agree on the powers of the Arbitral Tribunal
15 in case of a party's failure to do anything necessary for the proper and
16 expeditious conduct of the arbitration.

17 (3) Unless otherwise agreed by the parties, if the Arbitral Tribunal is
18 satisfied that there has been inordinate or inexcusable delay on the part of the
19 Claimant in pursuing the claim and that the delay-

20 (a) gives rise, or is likely to give rise, to a substantial risk that a fair
21 resolution of the issues in that claim will not be possible, or

22 (b) Has caused, or is likely to cause serious prejudice to the
23 respondent, then the Arbitral Tribunal may make an award dismissing the
24 claim.

25 (4) Unless otherwise agreed by the parties, if without showing
26 sufficient cause, a party-

27 (a) fails to attend or is not represented at an oral hearing of which due
28 notice was given; or

29 (b) Where matters that are to be dealt with in writing fails, after due
30 notice to submit written evidence or make written submission,

1 The Arbitral Tribunal may continue the proceedings in the absence of that
2 party or, as the case may be, without any written evidence or submissions on
3 the party's behalf, and may make an award on the basis of the evidence
4 before it.

5 (5) Unless otherwise agreed by the parties, if without showing
6 sufficient cause, a party fails to comply with any order or directions of the
7 Arbitral Tribunal, the Arbitral Tribunal shall make a Peremptory Order to
8 the same effect, prescribing such time for compliance with it as the Arbitral
9 Tribunal considers appropriate.

10 (6) If a claimant fails to comply with a Peremptory Order of the
11 Arbitral Tribunal to provide security for costs, the Arbitral Tribunal shall
12 make an award dismissing his claim.

13 (7) where a party fails to comply with any Peremptory Order other
14 than that under Subsection (6) of this Section, then the Arbitral Tribunal
15 may-

16 (a) direct that the party in default shall not be entitled to rely upon
17 any allegation or material which was the subject matter of the order;

18 (b) draw such adverse inferences from the act of noncompliance as
19 the circumstances justify;

20 (c) proceed to an award on the basis of such materials as have been
21 properly provided to it; and

22 (d) Make such award as it thinks fit as to the payment of costs of the
23 arbitration by the party in default having regard to the non-compliance.

24 **42.-(1)** The Arbitral Tribunal may-

25 (a) appoint one or more experts to report to it on a specific issue to
26 be determined by the Arbitral Tribunal; and

27 (b) Subject to any legal privilege that a party may assert, require a
28 party to give to the expert any relevant information to produce or provide
29 access to any documents, goods or other property in their possession,
30 custody or control for inspection or reproduction.

Power to appoint
expert

1 (2) if a party so requests or if the Arbitral Tribunal considers it
2 necessary, any expert appointed under subsection (1) of this Section shall, after
3 delivering the written or oral report, participate in a hearing where the parties
4 shall have the opportunity of putting questions to the expert and presenting
5 expert witnesses to testify on their behalf on the points in issue.

Power to order
attendance of
witness

6 **43.**-(1) The Court or a judge may order that a writ of subpoena ad
7 testificandum or of subpoena duces tecum shall be issued to compel the
8 attendance before any Arbitral Tribunal of a witness within Nigeria.

9 (2) The Court or judge may also order that a writ of habeas corpus
10 shall be issued to bring up a prisoner for examination before any Arbitral
11 Tribunal.

12 (3) The provisions of any written law relating to the service or
13 execution outside a State of the Federation of any subpoena or Order for the
14 production of a prisoner, issued or made in civil proceedings shall apply in
15 relation to a subpoena or order issued or made under this section.

Decision making
by Arbitral Tribunal

16 **44.**-(1) In an Arbitral Tribunal comprising more than one arbitrator,
17 any decision of the Arbitral Tribunal shall, unless otherwise agreed by the
18 parties, be made by a majority of all its members.

19 (2) Subject to any applicable mandatory provisions under this law, the
20 presiding arbitrator may, if so authorized by the parties or all the members of
21 the Arbitral Tribunal, decide questions relating to the procedure to be followed
22 at the arbitral proceedings.

Settlement of
dispute t

23 **45.**-(1) Where, during the arbitral proceedings, the parties settle the
24 disputes, the Arbitral Tribunal shall terminate the arbitral proceedings, and
25 shall, if requested by the parties, record the settlement in the form of an arbitral
26 award on agreed terms.

27 (2) An award on agreed terms recorded under Subsection (1) of this
28 Section shall-

29 (a) be in accordance with the provisions of Section 47 of this Law; and

1 (b) Have the same status and effect as any other award on the
2 merits of the case.

3 46.-(1) The parties are free to agree on the powers of the Arbitral Interest
4 Tribunal as regards the award of interest.

5 (2) In relation to the award of interest by the arbitral tribuna, the
6 following provisions shall apply:

7 (a) the Arbitral Tribunal may award simple or compound interest
8 from such dates, at such rates and with such interest as it considers just-

9 (i) on the whole or part of any amount awarded by the Arbitral
10 Tribunal, in respect of any period up to the date of the award; or

11 (ii) on the whole or part of any amount claimed in the arbitration
12 and outstanding at the commencement of the arbitral proceedings but paid
13 before the award was made, in respect of any period up to the date of
14 payment.

15 (b) the Arbitral Tribunal may award simple or compound interest
16 from the date of the award (or any later date) until payment, at such rates and
17 with such interests as it considers just in the case, on the outstanding amount
18 of any award (including any award of interest under Subsection (3) and any
19 award as to costs);

20 (c) an amount awarded by the Arbitral Tribunal including an
21 amount payable in consequence of a declaratory award by the Tribunal; and

22 (d) The above provisions do not affect any other power of the
23 Arbitral Tribunal to award interest.

24 47.-(1) Any award made by the Arbitral Tribunal shall be in writing From and contents
25 and signed by all the arbitrators. of award

26 (2) Where the Arbitral Tribunal comprises of more than one
27 arbitrator, the signatures of a majority of all the members of the Arbitral
28 Tribunal shall suffice, if the reason for the absence of any signature is stated.

29 (3) The Arbitral Tribunal shall state on the award -

30 (a) the reasons upon which it is based, unless the parties have

1 agreed that no reasons are to be given or the award is an award on agreed terms
2 under Section 45 of this Law;

3 (b) the date it was made; and

4 (c) The place of the arbitration as agreed or determined under Section
5 33(1) of this Law, shall be deemed to be the place where the award was made.

6 (4) Subject to the provisions of Section 49 of this Law, a copy of the
7 award made and signed by the arbitrators in accordance with subsections (1),
8 (2) and (3) of this Section, shall be delivered to each party.

Termination of
proceedings

9 **48.**-(1) The Arbitral Proceedings shall terminate, when the final
10 award or when an Order of the Arbitral Tribunal is issued under Subsection (2)
11 of this Section.

12 (2) The Arbitral Tribunal shall, issue an Order for the termination of
13 the Arbitral Proceedings when-

14 (a) the claimant withdraws his claim, the respondent objects and the
15 Arbitral Tribunal recognizes a legitimate interest on his part in obtaining a final
16 settlement of the dispute; or

17 (b) the parties agree on the termination of the Arbitral Proceedings;

18 (c) The Arbitral Tribunal finds that continuation of the Arbitral
19 Proceedings for any other reason is unnecessary or impossible.

20 (3) Subject to the provisions of Sections 50 and 55(2) of this Law, the
21 mandate of the Arbitral Tribunal shall cease on termination of the Arbitral
22 Proceedings.

Notification

23 **49.**-(1) The award shall be notified to the parties by service on them of
24 written notice to that effect, which shall be done without delay after the Award
25 is made.

26 (2) The Arbitral Tribunal may refuse to deliver an award to the parties
27 except upon full payment of the agreed fees and expenses of the arbitrators.

28 (3) In the event that the fees and expenses of the arbitrators have not
29 been agreed, and the Arbitral Tribunal refused on that ground to deliver an
30 award, a party to the arbitral proceedings may (upon notice to the other parties

1 and the Arbitral Tribunal) apply to the Court, which may order that-

2 (a) the Arbitral Tribunal shall deliver the award on the payment into
3 the Court by the applicant of the fees and expenses demanded, or such lesser
4 amount as the Court may specify;

5 (b) the amount of the fees and expenses payable shall be
6 determined by such means and upon such terms as the Court may direct; and

7 (c) Out of the money paid into Court there shall be paid out such
8 fees and expenses as may be found to be payable and the balance of the
9 money (if any) shall be paid out to the applicant.

10 (4) In determining the fees properly payable for the purposes of
11 Subsection (3) (b) and (c) above, the Court shall have regard to Section 51(2)
12 of this Law.

13 (5) No application to the Court may be made where there is any
14 available arbitral process for appeal or review of the amount of the fees or
15 expenses demanded.

16 (6) References in this Section to arbitrators include an arbitrator
17 who has ceased to act and an umpire who has not replaced the other
18 arbitrators.

19 (7) The provisions of this Section also apply in relation to any
20 arbitral or other institution or person vested by the parties with powers in
21 relation to the delivery of the Arbitral Tribunal's award and as they so apply,
22 the references to the fees and expenses of the arbitrators shall be construed
23 as including the fees and expenses of that institution or person.

24 **50.**-(1) Unless another period has been agreed upon by the parties,
25 a party may, within thirty (30) days of the receipt of an award and with
26 notice to the other party, request the Arbitral Tribunal-

Correction and
interpretation of
an Award

27 (a) to correct in the award any errors in computation, any clerical or
28 typographical errors or any errors of a similar nature; and

29 (b) To give an interpretation of a specific point or part of the award.

30 (2) If the Arbitral Tribunal considers any request made under

1 Subsection (1) of this section to be justified, it shall, within thirty (30) days of
2 receipt of the request, make the correction or give the interpretation, and such
3 correction or interpretation shall form part of the award.

4 (3) The Arbitral Tribunal may, on its own volition and within thirty
5 (30) days from the date of the award, correct any error of the type referred to in
6 Subsection (1) (a) of this Section.

7 (4) Unless otherwise agreed by the parties, a party may within thirty
8 (30) days of receipt of the award and on notice to the other party request the
9 Arbitral Tribunal to make an additional award as to the claims presented in the
10 arbitral proceedings but omitted from the award.

11 (5) If the Arbitral Tribunal considers any request made under
12 Subsection (4) of this Section to be justified, it shall, within sixty (60) days of
13 the receipt of the request, make the additional award.

14 (6) The Arbitral Tribunal may for good cause extend the time limit
15 within which it shall make a correction, give an interpretation or make an
16 additional award under Subsection (2) or (5) of this Section.

17 (7) The provisions of Section 47 of this Law, which relate to the form
18 and contents of an award, shall apply to any correction or interpretation or to an
19 additional award made under this Section.

Cost

20 **51.**-(1) The Arbitral Tribunal shall fix costs of arbitration in its award
21 and the term "costs" includes-

22 (a) the fees of the Arbitral Tribunal to be stated separately as to each
23 arbitrator and to be fixed by the Arbitral Tribunal itself;

24 (b) the travel and other expenses incurred by the arbitrators;

25 (c) the cost of expert advice and of other assistance required by the
26 Arbitral Tribunal;

27 (d) the travel and other expenses of parties, witnesses and other
28 experts consulted by the parties to the extent that such expenses are approved
29 by the Arbitral Tribunal having regard to what is reasonable in the
30 circumstances; and

1 (e) the costs for legal representation and assistance of the
2 successful party if such costs were claimed during the arbitral proceedings,
3 and only to the extent that the Arbitral Tribunal determines that the amount
4 of such costs is reasonable; and

5 (f) Administrative costs such as cost of venue, sitting and
6 correspondence.

7 (2) The fees of the Arbitral Tribunal shall be reasonable in amount,
8 taking into account the amount in dispute, the complexity of the subject-
9 matter, the time spent by the arbitrators and any other relevant
10 circumstances of the case.

11 **52.**-(1) The Arbitral Tribunal, on its establishment, may request Deposit of cost
12 each party to deposit an equal amount as an advance for the costs referred to
13 in paragraphs (a), (b) and (c) of Section 51(1) of this Law.

14 (2) During the course of the arbitral proceedings, the Arbitral
15 Tribunal may request supplementary deposits from the parties.

16 **53.**-(1) The Arbitral Tribunal shall have the power (upon the Security for costs
17 application of a party) to order any claiming or counterclaiming party to
18 provide security for the legal or other costs to any other party by way of
19 deposit or bank guarantee or in any other manner and upon such terms as the
20 Arbitral Tribunal considers appropriate, including the provision by that
21 other party of a cross-indemnity, secured in such manner as the Arbitral
22 Tribunal considers appropriate, for any costs and losses incurred by such
23 claimant or counter claimant in providing security.

24 (2) The amount of any costs and losses payable under a cross-
25 indemnity under Subsection (1) of this Section may be determined by the
26 Arbitral Tribunal in one or more awards.

27 (3) In the event that a claiming or counterclaiming party does not
28 comply with any order to provide security under this Section, the Arbitral
29 Tribunal may stay that party's claim or counterclaim or dismiss them in an
30 award.

Joint liability	1	54. -(1) The parties are jointly and severally liable to pay the arbitrator
	2	such reasonable fees and expenses (if any) as are appropriate in the
	3	circumstances.
	4	(2) In this Section references to arbitrators include an arbitrator who
	5	has ceased to act and an umpire who has not replaced the arbitrators.
Application for setting aside of Award	6	55. -(1) A party who is aggrieved by an arbitral award may within three
	7	months-
	8	(a) from the date of the award; or
	9	(b) In a case falling within Section 50 of this Law, from the date the
	10	request for additional award is disposed of by the Arbitral Tribunal, by way of
	11	an application for requesting the Court to set aside the award in accordance
	12	with Subsection (2) of this Section.
	13	(2) The Court may set aside an arbitral award if it finds that-
	14	(i) a party to the Arbitration Agreement was under some incapacity;
	15	(ii) the Arbitration Agreement is not valid under the law which the
	16	parties have indicated should be applied, or that the Arbitration Agreement is
	17	not valid under the laws of Nigeria;
	18	(iii) the applicant was not given proper notice of the appointment of
	19	an arbitrator or of the arbitral proceedings or was otherwise not given a fair
	20	opportunity to present his case;
	21	(iv) the award deals with a dispute not contemplated by or not falling
	22	within the terms of the submission to arbitration;
	23	(v) the award contains decisions on matters which are beyond the
	24	scope of the submission to arbitration, however if the decisions on matters
	25	submitted to arbitration can be separated from those not submitted, only that
	26	part of the award which contains decisions on matters not submitted to
	27	arbitration may be set aside; or
	28	(vi) the composition of the Arbitral Tribunal, or the arbitral
	29	procedure, was not in accordance with the agreements of the parties, unless
	30	such agreement was in conflict with a provision of this Law from which the

1 parties cannot derogate; or
2 (vii) where there is no agreement between the parties under sub-
3 paragraph (vi) of this paragraph, the composition of the Arbitral Tribunal or
4 the arbitral procedure was not in accordance with this Law, or
5 (viii) the dispute arises under an agreement that is invalid, non-
6 existent or ineffective; or
7 (ix) the subject matter of the dispute is otherwise not capable of
8 settlement by arbitration under the Laws of Nigeria; or
9 (x) the arbitrators or any of them received some improper payment,
10 benefit or other consideration; or
11 (xi) the arbitrators do not possess the qualifications required by the
12 Arbitration Agreement;
13 (xii) the arbitrator or arbitrators are guilty of any misconduct in the
14 course of the proceedings; and
15 (xiii) The award is contrary to public policy.
16 (3) If the Court is satisfied that one or more of the grounds set out in
17 Subsection (2) of this Section has been proved and that it has caused or will
18 cause substantial injustice to the applicant, the Court may:
19 (a) remit the award to the Tribunal, in whole or in part, for
20 reconsideration;
21 (b) set the award aside in whole or in part; or
22 (c) Render the award to be of no effect, in whole or in part.
23 (4) The Court shall not exercise its power to set aside or to declare
24 an award to be of no effect, in whole or in part, unless it is satisfied that it
25 would be inappropriate to remit the matter in question to the Arbitral
26 Tribunal for consideration
27 **56.**-(1) An arbitral award shall, irrespective of the jurisdiction or
28 territory in which it is made, be recognized as binding, and subject to this
29 Section and Section 58 of this Law, shall upon application in writing to the
30 Court by a party, be enforced by the Court.

1 (2) The party relying on an award or applying for its enforcement
2 shall supply-

- 3 (a) the duly authenticated original award or a duly certified copy;
4 (b) the original Arbitration Agreement or a duly certified copy; and
5 (c) Where the award or Arbitration Agreement is not made in English
6 language, a duly certified translation into the English language.

7 (3) An award may, by leave of the Court or a judge, be enforced in the
8 same manner as a judgment or order with the same effect.

Refusal of
recognition or
enforcement of
awards

9 **57.**-(1) Any of the parties to an Arbitration Agreement may request
10 the Court to refuse recognition or enforcement of the award.

11 (2) Where recognition or enforcement of an award is sought or where
12 application for refusal of recognition or enforcement is brought, the Court may,
13 irrespective of the jurisdiction or territory in which the award is made, refuse to
14 recognize or enforce an award if the court finds that-

- 15 (a) a party to the Arbitration Agreement was under some incapacity;
16 (b) the Arbitration Agreement is not valid under the law which the
17 parties have indicated should be applied, or that the Arbitration Agreement is
18 not valid under the law of the country where the award was made; or

19 (c) the applicant was not given proper notice of the appointment of an
20 arbitrator or of the arbitral proceedings or was otherwise not given a fair
21 opportunity to present his case; or

22 (d) the award deals with a dispute not contemplated by or not falling
23 within the terms of the submission to arbitration; or

24 (e) the award contains decisions on matters which are beyond the
25 scope of the submission to arbitration, however if the decisions on matters
26 submitted to arbitration can be separated from those not submitted, only that
27 part of the award which contains decisions on matters submitted to arbitration
28 may be recognized and enforced; or

29 (f) the composition of the Arbitral Tribunal, or the arbitral procedure,
30 was not in accordance with the agreement of the parties; or

1 (g) where there is no agreement between the parties under sub-paragraph (f)
 2 of this subsection that the composition of the Arbitral Tribunal, or the
 3 arbitral procedure, was not in accordance with the law of the country
 4 where the arbitration took place; or

5 (h) the award has not yet become binding on the parties or has been
 6 set aside or suspended by a Court in that jurisdiction or territory in which,
 7 the award was made; or

8 (i) the award does not comply with requirement of Section 47; and

9 (j) The award is contrary to public policy.

10 (3) Where an application to set aside or suspend an award has been
 11 made to the Court referred to in Subsection (2) (a) and (h) of this section, the
 12 Court may, if it considers it proper, to postpone its decision on the
 13 application for recognition and enforcement of the award and may order the
 14 party against whom recognition and enforcement is sought to provide
 15 appropriate security.

16 **58.** A party who knows that-

17 (a) any provision of this law from which the parties may derogate;

18 (b) Any requirement under the Arbitration Agreement has not been
 19 complied with and yet proceeds with the arbitration without stating their
 20 objection to such non compliance within the time limit provided, shall be
 21 deemed to have waived the right to object to the non-compliance.

Waiver of right
to object

22 **59.**-(1) A Court shall not intervene in any matter governed by this
 23 Law, except, where so provided in this Law.

Extent of court
intervention

24 (2) All applications to the Court in respect of any matter governed
 25 by this Law shall be in accordance with the Rules set out in Section 3 of the
 26 Schedule.

27 **60.** This Law shall not affect any other law by virtue of which
 28 certain disputes-

Exclusion of
the Law

29 (a) may not be submitted to arbitration; or

30 (b) May be submitted to arbitration only in accordance with the

	1	provisions of that or another law.
Extension of time	2	61. Notwithstanding the provisions of this Law, the Arbitral Tribunal
	3	may for good cause, extend the time specified for the performance of any act
	4	under this Law.
Delivery and Receipt of written communication	5	62. -(1) Unless otherwise agreed by the parties, any communication
	6	sent pursuant to this Law shall be deemed to have been delivered and received-
	7	(a) when it is delivered to the addressee personally or when it is
	8	delivered to the addressee's place of business, habitual residence or mailing
	9	address; or
	10	(b) Where a communication cannot be delivered under paragraph (a)
	11	of this subsection, when it is sent to the addressee's last known place of
	12	business, habitual residence or mailing address by registered letter or any other
	13	means which provides a record of the attempt to deliver it.
	14	(2) A communication shall be deemed to have been received on the
	15	day it is delivered under Subsection (1) of this Section.
	16	(3) The provisions of this Section shall not apply to communications
	17	in Court proceedings.
Interpretation	18	63. -(1) In this Law, unless the context otherwise requires -
	19	"ad-hoc arbitration" means a proceeding that is not administered by an
	20	institution or other body and which requires the parties themselves to make
	21	their own arrangements for selection of arbitrators and for designation of rules,
	22	applicable law, procedures and administrative support;
	23	"Appointing authority" means a body or institution designated to appoint an
	24	arbitrator or arbitrators under the Arbitration Agreement;
	25	"Arbitration" means the reference of an existing or future dispute between two
	26	or more parties to an independent person(s) chosen by them (the arbitrator) to
	27	adjudicate upon;
	28	"Arbitration Agreement" has the meaning given to it in Section 3;
	29	"Award" means a decision of the Arbitral Tribunal on the substance of the
	30	dispute and includes any interim, interlocutory or partial award but excludes

1 any orders, measures or directions made by the Arbitral Tribunal;

2 "Court" means High Court of the Federal Capital Territory;

3 "Death" includes, in the case of a non-natural person, dissolution or other
4 extinction by process of law;

5 "Judge" means a judge of the High Court of the Federal Capital Territory;

6 "Federal Capital Territory Court of Arbitration" means a body established
7 under this Law to act as an independent dispute resolution centre;

8 "Party" means a party, parties or group of parties to an arbitration agreement
9 or, in any case where an arbitration does not involve all of the parties to an
10 Arbitration Agreement, it means a party to the arbitration;

11 "The place of the arbitration" means the juridical seat of the arbitration
12 designated by:

13 (a) the parties to the Arbitration Agreement;

14 (b) any arbitral or other institution or person authorized by the
15 parties for that purpose; or

16 (c) the Arbitral Tribunal as authorized by the parties, or determined
17 by the Federal Capital Territory Court of Arbitration, in the absence of such
18 designation, having regard to the Arbitration Agreement and all the relevant
19 circumstances.

20 (2) Where any provision in this Law allows the parties to determine
21 any issue, the parties may authorize a third party, including an arbitral
22 institution to make that determination.

23 (3) Where any provision in this law refers to the fact that the
24 parties have agreed or that they may agree or in any other way refers to an
25 agreement of the parties, such agreement includes any arbitration rules
26 incorporated in that agreement.

27 (4) Where a provision of this Law-

28 (a) refers to the fact parties have agreed or that they may agree; or
29 (b) In any other way refers to an agreement of the parties, such
30 agreement includes any arbitration rules referred to in the agreement.

Citation

1 (5) Where a provision in this Law, other than Section 41(a) or 48(2)
2 (a) refers to a claim, such a claim includes a counterclaim, and where it refers to
3 a defence, such a defence includes a defence to such counterclaim.

4 **64.** This Bill may be cited as the Federal Capital Territory Arbitration
5 Bill, 2020.

6 SCHEDULE

7 ARBITRATION APPLICATIONS RULES 2020

8 *Interpretation*

9 1. In these Rules-
10 "Arbitration applications" means any application to a Court under the Federal
11 Capital Territory Arbitration Law 2016 -

- 12 (a) to stay proceedings under Section 6;
13 (b) to remove an arbitrator or umpire under Section 12;
14 (c) to grant interim measures of protection under Section 21(1);
15 (d) to recognize or enforce an interim measure of protection under
16 Section 30;
17 (e) to refuse recognition or enforcement of an interim measure of
18 protection under Section 31;
19 (f) to subpoena a witness to attend under Section 44;
20 (g) in respect of the fees of an arbitrator under Section 50;
21 (h) to set aside an award under Section 56;
22 (i) to recognize and enforce an award under Section 57;
23 (j) to refuse recognition and enforcement of an award under Section
24 58;
25 (k) Or for any other relief or remedy as is provided for under the Law.

26 *Starting the application*

27 2.-(1) Except where sub-rule 2 of this rule applies an arbitration
28 application shall be begun by the issuance of an Originating Motion.

29 (2) An application under Section 6 of the Law to stay legal

1 proceedings shall be made by Notice of Motion to the Court dealing with
2 those proceedings.

3 *Originating Motions*

4 3.-(1) An Originating Motion commencing an arbitration
5 application shall-

6 (a) include a concise statement of -

7 (i) the remedy or relief claimed;

8 (ii) the questions on which the claimant seek the decision
9 of the Court;

10 (b) give details of any arbitration award challenged by the
11 claimant, identifying which part or parts of the award being challenged and
12 specifying the grounds for the challenge;

13 (c) show that any statutory requirements have not been met;

14 (d) specify under which Section of the Law the application is made;

15 (e) identify against which (if any) of the defendants a cost order is
16 sought;

17 (f) Specify the person on whom the Originating Motion is to be
18 served, stating their role in the arbitration and whether they are defendants.

19 (2) Unless the Court orders otherwise, an Originating Motion shall
20 be served on the defendant within fourteen (14) days from the date of issue.

21 *Service out of Jurisdiction*

22 4.-(1) The Court may give permission to serve an originating
23 Motion out of the jurisdiction if -

24 (a) the claimant seeks to set aside an arbitration award made within
25 the jurisdiction;

26 (b) the claimant-

27 (i) seeks some other remedy or requires a question to be decided by
28 the Court affecting an arbitration (whether started or not), an Arbitration
29 Agreement or an arbitration award; and

30 (ii) The seat of the arbitration is or will be within the jurisdiction.

1 (2) An application for permission under sub-rule 1 of this Rule shall
2 be supported by an affidavit-

3 (a) Stating the grounds on which the application is made; and showing
4 in what place or country the person to be served is, or probably may be found.

5 (3) An order giving permission to serve an Originating Motion out of
6 the jurisdiction shall specify the period within which the defendant may enter
7 appearance to the claim and shall comply with the Sheriffs and Civil Process
8 Act Cap.S6 LFN 2004.

9 *Notice*

10 5.-(1) Where an arbitration application is made under Section 12 of
11 the Law, each arbitrator shall be a defendant.

12 (2) Where notice shall be given to an arbitrator or any other person it
13 may be given by sending him a copy of-

14 (a) the Originating Motion; and

15 (b) Any affidavit in support.

16 (3) Where the Law requires an application to the Court to be made on
17 notice to any other party to the arbitration, such notice shall be given by making
18 that party a defendant.

19 *Hearings*

20 6. Save as otherwise provided by these Rules, applications made
21 pursuant to these Rules shall be heard in the same manner as motions and other
22 applications under the Federal Capital Territory (Civil Procedure) Rules.

23 *Enforcement of arbitration awards and interim measures of protection*

24 7.-(1) An application to enforce an award or an interim measure of
25 protection in the same manner as a judgment or Order shall be made by
26 Originating Motion.

27 (2) The supporting affidavit shall-

28 (a) exhibit the Arbitration Agreement and the original award or
29 decision containing the interim measure of protection, or in either case
30 certified copies of each;

1 (b) state the name and the usual or last known place of abode or
2 business of the applicant(s) and the person(s) against whom it is sought to
3 enforce the award or interim measure of protection;

4 (c) State, as the case may require, either that the award or interim
5 measure of protection has not been complied with or the extent to which it
6 has not been complied with at the date of the application.

7 *Case Management*

8 8. The following sub-rules apply unless the Court orders
9 otherwise-

10 (1) A defendant who does not contest any or all of the remedies
11 claimed may file a notice stating such fact, and a Court or judge in chambers
12 may grant such uncontested remedy or remedies without any oral hearing.

13 (2) A defendant who contests any or all of the remedies claimed and
14 who wishes to rely on evidence before the Court shall:

15 (a) Enter an appearance within seven (7) days from the date of
16 service or such other period of time as the Court order, of the Originating
17 Motion; and

18 (b) file and serve any counter-affidavit upon which it is intended to
19 rely, within fourteen (14) days after the date by which he was required to
20 enter appearance.

21 (3) A claimant who wishes to rely on evidence in reply to the
22 counter-affidavit filed under Rule 7(2) shall file and serve his reply affidavit
23 within seven (7) days after the service of the defendant's counter-affidavit.

24 (4) Except in the case provided for in Rule (5) of this rule, an
25 arbitration application shall be entered on the Court's list such that its first
26 hearing is not later than forty (30) days after service of the Originating
27 Motion on the defendant, or in the case of multiple defendants, on the
28 defendant last served.

29 (5) Where a defendant is served outside the jurisdiction pursuant to
30 permission given under rule 3 of these Rules, an arbitration application shall

1 be entered on the Court's list such that its first hearing is not later than sixty (45)
2 days after service of the Originating Motion on the defendant served outside
3 the jurisdiction, or in the case of multiple defendants, on the defendant last
4 served.

5 (6) Not later than two (2) days after filing the Originating Motion, the
6 claimant shall file and serve a written brief of arguments which will state
7 succinctly:

8 (a) the issues which arise for determination;

9 (b) the grounds of relief (or opposing relief) to be relied upon;

10 (c) the submissions of fact to be made with reference to the evidence;

11 and

12 (d) The submission of law with reference to the relevant authorities.

13 (7) Not later than the day before the hearing date, the defendant shall

14 file and serve a respondent argument which will state succinctly:

15 (a) the issues which arise for decision;

16 (b) the grounds for relief (or opposing relief) to be relied upon;

17 (c) the submissions of fact to be made with reference to the evidence;

18 and

19 (d) The submissions of law with reference to the relevant authorities.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the Resolution of Disputes by Arbitration in the Federal Capital Territory (FCT).