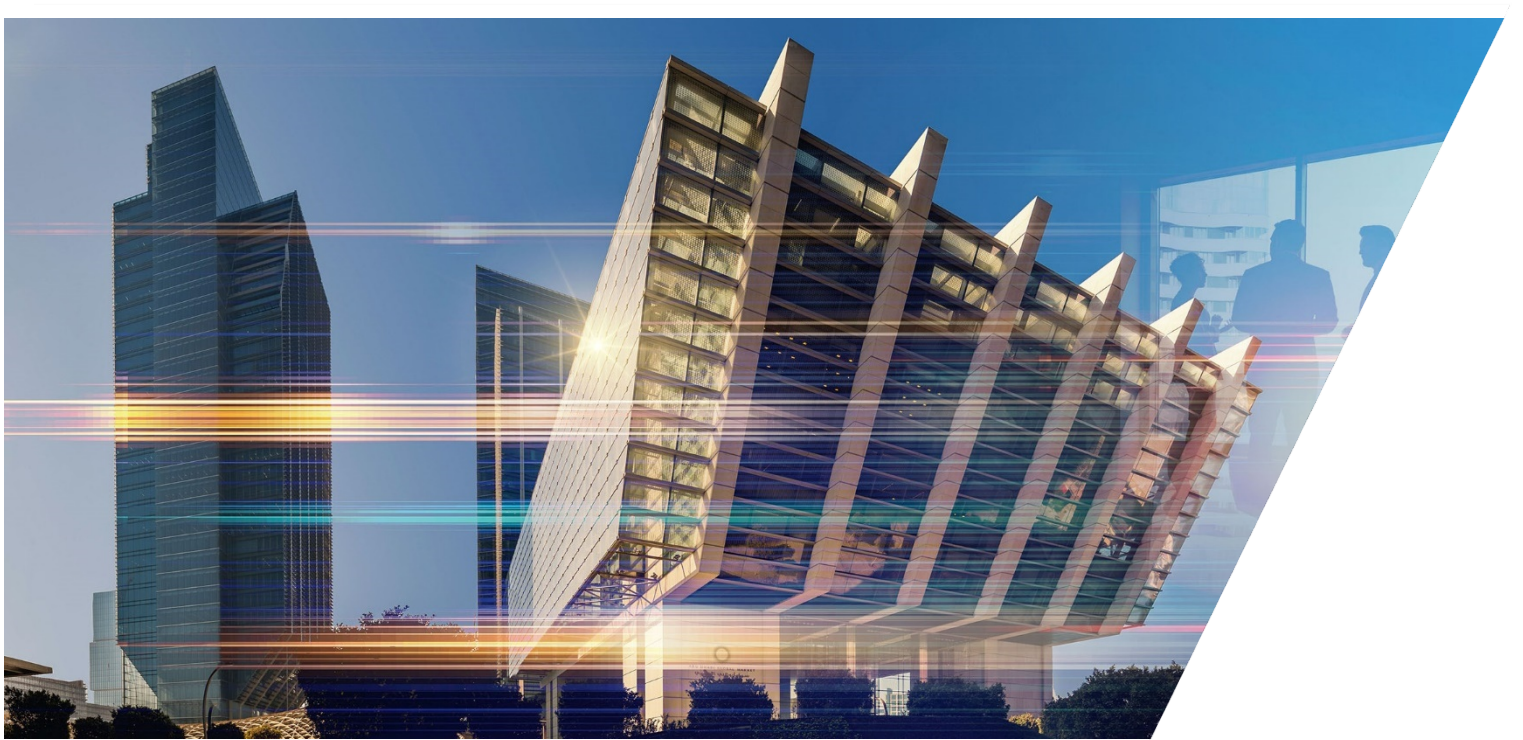




ADGM COURTS
محاكم سوق أبوظبي العالمي



ADGM COURTS
PRACTICE DIRECTION 2
COMMERCIAL AND CIVIL CLAIMS

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PRACTICE DIRECTION 2
COMMERCIAL AND CIVIL CLAIMS

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This Practice Direction is to be read with, and subject to, the ADGM Court Procedure Rules 2016 (“CPR”). Any reference to a Rule in this Practice Direction is a reference to the CPR. Except as provided otherwise in this Practice Direction, terms have the meanings set out in those Rules.

This Practice Direction must be read in conjunction with:

- **Practice Direction 1 - General**
- **Practice Direction 5 - Particular Claims**
- **Practice Direction 6 - Service of Documents**
- **Practice Direction 7 - Applications**
- **Practice Direction 8 - Evidence**
- **Practice Direction 9 - Costs**
- **Practice Direction 13 - Court-Annexed Mediation**

Unless the Court orders otherwise, the following provisions shall apply.

A. MAKING A CLAIM [r.27]

2.1. A claim form which commences proceedings in the Commercial and Civil Division shall be in accordance with **Form CFI 1**.

Requirements

2.2. The claim form must:

- (a) state what final orders the claimant seeks;
- (b) include particulars of the claimant’s case in numbered paragraphs within the form, which shall include:
 - (i) particulars of the factual matters relevant to the claim;
 - (ii) any relevant calculations for the amount or amounts claimed;
 - (iii) particulars of any sum sought by way of interest from a date earlier than the date of judgment;
 - (iv) the propositions of law which entitles the claimant to the final orders sought.
- (c) attach a copy of any document referred to in the claim form; and
- (d) state whether the claimant sues in person, by authorised officer or, if represented by a lawyer, the name, address and email address of that lawyer.

2.3. As a general rule, a claim form should not exceed 50 pages (excluding attachments). If the claim is of such complexity that it is necessary to exceed this page limit, the claimant must include an index of topics within the particulars of claim.

2.4. Part 4 of the CPR prescribes how a claim form may be served.

B. RULE 30 PROCEDURE [r.30]

Requirements

2.5. If a claimant seeks to use the Rule 30 procedure, the claimant must:

- (a) use the claim form in accordance with **Form CFI 6**; and
- (a) identify what issue or issues the claimant says are to be decided by the Rule 30 procedure as an issue or as issues unlikely to involve a substantial dispute of fact.

2.6. The Rule 30 procedure may not be used in relation to the following claims or questions:

- (a) fraud; or
- (b) libel, slander, malicious prosecution or false imprisonment.

2.7. Claimants seeking to use the Rule 30 procedure must have regard to Rules 31 to 34 inclusive which provide for:

- (a) written evidence to be filed and served under the Rule 30 procedure;
- (b) the procedure where a defendant objects to the use of the Rule 30 procedure;
- (c) modifications to the Rules regarding the filing of a defence; and
- (d) certain time limits.

C. SERVICE OUT [r.24, r.25 and r.28]

2.8. A claimant who serves a claim form on a defendant out of the jurisdiction must first file and serve with the claim form a copy of a notice containing a statement of the grounds on which the claimant is entitled to serve the claim form out of the jurisdiction.

2.9. The notice shall be in accordance with **Form CFI 32**.

D. ANSWERING A CLAIM [r.35, r.36, r.37, r.38, r.42, r.43 and r.44]

2.10. The Rules require that a defendant must file and serve an acknowledgement of service within 14 days after service of the claim form.

2.11. An acknowledgment of service shall be in accordance with **Form CFI 7**.

2.12. Within 28 days after a defendant is served with the claim, the defendant must file and serve:

- (a) an admission and any request for time to pay in accordance with Rules 42 and 43;
- (b) an admission and any request for time to pay in accordance with Rules 42 and 43, and a defence, together with any counterclaim, if the defendant admits only part of the claim;
- (c) a defence, together with any counterclaim, if the defendant disputes the whole of the claim or
- (d) an application to dispute the Court's jurisdiction to try the claim.

Admission and request for time to pay [r.42 and r.43]

- 2.13. The defendant may file an admission, together with any request for time to pay, in accordance with **Form CFI 34** which must include:
- (a) whether the admission is for the whole or part of the claim;
 - (b) details of the timing (which shall not exceed 3 years), amounts and frequency of payments requested;
 - (c) reasons for the request for time to pay, and the reasonableness of the request; and
 - (d) information about the employment and financial circumstances of the defendant.
- 2.14. Unless otherwise directed by the Court, an order for time to pay shall be limited to 3 years from the date the first payment is due and payable.
- 2.15. The Rules also require that a defendant who wishes to defend all or part of a claim must file and serve a defence within 28 days after service of the claim form.

Response to request for time to pay [r.43]

- 2.16. A claimant must respond to a defendant's request for time to pay in accordance with **Form CFI 45**.
- 2.17. If the claimant does not file a response within 14 days after an admission and request for time to pay is served on him, the claim is stayed until he files a response.

Disputing jurisdiction [r.38]

- 2.18. An application to dispute the Court's jurisdiction to try the claim must be made by filing an application notice in accordance with Practice Direction 7 by using **Forms CFI 12** and **CFI 15**.
- 2.19. If a defendant makes an application to dispute the Courts' jurisdiction, he need not, before the hearing of the application, file a defence.

E. FILING A DEFENCE AND MAKING A COUNTERCLAIM [r.44 and r.50]

- 2.20. A defence shall be in accordance with **Form CFI 8** and must:
- (a) set out, in numbered paragraphs the defendant's answer to the particulars of the claim and the propositions of law advanced by the claimant; and
 - (b) attach a copy of any document referred to in the defence unless the document has previously been uploaded to the eCourts Platform.

- 2.21. A defendant who wishes to make a counterclaim must:
- (a) state what final orders the defendant seeks by counterclaim;
 - (b) include particulars of the counterclaim in numbered paragraphs within the form, which shall include:
 - (i) particulars of the factual matters relevant to the counterclaim;
 - (ii) any relevant calculations for the amount or amounts claimed;
 - (iii) particulars of any sum sought by way of interest from a date earlier than the date of judgment; and
 - (iv) the propositions of law advanced by the defendant.
 - (c) attach a copy of any document referred to in the claim form unless the document has previously been uploaded to the eCourts Platform; and
 - (d) state whether the defendant sues in person, by authorised officer or, if represented by a lawyer, the name, address and email address of that lawyer.
- 2.22. As a general rule, a counterclaim should not exceed 50 pages (excluding attachments). If the counterclaim is of such complexity that it is necessary to exceed this page limit, the claimant must include an index of topics within the particulars of claim.
- 2.23. Part 4 of the CPR prescribes how a counterclaim may be served.
- 2.24. A counterclaim shall be in accordance with **Form CFI 9**.

F. REPLY TO A DEFENCE [r.45]

- 2.25. A claimant who seeks to reply to a defence must file and serve the reply within 21 days after service of the defence and must set out the claimant's reply to the particulars of the defence and the propositions of law advanced by the defendant.
- 2.26. A reply must attach a copy of any document referred to in the reply unless the document has previously been uploaded to the eCourts Platform.
- 2.27. A reply shall be in accordance with **Form CFI 10**.

G. DEFENCE TO ANY COUNTERCLAIM AND SUBSEQUENT REPLY [r.44, r.45]

- 2.28. A party who wishes to defend all or part of any counterclaim must file and serve the defence within 28 days after service of the counterclaim and must set out that party's answer to the particulars of the counterclaim and the propositions of law advanced by the defendant.
- 2.29. A defence to counterclaim must attach a copy of any document referred to in the defence to counterclaim unless the document has previously been uploaded to the eCourts Platform.
- 2.30. A defence to counterclaim shall be in accordance with **Form CFI 8**.
- 2.31. A party who seeks to reply to a defence to counterclaim must file and serve a reply within 21 days after service of the defence to counterclaim and must set out the party's

reply to the particulars of the defence and the propositions of law advanced by that party.

- 2.32. A reply to a defence to counterclaim must attach a copy of any document referred to in the reply unless the document has previously been uploaded to the eCourts Platform.
- 2.33. A reply to a defence to counterclaim shall be in accordance with **Form CFI 10**.

H. CASE MANAGEMENT [r.8, r.306 and Part 12]

Introduction

- 2.34. The aim of case management is to further the overriding objective of the Rules: to ensure that the ADGM Courts are accessible, fair and efficient. To that end, case management is directed to identifying, as soon as reasonably practicable, the real issues in dispute between the parties and trying those issues fairly and expeditiously.
- 2.35. The Court will manage cases proportionately, having regard to the amounts at stake and the complexity of the issues.
- 2.36. In managing a case, the Court may make any order, give any direction or take any step it considers appropriate having regard to the nature of the claim, the circumstances of the case and the overriding objective.

General Provisions

- 2.37. The Court may, upon the request of a party or on its own initiative, convene a case management conference at any time during the proceedings to facilitate the effective management of the case. A case management conference will ordinarily be conducted by video or telephone conference as arranged by the Court. For the purposes of this Practice Direction, a case management conference shall be taken to include (as the context requires) the initial case management conference, a progress monitoring hearing, a pre-trial review or any similar hearing or arrangement.
- 2.38. The parties must endeavour to agree appropriate directions for the management of the proceedings, and in accordance with this Practice Direction to submit agreed directions or their respective proposals to the Court prior to any case management conference.
- 2.39. At any case management conference, the Court may:
- (a) review the steps which the parties have taken in preparation of the case, and in particular their compliance with any directions that the Court may have given;
 - (b) decide and give directions about the steps which are to be taken to ensure the progress of the claim in accordance with the overriding objective;
 - (c) ensure, as far as it can, that all agreements that can be reached between the parties about the matters in issue and the conduct of the claim are made and recorded;
 - (d) discuss the issues in the case and the requirements of the case; and
 - (e) in the case of the initial case management conference, to fix a timetable for the conduct of the case, including if possible the appointment of trial dates or provisional trial dates, or, if that is not practicable, to fix as much of the pre-trial timetable as is possible.

- 2.40. The topics the Court will consider at a case management conference are likely to include:
- (a) whether the parties have attempted to settle the dispute and/or would like a further opportunity to do so;
 - (b) whether the claimant has made clear the claim he is bringing, in particular the amount he is claiming, so that the other party can understand the case he has to meet (similar considerations will apply in relation to any counterclaim);
 - (c) whether any amendments are required to the claim, a statement of case or any other document;
 - (d) what disclosure of documents, if any, is necessary;
 - (e) what expert evidence, if any, is reasonably required and how and when that evidence should be obtained and disclosed;
 - (f) what factual evidence should be obtained and disclosed;
 - (g) whether it will be just and will save costs to order a split trial or the trial of one or more preliminary issues; and
 - (h) what, if any, pre-trial applications do the parties intend to bring and the impact that this is likely to have on the timetable.
- 2.41. Where a party has a legal representative, such representative must attend the case management conference, must be familiar with the case and must possess sufficient authority to deal with any issues that are likely to arise. That person should be someone who personally is involved in the conduct of the case, and who has authority to deal with any matter which may reasonably be expected to be dealt with at such hearing, including the fixing of the timetable, the identification of issues and matters of evidence. Where the inadequacy of the person attending or of his instructions leads to the adjournment of a hearing, a wasted costs order may be considered appropriate.
- 2.42. The parties will be required to provide the Court with an agreed list of issues that are to be litigated. In this respect, the parties are reminded that:
- (a) a list of issues is not intended to supersede the parties' statements of case;
 - (b) a list of issues should identify the issues neutrally in a way that will best reflect the expected structure of the case. It is a case management tool, not an opportunity for advocacy; and
 - (c) as a case progresses, the list of issues may be susceptible to change.
- 2.43. Wherever relevant, the parties are to consult and co-operate with the aim of providing the documents required to be submitted to the Court within the time limits prescribed.
- 2.44. If any party fails to comply with this Practice Direction or any order or direction made in connection with this Practice Direction, the Court may:
- (a) impose such sanction as it sees fit, which may include the making of an adverse costs order against the defaulting party;
 - (b) proceed with or adjourn any scheduled case management conference;
 - (c) proceed to make such orders as it considers appropriate for the future conduct of the proceedings having regard to the overriding objective; and/or
 - (d) in appropriate circumstances, strike out any claim or defence.

Case Management Conferences

- 2.45. The Court will convene an initial case management conference for all claims filed in the Commercial and Civil Division within 14 days of the close of pleadings (which in normal course will be after the filing of a Reply).
- 2.46. Not less than 4 clear days before the initial case management conference:
- (a) each party must file and serve on all other parties completed copies of the directions questionnaire;
 - (b) the claimant is to file with the Court and provide to all other parties a copy of any proposed directions that are agreed;
 - (c) in the event that there is no agreement between the parties on the proposed directions, each party must file with the Court and serve on all other parties a copy of its proposed directions;
 - (d) the claimant is to file with the Court and provide to all other parties a copy of an agreed list of the significant issues in the case; and
 - (e) in the event that there is no agreement between the parties as to the list of significant issues, each party must file with the Court and serve on all other parties a copy of its proposed list of issues.
- 2.47. The directions questionnaire form is set out in **Appendix A** to this Practice Direction. A proposed directions guidance note which the parties are encouraged to consider when providing the Court with proposed directions is set out in **Appendix B**.
- 2.48. At the initial case management conference, the parties' legal representatives (or any party appearing in person) should be in a position fully to inform the Court of the following:
- (a) the issues likely to arise in the proceedings;
 - (b) the directions which each party seeks, including any agreement reached between the parties in regard to those directions;
 - (c) whether it is proposed to file any application notices in respect of pre-trial issues and the nature of those pre-trial issues;
 - (d) the volume of material likely to comprise standard disclosure between the parties; and
 - (e) any other matter dealt with in the directions questionnaire or which the legal representatives may wish to bring to the Court's attention to achieve the efficient management of the case to trial.
- 2.49. At the initial case management conference:
- (a) the Court will decide a timetable for the pre-trial steps necessary to be taken, which may include the holding of a further case management conference, a progress monitoring hearing and/or a pre-trial review;
 - (b) if and insofar as it is not possible to fix trial dates or provisional trial dates, the Court will endeavour to manage the case so as to fix such dates at the first available opportunity; and
 - (c) if there is no agreement between the parties as to the list of significant issues in the case, the Court itself may state the significant issues in the case and from time to time thereafter the Court may state or restate those issues as it sees fit.

Court-ordered mediation

- 2.50. The Court may, of its own initiative or upon the request of any party, make an order referring the dispute or any part of the dispute to court-annexed mediation, where in the opinion of the Court such order appears appropriate.

Progress Monitoring

- 2.51. Where appropriate, a progress monitoring date will be fixed at the initial case management conference; such date will normally be after the date fixed in the pre-trial timetable for the exchange of any witness statements and any expert reports.
- 2.52. At least 5 clear days before the progress monitoring date, the parties must file and serve a procedural compliance statement to inform the Court:
- (a) whether, as at that date, they have complied with the pre-trial timetable, and if they have not, the respects in which they have not; and
 - (b) whether they will be ready for trial commencing on the trial dates or provisional trial dates fixed in the pre-trial timetable, and if they will not be ready, why they will not be ready.
- 2.53. The form of the procedural compliance statement is set out in **Appendix C** to this Practice Direction.
- 2.54. The Court may direct that a further case management conference be convened if, in its view, the information in the procedural compliance statement reasonably requires such action. The Court may make such orders and give such directions as it considers appropriate whether at a case management conference or at any time on its own initiative with the primary objective of preserving the trial dates or provisional trial dates.
- 2.55. In appropriate cases, the Court may decide to consolidate the progress monitoring of the case with the pre-trial review.

Pre-trial Review

- 2.56. Subject to the following provisions, the pre-trial review normally will take place between 4 to 8 weeks before the date fixed for trial.
- 2.57. In all appropriate cases, no later than 5 clear days before the pre-trial review, or by the date specified by the Court:
- (a) each party must file and serve on all other parties a completed copy of the pre-trial checklist in the form set out in **Appendix D**;
 - (b) the claimant is to file with the Court and provide to all other parties an agreed timetable for the trial providing for (as necessary) oral submissions, witnesses of fact and expert evidence; in the event the trial timetable is not agreed, any differences of view should be identified with clarity;
 - (c) in the event that there are any outstanding matters in relation to the trial requiring directions from the Court, the claimant is to file with the Court and provide to all other parties a copy of any proposed directions that are agreed; and
 - (d) in the event that there is no agreement between the parties on the proposed directions, each party must file with the Court, and serve on all other parties, a copy of its proposed directions.

- 2.58. Upon receipt of the required documents, the Court may, on the papers, approve, modify or set the trial timetable and give such other directions for the conduct of the trial as it considers appropriate. If, upon receipt of the required documents, the Court decides to hold a pre-trial review hearing or to cancel a pre-trial review hearing which previously has been fixed, it will notify the parties of its decision.
- 2.59. In any event, as soon as practicable after each party has filed a completed pre-trial check list or the Court has held a pre-trial review, the Court may:
- (a) set a timetable for the trial, unless a timetable has already been fixed or the Court considers that it would be inappropriate to do so; and/or
 - (b) confirm the date for trial.

Timetables

- 2.60. If or when the Court sets a timetable for the taking of procedural steps in a case, the parties must comply with it.
- 2.61. If the parties agree that the timetable should be adjusted, the claimant (unless otherwise agreed by the parties) must file a written consent to the adjusted timetable using **Form CFI 22**.
- 2.62. If the parties cannot agree to make an adjustment which is sought by either party, and the adjustment sought will not affect or have a consequential impact on the dates fixed for a hearing or a trial, the party seeking the adjustment should file and serve a statement using **Form CFI 36** setting out its justification for the adjustment it seeks. The other party or parties shall file and serve any response using **Form CFI 36** within 4 days of receipt of such statement. The Court will ordinarily resolve that dispute on the papers.
- 2.63. If the parties cannot agree to make an adjustment which is sought by either party, and the adjustment as sought will affect or have a consequential impact on the dates fixed for a hearing or a trial, the party seeking the adjustment must make an application in accordance with Practice Direction 7 using **Forms CFI 12** and **CFI 15**.

Hearing and trial dates

- 2.64. When the Court fixes the date for a hearing or a trial, it expects the application or the case to be ready to proceed on that day and at the appointed time.

I. DISCLOSURE [Part 13 CPR]

Definitions

- 2.65. In this Section:
- (a) “document” means anything in which information of any description is recorded and includes an electronic document;
 - (b) “copy”, in relation to a document, means anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly; and
 - (c) “electronic document” means any document held in electronic form and includes, for example, email and other electronic communications such as text messages and voicemail, word-processed documents and databases, and documents stored on portable devices such as memory sticks and mobile phones. In addition to documents that are readily accessible from computer systems and other electronic devices and media, it includes documents that

are stored on servers and back-up systems and documents that have been deleted. It also includes metadata and other embedded data which is not typically visible on screen or a print out.

Disclosure by parties [r.86]

2.66. Rarely, if at all, will the Court direct general disclosure of documents or disclosure by interrogation.

Standard disclosure [r.86]

2.67. The Court will ordinarily provide directions relating to the time by which standard disclosure is to be made at the initial case management conference.

2.68. “Standard disclosure” is defined by the Rules and requires a party to disclose all documents on which he will rely at trial, except for documents that have already been submitted by a party.

When standard disclosure not required

2.69. The obligation to give standard disclosure of documents does not apply to the following proceedings:

- (a) proceedings using the Rule 30 Procedure;
- (b) Judicial Review proceedings.

Cooperation between the parties

2.70. Before the initial case management conference, the parties should discuss any issues that may arise regarding searches for and the preservation of electronic documents. This may involve the parties seeking and providing information about the categories of electronic documents within their control, the computer systems, electronic devices and media on which any relevant documents may be held, the storage systems maintained by the parties, their document retention policies and the anticipated time and cost of carrying out any searches which might be requested.

2.71. The parties should, where possible, seek to exchange preliminary production requests for specific disclosure in draft form before the initial case management conference.

2.72. Documents (regardless of their original form) are to be disclosed in electronic format capable of being searched.

2.73. For the purpose of paragraph 2.70, the parties should cooperate at an early stage as to the format in which electronic copy documents are to be provided on inspection of documents.

2.74. If the physical structure of a file is, or is claimed to be, of evidential value:

- (a) any such claim should be raised at the earliest opportunity; and
- (b) the legal representatives of the party holding the file should make one complete copy of the file in the form in which they received it before any documents are removed for the purpose of inspecting documents.

2.75. In the case of difficulty or disagreement on any of the matters referred to in this section of the Practice Direction, the matter should be referred to the Court for directions at the earliest practical date and, if possible, at the initial case management conference.

Applications for further or specific disclosure [r. 86 and r.87]

- 2.76. The Court discourages unfocused or disproportionate requests for further disclosure of documents.
- 2.77. If a party seeks further or specific disclosure of documents, that party must identify what documents or classes of documents are sought and state why their provision would assist the fair and effective trial of the proceedings.
- 2.78. An application for further or specific disclosure must be made by application notice in accordance with Practice Direction 7 using Forms **CFI 12** and **CFI 15**.

Further or specific disclosure

- 2.79. When giving further or specific disclosure, a party is required to make a reasonable search for documents.
- 2.80. The factors relevant in deciding the reasonableness of a party's search include the following –
- (a) the number of documents involved;
 - (b) the nature and complexity of the proceedings;
 - (c) the ease and expense of retrieval of any particular document; and
 - (d) the significance of any document which is likely to be located during the search.
- 2.81. A search undertaken by a party shall not be considered to be unreasonable solely because that party has used artificial intelligence (such as predictive coding or some other form of technology) in conducting the search.
- 2.82. Where a party intends to use artificial intelligence in conducting a search for documents, that party must inform all other parties of that intention and provide sufficient details of the parameters of the search.
- 2.83. Where a party has not searched for a category or class of document on the grounds that to do so would be unreasonable, he must state this in his disclosure statement and identify the category or class of document.

Disclosure of copies

- 2.84. A party need not disclose more than one copy of a document.
- 2.85. A copy of a document must conform fully to the original. The Court may order that the original of a document be presented for inspection. A copy of a document that contains a modification, obliteration or other marking or feature shall be treated as a separate document.

Making disclosure – Redfern Schedule and disclosure statement

- 2.86. A party giving further or specific disclosure must do so in the form of a Redfern Schedule, supported by a disclosure statement in accordance with **Form CFI 13**.
- 2.87. A party must state in his Redfern Schedule whether he has a right or duty to withhold from inspection any document, or part of a document, or categories of documents and the grounds on which he claims that right or duty.

- 2.88. The disclosure statement must –
- (a) expressly state that the disclosing party believes the extent of the search to have been reasonable in all the circumstances; and
 - (b) draw attention to any particular limitations to the extent of the search and give the reasons for such limitations.
- 2.89. Attention is drawn to Rule 91(2) in regard to false disclosure statements.
- 2.90. Every additional disclosure which a party makes must be made by adding to his Redfern Schedule so that there is at all times a single complete record of each party's disclosure.

Inspection of documents referred to in statements of case and other documents [r.90]

- 2.91. Nothing in this Practice Direction affects a party's right under the Rules to inspect any document which is referred to in:
- (a) an opposing party's statement of case;
 - (b) a witness statement;
 - (c) a witness summary; or
 - (d) an affidavit.

Inspection of documents mentioned in an expert's report [r.90]

- 2.92. If a party wishes to inspect documents referred to in the expert report of another party he should first request inspection of the documents informally and inspection should be provided by agreement unless the request is unreasonable.
- 2.93. Where an expert report refers to a large number or volume of documents and it would be burdensome to provide them in electronic format or copy or collate them, the Court will only order inspection of such documents if it is satisfied that it is necessary for the just disposal of the proceedings and the party cannot reasonably obtain the documents from another source.

Disputing a claim to withhold from inspection [r.90]

- 2.94. If a party seeks to inspect a document, or part of a document, which the disclosing party claims he has a right or duty to withhold from inspection, the requesting party must complete the relevant part of the disclosing party's Redfern Schedule and serve it on the disclosing party.
- 2.95. If the disclosing party presses his claim to withhold the document, or part of a document, from inspection, he must:
- (a) complete the relevant part of his Redfern Schedule;
 - (b) file and serve the completed Redfern Schedule through the eCourts Platform; and
 - (c) identify those items in the Redfern Schedule in respect of which he seeks the determination of the Court.
- 2.96. The Court may determine any objection to production, without receiving any further submission by any party, by recording its decision in the Redfern Schedule.

Failure to disclose or permit inspection [r.91]

- 2.97. The Rules provide that a party may not rely on any document which he fails to disclose or in respect of which he fails to permit inspection unless the Court gives permission. Any application for that permission must be made by filing an application notice in accordance with Practice Direction 7 using **Forms CFI 12** and **CFI 15** and:
- (a) should be made at the earliest opportunity; and
 - (b) be supported by material explaining why the party concerned did not disclose or permit inspection of the document earlier.

Order for disclosure against non-party [r.88]

- 2.98. Any application made to the Court for disclosure by a person who is not a party to the proceedings must be made by filing an application notice in accordance with Practice Direction 7 using **Forms CFI 12** and **CFI 15** and which must be supported by evidence.
- 2.99. The supporting evidence for an application for disclosure by a non-party must be contained in a witness statement detailing the specific facts, matters or circumstances relied upon to demonstrate that –
- (a) the documents of which disclosure is sought are likely to support the case of the applicant or adversely affect the case of one of the other parties to the proceedings; and
 - (b) that disclosure is necessary in order to dispose fairly of the claim or to save costs.
- 2.100. An order for disclosure by a non-party must –
- (a) specify the documents or the classes of documents which the non-party must disclose; and
 - (b) require the non-party, when making disclosure, to specify any of those documents –
 - (i) which are no longer in his control; or
 - (ii) in respect of which he claims a right or duty to withhold inspection.
- 2.101. Such an order may –
- (c) require the non-party to indicate what has happened to any documents which are no longer in his control; and
 - (d) specify the time and place for disclosure and inspection.
- 2.102. A non-party need not disclose more than one copy of a document.
- 2.103. A copy of a document must conform fully to the original.

J. PAPERS FOR TRIAL

- 2.104. The Court will make directions, as appropriate, for the filing and serving of papers for the trial. Depending on the circumstances of the case and the nature of the issues in dispute, these papers may include an updated list of issues, a chronology of relevant events, a dramatis personae, an index of the hearing bundle and such other documents as the Court may direct. These papers should be prepared in neutral terms and the Court expects the parties to consult and agree on their contents so that agreed papers can be provided to the Court.
- 2.105. If it is not possible for the parties to reach agreement on any document or documents, this fact must be notified to the Court, which will resolve the issue upon hearing representations from the parties.
- 2.106. The Court may also make directions relating to the form of opening and closing submissions (whether written, oral, or both) as is appropriate for the case.
- 2.107. Where relevant, the papers to be used at the trial should be cross-referenced to relevant documents contained within the hearing bundle.
- 2.108. The hearing bundle shall be:
- (a) in electronic form;
 - (b) prepared by the claimant based upon the index agreed with the other parties using the bundle made available on the eCourts Platform; and
 - (c) allocated into the following categories: (i) pleadings (including application notices); (ii) orders; (iii) witness statements of fact (including exhibits); (v) other relevant documents; (vi) skeleton arguments and authorities.

K. INTEREST [r.179]

- 2.109. Where interest is payable on a judgment debt and there is no agreed rate, it shall be at the rate of 5 per cent per annum from the date that judgment is given until payment.
- 2.110. Subject to any ADGM enactment, where interest is payable on all or any part of a debt or damages in relation to a period prior to, or as at, the date of judgment and there is no agreed rate, it shall be at the rate of 5 per cent per annum.

Appendix A - Directions Questionnaire

Case Details	
Division	[select division]
Case number	

Title of Proceedings	
[First] Claimant	[full name]
[Second Claimant] [include number of Claimants (if more than two)]	[#full name #number]
[First] Defendant	[full name]
[Second Defendant] [include number of Defendants (if more than two)]	[#full name #number]

Filing Details	
Filed for	[name of party(ies)]
Legal representative	[name]
Firm	[name of firm]
Firm reference	[reference number]
Contact name	[name]
Contact telephone	[telephone]
Contact email	[email address]

*Please read the **Notes** section before completing each question in this form. The answers which you provide in this form are intended to help the Court manage the case in the most fair, proportionate and efficient manner having regard to the circumstances of the case.*

Although it may be difficult to accurately answer any question due to the early stage of the proceedings, the parties are required to answer all questions on a “best efforts” basis. A failure by any party to do so, including a failure by a party to answer a question, may be considered by the Court when it deals with the question of costs, or may result in some other sanction being imposed on the defaulting party.

Wherever relevant, the parties are expected to consult and co-operate to the fullest extent possible on any question which would benefit from a joint discussion between the parties before completing and submitting this form.

You should note the date by which this questionnaire must be returned.

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

A: Nature of dispute	Notes
1. What amount of the claim (and any counterclaim) is in dispute? 2. Are there any non-pecuniary remedies sought which are relevant to how this case should be managed?	<i>The parties are encouraged to consider the nature of the dispute when providing their answers to the questions below (having regard to the principles of fairness, proportionality and efficiency).</i>
B: Settlement	
3. Do you wish there to be a one month stay to attempt to settle the claim by court-annexed mediation? 4. If you answered 'No' to question 3, please state below the reasons why you consider it inappropriate to try and settle the claim at this stage.	<p><i>If you think that you and the other party may be able to negotiate a settlement, you should answer 'Yes' to Q3.</i></p> <p><i>The parties are encouraged to read Practice Direction 13 (Court-annexed Mediation) and Court Procedure Rules 2016 ("CPR") Part 36 (Court-annexed Mediation) before completing this section.</i></p> <p><i>The Court may order a stay, whether or not all the other parties to the claim agree. <u>You should still complete the whole of the form, even if you are requesting a stay.</u></i></p>
C: Pre-trial Applications	
5. Do you intend to make, or foreshadow making, any future application(s) in this proceeding? If Yes: <ul style="list-style-type: none"> • provide details of all such applications including the Rule or provision pursuant to which each application will be made? • for each application, set out how the application will assist the Court with its determination of the issues in the proceeding? • if the application will not assist the Court with its determination of the issues in the proceeding, set out the reason why the application is being made? 6. Are any of the issues in the case suitable for trial as preliminary issues?	<p><i>It is important for the Court to know if you intend to make any applications, what they will be for and when you wish them to be heard. The parties are encouraged to read Practice Direction 7 (Applications) and the relevant sections of the CPR before completing this section.</i></p>
D: Statements of Case	
7. Do you wish to file any further statements of case (including by way of amendment)? If Yes, please specify? 8. Is any further information about any statement of case required? If yes, please give brief details of what is required.	<p><i>The parties are encouraged to read CPR 52 to 54 in relation to amendments to statements of case and requests for further information before completing this section.</i></p>

E: Disclosure of Documents	
<p>9. Approximately how many documents and how many pages of documents do you intend to produce on standard disclosure of documents?</p> <p>10. By what date can you provide standard disclosure of documents?</p> <p>11. Have the parties discussed standard disclosure of documents and how they will be exchanged? If so, please provide a summary of material areas of agreement and disagreement between the parties.</p> <p>12. Is production of specific documents likely to be required on any issue? If so, please give as much detail as is currently available.</p> <p>13. Have the parties discussed likely or potential requests for production of specific documents and how they will be exchanged? If so, please provide a summary of material areas of agreement and disagreement between the parties.</p>	<p><i>The parties are encouraged to read Practice Direction 2 (Disclosure) and CPR Part 13 (Disclosure and Inspection of Documents) before completing this section.</i></p>
F: Witnesses of Fact	
<p>14. So far as you know at this stage, how many witnesses of fact do you intend to rely on at the trial?</p> <p>15. Do you wish to seek any orders from the Court as to the maximum length or format of any witness statements? If so, please specify.</p> <p>16. By what date can you serve signed witness statements?</p>	<p><i>The parties are encouraged to read Practice Direction 8 (Evidence) and CPR Part 14 (Evidence) before completing this section.</i></p>
G: Experts	
<p>17. Do you wish to use expert evidence at the trial? If yes, please specify:</p> <ul style="list-style-type: none"> • the discipline of each proposed expert; • broadly what issue(s) they will likely address which will help to resolve the issues in the proceedings. <p>18. Do you consider the case suitable for a single joint expert (see Rule 144) or an assessor (see Rule 148) in any field?</p> <p>19. By what date can you serve signed expert reports?</p>	<p><i>The parties are encouraged to read Practice Direction 8 (Evidence) and CPR Part 17 (Expert and Assessors) before completing this section. In particular, the parties are reminded that CPR 142(1) mandates that expert evidence shall be restricted to that which reasonably is required to resolve the proceedings. Therefore, the Court requires a short explanation of any proposals with regard to expert evidence.</i></p>

H: List of Issues	
<p>20. Have the parties provided the Court with an agreed list of issues that are to be litigated?</p> <p>21. If there is no agreement between the parties as to the list of issues, have you filed with the Court and served on all other parties a copy of your proposed list of issues?</p>	<p><i>The parties are reminded of the importance that the Court places on the list of issues, as set out in Practice Direction 2.42. The parties are also encouraged to review Practice Direction 2.46, which contains further provisions relating to the list of issues to be provided for the purposes of the initial case management conference.</i></p>
I: Trial	
<p>22. What are your present provisional estimates of the minimum and maximum lengths of the trial?</p> <p>23. What is the earliest date by which you believe you can be ready for trial?</p> <p>24. Is this a case in which the fixing of a progress monitoring date and/or pre-trial review is likely to be helpful?</p> <p>25. Are there likely to be any special requirements at trial (i.e. use of an interpreter for any witness, evidence of a witness by video-link, disability of any witness or party)?</p> <p>26. What is your present provisional estimate of the volume of the trial hearing bundle? Is this a case where any additional technological requirements (outside of the eCourts Platform capabilities provided by the ADGM Courts) are likely to be required for the hearing bundle?</p>	
J: Other	
<p>27. Should the parties exchange cost budgets in accordance with Section C of Practice Direction 9? If yes, when should they be exchanged?</p> <p>28. Set out any other information you consider will help the judge manage the claim.</p>	
K: Directions	
<p>29. You must attempt to agree proposed directions with all other parties. Whether agreed or not, a draft of the order for directions you seek must accompany this form.</p>	

Appendix B - Proposed Directions Guidance Note

This document is provided as a guidance note to assist the parties when considering what procedural directions to seek from the Court. It is not intended to be prescriptive on either the parties or the Court. The parties are reminded that in accordance with CPR 8(1), the Court may make any order, give any direction or take any steps it considers appropriate for the purpose of managing the proceedings and furthering the overriding objective of the Rules.

Nor is the guidance note intended to cover every scenario which might arise during the course of a matter which requires a direction or order from the Court. To that end, the parties will need to consider the specific circumstances of their case and what directions they should seek from the Court against the overriding objective of the Court to manage cases proportionally through a process that is accessible, fair and efficient having regard to the amounts at stake and the complexity of the issues in dispute.

This guidance note deals with some of the more common procedural steps in the pre-trial timetable, along with the trial itself. In more complex cases, it may be desirable for the Court to issue directions in stages. However, the parties are encouraged, for the purposes of the first case management conference, to submit proposed directions which deal with as many of the procedural steps in the proceedings as possible having regard to the circumstances of their particular case. Further, the parties are reminded that the Court is alert to performing its duty to fix a trial date as soon as practicable and to establish a pre-trial timetable which provides for the timely carrying out of the procedural steps in the proceedings.

*The parties are to submit their proposed directions by the due date using **Form CFI 37**.*

Proposed Order
Terms of draft Order (delete, amend or supplement as appropriate)
<p>Applications for Further Information¹</p> <p>1. By no later than 4.00 pm on [], the Parties may make any application(s) for further information, in accordance with CPR 54 and Practice Direction 7.</p> <p>List of Issues²</p> <p>2. An updated list of issues is to be compiled and agreed between the Parties, with cross-references to paragraphs of the pleadings, and filed with the Court by 4.00 pm on [].</p>

¹ In relation to applications for further information, the parties are encouraged to read CPR 54 and Practice Direction 7.

² The parties are reminded of the importance that the Court places on the list of issues, as set out in Practice Direction 2.42. With this in mind, the Court will ordinarily expect the parties to deal with the list of issues in the proposed directions.

Disclosure – Standard Disclosure, Further or Specific Disclosure and Inspection of Documents³
Standard Disclosure

3. By no later than 4.00 pm on [], each party shall submit to the other, by way of standard disclosure in accordance with CPR 86, all documents upon which it will rely at trial, except for any documents that have already been submitted by a party .

Further or Specific Disclosure

4. By no later than 4:00 pm on [], the Parties may make any application(s) for further or specific disclosure, in accordance with Practice Direction 2.77-2.78.
5. A party giving further or specific disclosure must do so by no later than 4:00 pm on [], in accordance with Practice Direction 2.86-2.90, in the form of a Redfern Schedule supported by a disclosure statement.
6. If the requesting party seeks to inspect a document, or part of a document, which the disclosing party claims it has a right or duty to withhold from inspection, the requesting party must complete the relevant part of the disclosing party's Redfern Schedule and serve it on the disclosing party by no later than 4:00 pm on [].
7. If the disclosing party presses its claim to withhold the document, or part of a document, from inspection, the disclosing party must comply with Practice Direction 2.95 by no later than 4.00 pm on [].
8. The Court will determine any objection to production, without receiving any further submission by any party, by recording its decision in the Redfern Schedule within a timeframe to be determined by the Court.

Witness Statements⁴

9. Any witness statements of fact in accordance with CPR 94 and Practice Direction 8 are to be filed and served by [both/all] Parties by no later than 4.00 pm on [].
10. Any reply witness statements of fact are to be filed and served by [both/all] Parties by no later than 4.00 pm on [].
11. Unless otherwise ordered, witness statements of fact are to stand as evidence in chief of the witness at trial.

Expert Evidence⁵

12. In accordance with CPR 142(2), the Court grants its permission for the Parties to file and serve by no later than 4.00 pm on [], expert reports which meet the requirements of CPR 141 and Practice Direction 8 in relation to the following issues (the "identified expert issues"):
- []
 - []
13. Any reply expert reports which deal with the identified expert issues are to be filed and served by no later than 4.00 pm on [].

³ In relation to disclosure and inspection of documents, the Parties are encouraged to read Practice Direction 2 and Part 13 of CPR.

⁴ In relation to witness statements of fact, the Parties are encouraged to read Practice Direction 8 and Part 14 of the CPR.

⁵ In relation to expert evidence, the parties are encouraged to read Practice Direction 8 and Part 17 of the CPR.

14. Experts of common disciplines are to meet to discuss (as relevant) the identified expert issues and are to file a joint report by no later than 4.00 pm on [] setting out those issues which are agreed and those which are in dispute.
15. The Parties may make any application(s) to add to the list of identified expert issues by no later than 4.00 pm on [].
16. In accordance with CPR 142(2), the Parties may apply to the Court for permission to call an expert by no later than 4.00 pm on [].

Progress Monitoring

17. The progress monitoring date in this matter is fixed for [].
18. The Parties shall file and serve a procedural compliance statement in the form set out at Appendix C at least 5 clear days before the progress monitoring date.
19. If, upon receipt of the Parties procedural compliance statements, the Court decides to hold a case management conference, it will liaise with the Parties and notify the Parties of the date on which it is to occur.

Hearing Bundle

20. By no later than 4.00 pm on [], the Claimant is to provide the [Defendant/other Parties] with a draft index of the hearing bundle to be used at the hearing.
21. By no later than 4.00 pm on [], the [Defendant/other Parties] is to provide the Claimant with its comments in relation to the draft index of the hearing bundle to be used at the hearing.
22. By no later than 4.00 pm on [], the Claimant is to file the index of the hearing bundle with the Court.
23. By no later than 4.00 pm on [], the Claimant shall confirm that the hearing bundle has been compiled in accordance with the agreed index, has been duly paginated and is available to the Parties through the eCourts Platform. By this direction, the Court grants permission for an additional electronic folder to be added to the hearing bundle for expert reports (and accompanying exhibits).

Pre-Trial Checklist

24. In accordance with CPR82(2) and Practice Direction 2.57, the Parties shall file and serve the pre-trial checklist by 4.00 pm on [].
25. In accordance with Practice Direction 2.57, at the same time as providing the pre-trial checklist, the Claimant shall provide the Court with an agreed trial timetable; in the event that the timetable is not agreed, any differences of view should be clearly identified. Similarly, proposed directions dealing with any outstanding issues shall be provided to the Court at this time.
26. If the Court decides to hold a pre-trial review in accordance with CPR82(3) and Practice Direction 2.58, it will liaise with the Parties and notify the Parties of the date on which it is to occur.

<p>Papers for Trial</p>
<p>27. By no later than 4.00 pm on [], the Claimant in consultation with the [Defendant/other Parties] shall file and serve an agreed:</p> <ul style="list-style-type: none"> • [] • [] <p>28. By no later than 4.00 pm on [], the Parties are to file and serve skeleton arguments of fact and law.</p>
<p>Trial</p>
<p>29. The trial of this matter is to take place on a day not before [], with a time estimate of [] days. The Court and the Parties have indicated a possible potential date for trial as being for [] days from []. The Parties are to inform the Court as soon as possible if the provisional date for trial is suitable and, if not, are to liaise with the Court to arrange a listing appointment by telephone.</p>
<p>Closing submissions</p>
<p>30. By no later than 4.00 pm on [], the Parties are to file and serve their written closing submissions of fact and law. The written closings are to include any submissions which the Parties may wish to make as to costs.</p>
<p>Costs budgets</p>
<p>The Parties' costs budgets are to be filed and served by no later than 4.00 pm on [].</p>
<p>General</p>
<p>31. Costs in the case.</p> <p>32. Liberty to apply.</p>

Appendix C - Procedural Compliance Statement

Case Details	
Division	[select division]
Case number	

Title of Proceedings	
[First] Claimant	[full name]
[Second Claimant] [include number of Claimants (if more than two)]	[#full name #number]
[First] Defendant	[full name]
[Second Defendant] [include number of Defendants (if more than two)]	[#full name #number]

Filing Details	
Filed for	[name of party(ies)]
Legal representative	[name]
Firm	[name of firm]
Firm reference	[reference number]
Contact name	[name]
Contact telephone	[telephone]
Contact email	[email address]

This form must be completed by each party and filed with the Registry (with a copy to all other parties) at least 5 clear days before the progress monitoring date.

The Court may direct that a case management conference be convened if, in the Court's view, the information provided in the procedural compliance statement by any party reasonably requires such action.

Procedural compliance questions

1. As at the date of signing this form, have you complied with the pre-trial timetable in all respects?
2. If you have not complied, in what respects have you not complied and why?
3. Will you be ready for a trial commencing on the fixed trial date (or, where applicable, on the provisional trial dates) specified in the pre-trial timetable?
4. If you will not be ready, why will you not be ready and have you made an application to the Court for a change to the timetable?

Signature

Signature of legal representative

Signature of party if not legally represented

Capacity (if not legal representative or party)

[e.g. authorised officer]

Date of signature

Notice to filing party

Your answers to these questions may be considered by the Court when it deals with the question of costs: see ADGM Court Procedure Rules 2016 Part 24 and Practice Direction 9.

Rule 82
Appendix D - Pre-Trial Checklist

Case Details	
Division	[select division]
Case Number	

Title of Proceedings	
[First] Claimant	[full name]
[Second Claimant] [include number of Claimants (if more than two)]	[#full name #number]
[First] Defendant	[full name]
[Second Defendant] [include number of Defendants (if more than two)]	[#full name #number]

Filing Details	
Filed for	[name of party(ies)]
Legal representative	[name]
Firm	[name of firm]
Firm reference	[reference number]
Contact name	[name]
Contact telephone	[telephone]
Contact email	[email address]

Trial Details	
Trial date	[include start and end date of trial]
Counsel appearing at trial	[include name and chambers (as appropriate)]
Counsel instructed by	[include name of firm (as appropriate)]

*Please read the **Notes** section before completing each question in this form. The answers which you provide in this form are intended to help the Court manage the case in the lead up to, and during the trial of this matter.*

All questions must be answered by a party. A failure by a party to answer a question may be considered by the Court when it deals with the question of costs, or may result in some other sanction being imposed on the defaulting party.

Wherever relevant, the parties are expected to consult and co-operate to the fullest extent possible on any question which would benefit from a joint discussion between the parties before completing and submitting this form.

You should note the date by which this checklist must be returned.

A: Procedural compliance / future directions	Notes
<ol style="list-style-type: none"> 1. Have you previously completed a procedural compliance statement in this matter? 2. If no, or if there is any material change to the answers previously provided, please address here. 3. Are any further directions required to prepare this case for trial? 4. If yes, you must attempt to agree proposed directions with all other parties. Whether agreed or not, a draft of the order for directions you seek must accompany this form. 	<p><i>The procedural compliance statement is found at Appendix C to Practice Direction 2.</i></p>
B: Witnesses	
<ol style="list-style-type: none"> 5. Which witnesses of fact do you intend to call to give evidence on your behalf at trial? 6. Are all witnesses of fact available to attend the hearing in person? If not, please specify with reasons. 7. Which witnesses of fact from the other parties do you intend to cross-examine at trial? 	<p><i>It is important for the Court and the other parties to know whether you intend to call all witnesses of fact in respect of which you have submitted a witness statement. Similarly, it is important for the Court and the other parties to know what witness of fact you intend to cross-examine at trial. Each party is also responsible for confirming the availability of its witnesses of fact to attend the trial in person.</i></p>

C: Experts	
<p>8. Please provide the following information for any expert evidence you intend to rely on at trial:</p> <p>(a) Name.</p> <p>(b) Field of Expertise.</p> <p>(c) Whether the expert is (i) a party-appointed expert, (ii) a single joint expert, (iii) an assessor.</p> <p>(d) Whether permission has been given for use of written expert evidence?</p> <p>(e) Whether permission has been given for oral evidence?</p> <p>9. If permission has been granted for oral evidence, are the experts available to attend the hearing in person? If not, please specify with reasons.</p> <p>10. If applicable, has there been a discussion between experts of common discipline and have they filed a joint expert report?</p> <p>11. How is it intended to deal with the expert evidence at trial?</p>	<p><i>You are reminded that you may not use an expert's report or have your expert give oral evidence unless the Court has given permission (CPR 142(2)). If you do not have permission, you must make an application.</i></p> <p><i>If permission has been granted for expert evidence to be given at trial, the parties ought to consider how that expert evidence is best dealt with at the trial. For example:</i></p> <ul style="list-style-type: none"> • <i>The order and/or manner in which the experts should be called to give evidence.</i> • <i>Should one party call all of its expert evidence, followed by each other party calling all of its expert evidence?</i> • <i>Should one party call its expert in a particular discipline, followed by the other parties calling their experts in that discipline?</i>
D: Special arrangements	
<p>12. Are there any special facilities or arrangements needed at Court for any of the witnesses of fact, experts or parties, or for the trial itself (e.g. anyone with a disability, use of an interpreter, evidence by video-link, real-time transcript)?</p> <p>13. Please confirm that appropriate arrangements have been made and whether any directions are required in relation to these matters.</p>	
E: Trial Bundle	
<p>14. What is the likely volume of documents for the trial bundle?</p> <p>15. Are any additional technological requirements (outside of the eCourts Platform hearing bundle capabilities provided by the Court) required for the trial? If yes, please specify.</p>	
F: The Trial	
<p>16. What is the confirmed estimate of the time needed for the trial? Is this consistent with the dates allocated for the trial?</p>	<p><i>The trial timetable should (as applicable) deal with the following matters:</i></p> <ul style="list-style-type: none"> • <i>opening submissions;</i> • <i>sequence of oral evidence; (for example, whether all the factual</i>

<p>17. Should the trial proceed on a chess-clock basis?</p> <p>18. What is the recommended reading time for the Judge?</p> <p>19. You must attempt to agree a proposed trial timetable with all other parties. Whether agreed or not, a draft of the proposed trial timetable must accompany this form.</p>	<p><i>evidence should be called before the expert evidence);</i></p> <ul style="list-style-type: none"> • <i>timetabling of oral evidence making allowances for evidence-in-chief, cross-examination and re-examination;</i> • <i>the manner in which expert evidence is to be presented or dealt with at trial;</i> • <i>closing submissions.</i> <p><i>If there is any day within the trial period that a witness of fact or expert is not available to give oral evidence, this should be noted in the trial timetable (with reasons).</i></p>
<p>G: Costs' budgets</p>	
<p>20. Do you wish to submit a revised costs' budget in accordance with Section C of Practice Direction 9?</p>	<p><i>The parties are encouraged to use the pre-trial review process as an opportunity to review (as applicable) their respective costs' budgets.</i></p>
<p>H: Other</p>	
<p>21. Set out any other information which you consider will help the Judge manage the claim.</p>	

Signature**Signature of legal
representative**

**Signature of party if not
legally represented**

**Capacity (if not legal
representative or party)**

[e.g. authorised officer]

Date of signature

Notice to filing party

Your answers to these questions may be considered by the Court when it deals with the question of costs: see ADGM Court Procedure Rules 2016 Part 24 and Practice Direction 9.