TEMPLATE – HYBRID HEARINGS ORDER

**CASE NO: […]**

**IN THE HIGH COURT OF JUSTICE**

**BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES**

**TECHNOLOGLY AND CONSTRUCTION COURT (QBD)**

**BETWEEN:**

**CLAIMANT**

Claimant

**-and-**

**(1) DEFENDANT [1]**

**(2) DEFENDANT [2]**

Defendants

|  |  |  |
| --- | --- | --- |
|  |  |  |
|  | **ORDER** |  |
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Before **[name of judge]**, sitting at [**court**], on **[date of order]**

**UPON** a hearing of the **[Claimant’s / Defendant’s** **application or trial]** having been listed for hearing on **[date]** at **[physical hearing location]**

**AND UPON** the Judge taking notice of the COVID 19 (Coronavirus) pandemic and the measures being taken in response

**AND UPON** the Court considering the provisions of [s 85A of the Courts Act 2003](http://www.legislation.gov.uk/ukpga/2003/39/section/85A) (as inserted by the Coronavirus Act 2020) and [PD51Y](https://www.judiciary.uk/wp-content/uploads/2020/03/CPR-116th-PD-Update-video-or-audio-hearings-for-coronavirus-period.pdf)

**AND UPON** the Court considering the parties’ [written/oral] representations and proposals as to the practicability of the Hearing being conducted remotely and the methods to be adopted

**AND OF THE COURT’S OWN MOTION** **[**or **BY CONSENT]**

**IT IS ORDERED THAT**

**Remote hearing**

1. The hearing presently due to take place at **[physical hearing location]** on **[date]** shall take place instead as a hybrid hearing (where some participants are in the courtroom and some remote from it, or where part of the hearing takes place in court, and part as a remote hearing).by remote hearing.

**Notification of attendance**

1. By no later than 10:00am on **[date - 2 days before the hearing]**, each party must file by email to **[the Judge’s clerk]** the identity of each person whom that party wishes to attend the hearing remotely for or on behalf of that party, giving details of the capacity in which they will attend, the address in England or Wales from which they will do so, and their email and telephone contact details.
2. If the Court is satisfied that the requirements of paragraph 2 have been met in relation to any person, it will facilitate remote attendance by that person, thereby designating the address provided in the form as an extension of the Court for the purposes of the Hearing.
3. Each party is required to provide a copy of this Order to every person attending the hearing remotely on behalf of that party, drawing attention to the provisions of paragraph 16 below.

**Provision of documents for the hearing**

1. The parties shall co-operate in ensuring that all documents necessary for the Court to determine the application or trial are made available in electronic form in good time before the hearing.
2. The **[Claimant or party making the application]** shall serve and file an indexed and paginated electronic bundle comprising all relevant documents, including pleadings, statements, reports and other material by 4.30pm on **[date – 7 days before the hearing or as ordered by the Judge]**.

 (1) Electronic bundles should contain only documents that are essential to the remote hearing. Please note that large electronic files can be slow to transmit and unwieldy to use.

(2) Electronic bundles can be prepared in .pdf or another format and should facilitate electronic annotation. Where possible, the electronic bundles should be sent to the court by link to an online data room or delivered to the court on a USB stick. If that is not possible, they must be filed through CE-file or sent by email to the Judge’s clerk.

(3) **[Optional for the Judge:** In addition to the electronic bundle, core documents **[identify]** shall be provided to the Judge in hard copy at the same time as the electronic bundle is filed**].**

1. Skeletons should be prepared and sent to the Judge’s clerk by email by 4.30pm on **[date – 2 days before the hearing or as ordered by the Judge]**.
2. The parties should agree and prepare an electronic indexed and paginated bundle of authorities for the hearing. Such electronic bundle should be provided to the judge’s clerk and to all other representatives and parties by 4.30pm on **[date –as per skeletons]**.

**The hearing**

1. Unless otherwise ordered by the Court the remote aspect of the hearing will proceed by way of **[telephone hearing using BT Meet Me/video hearing using Microsoft Teams/Skype for Business/a platform to be notified by Listing or the Judge’s clerk]**. The arrangements will be made by the Court in liaison with the parties’ solicitors.
2. Invitations to join the meeting will be sent by email to those whose details have been provided pursuant to paragraph 2 above. Any person who has so notified the Court but not received an invitation to the hearing by 2:00pm on **[the day before the hearing]** should contact **[the Judge’s clerk at email address or listings]**.
3. The hearing will commence at 10:30am. However, those attending remotelywill sign in at or before 10:00am, so that any issues with the connection can be addressed before the hearing is due to begin. Issues should be raised with **[the Judge’s clerk at email address]**.
4. Although the hearing is being conducted remotely, the hearing remains a court hearing. The usual rules and formalities continue to apply.

**Open Justice**

1. The court will take reasonable steps to ensure that the hearing is of an open and public character. Those steps will include giving public notice of the hearing and enabling the media and members of the public to attend the hearing in court.
2. No person has a right to attend a hybrid hearing by remote means. Any person wishing to do so, otherwise than as a party or on behalf of a party, must give written notice of their intention to do so, providing the details mentioned in paragraph 2 above, and explaining why they cannot attend in person. If the notice is timely the court may in its discretion facilitate remote access by that person. If it does so, the address provided in the form will thereby be designated as an extension of the Court for the purposes of the Hearing.

**Recording**

1. Pursuant to s 85A of the 2003 Act, the hearing will be recorded by the Court**.** Attention is drawn to the provisions of CPR 39.9(3) regarding access to transcripts of hearings.
2. It is prohibited and it may amount to a contempt of court, for any person to make, attempt to make, or transmit any unauthorised visual or audio record of proceedings in Court or of any image or sound made or transmitted during the remote aspect of hybrid proceedings. This is prohibited by section 41 Criminal Justice Act 1925, section 9 Contempt of Court Act 1981, and by this Order, pursuant to the Court’s inherent jurisdiction.

**Liberty to apply**

1. All parties have liberty to apply in relation to this order. Such liberty shall be exercised informally, by email to the Judge’s clerk. Any such communications must be copied to all other parties.

**[NOTE - where applicable**

1. *This Order has been made of the Court’s own initiative, without a hearing and without representations from the parties. By virtue of CPR 23.8(c), PD23A 11.2, and CPR 3.3(5) and (6) any party affected has the right to apply to vary or discharge the order. Any such application must be made in writing within 7 days of the date of this order, on notice to all other parties.***]**

**REASONS**

(1) I have reviewed the file/submissions in this matter and can see no reason why the application cannot fairly be disposed of by way of a hybrid hearing on the Hearing date. That appears to be the best way in which a hearing can lawfully and safely take place; and it is in the interests of justice that, if possible, the matter be disposed of on the fixed dates rather than being adjourned.

(2) However, hybrid hearings bring with them added complexity, including the need to:

(i) ensure the presence of all relevant parties; and

(ii) ensure that all material documents are before the Court in good time to allow them to be considered in advance, and in such a manner that all parties can easily identify and refer to them.

The order seeks to anticipate and deal with these issues.

(3) The order seeks to secure the maximum openness consistent with current circumstances, which include staff shortages and technical constraints.