THE BUSINESS COURT OF TEXAS
ELEVENTH DIVISION

[Plaintiff(s)],	§	
Plaintiff(s),	§	
v.	§	Cause No. _____
[Defendant(s)],	§	
Defendant(s).	§	

PROPOSED SCHEDULING & CASE MANAGEMENT ORDER

[Instructions: Pursuant to Business Court Local Rule [BCLR] 4, the parties must confer on and jointly file this Proposed Scheduling Order. Please fill in the bracketed material as indicated below, based on available information. Parties must make a thorough and good-faith effort to reach agreement, but if the parties cannot agree, they may specify separate answers—without argument—as demonstrated below. Please delete all instructions (in red font) before filing.]

In addition to the Court order contained herein, the Local Rules of the Business Court are applicable to this cause of action. They can be found here.

I. BCLR 4 Meeting

[Instructions: State where and when the parties met and conferred.]

II. Jurisdiction & Venue

[Instructions: This section provides the Court with early notice of known disputes about the Court's jurisdiction or the trial venue. It does not constitute a challenge to venue or a plea to the jurisdiction; nor does it preclude future such challenges.

If the parties disagree on jurisdiction or venue, they may specify separate answers, such as: "Plaintiff contends the Court has jurisdiction over this action under Section …." "Defendant contends the Court lacks jurisdiction over Plaintiff's claim for … under Section ….”]

The Court [has/lacks] jurisdiction over [this action / list specific claim] under Section(s) 25A.004(__)(__) of the Texas Government Code.

Venue [is / is not] proper in a county in the Eleventh Division of the Business Court as provided [by law / by written contract].

[If case will be tried to a jury:] Jury trial of this action should be held in [_____] County under Section(s) 25A.015(__) of the Texas Government Code.

III. Parties

Identify any unserved parties or anticipated additional parties, and their relationship to the parties and claims in the case. List and briefly explain any anticipated interventions. Describe class-action or collective-action issues, if any; and provide the proposed class definition and any disagreement regarding same.

Please certify that all parties have filed the Corporate Disclosure form required by BCLR 4(b).

IV. Applicable Law

[Instructions: This section provides the Court with early notice of known choice-of-law issues. The parties' positions may change as the case develops.]

The substantive laws of [the State of Texas / specify other jurisdiction] govern [this action / list specific claims]. Texas procedural law governs this action.

V. Deadlines & Discovery

[Instructions: The parties should submit proposed dates and numbers in the brackets below. If the parties cannot agree on the proposed dates or numbers, they may provide separate proposals. For example, if Plaintiff proposes March 1, 2025, and Defendant proposes April 1, 2025, the parties may fill in the brackets as follows: "P: 3/1/25, D: 4/1/25." After the parties file the proposed order, the Court will set a scheduling conference to discuss the proposed dates and other matters. Following the conference, the Court will issue the Scheduling Order for the case.]

	Discovery Commencement & Limitations Pursuant to Texas Rule of Civil Procedure ("TRCP") 192.2(a)(1), the discovery period begins when the first initial disclosures are due under TRCP 194.2. The following discovery limits apply, incorporating TRCP 190.3(b)'s definitions and rules for subparts: Each side is limited to this number of total hours for oral depositions.

[# hrs.] **[#]**	Each party is limited to serving this number of interrogatories on another.
[date]	**Electronically Stored Information (ESI) Protocol** By this date, the parties must meet and confer on an ESI protocol, including the parameters for preservation of ESI and the procedures the parties will employ to determine search terms and methodology for identifying ESI in response to a discovery request calling for such information. The parties should be prepared to discuss the ESI protocol at the scheduling conference. ESI will be produced in **[PDF/ TIFF/ Native/ Paper]** format, except when the parties may agree upon a different format. Except as necessitated by the chosen format, the parties will not degrade the searchability of documents as part of the production process. The parties may modify their ESI protocol by agreement at any time, without Court involvement.
[date]	**Joinder** All parties must be added and served, whether by amendment or third-party practice, by this date. The party causing the joinder must provide a copy of the Scheduling Order at the time of service. All joinder must also comply with TRCP 37–41.
[date] **[date]** **[date]**	**Expert Witness Designations** Expert witness designations must include the information listed in Rule 195.5(a). Rule 193.6 will govern any failure to timely make, amend, or supplement a designation. By this date, parties seeking affirmative relief must serve their expert witness designations. By this date, all other parties must serve expert witness designations. By this date, all parties must designate any rebuttal experts.
[date]	**Pleading Amendments** All pleading amendments must be filed by this date, absent leave of Court

[date]	or the exception provided immediately below. If a party adds a claim or cause of action on or near the date above, other parties may add only defensive pleadings in response to the new claim or cause of action by this date. These deadlines are outer limits and do not relieve the parties of any obligations to act promptly or timely.
[date]	**End of Discovery** Fact discovery must be completed by this date. Expert discovery may continue until the deadline for completing expert witness depositions, below. Parties must serve discovery requests early enough that the response is due within the relevant discovery period.
[date] **[date]** **[date]** **[date]**	**Expert Witness Depositions** A party seeking affirmative relief must make its expert(s) available for deposition by the following deadlines: If no expert report is furnished under TRCP 195.3, or [Instructions: This date must be at least 15 days before the deadline for designating other experts. *See* TRCP 195.3.] If an expert report is furnished under TRCP 195.3. A party not seeking affirmative relief must make its expert(s) available for deposition by this date. All rebuttal expert(s) must be made available for deposition by this date.
[date] **[date]**	**Alternative Dispute Resolution** By this date the parties must file either (1) an agreement for ADR stating the form of ADR requested and the name of an agreed mediator, if applicable; or (2) a statement that one or more parties do not agree to ADR at this time. ADR conducted pursuant to the agreement of the parties must be completed by this date. The parties may modify this date by agreement.
[date]	**Dispositive Motions & Pleas** Dispositive motions and pleas, including motions for summary judgment or partial summary judgment, must be scheduled for an oral hearing or written submission not later than this date.

[date]	**Challenges to Expert Testimony** All *Daubert/Robinson* motions or other motions to exclude, limit, or otherwise challenge expert testimony must be filed by this date.
	Proposed Jury Charges In a jury trial case, parties must exchange, confer about, and file proposed jury charges as follows:
[date]	By this date, each party must exchange its proposed jury questions and instructions, if any, with the other parties.
[date]	By this date, each party must inform the other parties, in writing, whether it agrees or objects to each question and instruction proposed by another party.
[date]	By this date, all parties must meet and confer, in a good faith effort to reach agreement on jury questions and instructions.
[date]	By this date, the parties will file: (a) a Joint Proposed Jury Charge that includes all stipulated facts and proposed jury questions and instructions on which all parties agree, and (b) if a party wishes to propose jury questions or instructions that were not agreed to by the other parties, that party must file a Disputed Proposed Jury Charge containing any such proposed jury questions or instructions. Upon filing, the parties must email the submissions in (a) and (b) to the Court at *BCDivision11A@txcourts.gov* (for Judge Adrogué) or *BCDivision11B@txcourts.gov* (for Judge Dorfman) in a Word format, copying the other parties. This process is a precursor to, and not in place of, the charge conference that will be held at trial.
[date]	**Witness & Exhibit Lists** By this date, the parties must exchange lists of the witnesses and exhibits they expect to call/offer at trial. Exhibit lists should be formatted as follows:

Exhibit #	**Admitted**	**Description**

	<table><tr><td>1</td><td></td><td>Letter from A to B dated 9/1/2024</td></tr><tr><td>2</td><td></td><td>Photograph of land taken 9/1/2024</td></tr></table>
[date]	**Deposition Excerpts** By this date, the parties must exchange any deposition excerpts they intend to use at trial; cross-designations must be exchanged within 7 days after this date. For audio/video excerpts, a party must provide both the audio/video cuts the party intends to play and the transcript page and line designations. If a party intends to read the deposition testimony from the transcript, the party need only provide page and line designations.
[date]	**Exhibit Binders** By this date, each party must provide the Court with [physical / PDF] binder(s) containing bates-stamped copies of all exhibits the party intends to offer at trial. In the case of physical items offered as exhibits, a photograph or other reproduction of the physical item may be used. The [physical / PDF] binders must begin with the party's exhibit list and the exhibits should be tabbed and numbered sequentially, consistent with the exhibit list.
[date]	**Motions in Limine / Motions to Exclude** By this date, all parties will file any motions in limine or motions to exclude or otherwise limit the admission of non-expert evidence.
[date]	**Proposed Pretrial Order** By this date, the parties must, jointly or individually, file a Proposed Pretrial Order.
	Pretrial Conference The Court will set a pretrial conference to discuss all aspects of the case, including ADR.
	Trial [Per Texas Rule of Judicial Administration 6.1(a), a jury trial must commence no later than 18 months after suit was filed; and within 12 months for a bench

[date] **[#]**	trial.] Barring further order of the Court, trial will commence on this date. The parties preliminarily estimate the trial will last ____ days.

VI. Sealing & Protective Orders

For the convenience of the parties, the Court has provided a form protective order on its website. Proposed protective orders that substantially adopt the form provided will typically be approved by the Court. However, the parties are free to modify or vary the form order as they deem appropriate. **A protective order must comply with, and cannot supersede or displace TRCP 76a**, which will govern all evidence used as a "court record," as that term is defined therein.

VII. Settlement

In their meeting, the parties should discuss the possibility for prompt, agreed resolution of the case, and whether they are amenable to an early mediation or other settlement efforts.

VIII. Trial & Pretrial Conference

The parties must file a Proposed Pretrial Order (see deadline above). The Proposed Pretrial Order will address trial issues such as the procedures for voir dire, motions in limine, handling evidence, the time needed for trial, notice of daily witness expectations, court reporting, and conducting trial. The parties and the Court may discuss these issues and any other outstanding matters at the pretrial conference, after which the Court will issue its Pretrial Order.

IX. Consideration of Expedited/Streamlined Procedures

The parties are directed to discuss appropriate measures to simplify the issues, eliminate frivolous or unsupported claims or defenses, and streamline discovery and/or the presentation of proof at trial, including without limitation the following:

- Seeking admissions or stipulations as to facts and documents, and obtaining advance rulings on the admissibility of disputed evidence;
- Narrowing factual issues to eliminate or avoid unnecessary or cumulative presentation of evidence, disproportionate discovery burdens, or needless delay or repetition at trial;
- Whether periodic case management conferences with the Court would be beneficial and, if so, the proposed frequency of those conferences;
- Whether discovery might benefit from being conducted in phases, limited to particular issues, or from the appointment of a special master or

discovery referee;

- Whether legal issues or disputes can be narrowed by agreement, by summary judgment or other motion, by separate trial (whether summary, bench, or mini-) of an issue or claim; and, if so, whether these measures can be employed at an early stage of the proceeding;
- Whether supplemental jurisdiction under Texas Government Code Section 25A.004(f) exists over any claim(s); and, if so, whether the parties will agree to try them in the Business Court proceeding;
- Whether time limits at trial would facilitate the parties to ensure an orderly presentation of evidence and efficient use of the Court's time, within the time estimate the parties have provided for final trial; and
- Whether the parties can agree to any of the "Susman Rules" (please review the **"Trial by Agreement"** article and checklist).

X. Modification of Scheduling Order

The parties may move, jointly or individually, to modify this order at any time. However, modifications of the order cannot be used to justify postponement of trial. Requests to postpone trial are disfavored.

ENTERED: _____ _____

PRESIDING JUDGE

AGREED:

[Insert Signature Blocks and Certificates]