**The Business Court of Texas,**
**[__] Division**

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

## Proposed Scheduling Order

Instructions: Pursuant to Business Court Local Rule 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 as demonstrated below. Do not add argument—the Court will request briefing as needed. All instructions (in red) should be deleted before filing.

## I. Jurisdiction & Venue

Instructions: This section provides the Court with early notice of known disputes about this Court's jurisdiction or the trial venue. It does not preclude future challenges to venue or pleas to the jurisdiction.

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 Government Code.

Venue [is / is not] proper in a county in the Third 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 Government Code.

## II. 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]. The procedural laws of the State of Texas govern this action.

## III. Deadlines & Discovery

Instructions: The parties will 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 September 1, 2024, and Defendant proposes October 1, 2024, the parties may fill in the brackets as follows: "P: 9/1/24, D: 10/1/24." After the parties file this proposed order, the Court will set a scheduling conference to discuss the proposed dates and any proposed protective order. Following the conference, the Court will render the Scheduling Order for the case.

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| **[# hrs.]**<br>**[#]** | **Discovery Commencement & Limitations**<br>The discovery period begins when the first initial disclosures are due under TRCP 194.2.<br>The following discovery limits apply, incorporating TRCP 190.3(b)'s definitions, exclusions, and rules for subparts:<br>Each side is limited to this number of total hours for oral depositions.<br>Each party is limited to serving this number of interrogatories on any other party. |
| **[date]** | **Electronically Stored Information (ESI) Protocol**<br>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.<br>ESI will be produced in **[PDF/ TIFF/ Native/ Paper]** format, except when the parties agree to a different format. Except as necessitated by the chosen format, the parties will not degrade the |

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| | searchability of documents as part of the production process.<br><br>The parties may modify their ESI protocol by agreement at any time, without Court involvement. |
| **[date]** | **Joinder**<br><br>All parties must be added and served, whether by amendment or third-party practice, by this date.<br><br>The party causing the joinder must provide a copy of the Scheduling Order at the time of service.<br><br>All joinder must also comply with TRCP 37–41. |
| | **Pleading Amendments** |
| **[date]** | Except as provided below or with leave of Court, all pleading amendments must be filed by this date. |
| **[date]** | 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.<br><br>These deadlines are outer limits and do not relieve the parties of any obligations to act promptly or timely. |
| | **Expert Witness Designations**<br><br>Expert witness designations must include the information listed in Rule 195.5(a). Failure to timely respond will be governed by Rule 193.6. |
| **[date]** | By this date, parties seeking affirmative relief must serve their expert witness designations. |
| **[date]** | By this date, all other parties must serve their expert witness designations. |
| **[date]** | By this date, all parties must serve any rebuttal-expert designations. |
| **[date]** | **End of Discovery**<br><br>Fact discovery must be completed by this date. Expert discovery may continue until the deadline for completing expert depositions, below.<br><br>Parties must serve discovery requests early enough that the |

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| | response is due within the relevant discovery period. |
| | **Expert Witness Depositions**<br>A party seeking affirmative relief must make its expert(s) available for deposition by the following deadlines: |
| **[date]** | if no expert report is furnished under TRCP 195.3, or<br>Instructions: This date must be at least 15 days before the deadline for designating other experts. *See* TRCP 195.3. |
| **[date]** | if an expert report is furnished under TRCP 195.3. |
| **[date]** | A party not seeking affirmative relief must make its expert(s) available for deposition by this date. |
| **[date]** | All parties must make their rebuttal expert(s) available for deposition by this date. |
| | **Alternative Dispute Resolution** |
| **[date]** | 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. |
| **[date]** | ADR conducted pursuant to the agreement of the parties must be completed by this date. The parties may modify this date by agreement without Court intervention. |
| **[date]** | **Dispositive Motions & Pleas**<br>Dispositive motions and pleas, including motions for summary judgment or partial summary judgment, must be set for oral hearing or written submission by this date. |
| **[date]** | **Challenges to Expert Testimony**<br>All *Daubert/Robinson* motions or other motions to exclude or limit expert testimony must be filed by this date. |
| | **Proposed Jury Charges**<br>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. |
| | By this date, each party must inform the other parties, in |

<table>
<tr><td>[date]</td><td>writing, whether it agrees or objects to each question and instruction proposed by another party.</td></tr>
<tr><td>[date]</td><td>By this date, all parties must meet and confer, in a good faith effort to reach agreement on jury questions and instructions.</td></tr>
<tr><td>[date]</td><td>By this date, the parties will file:<br>(a) a Joint Proposed Jury Charge that includes all stipulated facts and proposed jury questions and instructions on which all parties agree, and<br>(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.<br>Upon filing, the parties must email the submissions in (a) and (b) to the Court in a Word format, copying the other parties.<br>This process is a precursor to, and not in place of, the charge conference that will be held at trial.</td></tr>
<tr><td>[date]</td><td>Witness & Exhibit Lists<br>By this date, the parties must exchange lists of the witnesses and exhibits they expect to call/offer at trial.<br>Exhibit lists should be formatted as follows:<table><tr><td>Exhibit #</td><td>Admitted</td><td>Description</td></tr><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></td></tr>
<tr><td>[date]</td><td>Deposition Excerpts<br>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.<br>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.</td></tr>
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| **[date]** | **Exhibit Binders**<br>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.<br>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**<br>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**<br>By this date, the parties must, jointly or individually, file a Proposed Pretrial Order in the format provided for the presiding judge on the Court's website. |
| | **Pretrial Conference**<br>The Court will set a pretrial conference to discuss all aspects of the case, including ADR. |
| **[month year]**<br>**[#]** | **Trial**<br>Instructions: The proposed trial month must be within 18 months of when suit was filed in a jury-trial case and within 12 months of when suit was filed in a bench-trial case. *See* Tex. R. of Judicial Admin. 6.1(a).<br>Unless otherwise ordered by the Court, trial will be held in this month.<br>The parties preliminarily estimate that trial of this case is likely to last this many days. |

## IV. Trial & Pretrial Conference

The parties must file a Proposed Pretrial Order in the format provided for the assigned judge/division, available on the Court's website. (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.

## V. 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.

[signature blocks and certificates]