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**REPUBLIC OF KENYA**

**THE JUDICIARY**

**PERFORMANCE MANAGEMENT & MEASUREMENT UNDERSTANDING**

**BETWEEN**

**THE PRINCIPAL JUDGE, ENVIRONMENT AND LAND COURT**

**AND**

**THE PRESIDING JUDGE ENVIRONMENT AND LAND COURT AT XXXXXXXXXXXX**

**FOR THE PERIOD**

**1ST JULY 2021 TO 30TH JUNE 2022**

**©SEPTEMBER, 2021**



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## PERFORMANCE MANAGEMENT & MEASUREMENT UNDERSTANDING

This Performance Management and Measurement Understanding, (hereinafter referred to as “***the Understanding***”), is entered into between the **Principal Judge Environment and Land Court**(hereinafter referred to as “***the Principal Judge***”), an office established under Article 165(2) of the Constitution of Kenya, of the one part, **AND** the **Presiding Judge Environment and Land Court at XXXXXXX** of the other part. The Understanding applies to the **Principal Judge Environment and Land Court** and the **Presiding Judge Environment and Land Court at XXXXXXX** together with their assignees and successors.

**Whereas:**

1. The Constitution of Kenya states that judicial authority is derived from the people and vests in the Courts and Tribunals established thereunder, and stipulates, *interalia*, that justice will be done to all irrespective of status and without undue delay;
2. The Vision of the Judiciary as specified in the Judiciary Strategic Plan, (herein after referred to as “**the Strategic Plan)**”, is to be “An independent institution of excellence in the delivery of justice to all”;
3. The Mission of the Judiciary as specified in the Strategic Plan is to “To administer justice in a fair, timely, accountable and accessible manner, uphold the rule of law, advance indigenous jurisprudence and protect the Constitution.”
4. The Key Result Areas (KRAs) as specified by the Strategic Plan are;
5. Enhanced Access to Justice
6. Expeditious Delivery of Justice
7. Growth of Jurisprudence and Knowledge Management
8. Improved Governance and Transformative Leadership
9. Improved Human Capital Management and Organizational Development
10. Modernized Registry Operations for Operational Efficiency
11. Enhanced Public Confidence, Awareness and Image of Judiciary
12. Resource Mobilization, Utilization and Stakeholder Engagement
13. The priority areas as specified by the Sustaining Judiciary Transformation (2017-2021) blue print are;
14. Access to justice
15. Clearance of case backlog
16. Integrity, fight against corruption and re-organization of judiciary complaints handling mechanisms
17. Restructuring and strengthening the office of the judiciary ombudsperson
18. Judiciary digital strategy.
19. Leadership and governance
20. The Judiciary is committed to improving its performance in the dispensation of justice in accordance with the Constitution;
21. The purpose of this Understanding is to enhance accountability for results by focusing on delivery of the mandate of the Judiciary and forms the basis for continuous improvement for the transformation of the Judiciary; and
22. This Understanding establishes a framework for clear performance objectives, goals and targets for the court

**Part I: Commitments and Obligations of the Principal Judge**

To facilitate the Environment and Land Court the Principal Judge in consultation with the Chief Justice and Chief Registrar shall ensure:

1. Timely provision of requisite financial resources as specified in the annual budget and work plans of courts in the judicial region
2. Timely provision of adequate human resources including but not limited to, Judges, Secretaries, Legal Researchers and Registry Staff;
3. Timely provision of adequate infrastructure, supplies and services as specified in the annual procurement plan including but not limited to, cleaning services and transport services; and
4. Formulation and implementation of appropriate policies and regulations.

**Part II: Commitments and Responsibilities of the Presiding Judge**

1. The Courts shall exercise their mandate and such other responsibilities as conferred by Article 162(2)(b) of the Constitution and Judicial Service Act Section 6(3&4)
2. The ELC Judge shall:
   1. ensure achievement of the negotiated and agreed Courts’ targets;
   2. ensure the court develops an annual work plan aligned to SJT and Strategic Plan
   3. communicate and cascade this understanding and targets to all judges and other court staff;
3. To perform such judicial duties and functions as specified by Section 6 of the Judicial Service Act;

**Part III: Monitoring and Evaluation**

The Court shall submit, monthly, timely and annual performance reports to the Presiding Judge and/or his/her designated representative;

The reports shall be accurate, timely and submitted in the specified reporting formats for purpose of monitoring progress of performance and for annual evaluation.

**Part IV: Duration of the Performance Management and Measurement Understanding**

The Understanding will run for a period of 12 months, from ***1st July, 2021 to 30thJune, 2022.***

**PROVIDED ALWAYS** that all parties hereto will act in good faith and take into account any extenuating and exogenous circumstances occurring in the performance period.

**SIGNATORIES**

**Signed: .......................................... Date……..………………**

**Hon. Samson Okong’o**

Principal Judge,

Environment and Land Court of Kenya.

**Signed: ........................................... Date……..………………**

**Hon. Justice XXXXXXXXXX**

Environment and Land Court Judge, XXXXXXX

**Witnessed by:**

**Signed: ........................................... Date……..………..………**

**Hon Justice .........**

Judge, .............

AJPMC, Member

**Endorsed by**

**Signed: ........................................... Date……..………..………**

**Hon. Anne A. Amadi**

Chief Registrar of the Judiciary

**Schedule 1: The Environment and Land Court’s Targets**

| **Court** | **Matter** | **Recommended Time frame** |
| --- | --- | --- |
| **Environment and Land Court (Both as an appellate and trial court)** | Certified Urgent Applications | Within **90 days** from the date of filing |
| All applications | Within **180 days** from the date of filing |
| Injunction applications | Hearing within **60 days** from the date of filing  Determination within **30 days** from the date of hearing |
| Hearing and determination of civil matters | Determination within **360 days** from the date of filing |
| Delivery of Judgments and rulings | Within **60 days** from the date of finalisation of the hearing |
| Judicial Review matters | Determination within **360 days** from the date of filing |
| Time for dissemination of all decisions to all subordinate courts and to all Judicial Officers | Within **7 days** after delivery of final decision. |

**Schedule 2: Performance Targets Matrix, Environment and Land Court, XXXXXX**

| **INDICATORS** | **Unit of measure** | **Weight** | **Baseline**  **2020/2021** | | **Target**  **2021/2022** |
| --- | --- | --- | --- | --- | --- |
| **A.1 EXPEDITIOUS DISPOSAL OF CASES** |  |  | **Actual** | **%** |  |
| 1. Certified Urgent / Injunction Applications -% of applications concluded within 90 days from date of filing | % | 4 |  |  |  |
| 1. All other applications -% of applications concluded within 180 days from date of filing | % | 4 |  |  |  |
| 1. Hearing and determination of ELC cases -% of cases concluded within 360 days from date of filing | % | 10 |  |  |  |
| 1. Land related constitutional petitions -% of petitions concluded within 180 days from date of filing | % | 7 |  |  |  |
| 1. Judicial Review cases -% of applications concluded within 360 days from date of filing | % | 6 |  |  |  |
| 1. Hearing and Determination of ELC Appeals from subordinate courts -% of appeals concluded within 360 days | % | 5 |  |  |  |
| 1. Delivery of Judgments and rulings -% of judgement/rulings delivered within 60 days of conclusion of the hearing | % | 10 |  |  |  |
| 1. Time for dissemination of all decisions -% of decisions disseminated within 7 days from date of delivery | % | 4 |  |  |  |
| **SUBTOTAL** |  | **40** |  |  |  |
| **A.2 Court files Integrity** |  |  | **Actual** | % |  |
| 1. Implement the Registry Manual procedures | % | 5 |  |  |  |
| 1. Maintain and Update all registers | % | 5 |  |  |  |
| **SUBTOTAL** |  | **10** |  |  |  |
| **SUBTOTAL** |  | **50** |  |  |  |
| 1. **TRIAL AND DELIVERY DATE CERTAINTY** |  |  | **Actual** | **%** |  |
| 1. Percentage of trials/hearings held when first listed for hearing | % | 4 |  |  |  |
| 1. Percentage of judgements/rulings delivered on the date first scheduled for delivery | % | 4 |  |  |  |
| 1. Adoption of Alternative Dispute Resolutions - % of Filed Cases referred for Alternative Dispute Resolution (ADR/CAM/AJS) | % | 1 |  |  |  |
| 1. Advance communication of adjournments of trials/hearings& date of delivery of judgements/rulings | % | 2 |  |  |  |
| 1. Publish daily cause lists and posting online seven days in advance | % | 1 |  |  |  |
| 1. Stakeholder Engagement | Report | 2 |  |  |  |
| 1. Submission of Court proceedings for appealed Matters within 60 days from date of receipt of notice | % | 2 |  |  |  |
| 1. Taxation matters -% of matters concluded within 60 days | % | 2 |  |  |  |
| 1. Decrees and warrants -% decrees and warrants prepared within 4 days | % | 2 |  |  |  |
| **SUBTOTAL** |  | **20** |  |  |  |
|  |  |  |  |  |  |
| 1. **CASE CLEARANCE RATE** |  |  | **Actual** | **%** |  |
| 1. Case clearance rate | % | 8 |  |  |  |
| **SUBTOTAL** |  | **8** |  |  |  |
| 1. **CASE BACKLOG** |  |  | **Actual** | **%** |  |
| 1. Percentage reduction of backlog | % | 5 |  |  |  |
| **SUBTOTAL** |  | **5** |  |  |  |
| 1. **COURT PRODUCTIVITY** |  |  | **Actual** | **%** |  |
| 1. Merit Productivity | No | 7 |  |  |  |
| 1. Other Productivity | No | 3 |  |  |  |
| **SUBTOTAL** |  | **10** |  |  |  |
| 1. **MONTHLY COURTS RETURNS** |  |  | **Actual** | **%** |  |
| Submission of accurate monthly court returns | % | 5 |  |  |  |
| **SUBTOTAL** |  | **5** |  |  |  |
| 1. **SUPERVISION OF SUBORDINATE COURTS** |  | **5** |  |  |  |
| 1. Supervision of Subordinate Courts | Report | 2 |  |  |  |
| **SUB-TOTAL** |  | **2** |  |  |  |
| **TOTAL** |  | **100** |  |  |  |

**ANNEX 1. EXPLANATORY NOTES FOR THE PMMU TARGETS**

1. **EXPEDITIOUS DISPOSAL OF CASES**
2. **Certified Urgent and Injunction Applications concluded within 90 days**
3. Applications filed will be placed before the Judge immediately for verification as to whether they are urgent or not.
4. Applications will be heard concluded within 90 days of filing
5. The court will ensure that there is strict compliance with order 11 CPR.
6. The court will introduce registers for purposes of tracking of applications.
7. The court will ensure that all Urgent and Injunction Applications are captured in the DCRT
8. **All other applications concluded within 180 days from date of filing**
9. Applications filed will be placed before the Judge immediately for verification as to whether they are urgent or not.
10. Applications will be heard concluded within 180 days of filing
11. The court will ensure that there is strict compliance with order 11 CPR.
12. The court will introduce registers for purposes of tracking of applications.
13. The court will ensure that all other Applications are captured in the DCRT
14. **Hearing and Determination of ELC Cases concluded within 360 days from date of filing**
15. The Court will ensure that ELC cases are heard and concluded within 360 days of filing
16. The court will ensure that there is strict compliance with order 11 CPR.
17. The court will introduce registers for purposes of tracking of applications.
18. The court will ensure that all Injunction Applications are captured in the DCRT
19. **Hearing and Determination of Land Related Constitutional Petitions**
20. The Court will ensure that Land Related Constitutional Petitions cases are heard and concluded within 180 days of filing
21. The court will ensure that all Land Related Constitutional Petitions cases are captured in the DCRT
22. **Hearing and Determination of Judicial Review cases.**
23. The Court will ensure that Judicial Review cases/ Applications are heard and concluded within 360 days of filing
24. The court will ensure that all Judicial Review cases are captured in the DCRT
25. **Hearing and Determination of ELC Appeals from subordinate courts**
26. The Court will ensure that Appeals from subordinate courts are heard and concluded within 360 days of filing
27. The court will ensure that all Appeals from subordinate courts are captured in the DCRT
28. **Delivery of Judgments and Rulings**
29. The court will set a day for writing and delivery of judgments and rulings.
30. The court will deliver judgments within 60 days of conclusion of the matter.
31. The court will introduce registers for purposes of tracking of Judgments and Rulings.
32. **Time for dissemination of all decisions**
33. The Court will ensure that decisions are disseminated within 7 days from date of delivery
34. The Court will send all decisions to KLR within 7 days from delivery
35. The court will introduce registers for purposes of tracking all decisions made and disseminated

**A.2. COURT FILE INTEGRITY.**

**1. Implement the registry manual procedures**.

1. The court will implement initiatives to streamline registry operations
2. The Court will introduce colour coding and indexing of the files.
3. The Court will sensitize registry staff on the registry manual.
4. **Maintain and Update all registers**
5. The court will ensure all required registers are introduced
6. The court will maintain and regularly update all registers

**B. TRIAL AND DELIVERY DATE CERTAINTY**

1. **Percentage of trial/hearing held when first listed for hearing**
2. The court will engage stakeholders.
3. The court will discourage unnecessary adjournments.
4. The court will ensure compliance with Order 11 of the CPR.
5. The court will ensure that the cause list is realistic.
6. The court will encourage trial date certainty.
7. **Percentage of judgments/rulings delivered on the date first scheduled for delivery**
8. The court will ensure parties take dates by consent.
9. The court will encourage trial date certainty.
10. The court will discourage unnecessary adjournments.
11. **Adoption of Alternative Dispute Resolutions - % of Filed Cases referred for Alternative Dispute Resolution (ADR/CAM/AJS)**
12. The Court will open, maintain and regularly update an Alternative Dispute Resolutions Register
13. The court will conduct a mandatory screening to assess relevant cases filed to be referred
14. The Court will monitor the progress of matters referred to the Alternative Dispute Resolutions process and update its records
15. **Advance communication of adjournments of trials/hearings& date of delivery of judgements/ruling**
16. The courts will preparation of cause list 7 days in advance.
17. The court will party to give contacts at the time of filing pleadings.
18. The court will communicate any anticipated adjournment as soon as the reason arises.
19. **Publish daily cause list online.**
20. The Court will identify a person to be in charge of the cause list.
21. The Court will prepare the cause list 7 days in advance.
22. The Court will Submit the cause list in advance for posting on the Judiciary and National Council for Law Reporting websites
23. The Court will Keep a file of cause list dully dated and signed
24. **Stakeholder Engagement**
25. The Court will hold quarterly Court Users Committee/ Bar-Bench meetings (50%)
26. The Court will hold quarterly LMTs/ Staff meetings (20%)
27. The court will come up with a schedule of activities on quarterly basis.(10%)
28. The court will maintain contacts of all stakeholders. (10%)
29. The Court will maintain a file of all signed meeting minutes (10%)
30. **Submission of Court proceedings for appealed Matters within 60 days from date of receipt of notice. The Court will;**
31. Ensure that all court proceedings are typed
32. Submit typed proceedings for appealed matters within 60 days from the date of receipt of notice
33. **Taxation matters.**
34. The Deputy Registrar will conclude all taxation matters within 60 days from the date of judgment.
35. **Decrees and warrants**
36. The Deputy Registrar will sign all decrees and warrants within 4 days from date of issue

**C.CASE CLEARANCE RATE**

**1. Case clearance rate.**

1. The court will discourage adjournments.
2. The court will encourage Alternative Dispute Resolution Mechanism (ADR).
3. The court will ensure that parties comply with strict time lines set.
4. The court will encourage entering of consents
5. The court will engage other stakeholders

**D.CASE BACKLOG**

**1. Percentage reduction of backlog**.

1. The court will conduct regular case audit to determine in- active cases.
2. The court will dismiss dormant cases under Order 17 CPR 2010
3. The court will give priority to hearing of old cases.
4. Encourage ADR
5. Apply order 17 of CPR and 87 (A) of the CPC.

**E. COURT PRODUCTIVITY**

**1. Merit productivity (**cases concluded by way of Judgments and rulings)

1. The court shall discourage adjournments.
2. The court shall ensure that parties comply with strict time lines set.
3. The court shall ensure that both Criminal and civil matters are concluded on time.
4. The court shall ensure that all resolved cases are captured accurately before submission to DPOP
   * 1. **Other productivity (Dismissals. Mediation, consents & withdrawals)**
5. The court shall encourage entering of consents
6. The court shall conduct audit to identify any dormant and inactive cases
7. It shall implement various initiatives such as service weeks to dispense of with such matters

**F. MONTHLY COURTS RETURNS**

**1. Submission of Accurate monthly court returns.**

1. The court will ensure timely submission of accurate data by the 5th of every month.
2. The Court will ensure accurate Case Outcomes are captured in the DCRT/CTS
3. The Court will validate DCRT/CTS data before submission to PMD;
4. The court will set up Desktop computer for data back up

**G. SUPERVISION OF SUBORDINATE COURTS**

**1. Supervision of subordinate courts**

1. The court will organize for supervisory visits to the subordinate courts under its jurisdiction**.**
2. The court will endeavor to have frequent meetings with both judicial officers and staff in the subordinate courts under its jurisdiction**.**