



**NATIONAL OPEN UNIVERSITY OF NIGERIA
PLOT 91, CADASTRAL ZONE, NNAMDI AZIKIWE EXPRESS WAY,
JABI, ABUJA
FACULTY OF LAW
2023_1 POP EXAMINATION.**

COURSE CODE: PPL518

COURSE TITLE: ALTERNATIVE DISPUTE RESOLUTION II

TIME ALLOWED: 3 HOURS

**INSTRUCTION: ANSWER QUESTION 1 (ONE) AND ANY 3 (THREE) OTHER QUESTIONS. (QUESTION 1 (ONE) ATTRACTS 25 MARKS)
TOTAL = 70 MARKS**

1. The High Court of Lagos State has been asked to give effect to a submission clause between a Russian-registered NGO owned by a Russian oligarch and a Lagos State registered orphanage owned by his Nigerian mistress' following dispute on the custody of the children in the orphanage. The clause comprises of an audio recording of a meeting between both parties where they agreed to submit their dispute for resolution at the Lagos State Multi-door court house. Advise on
 - a. The possibility for recognition of such agreement under the following instruments:
 - i. Arbitration and Conciliation Act (8 marks)
 - ii. 1985 version of the New York Convention (8 Marks)
 - b. The new rule on the form of an agreement to arbitrate in line with UN Convention on the Use of Electronic Communications in International Contracts. (9 marks)
2. Mary and Joseph are desirous of entering into a soap making partnership and have been advised to ADR as their preferred mode of dispute resolution. Discuss three fundamental features of this mode of dispute resolution.
3. In line with their agreement, Akpan and Udo referred their business dispute to arbitration in Hong Kong under the UK Arbitration Act. The dispute was resolved in favour of Akpan who immediately instituted proceedings in the Chief Magistrates Court in Akwa Ibom state for enforcement of the award. The Chief Magistrate declined stating that no Nigerian court will enforce an arbitral award handed down in another country. He advised the parties to apply to Hong Kong or the UK for enforcement of their award. Advise Akpan.
 - b. Would your answer be different if Akpan had applied to the High Court?

4. Kalika and Gbangbo were in-laws and business partners who entered into an arbitration agreement for dispute resolution by a sole arbitrator jointly appointed by both parties. Following a domestic dispute, Kalika refused to honour his obligations. After waiting endlessly for Kalika, Gbangbo declared a dispute nominating three arbitrators and inviting Kalika to concur on one of them. Kalika neither acknowledged nor responded to the nomination. Instead, 6 months after receiving Gbangbo's notice, Kalika instituted a suit against him at the High Court claiming damages for breach of contract. Gbangbo has been advised to enter appearance in the suit, inform them of the arbitration agreement and ask for punitive damages to be awarded Kalika for wasting his time. Advise Gbangbo

5. With reference to *Heyman v. Darwing* and other relevant authorities, discuss the relevance and applicability of the doctrine of separability.

6. '*... all that is necessary is that an award should set out what, in their view of the evidence, did or did not happen, and should explain succinctly why, in the light of what happened, they have reached their decision and what that decision is*' per Donaldson LJ.

With the aforementioned statement in mind, discuss the legal requirements relating to the making of awards in Nigeria.