Claim No: ARB 048/2025

IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

PEREGRINE

Claimant

and

PALMINA

Defendant

ORDER WITH REASONS OF H.E. JUSTICE MARK PELLING

UPON the Order issued on 21 September 2026 by which (amongst other things) the Claimant was ordered to pay the Defendant's costs in connection with this claim to be assessed by the Court (the "Order")

AND UPON the Defendant's Statement of Costs by which the Defendant has sought costs to be assessed in the sum of USD 23,444.64 (the "Costs")

AND PURSUANT TO the Rules of the DIFC Courts ("RDC")

IT IS ORDERED THAT:

1. Pursuant to RDC 38.6 the Defendant's Costs be assessed in the sum of USD 17,864.64 (the "Assessed Sum") and the Assessed Sum must be paid by the Claimant to the Defendant by no later than 4pm (GST) 14 days after the date of service of this Order upon him.

2. This Order having been made on paper, liberty to the Claimant to apply to either vary or set aside this order, providing any such application is issued by no later than 4pm (GST) 7 days after service of this Order upon him.

Issued by:
Hayley Norton
Assistant Registrar
Date of issue: 21 October 2026
At: 3pm

SCHEDULE OF REASONS

1. The Defendant's Costs are to be assessed on the standard basis because it has not been ordered that they should be assessed on the indemnity basis - see RDC 38.20.

2. Where costs are to be assessed on the standard basis, the foundational principle is that set out in RDC 38.18, which is that on a standard assessment the Court will allow only such costs as are proportionate to the matters in issue. This implies that a court must ask itself two questions on such an assessment - first what work for which payment is claimed was it reasonable and proportionate to carry out and secondly in respect of such work, what was the reasonable and proportionate amount payable in respect of it - see RDC 38.18(2). Although this provision is concerned with the resolution of any doubts when assessing costs on the standard basis, that formulation would make no sense unless the assessment required those two questions to be asked and answered.

3. In relation to the second of those two questions, proportionality is understood in relation to the costs rules within the Civil Procedure Rules that apply in England and Wales as *". not the amount of costs which it was in a party's best interests to incur but the lowest amount which it could reasonably have been expected to spend in order to have its case conducted and presented proficiently, having regard to all the relevant circumstances."* - see ***Kazakhstan Kagazy Plc v Zhunus*** [2015] EWHC 404(Comm). Expenditure over and above that level is for a party's own account and not recoverable from the other party.

4. The guideline rates for the assessment of lawyer's time costs are those fixed by Registrar's Direction No. 1 of 2023 - Indicative Hourly Charges, which establishes a guideline rate for partners of law firm of USD 1,020. For trainees and lawyers of up to 5 years' experience the guideline rate is USD 651. The rates claimed are well within these guidelines and so are both reasonable and proportionate.

5. The work that the Defendant was required to carry out was more significant than it need have been because of the failure of the Claimant's representative to engage meaningfully in a process that he was responsible for commencing. This resulted in multiple hearings that could otherwise have been avoided and resulted ultimately in the Claimant not moving its own application having sought adjournments on an almost wholly unparticularised basis. That said, there was one hearing that could not take place as a result of the need for the Defendant's advisor to obtain Part II registration in order to appear and represent the Defendant at a hearing. It is not at all clear whether this has been taken into account in formulating the costs claim. No attempt has been made to particularise the work done on documents. Whilst the form used by the Registry does not provide for such information; practitioners will generally be expected to provide such information given that the assessment requires the court to

form a view of both the reasonableness and proportionality of the work for which payment is claimed. Immediate assessments are by their nature a broad brush/broad axe exercise. However, inevitably that becomes more so the less information is provided and the need to resolve any doubts in favour of the paying party - see RDC 38.18(2).

6. In my judgment the work done on documents is in excess of what is proportionate. I reduce the total claimed by one third, which I have rounded down to USD 5,580. I consider that the sums claimed are otherwise reasonable and proportionate for the work phases for which payment has been claimed. In the result, I assess the sum recoverable by way of costs by the Defendant in the sum of USD 17,864.64.

7. As I have alluded to already, the Claimant has not played any meaningful role in these proceedings. In those circumstances I consider the default set by RDC 38.40(1) might work unfairly. For that reason, I have modified the time for payment to that set out in the Order applying the discretion conferred by RDC 38.40(3). I have included a regime enabling the Claimant to apply to vary or set aside this Order subject to a time limit. I have done so in order to balance the need for finality in the interest of the Defendant whilst giving the Claimant a short time limited opportunity to apply to vary the order given that this assessment has been made without a hearing.