THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

(1) ABDULLA HAMAD AL FUTTAIM
(2) AL FUTTAIM WILLIS COMPANY LLC
(3) AL FUTTAIM SERVICES COMPANY LLC

Claimants

and

(1) WILLIS LIMITED
(2) WILLIS FABER LIMITED
(3) WILLIS TOWERS WATSON LEBANON SAL
(4) WILLIS GROUP LIMITED

Defendants

ORDER WITH REASONS OF JUSTICE ANDREW MORAN

UPON the Defendants' Application No. CFI-039-2023/4 dated 18 July 2024 (the "Application")

AND UPON the fourth and fifth witness statements of Patrick John McPherson dated 18 and 26 July 2024

AND UPON the third witness statement of Damian Crosse dated 23 July 2024

AND UPON the Case Management Order of H.E. Justice Nassir Al Nasser dated 15 December 2023 (the "CMC Order")

AND UPON the Consent Order dated 24 June 2024

IT IS HEREBY ORDERED THAT:

1. The date in paragraph 2 of the Consent Order by which the Defendants shall file and serve any amendments to the Defence shall be extended to **4pm GST on 14 August 2024**.

2. The date in paragraph 10 of the CMC Order and paragraph 3 of the Consent Order by which the Parties shall file and serve witness statement (s) shall be extended to **4pm GST on 26 September 2024**.

3. The date in paragraph 11 of the CMC Order and paragraph 4 of the Consent Order by which the Parties shall file and serve any Witness Statements in reply shall be extended to **4pm GST on 31 October 2024**.

4. The date in paragraph 17 of the CMC Order by which the Claimants shall file and serve any Expert Report(s) shall be extended to **4pm GST on 21 November 2024**.

5. The date in paragraph 18 of the CMC Order by which the Defendants shall file and serve any Expert Report(s) shall be extended to **4pm GST on 21 November 2024**.

6. The date in paragraph 19 of the CMC Order by which any expert evidence in reply shall be filed and served shall be extended to **4pm GST on 19 December 2024**.

7. The trial listed for 18 - 29 November 2024 shall be vacated.

8. Trial in these proceedings shall be re-listed on the first available date from 1 February 2025 with an estimated duration of 12 days: 8 days, with 2 days in reserve, and up to 5 days of judicial pre-reading time.

9. The dates for the Progress Monitoring Date and the Pre-Trial Review listed on 23 September 2024 under paragraphs 21 and 23 of the CMC Order shall be vacated to be relisted on the same day once the trial dates have been fixed.

10. The parties shall file and serve a Progress Monitoring Information Sheet at least three clear days before the progress monitoring date and in any event by no later than **4pm GST three clear days before the Progress Monitoring Date**.

11. The dates for the trial bundles, the reading list, skeleton arguments and chronology in paragraphs 24-29 of the CMC Order shall be amended once trial has been relisted as follows:

(a) An agreed reading list for trial along with an estimate of time required for reading and an estimated timetable for trial shall be filed with the Court by the Claimants by no later than **4pm two weeks before the first day of trial**.

(b) The Claimants will submit to the Defendants a draft trial bundle index and any other proposals as to the content and organisation of the trial bundle by no later than 10 weeks before the date fixed for trial. The Defendants will submit to the Claimants the details of additions and suggested revisions at least 8 weeks before the date fixed for trial.

(c) The Trial Bundle will be prepared by the Claimants' solicitors as an electronic trial bundle with an index containing hyperlinks from the items in the index to the individual documents, which shall be filed in the electronic bundle in searchable pdf form (not as a massive single pdf containing an agglomeration of documents) and references in pleadings, witness statements and skeleton submissions to documents in the bundle, shall also be hyperlinked at the point of reference, to the documents being referred to in the bundle.

(d) If the Claimants' solicitors do not have the technical ability to create an electronic bundle with such hyperlinking, including from documents added to the bundle after its initial creation, such as skeletons, then the parties shall engage at shared cost in the first instance, a document management service provider such as OPUS 2 or EPIQ or other suitable provider of a proprietary platform, that will provide those facilities. The Court informs the parties so that they understand its requirements, that it will be working on the bundle immediately from its creation and filing, so that its version must remain intact and not be substituted with another bundle when documents are to be added to the bundle. Added documents must be capable of integration into the Court's existing working bundle, so that hyperlinks contained within them, work to documents already in the bundle that the court has been working on, by such as annotation and highlighting using Adobe Acrobat Pro software. If the parties or any service provider requires further guidance as to what the Court requires, it shall be sought before the creation of the electronic bundle.

(e) All references in any document to another document in the bundle and in any submissions placed before the court, shall be to the electronic tab and electronic page number of the document in the bundle. Insofar as any party or witness uses or is referred to any hard copy bundle, the tabs and pagination shall correspond precisely with the tabs and pagination of the electronic bundle. These requirements shall be strictly adhered to.

(f) Agreed trial bundles shall be filed and served no later than 6 weeks before trial but documents coming later will be added by the electronic means and requirements previously stipulated in this order.

(g) Skeleton Arguments and Written Opening Statements shall be filed and exchanged:

(i) by the Claimants, no later than 4pm GST, 7 clear days before the start of the trial;

(ii) by the Defendants, no later than 4pm GST, 5 days before the start of the trial.

(h) The parties shall prepare an agreed Chronology of significant events crossreferenced to significant documents, pleadings and witness statements which shall be filed with the Court by the Claimants by no later than **4pm two weeks before the first day of trial**. In the event that there are areas of disagreement, the Chronology shall include an agreed Chronology and a Chronology of events which are disputed, with the parties' respective positions outlined therein.

(i) The Claimants shall pay:

(i) the Defendants' costs of the Application.

(ii) the Defendants' costs of and occasioned by the Claimants' amendments to its Particulars of Claim dated 4 July 2024 including, for the avoidance of doubt, the Defendants' costs thrown away as a result of the Claimants' withdrawal of their pleaded case at paragraph 26 of the Particulars of Claim as to the formation of the Original Revenue Sharing Agreement; and

(iii) the Defendants' costs thrown away as a result of the adjournment of the trial.

(j) Costs shall be assessed by the Registrar if not agreed.

Issued by:
Hayley Norton
Assistant Registrar
Date of Issue: 1 August 2024
At: 8am

SCHEDULE OF REASONS

1. The Court is regrettably persuaded that there is no fair alternative to the adjournment of the Trial from its presently fixed dates. The Court would do everything in its power to avoid that adjournment and waste of judicial time and resources, if it could fairly do so but that is not possible.

2. This outcome is entirely because of the late and substantial amendment by the Claimants to their Particulars of Claim and the consequential and reasonable requirement and entitlement for the Defendants to do all they have outlined, in the fourth and fifth statements of Mr McPherson, placed before the Court.

3. The Court rejects the Claimants' attempts to portray the amendments as variously *"not substantially changing the Claimant's case"* and them being *"straightforward, anticipated amendments to pleadings"*, as being, unfortunately, disingenuous and apt to mislead. The suggestion ,*"There is at least the possibility of anterior motives in seeking to have the trial date moved by a number of months in these circumstances and to seek to delay the Claimants from having their day in Court"* is advanced without foundation and should not have been made, especially in the face of the cogently reasoned case for an adjournment, based on the careful exposition of the steps the Defendants will need to take to properly plead to the new allegations in the amended particulars, and to defend themselves.

4. The Court need not deal with all of the other unacceptable objections to the adjournment necessitated by the amendment in Mr Crosse's statement, as it is sufficient to hold that what they lead to (at paragraph 22), in the way of a proposed amendment to the timetable, is a procedural order that would be unfair, unattainable and manifestly prejudicial to the Defendants in meeting the amended case now brought against them, just a few months (including a recognized holiday month for potential witnesses and lawyers) before the dates fixed for trial.

5. What the Defendants are seeking in the way of procedural steps and intervals between them, is far from disproportionate and excessive as the Claimants suggest, but fair and reasonable in this Court's judgment.

6. In the absence of any reasonable and sensible counter-proposal for replacement, varied directions to trial, the Court in making its order, has therefore decided to adopt substantially the terms of the order proposed by the Defendants. The Court's first availability is for any dates in March 2025, but it will not fix those dates in this order or the preceding dates of various steps, hereby giving the parties an opportunity to agree the Trial dates in March and the dates for the presently undated prior procedural steps mentioned in this order.

7. As to costs, the Court is firmly of the view, particularly having regard to the unrealistic manner in which the Claimants have responded to this application, that the costs order sought by the Defendants, is fair and just and has accordingly been made as above.

8. Finally, it will be noted that the Court has introduced several requirements in the order above, of its own devising to enable its (and the parties') efficient preparation for and conduct of the Trial. The court has provided for alternative modes of preparing a working and developing electronic bundle now in common use in international litigation and arbitration, but if there is reasoned objection from the parties or any of them, the court will receive submissions on these matters and consider them and any proposed amendments to its orders, in these unheralded respects.