**Claim No. CFI 004/2022**

**THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS**

**IN THE COURT OF FIRST INSTANCE**

BETWEEN

**GULF WINGS FZE**

Applicant/Claimant

and

**A AND K TRADING LIMITED**

Respondent/Defendant

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**FREEZING ORDER OF JUSTICE SIR JEREMY COOKE**

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**PENAL NOTICE**

**IF A AND K TRADING LIMITED DISOBEY THIS ORDER THE DIRECTORS OF A AND K TRADING MAY BE HELD IN CONTEMPT OF COURT AND THE DIRECTORS MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.**

**ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANTYHING WHICH HELPS OR PERMITS THE RESPONDENT TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.**

**THIS ORDER**

1. This is a Freezing Order made against A AND K TRADING LIMITED (the **"Respondent"**) on 14/01/2022 by Justice Sir Jeremy Cooke on the application of GULF WINGS FZE (the **"Applicant"**). The Judge read the Affidavit listed in Schedule A and accepted the undertakings set out in Schedule B at the end of this Order.

2. This order was made at a hearing without notice to the Respondent. The Respondent has a right to apply to the Court to vary or discharge the order - see paragraph 12 below.

3. There will be a further hearing in respect of this order on 24 January 2022 (the **"Return Date"**).

**FREEZING ORDER**

4. Until the Return Date or further order of the Court, the Respondent must not:

a) remove from the Dubai International Financial Centre (the **"DIFC"**) any of its assets which are in the DIFC up to the value of **US$ 1,300,000**; or

b) in any way dispose of, deal with or diminish the value of any of its assets whether they are in or outside the DIFC up to the same value.

5. Paragraph 4 applies to all the Respondent's assets whether or not they are in its own name and whether they are solely or jointly owned. For the purpose of this order the Respondent's assets include any asset which it has the power, directly or indirectly, to dispose of or deal with as if it were its own. The Respondent is to be regarded as having such power if a third party holds or controls the asset in accordance with its direct or indirect instructions.

6. This prohibition includes the following assets in particular, an Embraer EMB-135BJ Legacy 600 aircraft with manufacturer's serial number 14501045 and registration A6-ANK (the **"Aircraft"**).

7.

a) If the total value free of charges or other securities (**"Unencumbered Value"**) of the Respondent's assets in the DIFC exceeds US$ 1,300,000, the Respondent may remove any of those assets from the DIFC or may dispose of or deal with them so long as the total Unencumbered Value of the Respondent's assets still in the DIFC remains above US$ 1,300,000.

b) If the total Unencumbered Value of the Respondent's assets in the DIFC does not exceed US$ 1,300,000, the Respondent must not remove any of those assets from the DIFC and must not dispose of or deal with any of them. Save for in respect of the Aircraft, if the Respondent has other assets outside the DIFC, it may dispose of or deal with those assets outside the DIFC so long as the total Unencumbered Value of all its assets whether in or outside the remains above US$ 1,300,000.

**PROVISION OF INFORMATION**

8.

a) Unless paragraph (2) applies, the Respondent must within 48 hours of notification of this Order and to the best of its ability inform the Applicant's legal representatives of all its assets worldwide exceeding US$ 25,000 in value whether in its own name or not and whether solely or jointly owned, giving the value, location and details of all such assets.

b) If the provision of any of this information is likely to incriminate the Respondent, it may be entitled to refuse to provide it but is recommended to take legal advice before refusing to provide the information. Wrongful refusal to provide the information is contempt of court and may render the Respondent liable to be imprisoned, fined or have its assets seized.

9. Within 3 working days after being served with this order, the Respondent must swear and serve on the Applicant's legal representatives an affidavit setting out the above information.

**EXCEPTIONS TO THIS ORDER**

10.

a) This order does not prohibit the Respondent from spending a reasonable sum on legal advice and representation. But before spending any money the Respondent must tell the Applicant's legal representatives where the money is to come from.

b) This order does not prohibit the Respondent from dealing with or disposing of any of its assets in the ordinary and proper course of business except for the Aircraft.

c) The Respondent may agree with the Applicant's legal representatives that the above spending limits should be increased or that this order should be varied in any other respect, but any agreement must be in writing.

d) The order will cease to have effect if the Respondent: (a) provides security by paying the sum of US$ 1,300,000 into Court, to be held to the order of the Court; or (b) makes provision for security in that sum by another method agreed with the Applicant's legal representatives.

**COSTS**

11. The costs of this application are reserved to the Judge hearing the application on the Return Date.

**VARIATION OR DISCHARGE OF THIS ORDER**

12. Anyone served with or notified of this order may apply to the Court at any time to vary or discharge this order (or so much of it as affects that person), but they must first inform the Applicant's legal representatives. If any evidence is to be relied upon in support of the application, the substance of it must be communicated in writing to the Applicant's legal representatives in advance.

**INTERPRETATION OF THIS ORDER**

13. A Respondent who is an individual who is ordered not to do something must not do it itself or in any other way. He must not do it through others acting on its behalf or on its instructions or with its encouragement.

14. A Respondent which is not an individual which is ordered not to do something must not do it itself or by its directors, officers, partners, employees or agents or in any other way.

**PARTIES OTHER THAN THE APPLICANT AND RESPONDENT**

**Effect of this order**

15. It is a contempt of court for any person notified of this order knowingly to assist in or permit a breach of this order. Any person doing so may be imprisoned, fined or have their assets seized.

**Set off by banks**

16. This injunction does not prevent any bank from exercising any right of set off it may have in respect of any facility which it gave to the Respondent before it was notified of this order.

**Withdrawals by the Respondent**

17. No bank need enquire as to the application or proposed application of any money withdrawn by the Respondent if the withdrawal appears to be permitted by this order.

**Service**

18. The Claimant will serve this Order and the application notice on the Respondent in accordance with Rule 25.41 of the DIFC Rules.

**Persons outside the DIFC**

19.

a) Except as provided in paragraph (2) below, the terms of this order do not affect or concern anyone outside the jurisdiction of this court.

b) The terms of this order will affect the following persons in a country or state outside the jurisdiction of this court:

1) the Respondent or its officer or agent appointed by power of attorney;

2) any person who:

(i) is subject to the jurisdiction of this court;

(ii) has been given written notice of this order at its residence or place of business within the jurisdiction of this court; and

(iii) is able to prevent acts or omissions outside the jurisdiction of this court which constitute or assist in a breach of the terms of this order; and

3) any other person, only to the extent that this order is declared enforceable by or is enforced by a court in that country or state.

**AFFIDAVITS**

20. The Applicant relied on the following affidavit: Oliver Tebbit, First Affidavit, sworn on 14 January 2022 filed on behalf of the Applicant.

**COMMUNICATIONS WITH THE COURT**

All communications to the Court about this order should be sent to:

Ground Floor, Building 4, Gate District, DIFC, UAE
Telephone: +971 4 427 3333
Fax: +971 4 427 3330
Email: registry@difccourts.ae

The DIFC Court Registry offices are open between 10am and 4pm, Monday to Friday (excluding public holidays)

**NAME AND ADDRESS OF APPLICANT'S LEGAL REPRESENTATIVES**

The Applicant's legal representatives are:

Watson Farley & Williams (Middle East) LLP 2501, Tower 2, Al Fattan Currency House, DIFC Fax: +971 4 277 9505 Telephone: +971 4 278 2300 Office hours: Monday to Friday 09:30 until 18:00. Charlotte Bijlani - Cbijlani@wfw.com Thomas Whitfield - Twhitfield@wfw.com Haya Al Bawab - Halbawab@wfw.com

Issued by:
**Nour Hineidi**
Registrar
Date of issue: 14 January 2022
At: 6pm

**SCHEDULE B**

**UNDERTAKINGS GIVEN TO THE COURT BY THE APPLICANT**

(1) If the Court later finds that this order has caused loss to the Respondent, and decides that the Respondent should be compensated for that loss, the Applicant will comply with any order the Court may make.

(2) As soon as practicable the Applicant will issue and serve a claim form substantially in the form of the draft produced to the Court claiming the appropriate relief.

(3) The Applicant will notify the Respondent and the owner of the Respondent (Mr Amr Shendy) by email, and will serve as soon as practicable this Order on the Respondent and Mr Shendy and:

(i) copies of the affidavits and exhibits containing the evidence relied upon by the Applicant, and any other documents provided to the Court on the making of the application; and

(ii) the claim form.

(4) The Application will swear and file an affidavit as soon as practicable an affidavit in substantially the terms of the draft affidavit produced to the Court confirming the substance of what was said to the Court by the Applicant's legal representatives.

(5) Anyone notified of this order will be given a copy of it by the Applicant's legal representatives.

(6) The Applicant will pay the reasonable costs of anyone other than the Respondent which have been incurred as a result of this order including the costs of finding out whether that person holds any of the Respondent's assets and if the Court later finds that this order has caused such person loss, and decides that such person should be compensated for that loss, the Applicant will comply with any order the Court may make.

(7) If this order ceases to have effect (for example, if the Respondent provides adequate security or the Applicant does not provide a bank guarantee as provided for above) the Applicant will immediately take all reasonable steps to inform in writing anyone to whom it has given notice of this order, or who it has reasonable grounds for supposing may act upon this order, that it has ceased to have effect.

(8) The Applicant will not without the permission of the Court use any information obtained as a result of this order for the purpose of any civil or

criminal proceedings, either in the DIFC or in any other jurisdiction, other than this claim.

(9) The Applicant will not without the permission of the Court seek to enforce this order in any country outside of Dubai.