

The DIFC Courts – Courts of Space Moot Court 2024

IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

COURT OF FIRST INSTANCE

FROM THE COURT OF SPACE

BETWEEN:

ARTEMIS ASTROTHEIA

Claimant

and

SOLARDREAM INC.

Defendant

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DIFC COURTS OF SPACE MOOT PROBLEM

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## BACKGROUND

1. Solardream Inc. (**Solardream**) is a Canadian spaceflight company which develops commercial spacecrafts and provides spaceflights for high-net-worth tourists. Solardream has operated 4 flights in total, each with 10 passengers, since it began operations three years ago. The spaceflight capsule is flown by two trained astronauts and supervised by a team of 20 employees on the ground. Solardream is supported by an entity called 'Celestial Habitat' which is a space station management agency catering to space companies and government organisations. Celestial Habitat carries out the maintenance and any servicing work on the space stations that Solardream arranges travel to. Solardream has future plans to expand such space flights to Moon Gateway once it is ready.
2. Every year, Soldardream provides two spaceflight 'travel retreats'. These are provided for a select group of high-net-worth participants, centred around a specific 'theme' and offer curated activities relating to that theme. This year, as one of its two retreats, Solardream is offering the 'Stars Align' yoga retreat where participants will be taken to a bespoke space station, operated by Celestial Habitat, called the 'Space Yogamat'. The 'Space Yogamat' itself is connected, and part of a wider space station, the 'Floating Haven', commercially developed, owned, and operated by Emirates Spacelines, a company incorporated in the DIFC, and owned by a Dubai-based conglomerate. As a "mixed use development", the Floating Haven will reimagine and blend hospitality and tourism with research and manufacturing, media and entertainment. The Floating Haven employs a unique, modular, and expandable architecture built around essential shared services and

resources. Besides a set of facilities in space, it is an entire system of services through an ecosystem of companies and partners. This includes customer support for mission development, launch services, crew and cargo capsules with unique capabilities, mission assurance, and overall logistic management.

3. The Floating Haven has several dockings ports, each for a different bespoke areas (including one for the 'Space Yogamat'). The docking ports include an infrastructure part (docking mechanism, airlock, respective pressurizing equipment and machinery) and a service-oriented area (spacesuit dressing rooms, waiting hall and other amenities, storage, and communication booth). Some of the docking ports are operated by the Celestial Habitat itself, and others are operated by different companies or space agencies.
  
4. The participants will, upon arrival at the 'Space Yogamat' be offered a week-long series of guided space meditation sessions with crystal healing and zero-gravity yoga classes on board. In order to allow participants to practice yoga in the space station, the Space Yogamat has been fitted with special anti-gravity bands and poles. This 'Stars Align' retreat was specially formulated by Solardream's CEO Mr X Delta who is a longstanding yoga and meditation enthusiast, and it has been heard in space travel circles that Mr Delta spent substantial sums employing the world's leading yoga and meditation practitioners to help design it. On its website, Solardream describes this as being a "*once in a lifetime yogic experience to meditate amidst the stars*" and that participants can "*draw upon the energies of space and enhance...(their)...lifeforce*". The entire experience would cost a total of USD 10 million and is scheduled to take place on 15 February 2024.

5. Artemis Astrotheia is a 27-year-old YouTuber who owns and manages an extremely successful YouTube channel called 'AstroYoga' which has around 27.3 million subscribers. Artemis is a keen yogi and meditation practitioner, having practiced both since the age of 12. She now uploads yoga and travel videos on her channel. These are generally a combination of tutorials and travel vlogs, and Artemis often travels to exotic places where she posts or livestreams yoga sessions, against the background of the night sky and stars from which she draws life energy. Despite her healthy lifestyle, over the past 5 years, Artemis has suffered from chronic headaches. Despite seeing a number of doctors and trying various alternative remedies, she has not been able to stop the headaches from recurring.
  
6. When Artemis heard of the Stars Align retreat, she was ecstatic. Artemis has always had an interest in space, and of course her personal brand was built on drawing energies from celestial bodies. She firmly believed that a person's ability to draw life force energy from the stars would be magnified by low-gravity meditation and yoga, unimpeded by the Earth's atmosphere and gravity. This retreat also presented a lucrative opportunity for her to shoot a video for her channel – she would be the first YouTuber to upload a space travel vlog. But most of all, Artemis was convinced that her headaches were caused by a misalignment of her neurons with the Earth's gravitational field, and that she could re-align them through meditation in low gravity. Artemis hoped that this would be the cure that she had been seeking for so long.

7. On 10 December 2023, after a long discussion with a sale representative of Solardream, Artemis purchased a ticket. Although the ticket was expensive, Artemis' had extremely high earnings on Youtube, and she was certain that she would recoup the costs from what she anticipated would be a unique and viral space yoga series of videos. When purchasing the ticket, Artemis also read and signed a copy of the Space Flight Agreement (the '**Agreement**') which was mandatory for all passengers. Although Solardream is incorporated in Canada, it launches its flights from Dubai.
8. Two days after she purchased the ticket, Artemis was contacted by employees of Solardream and was told that she had to carry out a medical evaluation before she could board the flight. She was provided a declaration form which provided that to the best of her knowledge and belief, she was not aware of any medical conditions or symptoms of a potential medical condition that may affect her fitness to participate in the space flight. She was also given a medical history log and asked to list all ailments that she suffers or previously suffered from. Following this, Artemis was asked to meet with a specialist doctor from Solardream's team who conducted a physical examination and carried out a few tests to check her fitness levels. Artemis made no mention of her chronic headaches because she was afraid that Solardream would not allow her to participate in the retreat.
9. On 1 February 2024, two weeks before the flight, Artemis flew to Dubai from Montreal, with a layover in New York. She then checked in the pre-departure accommodation provided by Solardream (the "Dream House"), where she was to (as required by Solardream's safety protocols) quarantine with the rest of the passengers for two weeks

before the flight. During the second week, she began to suffer from a severe headache. While unpleasant, this was not uncommon for her. She did not mention it to anyone. On 14 February 2024, she was informed by Solardream that conditions were suitable and that the flight would take off the next day.

10. On 15 February 2024, the day of the space flight, Artemis' headache continued although now more of a dull ache. She also had begun to feel a little tired but chalked that up to all the travel. Upon arriving at the Solardream headquarters at around 5 am on that day, Artemis was prepared for the flight. Her items were taken on board, and she was asked to change into her space suit.
11. In the months preceding the spaceflight, there had been news of a new Covid-19 variant, the 'Vulcan'. This variant spread much more easily than previous variants with individuals becoming symptomatic within five to ten days of being in contact with carriers of the virus. The Vulcan variant was rarely life-threatening, but its symptoms were often significant and debilitating for a few days. In the light of this, on the morning of the flight, each of the passengers was given a cursory medical examination by a nurse and was also given a lateral flow test and a PCR test to check for the virus. For the same reason as she did not declare it previously, Artemis made no mention of her headache to the nurse. All of the lateral flow tests, including Artemis' test came back negative. Artemis waited to get back the results of her PCR test but was informed that due to delays at the lab, the test results would take more time than anticipated to come back.

12. As the time for take-off approached, and the window for launch was likely to close due to meteorological conditions, the Solardream personnel decided to green light take off before receipt of the PCR test results because all lateral flow tests had displayed a negative result, and the advice of the nurse on duty was that a lateral flow test was sufficient statistically to rule out any serious risk that passengers had Covid-19. Artemis and the 9 other passengers were given standard last-minute instructions in case of any emergencies and at 7 am, the capsule was launched. Shortly after the launch, the Captain received a transmission that one of the PCR tests had come back positive for Covid-19. It was identified as Artemis' test. The Captain and crew began to put in place whatever measures they could to prevent further transmission of the variant. They asked passengers to wear masks and gloves for the duration of the retreat, and the meditation and yoga sessions went ahead, without Artemis. The Space Yogamat was also sealed off the rest of the Floating Haven station.
13. However, despite the efforts of the crew, within a few days of the beginning of the retreat, all of the passengers and crew on the Space Yogamat had caught COVID, and a decision was taken on the fourth day to return to Earth prematurely. As for Artemis, her symptoms had began worsening almost immediately upon arrival on the Space Yogamat, and she was too unwell to undertake any meditation or yoga, even on her own, or to film any videos.
14. Artemis was furious, and upon landing back on Earth took legal advice, and shortly thereafter issued proceedings in the DIFC Courts – Courts of Space (Courts of

Space)alleging that the safety protocols of Solardream were grossly inadequate, constituting both a tort under applicable law and a breach of contract, and seeking damages of USD 15 million by way of refund and damages for (i) what she says is a failure by Solardream to provide her the services she paid for; and (ii) her loss of earnings as a Youtuber due to her inability to film a series of space yoga sessions which she had widely advertised and felt keen embarrassment about failing to pursue.

15. Solardream filed a defence denying any liability, and in any event relying on the limitations and exclusions of liability in the Agreement. Further, Solardream filed a counterclaim seeking USD 5 million in damages alleging that Artemis (who had, on her Youtube channel, angrily described the full sequence of events including her pre-departure headaches) had breached the Agreement by failing to declare a medical condition, and caused significant reputational loss to Solardream given the wide publicity that the early cancellation of the retreat received both in Dubai and more globally, which led to multiple passengers cancelling their reservations for future space retreats. Artemis denied any liability, and alleged that Solardream's loss of reputation, if any, was caused by its own deficient safety protocols.

16. No issue arises as to the liability of Celestial Habitat or Emirates Spacelines in these proceedings. Solardream, in pre-action correspondence, has made clear that it was only pursuing a counterclaim in breach of contract, and not in defamation/slander.



## THE PROCEEDINGS

17. The DIFC Courts – Courts of Space has listed the trial of the claim and the counterclaim for a 1-day trial on 24 April 2024. In advance of the trial, the parties have agreed pre-trial directions, including a brief list of issues for the Trial, as follows:
  - a. Issue 1 (the Claim): Solardream’s liability to Ms Astrotheia in (i) tort; and (ii) for breach of contract.
  - b. Issue 2 (the Counterclaim): Ms Astrotheia’ liability to Solardream for breach of contract.

## MATERIALS FOR USE IN THE DIFC COURTS

18. The DIFC Courts are one of the world’s leading commercial courts. They are the courts of the Dubai International Financial Centre, a freezone in the Emirate of Dubai. DIFC law is generally based on international common law principles. DIFC law is primarily found in DIFC statutes and the decided cases of the DIFC Courts. Decisions of the Court of Appeal are binding on the Court of First Instance (including the Digital Economy Court). Decisions of the DIFC Courts are published on the Court’s website. Significant decisions are also published on Bailii.
19. Tort law in the DIFC is codified in the DIFC Law of Obligations (DIFC Law No. 5 of 2005). Contract law in the DIFC is codified in the DIFC Contract Law (DIFC Law No. 6 of 2004). The Contract Law is based on the UNIDROIT Principles of International Commercial

Contracts (2004), whose commentary is often cited as guidance on the meaning of its provisions.

20. Decisions from the leading common law courts around the world are regularly cited as persuasive authority where there is no existing DIFC caselaw. Participants are therefore encouraged to consider deploying relevant case law from other common law courts.

This Space Flight Agreement (the "Agreement") is entered into on 13 December 2023, ("Effective Date"), by and between:

- (1) **Solardream Inc.**, incorporated and registered in Canada with company number 743296 whose registered office is at 23, St-Catherine Street, Montreal, Canada (the "Space Flight Operator")
- (2) **Ms Artemis Astrotheia**, of 78 rue Thomas Pesquet, 62840, Sailly-sur-la-Lys, France (the "Passenger")

Together referred to as the "**Parties**".

WHEREAS

- (A) The Flight Operator has offered to a limited and select group of participants a once-in-a-lifetime opportunity to engage in a solar powered meditation and yoga session in space to develop their life force energy; and
- (B) The Parties have agreed on terms for the Passenger to join the next available flight to the Space Flight Operator's space station, the "Space Yogamat".

IT IS HEREBY AGREED AS FOLLOWS

## **1. Space Flight details**

- 1.1 The Space Flight Operator agrees to provide the Passenger with a space flight experience on or around 15 February 2024, subject to a launch window presently expected to open on 14 February 2024 and to close on 23 February 2024. The launch window is contingent upon various factors, including but not limited to meteorological conditions, technical readiness of the spacecraft, and regulatory approvals. The Parties acknowledge and agree that the space flight may be rescheduled within a reasonable period to ensure the safety and success of the mission.

- 1.2 In the event that the scheduled launch is postponed or rescheduled due to factors beyond the Space Flight Operator's control, including adverse meteorological conditions, the Space Flight Operator shall make reasonable efforts to provide the Passenger with an alternative launch date. The Parties shall work collaboratively to agree upon a suitable rescheduled date that accommodates both the Space Flight Operator's operational requirements and the Passenger's availability.
- 1.3 The Space Flight Operator shall keep the Passenger informed of any changes to the launch schedule as soon as reasonably practicable. The Passenger understands and accepts that space travel involves inherent uncertainties and delays, and the Space Flight Operator shall not be held liable for any losses, damages, or inconvenience arising from such postponements or rescheduling of the space flight.
- 1.4 Should the space flight be unable to take place within a reasonable timeframe or if a rescheduled date is not agreed upon, the Space Flight Operator shall refund the Passenger in accordance with the terms specified in Clause 3 (Cancellation).

## **2. Payment**

- 2.1 The Passenger agrees to pay the total cost of USD 10 million, payable at the Passenger choice in Bitcoins (BTC), Ethereum (ETH), or in cash, which is comprised of staggered payments as set out at Clause 2.2.
- 2.2 The payment of the total costs will be staggered as follows: (i) a first instalment of USD 2.5 million upon signature of this Agreement; (ii) a further instalment of USD 2.5 million one (1) month prior to the opening of the launch window; (iii) a further USD 2.5 million on the first day of the launch window; and (iv) the remaining balance of USD 2.5 million to be paid upon the safe and successful landing back on Earth.
- 2.3 The payments made under this clause are non-refundable, except as otherwise expressly provided in Clause 3 (Cancellation).

2.4 In the event that any payment is not received by the due date, the Space Flight Operator reserves the right to postpone or cancel the space flight, subject to the terms outlined in Clause 3 (Cancellation).

### **3. Cancellation**

3.1 The Passenger may at its discretion, and by written notice terminate this Agreement at any point in time prior to the launch date. In the event of such cancellation, the Passenger forfeits unconditionally any payment already made, or due and payable, under Clause 2.2 of this Agreement.

3.2 The Space Flight Operator retains the right to cancel the space flight at any point of time prior to the launch date, providing a full refund to the Passenger of any payments made under Clause 2.2 of this Agreement.

3.3 In the event of a cancellation by either party, the Parties will undertake reasonable efforts to reschedule the space flight to a mutually agreeable date. Any rescheduled space flight shall be subject to availability and the terms of this Agreement.

### **4. Assumption of risk**

4.1 The Passenger acknowledges and accepts that space travel involves inherent risks, uncertainties, and the possibility of unforeseen events. The Passenger is aware that despite the Space Flight Operator's best efforts, certain risks may remain unavoidable.

4.2 The Passenger affirms that their participation in the space flight is voluntary and that they have not been coerced or unduly influenced to participate against their will.

4.3 The Passenger acknowledges the potential health risks associated with space travel, including but not limited to physiological changes, motion sickness, and the impact of microgravity on the human body. The Passenger agrees to undergo any necessary medical evaluations and follow medical recommendations provided by the Space Flight Operator.

- 4.4 The Passenger understands and accepts the possibility of unforeseen events or emergencies during the space flight, including but not limited to equipment malfunctions, changes in mission plans, or other factors that may necessitate adjustments to the itinerary or procedures.
- 4.5 Subject to applicable law, the Space Flight Operator shall not be liable for any loss, damage, injury, or expense of any kind arising out of or in connection with the space flight, except for liability arising from gross negligence or wilful misconduct. In all circumstances, the Space Flight Operator's total liability for any and all claims shall be limited to a maximum of USD 1 million.
- 4.6 The Passenger acknowledges that the behaviour or actions of fellow passengers during the space flight may also contribute to the overall risk, and the Passenger assumes the risk associated with the actions or omissions of others, with no recourse or claim against fellow passengers.

## **5. Medical Evaluation**

- 5.1 The Passenger agrees to undergo a medical evaluation conducted by a qualified medical professional designated by the Space Flight Operator to determine their fitness for space travel. The evaluation may include, but is not limited to, a review of the Passenger's medical history, physical examination, and any additional tests deemed necessary by the medical professional.
- 5.2 The Passenger declares and represents that, to the best of their knowledge and belief, they are not aware of any medical conditions or symptoms of a potential medical condition that may affect their fitness to participate in the space flight. The Passenger further acknowledges the importance of providing accurate and complete information during the medical evaluation.
- 5.3 The Passenger undertakes to promptly inform the Space Flight Operator if there is any change in their medical condition or if they become aware of any medical symptoms that may affect their fitness for space travel. This includes any changes that occur between the time of the initial medical evaluation and the scheduled launch date.

- 5.4 In the event of a change in the Passenger's medical condition that, in the reasonable opinion of the Space Flight Operator, may affect their ability to safely participate in the space flight, the Space Flight Operator reserves the right to deny boarding to the Passenger, subject to Clause 3.3 above.
- 5.5 The Passenger acknowledges that they bear the responsibility for promptly reporting any changes in their medical condition to the Space Flight Operator, and that failure to do so may impact their eligibility to participate in the space flight.
- 5.6 The medical information obtained during the evaluation process will be treated with the utmost confidentiality by the Space Flight Operator, in compliance with applicable privacy laws and regulations.

## **7. Space Flight Operator Safety Protocols**

- 7.1 The Space Flight Operator shall ensure compliance with the safety requirements under applicable law, including but not limited to the Human Spaceflight Activities Regulations of the United Arab Emirates 2022
- 7.2 In addition to the requirements under applicable law, the Space Flight Operator undertakes to make reasonable efforts to ensure that its safety protocols are in compliance with:
- (a) The latest version of the United States Federal Aviation Administration's Recommended Practices for Human Space Flight Occupant Safety.
  - (b) Parts 7, 8 and 12 of the Space Industry Regulations 2021 applicable in England and Wales.
- 7.3 The Space Flight Operator will periodically review and, if necessary, update its safety protocols to reflect changes in regulations, technology, or best practices in the space flight industry.
- 7.4. The Space Flight Operator agrees to provide the Passenger with a comprehensive safety briefing before the scheduled launch, detailing emergency procedures, safety protocols,

and any other information deemed necessary for the safe and informed participation of the Passenger in the space flight.

## **8. Governing law and jurisdiction**

8.1 This Agreement and any disputes or claims arising out of or in connection with it shall be governed by and construed in accordance with the laws of the Dubai International Financial Centre (DIFC), excluding its conflict of law principles.

8.2 The Parties agree that any dispute, controversy, or claim arising out of or in connection with this Agreement, or the breach, termination, or invalidity thereof, shall be submitted to the exclusive jurisdiction of the DIFC Courts – Courts of Space Division.

## **9. Entire agreement**

9.1 This Agreement constitutes the entire understanding between the Parties concerning the subject matter hereof and supersedes all prior and contemporaneous agreements, whether oral or written, between the Parties relating thereto.

9.2 No representations, warranties, or agreements, oral or otherwise, express or implied, that are not expressly set forth in this Agreement shall have any force or effect.

9.3 Any modifications to this Agreement must be in writing and signed by both Parties to be valid.

## **10. Severability**

10.1 If any provision of this Agreement is found to be invalid, illegal, or unenforceable, the remaining provisions shall continue in full force and effect.

10.2 The failure to enforce any provision of this Agreement shall not constitute a waiver of that provision or any other provision.



IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

FOR AND ON BEHALF OF SOLARDREAM INC

X Δ

13 December 2023

FOR AND ON BEHALF OF ASTROTHERIA ARTEMIS

ASTRO T A

13 December 2023