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## CFI 003/2025 7CI Technologies Limited v Liberty Steel Group Holdings (E M E A) Ltd

JULY 11, 2025 COURT OF FIRST INSTANCE - ORDERS

Claim No: CFI 003/2025

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

7CI TECHNOLOGIES LIMITED

Claimant

LIBERTY STEEL GROUP HOLDINGS (E M E A) LTD

Defendant

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### AMENDED ORDER WITH REASONS OF H.E. JUSTICE SIR JEREMY COOKE

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UPON the Claimant's Application No. CFI-003-2025/1 dated 23 April 2025 for immediate judgment or, in the alternative, an order for payment on account (the "Immediate Judgment Application")

AND UPON the Claimant's Application No. CFI-003-2025/2 dated 30 June 2025 to include the Third Witness Statement of Owen Connolly (the "30 June Application")

AND UPON the Defendant's Application No. CFI-003-2025/3 dated 4 July 2025 for an order granting permission to amend the Defence and to file a Counterclaim against the Claimant (the "Permission Application")

AND UPON hearing Counsel for the Claimant and Counsel for the Defendant at a hearing held on 8 July 2025 before H.E. Justice Sir Jeremy Cooke

AND UPON considering the case file and the evidence on record

IT IS HEREBY ORDERED THAT:

1. The 30 June Application is granted.
2. The Permission Application is denied.
3. The Immediate Judgement Application is granted as follows:
  - (a) The Defendant shall pay the Claimant a sum of AED 3,403,756 in respect of the outstanding invoices;
  - (b) The Defendant shall pay the Claimant a sum of AED 773,640 in respect of the early termination claim;

- (c) The Defendant shall pay the Claimant a sum of AED 54,320.80 in respect of further damages (excluding a sum of AED 32,898.20 originally pleaded).
4. Interest is awarded on the aforesaid sums from their due date until 30 June 2025 at a rate of 5% per annum and accordingly, the Defendant shall pay the Claimant a total sum of AED 4,445,958.80 (the "Judgment Sum").
  5. Interest shall accrue on the Judgment Sum at a rate of 10% per annum from 1 July 2025 until payment in full.
  6. The Defendant shall pay the Claimant's costs in the proceedings, summarily assessed at a sum of USD 165,485 ("Costs").
  7. Interest shall accrue on Costs at a rate of 10% per annum from the date of this judgment until payment in full.

Issued by:  
**Delvin Sumo**  
Assistant Registrar  
Date of issue: 11 July 2025  
Date of re-issue: 11 July 2025  
Time: 11am

## SCHEDULE OF REASONS

### Introduction

1. The Claimant seeks immediate judgment against the Defendant in respect of a series of invoices rendered under three agreements, all of which were signed by senior personnel on behalf of the Defendant. The first was the COD Agreement signed by the Defendant's CEO on 2 June 2021 in which the Defendant accepted the Terms of Service of the Claimant. The second was the SI Agreement dated 31 October 2021, signed by the Defendant's CFO, in which the Defendant likewise accepted the Terms of Service of the Claimant. The third was the Master Services Agreement signed by the Defendant's CIO on 1 February 2024, which was effective from that date. That Master Agreement contained definitions as to "Fees" and "Services", referring to services provided by the Claimant pursuant to one or more Service Orders including software license grants, maintenance and support, equipment and professional services. Service Orders were subject to the terms of the Master Services Agreement.

2. The Defendant applies for permission to amend its Defence by including a series of allegations based on an internal draft report of 29 May 2024 which raised various accusations of mismanagement by the Claimant and raised a counterclaim for over AED 7.13 million. As pointed out by the Claimant, and threat of a counterclaim was made by the Defendant's previous legal representatives on 24 April 2025, a day after the Claimant had filed its application for immediate judgement (the "Immediate Judgment Application"). The application to amend was not made for approximately another 10 weeks. There was on 22 May 2025 a notice of change of legal representative, one day after the Defendant was due to file its evidence in answer to the Claimant's Immediate Judgment Application. An extension was then sought by these new representatives for filing evidence but without mention of any potential amendment of the pleadings. The evidence was filed on 28 May in response to the Immediate Judgment Application, which included much of the matters which subsequently appeared in the counterclaim, with a paragraph noting that an application for permission to file an amended Statement of Defence and Counterclaim would be made shortly. That application was not made until 4 July 2025 (the "Permission Application"), some six weeks later, at the same time as filing its skeleton argument for the hearing of the Immediate Judgement Application.

### The Claim and the Original Defence

3. All the invoices in respect of which claims are made postdate the Master Services Agreement save for one particular invoice, namely INV 2022/02 which the Defendant maintains was not received until 20 September 2024 on reconciliation of the parties' ledgers. Notwithstanding the argument put forward by the Defendant that the terms of the Master Services Agreement might not apply to the earlier two agreements, I am satisfied that those terms constituted the Terms of Service to which the other agreements referred.

4. The main significance of this point is that the Master Services Agreement contained at clause 1.44 and clause 1.45 anti-set off provisions preventing the Defendant from withholding or setting off any fees due and further requiring the Defendant, if disputing in good faith any portion of a fee, to make full payment of the undisputed portion and to provide the Claimant on or before the due date for payment, a written and reasoned notification of the disputed portion of the fee setting out in sufficient detail the grounds for the dispute. At no time were any of the invoices in question disputed, nor any notification of any disputed part of a fee, until service of the defence in this matter on 27 February 2025. All three agreements required payment within 15 days after receiving the invoice, with the COD Agreement and the SI Agreement providing for invoicing and/or payments monthly or quarterly in advance.

5. Additionally, the Master Services Agreement provided that the Defendant was to be exclusively responsible for the lawful procurement and maintenance of all licences, permits and regulatory authorisations required. It also contained in a liability limitation clause which excluded the liability of the Claimant for consequential loss including lost profits, however caused absent wilful misconduct on the part of the Claimant.

6. In its original Defence, the Defendant admitted that services were provided by the Claimant but not the extent nor the standard thereof. The Defendant admitted that under the SI Agreement, quarterly payments of USD 243, 569.17 (+5% VAT) were payable but averred that the contract required it to pay for 21,000 endpoints, which the Claimant had said was necessary, but which was excessive. A further defence was raised in relation to two invoices under the MSA in respect of the period following the Defendant's notice of termination dated 27 September 2024, namely that there had been an agreement to a reduced scope of work for that period for which lesser sums were due.

### The Evidence

7. In support of its position, the Claimant filed four witness statements of Owen Connolly whilst the Defendant filed two witness statements from Paul Francis, who was the president of the Middle East for GFG Alliance which included responsibility for the executive management of companies within the Liberty Steel Group in the Middle East Region, including the Defendant. He stated that the facts in his witness statement were derived from his knowledge and were true and where they were not within his knowledge, he had stated the source of information and confirmed that the facts were true to the best of knowledge and belief. In his witness statements, Mr Francis raised a series of complaints about the services performed by the Claimant and said that an application to amend the Defence and raise a counterclaim would be made, as set out above. He did not appear to assert any direct knowledge of any of the facts and matters outlined in his statement and the essential complaints he raised did not set out the source of them, save as appears below by reference to internal review documents.

8. Mr Connolly was directly involved in the provision of the services, as part of his secondment to the Defendant in the role of group CISO. He was able to speak with first hand knowledge of the events to which the parties' pleadings referred. He referred to documents which supported his evidence whereas Mr Francis gave evidence which was contradicted by some contemporaneous documents, including in particular the WhatsApp exchanges that he had with Mr Connolly between November 2023 and January 2025 which revealed the defendant giving assurances of payment and then failing to make good on those assurances. At no point in those exchanges was there any criticism of the Claimant's performance of services under any of the agreements.

9. Reliance was placed by Mr Francis on an internal audit IT review in the form of a draft report dated 29 May 2024 which investigated allegations made by a whistleblower who has since been dismissed. The unknown authors referred to information obtained from three other employees including the CIDO who, it appeared, had also left the Defendant's employment, after a year, under something of a cloud. Irregularities were alleged in relation to misuse of IT funds and inefficiency in Project Management of a serious nature which were alleged to have led to losses of some USD 4 million, some of which are arguably consequential. It was said that the whistleblower complaint was first made on 8 March 2024. The IT Report and an updating Note were said to have been first put together by the newly hired CIDO, hired in January 2024. Mr Francis not only failed to mention the fact of the dismissal of the whistleblower (a highly significant matter for a large-scale corporation) but also the fact that the CIDO had left in difficult circumstances. Whilst summarising the terms of the draft report and stating that this was evidence of breach of contract on the part of the Claimant, Mr Francis also failed to focus on the respective responsibilities of the Claimant as adviser and the senior staff in the IT department who were responsible for the allegedly defective procurement of products and licences and the fulfilment of internal processes in doing so. There was an assertion of a conflict of interest on the part of Mr Connolly in connection with the Sentinel software, despite the recognition in paragraph 32 of Mr Francis' witness statement that the Defendant knew that the Claimant was acquiring the software from Sentinel and on selling it to the Defendant and the need for payment in advance by the Defendant so that the Claimant could pay the supplier. He failed to mention that the requirement for 21,000 endpoints came from the Defendants' own IT personnel and represented the individual licence permissions required for the use of the Sentinel software to which the SI Agreement related, as set out at the beginning of that contract.

10. What was also missing from Mr Francis's evidence was any information as to what occurred after the provision of the draft report and draft update. There must inevitably have been some follow-up and conclusions reached, given the seriousness of the accusations made. It is absolutely clear that the Defendant must have accepted that none of the allegations made against Mr Connolly or the Claimants were true, since, if the Defendant had been at all concerned, the issues would have been raised with Mr Connolly, but they never were. Indeed, when the Defendant came to send the 90-day letter of termination on 27 September 2024, it was in the context of entering into a new contract with the Claimant with a different scope of work which was commensurate with the budget availability at corporate level. The notion that the Defendant would have continued to employ the Claimant post May 2024 and engaged with it in relation to a contract for its continuing IT security in circumstances where there was doubt as to the integrity or competence of the Claimant is risible. The only sensible conclusion is that the allegations which were never put to Mr Connolly were found to be false. To found allegations on the basis of a draft report without

indicating what occurred thereafter and what the final conclusions of the audit were, is irresponsible. The draft report itself referred expressly to the need to interview various employees as well as Mr Connolly, to the limited documentation available and to the inadequacy of two senior employees of the defendant, yet no evidence of any follow-up was produced. Mr Connolly himself gave evidence in relation to the criticisms made in the draft report which are uncontradicted and compelling. It is clear from the absence of further materials from Mr Francis that the allegations made in the draft report have not been substantiated nor accepted by the Defendant's management and the departure of some of those responsible for the information in the draft report is significant. Allegations put on the basis of this draft should never have been made. There is therefore no realistic prospect of success of the defences and counterclaims based on them.

#### **The Sums due under the Agreements for services rendered prior to the Notice of Termination of 27.9.24.**

11. What emerges from the correspondence and exchanges between the parties is that the Defendant, without raising any complaint of any kind against the Claimant, persistently failed to pay invoices rendered to it. Assurances were given that payment would be made which were then not kept, as seen in the WhatsApp exchanges between Mr Francis and Mr Connolly. In short, this appears to be a classic case of a contrived defence and counterclaim put forward in circumstances where the Defendant has financial problems of its own and seeks to excuse its failures to pay sums legitimately due.

12. There is no dispute as to the validity of INV 2022/22, whether first issued on 20 January 2022 or in September 2024 in relation to the COD Agreement. The three sums claimed under the SI Agreement are all quarterly payments of the kind that the Defendant had been paying over the prior two years and cannot be disputed as such; likewise the MSA payments were due on a monthly basis.

13. In the absence of any valid set off or counterclaim, these sums are indisputably due.

#### **The Claim for Invoices for Services in the period of the 90-day notice of termination**

14. Clause 1.57.3 of the MSA provided that the Claimant would invoice the Defendant for the pro-rated Services associated with the Standing Order to the effective date of termination and that the Defendant would remit the full invoiced amount within 10 calendar days of receiving the invoice. The Defendant terminated the MSA by notice on 29 September 2024. As pleaded in the Particulars of Claim, the Claimant issued two discounted invoices in the sum of AED 105,000 each, on condition that the full amount under the MSA of AED 257,880 per month would not be claimed if payment of the reduced sum was made on a timely basis. No such payment was made and the Claimant seeks to recover AED 773, 640 in respect of the 90 days. In its original defence, at paragraph 14, the Defendant alleged that the reduced amounts reflected a reduced scope of work which had been agreed between the parties, alternatively contending that the relevant clause was unfair, unenforceable and constituted a penalty. The latter argument was not pursued at the Hearing but in his witness statement, Mr Francis alleged that a series of meetings had taken place attended by the CIDO who had left the Defendant's employment, and the Claimant's CEO in which the parties had discussed a reduced scope of work in exchange for discounted invoices. It was said that on 27 September 2024 there had been an agreement to limited services and payment of AED 105,000 per month only. There was no documentary support for this allegation nor for a reduced scope of work in the period in question and Mr Connolly stated that no such agreement had been made. In the absence of any direct evidence of an agreement of this kind, the Court must proceed on the basis of the terms of the MSA and concludes that the sum of AED 773, 640 is recoverable.

#### **The Claim for damages for failure to pay the SI Agreement Invoices**

15. It was alleged that, as a result of the Defendant's failure to pay sums due under the SI agreement punctually, the Claimant was unable to pay the provider of the Sentinel licence. Despite having managed to agree a payment plan on 31 May 2024 with the Sentinel supplier in order to assist the Defendant, the Defendant's continuing failure to pay sums due resulted in a shortage of funds on the part of the Claimant with which to pay the supplier, which then led the supplier to sue the Claimant for USD 561, 171.52. In an attempt to mitigate loss, the Claimant then entered into a settlement on 31 December 2024 with the supplier in that very sum (expressed in AED). The Claimant incurred legal costs in the sum of AED 54,320 and paid the supplier's court fee of USD 8,964.10. The Settlement Agreement produced to the Court, however, shows that the parties to that settlement agreement agreed that each side should bear its own costs and there would appear to be no basis for payment by the Claimant of that court fee.

16. Under the Law of Damages and Remedies, Articles 9 – 12 set out the general principles which apply to claims for damages for nonperformance of a contract. Under Article 17, where a party does not pay a sum of money when it is due, the aggrieved party is entitled to interest upon that sum from the time when payment is due to the time of payment. The rate of interest is the average bank short-term lending rate for prime borrowers prevailing for the currency of payment at the place for payment. Article 17 (3), however, provides that the aggrieved party is entitled to additional damages if the non-payment caused it a greater loss, subject to the foreseeability requirement in Article 12.

17. An examination of the evidence and the exchanges between the parties shows that the Defendant was well aware of the Claimant's liquidity difficulties and the need for it to pay the Sentinel providers with funds provided by the Defendant. The Claimant, as revealed by the WhatsApp messages, made its position clear and the fear that absence of payment by the Defendant might cause the Claimant itself to go into insolvency. Its inability to borrow funds and to pay the supplier and the risk of suit by the supplier was clearly foreseeable by the Defendant. This is shown by the payment plan negotiated by the Claimant with the supplier which was agreed on 31 May 2024 in order to assist the Defendant. The very structure of the SI Agreement with its provision requiring regular payment in advance by the Defendant illustrates the knowledge and foreseeability of the latter. I conclude that the requirement of foreseeability is met in respect of the costs incurred in settling the supplier's claim and that therefore, in addition to interest payable on the sums due, the sum of AED 54, 320 is recoverable as damages in respect of those legal costs.

#### **The Application to amend the Defence and raise a counterclaim**

18. I have already recorded the sequence of events surrounding this Application, the lateness at which it was made and have found above that there is no substance to it. In these circumstances I refuse permission to amend both because of the tardiness of the application and its inherent weakness which means that it has no realistic prospect of success.

#### **Interest and Costs**

19. Since the Claimant has obtained judgment and the application for permission to amend to include the counterclaim has been refused, the Claimant is plainly entitled to its costs, which were claimed on the indemnity basis. The claim for indemnity costs was put on the basis of the Defendant's conduct of the litigation but also by reason of a Part 32 offer to which I refer below.

20. The Claimant's calculation of interest due up to 30 June 2025, as I understand it, was based on a rate of 5% from the date when payment of the invoices should have been made. In relation to interest thereafter, the Claimant relied upon a Part 32 offer to accept AED 3,403,755 from the Defendant, which it made on 8 May 2025 and which it has comfortably beaten in recovery under this judgment. 21 days from the date of the offer expired on 29 May 2025 and under RDC 32.51, the Court will, unless it considers it unjust to do so, order that the claimant is entitled to interest on the whole or part of any sum of money (excluding interest), awarded at a rate not exceeding 10% above base rate for some or all of the period starting with the date on which the relevant period expired, together with costs on an indemnity basis from the same date and interest on those costs at a rate not exceeding 10% above base rate.

21. In these circumstances, I consider that the Claimant should be entitled to interest at the rate of 10% on the principal sums which were outstanding at 30 June 2025 until payment. I also consider that, since no reasoned objections were put forward in relation to the claim for costs in the sum of AED 165,485, the Claimant should be awarded those costs, and that interest should run thereon at the rate of 10% from the date of this judgment until payment.

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