

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE FSD NO. 24 OF 2013

IN THE MATTER OF THE COMPANIES LAW (2012 REVISION)
AND IN THE MATTER OF MOBILEPEAK HOLDINGS, LTD (the "Company").



CONSENT ORDER

UPON the Company having made a payment into Court pursuant to GCR O.22, r.1 on 5th September 2013 (the "**Payment Into Court**");

AND UPON the Company having served the Petitioners with notice of the Payment Into Court under GCR O.22, r.1(2) (the "**Payment Notice**") on 5 September 2013;

AND UPON the Payment Into Court not having been accepted by the Petitioners within twenty one days after receipt of the Payment Notice or prior to the date of this Order;

AND WHEREAS THE Petitioners have requested that the Company make an interim payment in the sum of US\$300,000 (United States Dollars Three Hundred Thousand) (the "**Interim Payment**") pursuant to GCR O.29;

AND WHEREAS the Company has agreed to make the Interim Payment expressly subject to the terms and conditions herein;

AND WHEREAS the Petitioners hereby expressly and irrevocably agree and acknowledge that:-

- (1) the Interim Payment is made expressly in respect of such amount that the Company may be found to be liable to pay to the Petitioners in respect of the value of the shares formerly held by the Petitioners in the Company which are the subject of these Proceedings (the "**Shares**") and that the Interim Payment is to be applied *pro rata* against the value of the Shares;
- (2) in the event that the value of the Shares is found to be less than US\$300,000 and/or the Petitioners are found to be liable to the Company for costs or otherwise, the Petitioners shall be



liable to refund any applicable deficiency to the Company forthwith and that the Company's position and rights in respect thereof are fully reserved in their entirety and without limitation;

- (3) the Company's rights are fully reserved in their entirety and without limitation to apply for an Order permitting the Company to retain and set-off any costs that may be awarded to the Company from any amount that may be payable to the Petitioners in connection with these Proceedings; and
- (4) in the event that any settlement agreement shall be reached between the Petitioners and the Company, the Interim Payment shall be a credit standing in favour of the Company against any settlement sum that the parties may agree.

AND WHEREAS the Company hereby expressly and irrevocably agrees and acknowledges that the acceptance of the Interim Payment by the Petitioners shall not be construed as an acceptance of the Payment Into Court for the purposes of GCR O.22, r.3, insofar as an acceptance of the Payment Into Court would otherwise:-

- (1) constitute a full, final and complete satisfaction of the Petitioners' cause(s) of action in these proceedings; and/or
- (2) have the effect of staying the Petitioners' cause(s) of action in these proceedings.

AND UPON the parties agreeing that notwithstanding the withdrawal of the Interim Payment from the Payment Into Court, no amendment to the Payment Notice shall be required and the Payment Notice shall continue to have full force and effect with respect to the full amount of the Payment Into Court as if the Interim Payment had not been withdrawn from the Payment Into Court;

AND UPON the Court reading the letter dated 9th October 2013 from Stuarts Walker Hersant and subsequent correspondence;

AND UPON the Court determining that this matter may be dealt with "on the papers" without the need for a hearing

IT IS HEREBY ORDERED by Consent that:

- (1) upon and subject to the terms and conditions set out in the Recitals herein as irrevocably acknowledged and agreed by the Petitioners and the Company, the Company make the Interim

Payment to the Petitioners payable to their Attorneys, Appleby, in the sum of US\$300,000 pursuant to GCR Order 29 rule 10;

- (2) the said sum of US\$300,000 be paid out forthwith from the Designated Account of the Court credited to these Proceedings (such sum having been deposited by the Company by way of the Payment Into Court);
- (3) notwithstanding the withdrawal of the Interim Payment from the Payment Into Court, the amount of the Payment Into Court shall not be deemed to be revoked, reduced or otherwise modified for the purposes of GCR Order 22 and, *inter alia*, the allocation of costs between the Company and the Petitioners; and
- (4) costs in the cause.

Date this 30th day of October 2013

Filed this 30th day of October 2013



The Hon. Mr. Justice Angus Foster
JUDGE OF THE GRAND COURT



Agreed as to form and content:

Appleby (Cayman) Ltd.
APPLEBY (CAYMAN) LTD.
Attorneys for the Petitioners

Stuarts Walker Hersant
STUARTS WALKER HERSANT
Attorneys for the Company



This Order is filed by Stuarts Walker Hersant, on behalf of the Respondent, whose address for service is Fourth Floor, Cayman Financial Centre, 36a Dr. Roy's Drive, George Town, Grand Cayman, KY1-1104, Cayman Islands. Ref: RTWA/AA/5760