



IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

FSD CAUSE NO OF 2021

IN THE MATTER OF THE COMPANIES ACT (2020 REVISION)
AND IN THE MATTER OF HABTOOR INTERNATIONAL

WINDING UP PETITION

TO: **THE GRAND COURT OF THE CAYMAN ISLANDS**

The humble petition of **LIBYAN FOREIGN BANK (LFB)** and **Leptis Ltd. (Leptis)** of c-/ Travers Thorp Alberga, Attorneys-at-Law (TTA), whose registered office is situated 2nd Floor Harbour Place, 103 South Church Street PO Box 472, Grand Cayman, KY1-1106, Cayman Islands (the **Petitioners**) **SHOW THAT:**

- 1 The Petitioners are creditors of Habtoor International (the **Company**) and seek the winding up of the Company pursuant to section 92 (d) Companies Act (2020 Revision) (the **Companies Act**) on the ground the Company is unable to pay its debts.

BACKGROUND

- 2 The Company is an exempted company incorporated with limited liability under the laws of the Cayman Islands on 26 May 2014 and registered pursuant to the Companies Act with registered number 288237. The Company's registered office is 190 Elgin Avenue, George Town, Grand Cayman, KY1-9005, Cayman Islands.

CORPORATE PURPOSE & ACTIVITIES

- 3 According to the Company's Memorandum, the objects for which the Company was established are unrestricted and the Company has full power and authority to carry out any object not prohibited by any law as provided under Section 7 (4) of the Companies Act of the Cayman Islands.
- 4 The Petitioner understands the Company's principal activity was to raise funding to finance existing projects and setup of new projects in automotive distribution in Middle East and North Africa.

This **PETITION** was filed by Travers Thorp Alberga, Attorneys-at-Law for the Petitioners, whose address for service is 103 South Church Street, Grand Cayman, Cayman Islands. 1

SUBSCRIPTION AGREEMENT

- 5 The Petitioner LFB is a public company incorporated in Libya in 1971. It is a wholly owned subsidiary of the Central Bank of Libya. The Petitioner Leptis is in the same group of companies as LFB.
- 6 On 3 June 2014 LFB, acting by its then agent/noteholder representative Tradexec (**Tex**) Limited, subscribed for \$30,000,000 of \$100,000,000 Term Notes (the **Notes**) issued by the Company.
- 7 LFB has subsequently replaced Tex as its agent/noteholder representative with Leptis, who have joined as petitioners and fully support LFB's claim.
- 8 The material terms of the subscription were set out in a Subscription Agreement and a Terms and Conditions document dated 3 June 2014, which were governed by Luxembourg Law. Amongst other things these terms provided as follows:
 - a. The Notes would mature and become payable on or before 3 June 2019.
 - b. Interest would be payable by the Company in respect of all sums outstanding in respect of the Notes at a rate of 6% per annum, payable on 4 June each year following the Subscription Agreement.
 - c. The Notes would be in bearer form but had been accepted for clearing and settlement by Clearing Agencies including Clearstream.
- 9 Amongst other things, the petitioners rely on the affidavit of Nicholas Thieltgen dated 18 February 2021 as evidence that the Notes are due as a matter of applicable law and a statement from Clearstream dated 25 December 2019 which evidences LFB's standing as owner of the Notes.

DEFAULT ARISING FROM THE FAILURE TO PAY ON MATURITY DATE

- 10 On 11th November 2020 a Statutory Demand (the **Statutory Demand**) in the form prescribed by the Companies Winding Up Rules (2018 Revision) (**CWR**) was served on the Company at its registered address by the petitioners' attorneys, Travers Thorp Alberga (**TTA**), demanding payment of the outstanding amount of the sum of US\$30,000,000 plus interest then due of US\$3,800,000 (the **Debt**).
- 11 Pursuant to CWR Order, Rule 2(6), the Statutory Demand included a statement that if the payment was not made within 21 days of the date upon which it was served on the Company, the Company

would be deemed to be insolvent and a winding up petition may be presented against the Company pursuant to section 92(d) of the Companies Act.

- 12 The Company failed to pay the debt within 21 days of service of the Statutory Demand (or at any time subsequently) and the whole of the Debt remains outstanding in full as at the date presentation of this winding up petition.
- 13 Based on the Company's failure to satisfy the Statutory Demand or otherwise make any arrangements for the payment of the Debt, the Company is deemed unable to pay its debts and is liable to be wound up.
- 14 In the circumstances it is just and equitable that the Company should be wound up.
- 15 Declan Magennis and Russell Smith , both of BDO CRI (Cayman) Ltd., of 3rd Floor, Century Yard, Cricket Square, Elgin Avenue, Grand Cayman KY1-1205 have undertaken due conflict checks in relation to the Company and they meet the residency, eligibility and insurance requirements of the Insolvency Practitioners Regulations 2008 (as amended). They both also consent to their appointment as JOLs.

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

- 1) The Company be wound up in accordance with the Companies Act.
- 2) Declan Magennis and Russell Smith , both of BDO CRI (Cayman) Ltd., of 3rd Floor, Century Yard, Cricket Square, Elgin Avenue, Grand Cayman KY1-1205 be appointed as Joint Official Liquidators (JOLs) of the Company.
- 3) The JOLs shall not be required to give security for their appointment.
- 4) The JOLs shall have the power to act jointly and severally in their capacity as liquidators of the Company.
- 5) The JOLs be authorized to take any such action as may be necessary or desirable to obtain recognition of the JOLs and/or their appointment in any other relevant jurisdiction and to make applications to the courts of such jurisdictions for that purpose.
- 6) The JOLs be authorized to do any act or thing considered by them to be necessary or desirable in the connection with the liquidation of the Company and the winding up of its affairs.

- 7) The JOLs are hereby authorized to exercise any of the powers listed in Part I and Part II of Schedule 3 and Section 110(2) of the Companies Act without further sanction or intervention of the Court.
- 8) No disposition of the Company's property by or with the authority of the JOLs carrying out their duties and function and exercise their powers under this Order shall be voided by virtue of section 99 of the Companies Act.
- 9) The JOLs be authorized to engage staff (whether or not as employees of the Company) to assist them in the performance of their functions.
- 10) The JOLs be at liberty to appoint such counsel, attorneys, and professional advisors as they may consider necessary to advise and assist them in the performance of their duties in accordance with CWR Order 25 on such terms as they think fit and to remunerate them out of the Company's assets.
- 11) Subject to section 109(2) of the Companies Law and the Insolvency Practitioner's Regulations 2008 (as amended), the JOLs be authorized to render pay invoices out of the assets of the Company for their own remuneration.
- 12) The JOLs be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties and, for the avoidance of doubt all such payments shall be made as and when they fall due out of the assets of the Company as an expense of the liquidation.
- 13) The Petitioner's costs shall be paid out of the assets of the Company as an expense of the liquidation, such costs to be taxed if not agreed with the JOLs.
- 14) Such further or other relief be granted as the Court deems appropriate.

AND your Petitioners will ever pray etc.

Dated the 17th day of March 2021.



Travers Thorp Alebrga
Attorneys for the Petitioner

Note: This petition is intended to be served on the Company.