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THE 21ST LAWASIA INTERNATIONAL MOOT

IN THE ASIAN INTERNATIONAL ARBITRATION CENTRE

SEOUL SPECIAL METROPOLITAN CITY

REPUBLIC OF KOREA

2026

BETWEEN

NOVA LIVE ASIA PTE LTD
(CLAIMANT)

and

AURORA ENTERTAINMENT CO LTD
(RESPONDENT)

MEMORIAL FOR RESPONDENT

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STATEMENT OF JURISDICTION

1. The Respondent appears before this Tribunal solely for the purpose of contesting its jurisdiction.
2. The Respondent respectfully submits that no valid arbitration agreement exists between the Parties in relation to the Concert Promotion and Performance Agreement dated 7 January 2026.
3. As arbitration is founded exclusively upon the Parties' consent, this Tribunal cannot assume jurisdiction in the absence of a valid agreement to arbitrate.
4. Accordingly, the Respondent objects to the jurisdiction of this Tribunal and respectfully requests that all of the Claimant's claims be dismissed.

QUESTIONS PRESENTED

1. Whether this Arbitral Tribunal has jurisdiction over the present dispute?
2. Whether the Respondent's application for security for costs should be granted?
3. Whether Aurora's deployment of the E-Hologram constituted a breach of the Agreement?
4. Whether the Respondent's Counterclaim should be upheld?

STATEMENT OF FACTS

1. The Contract

1.1 On 7 January 2026, Aurora Entertainment Co. Ltd. ("the Respondent") and Nova Live Asia Pte. Ltd. ("the Claimant") entered into a Concert Promotion and Performance Agreement ("the Agreement").

1.2 The Agreement was governed by the UNIDROIT Principles of International Commercial Contracts 2016.

1.3 The Agreement provided for the promotion and staging of a live concert featuring the R-Pop group ECLIPSE in Reyna.

1.4 The Agreement required the concert to be held on 7 February 2026 at the National Stadium of Reyna.

1.5 Under the Agreement, the Respondent was entitled to a fixed Performance Fee of USD 2,500,000, together with Royalties calculated as a percentage of the Gross Concert Revenue.

2. The Pre-Performance Incident

2.1 On 24 January 2026, Luna, a member of ECLIPSE, was subjected to unsolicited physical contact by a fan during a meet-and-greet event.

2.2 Following the incident, Luna developed severe anxiety regarding public appearances. Despite attending therapy sessions, she failed to attend rehearsals on 4 February 2026, three days before the scheduled concert.

2.3 On 4 February 2026, the Respondent located Luna and confirmed that she was suffering from overwhelming anxiety and was unwilling to perform.

2.4 On the evening of 4 February 2026, the Respondent informed the Claimant of Luna's condition. In light of Luna's inability to perform, Aurora proposed replacing her live appearance with a holographic representation generated using its proprietary AI technology.

2.5 The Claimant initially objected to the proposed holographic substitution but ultimately agreed to proceed with the concert on the express condition that the use of the hologram remained confidential.

3. The Performance and Immediate Aftermath

3.1 The concert proceeded as scheduled on 7 February 2026.

3.2 During the concert, the Respondent deployed a holographic representation of Luna. The hologram replicated Luna's voice, choreography, and stage presence in real time while synchronising with the live performance of the other four members of ECLIPSE.

3.3 Approximately 90,000 audience members attended the concert.

3.4 Immediately following the concert, the Claimant publicly praised the performance on social media, describing it as a success.

3.5 On 10 February 2026, Aurora issued an invoice to the Claimant for USD 3.6 million, comprising the Performance Fee, expenses, and promotional fees, and requested an accounting of the Gross Concert Revenue for the calculation of Royalties.

4. The Dispute

4.1 A social media user posted a video on RooTube suggesting that a minor visual glitch indicated the use of a hologram following Luna's inability to perform.

4.2 A few days later, the Claimant received an email from a fan inquiring about the online speculation and requesting a refund if the allegation proved to be true.

4.3 On 25 February 2026, the Respondent sent a formal follow-up letter regarding the outstanding invoice.

4.4 The Claimant subsequently refused to pay the invoice, asserting that the Respondent's use of the holographic technology constituted a breach of the Agreement.

4.5 The Claimant terminated the Agreement and initiated arbitration against the Respondent, alleging breach of contract.

4.6 The Respondent filed a Counterclaim in the arbitration seeking payment of the outstanding invoice and an order for security for costs.

4.7 The Respondent also commenced court proceedings to recover the outstanding amount.

4.8 On 26 February 2026, the Reyna High Court granted a stay of the court proceedings pending the determination of the arbitration commenced under the AIAC Arbitration Rules 2026.

SUMMARY OF PLEADINGS

I

1. The Arbitral Tribunal lacks jurisdiction to adjudicate the Claimant's claims because the Parties never concluded a valid arbitration agreement.

2. The Agreement contains no arbitration clause, and neither the Parties' previous course of dealing nor their subsequent procedural conduct can substitute for consent to arbitrate the present dispute. Accordingly, the Reyna High Court remains the proper forum. The High Court's stay of the proceedings does not constitute a judicial determination that a valid arbitration agreement exists.

II

1. The Claimant faces genuine liquidity issues, including the alleged misappropriation of funds by its CFO and a demonstrated pattern of delayed payments, creating a real risk that any adverse costs order in favour of the Respondent would not be satisfied.

2. The Respondent's request for USD 2 million represents a reasonable and proportionate estimate of the anticipated costs of these proceedings, having regard to the value, complexity, and procedural demands of the dispute.

III

1. The deployment of the E-Hologram was expressly authorised by Clause 3.1.1 of the Agreement, which permits the use of digital production technologies, and constituted a reasonable mitigation measure in response to Luna's medical emergency. Even if the Tribunal finds that the deployment technically departed from the Agreement, it did not substantially deprive the Claimant of its contractual expectations and therefore cannot constitute a fundamental breach.

IV

1. The Respondent fully performed its contractual obligations in accordance with the Agreement and applicable industry standards and is therefore entitled to payment of the

outstanding invoice. The Claimant's refusal to honour its contractual payment obligations constitutes a breach of contract, entitling the Respondent to recover the outstanding sums together with damages arising from the commercial and reputational harm caused by the Claimant's unjustified allegations concerning the authenticity of the performance.

PLEADINGS

PREAMBLE

1. Reyna is a common law jurisdiction.

2. This Agreement shall be governed by and construed in accordance with the UNIDROIT Principles of International Commercial Contracts (2016) and with respect to issues not covered by such Principles, by generally accepted principles of international commercial law.

3. The rules of the institution as when the arbitral request was made is the AIAC (Malaysia) in force as of 1 January 2026.

4. The seat of arbitration is Kuala Lumpur.

I. This Tribunal Lacks Jurisdiction over the Present Dispute

The Respondent respectfully submits that this Tribunal lacks jurisdiction because the Parties never concluded a valid arbitration agreement. Arbitration derives its authority exclusively from the Parties' consent, and no principle of international arbitration permits such consent to be inferred where none exists. Accordingly, the Reyna High Court remains the only competent forum for resolving the present dispute.

1.1 Arbitration is founded upon the Parties' consent, which is absent in the present case.

1.1.1. The Respondent submits that party autonomy is the cornerstone of international commercial arbitration. Unlike litigation before national courts, arbitration is entirely consensual. No party may be compelled to arbitrate unless it has clearly and unequivocally agreed to submit its disputes to arbitration. The existence of a valid arbitration agreement is therefore the indispensable precondition to this Tribunal's jurisdiction.

1.1.2. The Agreement contains no arbitration clause whatsoever. Nor is there any separate agreement demonstrating the Parties' intention to submit disputes arising from the Agreement to arbitration. In the absence of such consent, this Tribunal cannot assume jurisdiction merely because arbitration appears commercially convenient or procedurally efficient.

1.1.3. The Claimant is expected to rely upon Article 4.3(b) of the UNIDROIT Principles by arguing that the Parties' previous commercial relationship established an implied arbitration agreement. That argument is fundamentally misconceived. Article 4.3 concerns the interpretation of contractual terms already agreed by the Parties; it does not govern the formation of an arbitration agreement. Previous commercial practices may assist in interpreting contractual obligations, but they cannot create an agreement to arbitrate where none exists. This approach is entirely consistent with *First Options of Chicago Inc v Kaplan*, in which the United States Supreme Court reaffirmed that arbitration derives exclusively from the parties' consent and that consent cannot be presumed where the parties have not clearly agreed to arbitrate.

1.1.4. The Parties had every opportunity to include an arbitration clause when negotiating the Agreement dated 7 January 2026. Their deliberate omission of any dispute resolution clause must be regarded as intentional. Had the Parties intended arbitration to govern their future disputes, they could easily have expressed that intention in clear contractual language.

1.2 The Reyna High Court remains the natural and competent forum for the resolution of this dispute.

1.2.1. In the absence of a valid arbitration agreement, disputes arising from commercial contracts fall within the jurisdiction of the competent national courts. The Reyna High Court therefore remains the natural forum for determining the Parties' contractual rights and obligations.

1.2.2. Unlike an arbitral tribunal, the High Court possesses inherent judicial powers, including the power to compel witnesses, join third parties, grant interim relief, and enforce its judgments directly. Those judicial powers exist independently of the Parties' consent. By contrast, an arbitral tribunal derives every aspect of its authority solely from the Parties' agreement, which is absent in the present case.

1.3 The High Court's stay order does not constitute recognition of this. Tribunal's jurisdiction.

1.3.1. The Claimant may contend that the Reyna High Court's decision to stay the. court proceedings demonstrates judicial recognition of this Tribunal's jurisdiction. That submission should be rejected.

1.3.2. The stay order merely suspended parallel court proceedings pending the. resolution of the jurisdictional dispute. It was a procedural measure designed to avoid inconsistent proceedings and unnecessary duplication of judicial resources. It did not determine that a valid arbitration agreement existed between the Parties.

1.3.3. Accordingly, the Respondent remains fully entitled to maintain its objection. to this Tribunal's jurisdiction notwithstanding the High Court's procedural stay.

1.4 Neither the doctrine of forum non conveniens nor the Respondent's procedural. participation confers jurisdiction upon this Tribunal.

1.4.1 The doctrine of forum non conveniens becomes relevant only where two competent forums simultaneously possess jurisdiction over the same dispute. That prerequisite is absent here. Because no valid arbitration agreement exists, this Tribunal cannot be regarded as a competent forum. The question is therefore not which forum is more convenient, but whether this Tribunal possesses jurisdiction at all.

1.4.2 The Claimant may further argue that the Respondent accepted this Tribunal's jurisdiction by participating in these proceedings and filing a Counterclaim. That submission is likewise unsustainable. The Respondent participated solely to preserve its procedural rights and to avoid the risk of default. Such participation cannot constitute consent to arbitration, nor can it amount to a waiver of its continuing jurisdictional objection.As explained by Gary Born, participation in arbitral proceedings for the purpose of preserving procedural rights does not, without more, constitute consent to arbitration or a waiver of an existing jurisdictional objection.

1.4.3 Accordingly, this Tribunal should decline jurisdiction and dismiss the Claimant's claims in their entirety.

II. The Respondent's Application for Security for Costs Should Be Granted

The Respondent submits that the Claimant is a risky defendant who might not be able to pay costs if it wins. **The Respondent respectfully submits that an order for security for costs is both justified and necessary. Such an order protects the integrity of the arbitral process where there exists a real risk that the unsuccessful party will be unable to satisfy an adverse costs award. The evidence before the Tribunal demonstrates precisely such a risk.**

2.1 The Claimant presents a real risk of non-payment.

2.1.1 The Respondent became aware that the Claimant's Chief Financial Officer had allegedly misappropriated company funds, giving rise to serious liquidity concerns. In addition, the Claimant had failed to make timely payment to TF Entertainment for more than three months in relation to a previous concert.

2.1.2 The Respondent further discovered evidence indicating a broader pattern of delayed payments by the Claimant across multiple jurisdictions. Such conduct demonstrates that the Claimant may experience continuing financial difficulties in satisfying any adverse costs order.

2.1.3 Taken together, these circumstances establish more than mere speculation. They demonstrate a genuine and objectively reasonable risk that the Respondent would be unable to recover its legal costs should it ultimately succeed in these proceedings. Gary Born recognises that security for costs is justified where objective evidence establishes a genuine enforcement risk. The evidence before this Tribunal demonstrates far more than mere speculation and therefore justifies the Respondent's application.

2.2 An order for security for costs is both necessary and proportionate.

2.2.1 The Tribunal possesses broad procedural discretion to protect the integrity and fairness of the arbitral process. Security for costs is designed to prevent a successful party from being deprived of its entitlement to recover costs merely because the opposing party lacks the financial capacity to satisfy an award.

2.2.2 The Respondent seeks security solely to protect itself against a substantial enforcement risk. The application is neither punitive nor oppressive but represents an appropriate procedural safeguard in light of the Claimant's financial circumstances.

2.3 The amount sought is reasonable.

2.3.1 Given the significant monetary value of the dispute, the complexity of the contractual and technological issues involved, and the anticipated duration of these proceedings, the Respondent respectfully submits that security in the amount of USD 2 million is reasonable, pro**portionate, and necessary.**

III. Aurora's Deployment of the E-Hologram Did Not Constitute a Breach of the Agreement

The Respondent respectfully submits that the deployment of the E-Hologram was fully consistent with the Agreement and, in any event, did not amount to a fundamental non-performance under the UNIDROIT Principles.

3.1 The Agreement expressly authorised the use of digital production technologies.

3.1.1 Clause 3.1.1 expressly permits Aurora to employ "stage, sound, lighting, visual, digital or other production technologies." The E-Hologram falls squarely within this contractual authorisation.

3.1.2 The hologram did not replace the performance itself. Rather, it constituted an authorised production technology through which Aurora fulfilled its contractual obligation despite Luna's unforeseen inability to perform physically.

3.1.3 At the time the Agreement was concluded, Aurora was already widely recognised. within the R-Pop industry as a pioneer in AI-assisted performance technology. The Parties therefore contracted against that commercial background.

3.2 The Claimant was not substantially deprived of its contractual expectations.

3.2.1 Article 7.3.1 of the UNIDROIT Principles provides that a breach is fundamental only where it substantially deprives the aggrieved party of what it was entitled to expect under the contract. As confirmed by the Official Commentary, that threshold is intentionally high and depends upon the commercial substance of the transaction. Here, the concert proceeded on schedule before approximately 90,000 attendees, the audience expressed no dissatisfaction, and the Claimant publicly praised the performance immediately afterwards. The Claimant therefore received substantially the contractual benefit for which it had bargained.

3.2.2 The concert proceeded exactly as scheduled before approximately 90,000. attendees, none of whom objected during the performance. Immediately afterwards, the Claimant publicly described the concert as a success.

3.2.3 Accordingly, the Claimant received substantially the contractual benefit for which it had bargained.

3.3 The Respondent acted reasonably in mitigating the consequences of Luna's medical emergency.

3.3.1 Faced with Luna's unforeseen psychological incapacity, the Respondent adopted the only commercially reasonable solution capable of preserving the concert while minimising losses for both Parties.

3.3.2 The Claimant was informed in advance of the proposed deployment of the Hologram and ultimately agreed that the concert should proceed.

3.3.3 Having accepted the performance and benefited commercially from it, the Claimant cannot subsequently rely upon the very arrangement to establish a fundamental breach.

IV. The Respondent's Counterclaim Should Be Upheld

The Respondent respectfully submits that it fully performed the Agreement, whereas the Claimant wrongfully refused to perform its contractual payment obligations. Accordingly, the Respondent is entitled to recover the outstanding contractual sums together with any consequential relief.

4.1 The Respondent fully performed the Agreement.

4.1.1 The Respondent substantially performed all of its contractual obligations in accordance with the Agreement and applicable industry standards.

4.1.2 Because no fundamental non-performance occurred, the Claimant had no contractual basis to terminate the Agreement or refuse payment.

4.2 The Claimant committed a clear breach of the Agreement.

4.2.1 Despite accepting the performance and publicly praising the concert, the Claimant subsequently refused to pay the outstanding invoice and royalties due under the Agreement.

4.2.2 Furthermore, pursuant to Article 1.8 of the UNIDROIT Principles, a party may not adopt a position inconsistent with its prior conduct where the other party has reasonably relied upon that conduct. Having accepted and publicly endorsed the performance, the Claimant cannot subsequently rely upon the same performance to evade its contractual payment obligations.

4.3 The Respondent is entitled to contractual remedies.

4.3.1 The Respondent is entitled to recover the outstanding Performance Fee, Royalties, and all other contractual sums due under the Agreement.

4.3.2 The Respondent is further entitled to recover any additional damages, interest, and costs resulting from the Claimant's wrongful refusal to perform its contractual obligations.

PRAYER FOR RELIEF

The Respondent respectfully requests the Arbitral Tribunal to determine that:

1. The proper forum lies in the courts of law.
2. The order for security for costs should be granted.
3. The Respondent’s deployment of a holographic replacement does not constitute a breach of the Agreement.
4. The Claimant’s claim should be dismissed.