

INTERNATIONAL COMMERCIAL ARBITRATION MOOT 2023

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MOOT PROBLEM

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**IN THE MATTER OF AN ARBITRATION UNDER THE INTERNATIONAL
ARBITRATION ACT 1994**

**AND PURSUANT TO THE ARBITRATION RULES OF THE SINGAPORE
INTERNATIONAL ARBITRATION CENTRE (6TH EDITION, 1 AUGUST 2016)**

ARB 123/21/PPP

Between

IL COLLEZIONISTA S.P.A.

... Claimant

And

MERCHANT TO VENICE PTE LTD

... Respondent

NOTICE OF ARBITRATION AND STATEMENT OF CLAIM

Solicitors for the Claimant

FIRE TURTLE LLC

1 Colourful Road

Fungi Tower 1 #28-00

Singapore 123456

Dated this 29th day of July 2021

NOTICE OF ARBITRATION AND STATEMENT OF CLAIM

1. The Claimant, Il Collezionista S.P.A., hereby submits its Notice of Arbitration in accordance with Rule 3.1 of the SIAC Arbitration Rules 2016 (the “**SIAC Rules**”) against the Respondent, Merchant to Venice Pte Ltd.

I. THE PARTIES

2. The Claimant is Il Collezionista S.P.A., a company registered in Italy, whose registered office is No. 6 Porta Nuova, Milan, Italy. The Claimant is involved in the curation of collectible items at several private museums. Its Managing Director is Mr Mario Idraulico (“**Mr Idraulico**”).
3. The Respondent, Merchant to Venice Pte Ltd, is a company registered in Singapore, whose registered office is Unit 23-01, Tower 3, Marina Bay Shopping Centre, 5 Seafront Road Singapore 099253. The Respondent is in the business of buying and selling rare collectibles, such as antique cars, stamps and coins. Its Managing Director is Mr Doug Evans (“**Mr Evans**”).

II. THE ARBITRATION CLAUSE AND GOVERNING LAW

4. The present dispute between arises out of two sales contracts entered into between the Claimant and the Respondent, both of which are subject to the Respondent’s Terms of Use (the “**Terms of Use**”). [**Claimant’s Exhibit 1**]
5. Clause 4.1 of the Terms of Use provides that the Terms of Use are governed by Singapore law. Clause 5.1 of the Terms of Use provides for any dispute between the Parties to be resolved by reference to arbitration under the SIAC Rules.

III. THE FACTS OF THE DISPUTE

6. The Claimant is involved in the curation of collectible items at several private museums. It has built up a market reputation over the past two decades as the go-to company for museums who wish to fill up their halls with rare and interesting exhibits as the Claimant has proven itself to be resourceful and as a company that always delivers.

7. The Respondent has a proprietary algorithm known as the “**Robo Curator**”. The Robo Curator is an automated software used by the Respondent to conduct online transactions pertaining to the buying and selling of rare collectibles in an online market space. By utilising the Robo Curator software, users can buy and sell their rare collectibles directly to one another, or even to the Respondent directly.

8. The Claimant first came to know of the Respondent in or around February 2020 when Mr Idraulico met Mr Evans at a networking event in Singapore. Upon learning that the Claimant was a curator for museums, Mr Evans introduced the Respondent and its business to Mr Idraulico. Among other things, Mr Evans highlighted that a prospective buyer could provide an indicative price range at which it was prepared to purchase the item in question, and if there was a matching item with a sale price in that range, the Robo Curator would assist to automatically conclude the contract between the parties. Payment for the item is also automated as users are required to set up an e-money wallet with Robo Curator, which would debit and credit the respective accounts accordingly.
[Claimant’s Exhibit 2]

9. On or around 1 April 2020, the Claimant decided to sign up as a user to the Respondent’s website in order to use Robo Curator. The Claimant made a few transactions to test out the service and was initially impressed with the relative accuracy of the Robo curator, and the speed and ease with which its buy orders were successfully carried out.
[Claimant’s Exhibit 3]

10. Sometime in or around August 2020, the Claimant entered into an agreement for the curation of a renowned private museum in Italy, with the possibility of another simultaneous exhibition in Germany subject to the availability of exhibits. The Claimant was contracted to purchase, among other things, a prized and valuable limited-edition collectible Italian antique car designed by famous Italian designer Christian Wolff on behalf of the private museum for their latest exhibit charting the evolution of transportation. The Claimant was given a budget of up to S\$5 million for the acquisition of this antique car. At the end of this exhibition, the private museum would sell the antique car and the Claimant would be entitled to a 5% commission on the sale price of the car.

11. The Claimant was unable to find a suitable antique car for sale through its usual channels in Europe, and decided to try Robo Curator. The Claimant put a buy offer for “Italian antique car designed by Christian Wolff” on Robo Curator on or about 2 September 2020. **[Claimant’s Exhibit 4]**
12. On 5 September 2020, the Claimant was notified by email that a contract had been entered into between the Claimant (as the buyer) and the Respondent (as the seller) for the sale and purchase of one “Italian antique car designed by Christian Wolff” at the sale price of S\$5 million. Upon noticing that there was another car of the same model for sale at the same price, and in preparation for the second exhibition to be held in Germany, the Claimant put in another buy order for the same car (together with the other car, the “**Requested Cars**”). The Claimant was notified by email that both buy orders had been processed and two separate contracts had been entered into between the Claimant and the Respondent for the sale and purchase of two units of the “Italian antique car designed by Christian Wolff” at the sale price of S\$5 million each (collectively, the “**Sales Contracts**”). **[Claimant’s Exhibit 4]**
13. On or about 9 September 2020, the Respondent sent the Claimant one invoice each for the Sales Contracts. **[Claimant’s Exhibit 5]**
14. One month before the scheduled delivery on 4 November 2020, the Claimant received an email from the Respondent stating that there had been an error in the Respondent’s Robo Curator in determining the price of the Requested Cars. It had mistakenly listed the price of the Wesla Model 3, which was S\$5 million, when the car model which the Respondent had available for sale was the higher-end Loneshan 3, which was worth approximately S\$10 million. The Respondent claimed that it never had any stock of the Wesla Model 3 for sale and also stated that unless the Claimant paid the difference of S\$5 million for each of the two transactions within 7 working days, the Respondent would terminate the Sales Contracts and refund the purchase price of the cars. **[Claimant’s Exhibit 6]**

15. This was unacceptable to the Claimant because the private museum had already started renovations for the exhibitions and publicity for the same, as the exhibition was planned to go live in early 2021. Furthermore, this would be particularly damaging to the Claimant's reputation as it had never failed to meet an order over its 20-year long history.
16. In refusing to fulfil its contractual obligation to deliver the two cars to the Claimant, the Respondent has breached the Sales Contracts.
17. The Claimant also notes that the Terms of Use were revised on or about 3 August 2020 (the "**Amended Terms of Use**"). Insofar as the Respondent intends to rely on the Amended Terms of Use, the Claimant's position is that the following clauses do not validly form part of the Terms of Use:
 - (a) Clause 1.3 of the Terms of Use is an onerous and/or unusual condition that was not brought fairly and/or reasonably to the Claimant's attention. [**Claimant's Exhibit 1**]
 - (b) Clause 2.2 of the Amended Terms of Use is an onerous and/or unusual condition that was not signed by the Claimant. Under sections 3 and 11 of the Unfair Contract Terms Act ("**UCTA**"), Clause 2.2 should be struck down as an unreasonable clause.
 - (c) Clause 2.3 of the Amended Terms of Use is an unreasonable exclusion of liability clause that should be struck down under section 3 of the UCTA.

IV. REQUESTED RELIEF

18. For the foregoing reasons, the Claimant requests that the Tribunal issues an award granting the Claimant the following reliefs:
 - (a) An order that the Respondent fulfil its contractual obligation under the Sales Contracts and deliver the two antique cars for the purchase price of S\$10 million;
 - (b) Further and/or in the alternative, damages for breach of contract;
 - (c) Costs;
 - (d) Interest; and

(e) Such other reliefs as the Tribunal deems fit.

V. NOMINATION OF ARBITRATOR

19. The Claimant nominates Mr Lionel Mbappe, who has consented to this nomination.

CLAIMANT'S EXHIBIT 1

TERMS OF USE

- 1.1 These Standard Terms and Conditions (“**Terms of Use**”) apply exclusively between any person accessing and using our services (the “**User**”) and Merchant to Venice Pte Ltd (“**we**” or “**us**”).
- 1.2 We reserve the right to amend, modify, delete, update, change or otherwise alter the Terms of Use at any time.
- 1.3 You shall check this page regularly to take notice of any reasonable changes we may make to the Terms of Use.
- 1.4 By using our services or accessing our website, the User is deemed to accept the Terms of Use. All transactions entered into with between the User and us are subject to the Terms of Use as may be amended from time to time.

OUR SERVICES

- 2.1 We provide the User with a platform to search and/or request for rare antiquities or collector’s items for purchase. Robo Curator will source for the items that best match the description provided by the User. Upon a successful match, a binding and valid contract will automatically be concluded between the User and the Seller, and each contract will be subject to these Terms of Use. The onus is on the User to provide the most accurate description of the items, and verify and confirm that the identified item matches the User’s description and needs. The User has 7 days from the date of the match to notify the Seller or us if the identified item does not match the User’s description and needs, and to terminate the contract without penalty. We will deliver the items to the User anywhere in the world within two months.

[...]

GOVERNING LAW

- 4.1 The Terms of Use shall be governed by, and construed in accordance with the laws of Singapore, without reference to its conflicts of laws.

DISPUTE RESOLUTION

- 5.1 Any dispute arising out of or in connection with the Terms of Use, including any question relating to its existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the arbitration rules of the Singapore International Arbitration Centre for the time being in force, which rules are deemed to be incorporated by reference to this clause. The seat of the arbitration shall be Singapore. The Tribunal shall consist of 3 arbitrators. The language of the arbitration shall be English.

CLAIMANT'S EXHIBIT 2

From: doug_evans@merchanttovenice.com
Sent: 4 February 2020 1:56 PM
To: mario_idraulico@ilcollezionista.com
Subject: Nice Meeting You

Hi Mario,

Lovely meeting you today, and glad to be able to introduce you to our Robo Curator that can help you source for and buy antiquities.

Robo Curator helps to connect antiquity collectors from around the world, regardless of geographic distance or language. We have special, market-leading, secret methods to obtain the most affordable price for users, and our Robo Curator will change the world of private collectors forever.

What sets us apart from the competition is the fully automated system we have put in place, backed by a revolutionary AI. A prospective buyer need only provide a description for an item, provide an indicative price range at which it is prepared to purchase this item, and the Robo Curator will take care of the rest. If there is a matching item with a sale price in that range, the Robo Curator would assist to automatically conclude the contract between the parties. Not to worry because there's also a free-look period of 7 days in case you have second thoughts or the item found isn't suitable for your needs. Payment for the item is also automated as the Robo Curator will take care of the debiting and crediting.

It's that easy! Looking forward to hearing from you!

Best regards,
Doug

Merchant to Venice Pte Ltd
Unit 23-01, Tower 3, Marina Bay Shopping Centre
5 Seafont Road
Singapore 099253

CLAIMANT'S EXHIBIT 3

From: no_reply@merchanttovenice.com
Sent: 10 April 2020 1:15 PM
To: mario_idraulico@ilcollezionista.com
Subject: Re: Your Search

Dear Mr Mario Idraulico,

Your order will be dispatched and are estimated to arrive in a few weeks. The invoice will be sent to you separately.

This email is auto-generated, please do not reply.

From: no_reply@merchanttovenice.com
Sent: 3 April 2020 2:15 PM
To: mario_idraulico@ilcollezionista.com
Subject: Re: Your Search

Dear Mr Mario Idraulico,

Congratulations! We have found a match!



Item Details:

Portland Vase

Dimensions: Height 24 cm, Diameter 17.7 cm

Year: 5–25 AD
Price: \$500,000
Quantity: 1

Please review the description and image of the item to confirm that this is the item you are looking for. You have 7 days from today (3 April 2020) to raise any discrepancy, and terminate the contract between you and the seller, which has been automatically concluded, without penalty. Payment will be deducted from your account subsequently. The aforementioned contract is governed by the Terms of Use which are accessible at www.merchanttovenice.com.

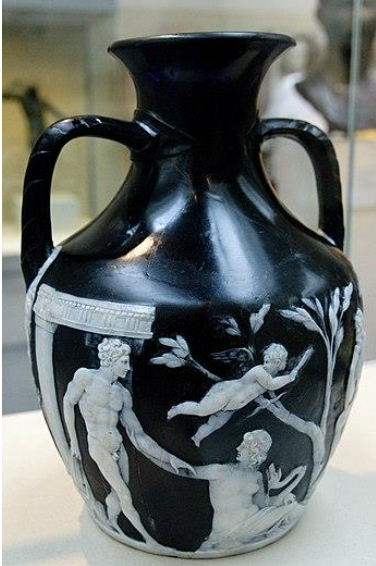
Please click this [link](#) to see more details.

This email is auto-generated, please do not reply.

From: no_reply@merchanttovenice.com
Sent: 1 April 2020 1:56 PM
To: mario_idraulico@ilcollezionista.com
Subject: Your Search

Dear Mr Mario Idraulico,

Thank you for your form submission:

Search terms	“roman” “pottery” “vase” “cameo glass” “black and white”
Images	
Quantity	1

Robo Curator will send you an email when we have found a match.

This email is auto-generated, please do not reply.

From: no_reply@merchanttovenice.com
Sent: 10 April 2020 4:39 PM
To: mario_idraulico@ilcollezionista.com
Subject: Re: Your Search

Dear Mr Mario Idraulico,

We are sorry to hear that the item found is not what you were looking for. We will continue the search and will let you know once we have found an alternative.

This email is auto-generated, please do not reply.

From: no_reply@merchanttovenice.com
Sent: 9 April 2020 10:07 AM
To: mario_idraulico@ilcollezionista.com
Subject: Re: Your Search

Dear Mr Mario Idraulico,

Congratulations! We have found a match!



Item Details:

Tetradrachm
Issuer: Punic Iberia
Currency: Hispania – Drachm (Greek)
Weight: 14.7g
Year: 220 BC
Price: \$30,000
Quantity: 1

Please review the description and image of the item to confirm that this is the item you are looking for. You have 7 days from today (9 April 2020) to raise any discrepancy, and terminate

the contract between you and the seller, which has been automatically concluded, without penalty. Payment will be deducted from your account subsequently. The aforementioned contract is governed by the Terms of Use which are accessible at www.merchanttovenice.com.

Please click this [link](#) to see more details.

This email is auto-generated, please do not reply.

From: no_reply@merchanttovenice.com
Sent: 8 April 2020 1:23 PM
To: mario_idraulico@ilcollezionista.com
Subject: Your Search

Dear Mr Mario Idraulico,

Thank you for your form submission:

Search terms	“Roman coin” “silver” “horse” “palm tree” “arethusa head”
Images	
Quantity	1

Robo Curator will send you an email when we have found a match.

This email is auto-generated, please do not reply.

CLAIMANT'S EXHIBIT 4

From: micellar_tan@merchanttovenice.com
Sent: 7 September 2020 1:49 PM
To: mario_idraulico@ilcollezionista.com
Subject: Re: Your Search

Dear Mr Mario Idraulico,

We note your request and have processed your order for two cars. The two invoices will be sent to you separately.

Both cars will be dispatched and are estimated to arrive in a few weeks.

Best regards,
Micellar Tan

Sales Executive

From: no_reply@merchanttovenice.com
Sent: 5 September 2020 2:15 PM
To: mario_idraulico@ilcollezionista.com
Subject: Re: Your Search

Dear Mr Mario Idraulico,

Congratulations! We have found a match!



Item Details:

Antique Italian Car designed by Italian car designer Christian Wolff

Dimensions: Length 1.69m, Width 1.84m, Height 1.44m

Price: \$5,000,000

Quantity: 2

Seller: Merchant to Venice Pte Ltd

Please review the description and image of the item to confirm that this is the item you are looking for. You have 7 days from today (5 September 2020) to raise any discrepancy, and terminate the contract between you and the seller, which has been automatically concluded, without penalty. Payment will be deducted from your account subsequently. The aforementioned contract is governed by the Terms of Use which are accessible at www.merchanttovenice.com.

Please click this [link](#) to see more details.

This email is auto-generated, please do not reply.

From: no_reply@merchanttovenice.com
Sent: 2 September 2020 1:56 PM
To: mario_idraulico@ilcollezionista.com
Subject: Your Search

Dear Mr Mario Idraulico,

Thank you for your form submission:

Search terms	“Italian” “antique” “car” “designed by” “Christian Wolff”
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Images	
Quantity	1

Robo Curator will send you an email when we have found a match.

This email is auto-generated, please do not reply.

CLAIMANT'S EXHIBIT 5

INVOICE

Merchant to Venice Pte Ltd
Unit 23-01, Tower 3, Marina Bay Shopping Centre
5 Seafront Road
Singapore 099253

Transaction number: 0000949

Invoice date: 07/09/2020

Bill to:

Il Collenzionista S.P.A.
No. 6 Porta Nuova
20019, Milan, Italy

Item	Description	Quantity	Price per unit	Amount
Antique Italian Car designed by Christian Wolff	Sedan, to be delivered by December 2020	1	S\$5,000,000	S\$5,000,000
			Subtotal	S\$5,000,000
			TOTAL	S\$5,000,000

INVOICE

Merchant to Venice Pte Ltd
Unit 23-01, Tower 3, Marina Bay Shopping Centre
5 Seafront Road
Singapore 099253

Transaction number: 0000989

Invoice date: 07/09/2020

Bill to:

Il Collenzionista S.P.A.
No. 6 Porta Nuova
20019, Milan, Italy

Item	Description	Quantity	Price per unit	Amount
Antique Italian Car designed by Christian Wolff	Sedan, to be delivered by December 2020	1	S\$5,000,000	S\$5,000,000
			Subtotal	S\$5,000,000
			TOTAL	S\$5,000,000

CLAIMANT'S EXHIBIT 6

From: support@merchanttovenice.com
Sent: 5 November 2020 11:54 AM
To: mario_idraulico@ilcollezionista.com
Subject: RE: Termination of Transactions Number 0000949 and 0000989

Dear Mr Iradulico,

Unfortunately, due to an error in the Robo-Curator, we are unable to fulfil the delivery of the two cars you have ordered.

We sincerely apologise for the inconvenience, and will refund the purchase price to you.

Best regards,

Merchant to Venice Pte Ltd

Unit 23-01, Tower 3, Marina Bay Shopping Centre
5 Seafrost Road
Singapore 099253

From: mario_idraulico@ilcollezionista.com
Sent: 4 November 2020 4.30 PM
To: support@merchanttovenice.com
Subject: RE: Termination of Transactions Number 0000949 and 0000989

What is the meaning of this? There is a valid and binding contract between us? The Robo Curator clearly stated it will sell me antique cars designed by Christian Wolff, so your company better deliver!

Regards,
Mario Idraulico

Il Collenzionista S.P.A.

No. 6 Porta Nuova
20019, Milan, Italy

From: support@merchanttovenice.com
Sent: 4 November 2020 12.13 PM

To: mario_idraulico@ilcollezionista.com
Subject: Termination of Transactions Number 0000949 and 0000989

Dear Sirs,

We refer to the above captioned transactions.

We regret to inform you that our Robo Curator had inadvertently identified the antique Italian car model which you have sought to purchase incorrectly. It identified the “Loneshan 3” in our warehouse as the “Welsa Model 3”. The correct price for the “Loneshan 3” is S\$10 million per car.

In the circumstances, kindly confirm if you wish to continue with the transaction. If so, you would be required to pay the balance price of S\$5 million for each of the cars within 14 days of this email. Alternatively, we can refund the full price that you have paid us.

Do let us know your preferred option.

Best regards,

Merchant to Venice Pte Ltd

Unit 23-01, Tower 3, Marina Bay Shopping Centre
5 Seafront Road
Singapore 099253

**IN THE MATTER OF AN ARBITRATION UNDER THE INTERNATIONAL
ARBITRATION ACT 1994**

**AND PURSUANT TO THE ARBITRATION RULES OF THE SINGAPORE
INTERNATIONAL ARBITRATION CENTRE (6TH EDITION, 1 AUGUST 2016)**

ARB 123/21/PPP

Between

IL COLLEZIONISTA S.P.A.

... Claimant

And

MERCHANT TO VENICE PTE LTD

... Respondent

RESPONSE TO NOTICE OF ARBITRATION AND STATEMENT OF DEFENCE

Solicitors for the Respondent

PAULINE BADWOMAN LLP

1 McGill Road

Albuquerque Tower 3 #12-00

Singapore 987654

Dated this 5th day of August 2021

RESPONSE TO NOTICE OF ARBITRATION AND STATEMENT OF DEFENCE

1. This is the Respondent's Response to the Claimant's Notice of Arbitration and Statement of Claimant dated 29 July 2021 ("SOC").
2. The Respondent denies all of the claims made by the Claimant in its Statement of Claim. The Respondent further denies that the Claimant is entitled to any of the reliefs sought in its Statement of Claim.
3. Where appropriate, this Response adopts the abbreviations used in the SOC, without any admission to accuracy of the same.

I. FACTUAL BACKGROUND

4. The Respondent is a Singapore-based start-up. Its primary business is its marketplace platform, Robo Curator, which allows users to buy and sell their rare collectibles directly to one another, or to the Respondent directly, with the Respondent taking a small cut from these transactions.
5. Unlike other online marketplaces, the Respondent leverages on blockchain technology to streamline the sale and purchase process. Put simply, a prospective buyer can create a buy order for a specific item and provide an indicative price range at which it is prepared to purchase the item in question; if there is another user selling that item at a price within the price range provided by the prospective buyer, a contract would be automatically concluded between parties. Payment is also automatically handled by Robo Curator, which debits and credits the respective e-wallet accounts which users are required to set up when registering with Robo Curator upon the formation of the contract.
[Respondent's Exhibit 1]
6. As Robo Curator deals with rare collectibles, many of which are antiques, the Respondent also developed artificial intelligence ("AI") to help identify these collectibles. While not perfect, the AI was deemed sufficiently accurate to be incorporated into the platform. In fact, there were reports on international tech websites highlighting the fallibility of such

AI recognition software, and the Claimant's Mr Idarulico was actually quoted in one of these reports. **[Respondent's Exhibit 2]**

7. Nevertheless, to avoid a situation where the wrong item was identified by the Robo Curator and/or to facilitate a situation where the buyer has changed his mind, the buyer has 7 days from the date the item is identified to review the order and if there are any errors, to terminate the contract without penalty. **[Claimant's Exhibit 4]**
- A. *The orders in question were entered into as a result of malfunctioning software*
8. The Respondent accepts that in or around August 2020, the Claimant had put in a buy order for an "Italian antique car designed by Christian Wolff".
9. However, in this case, the AI had misidentified the rarer and higher-end LoneShan 3 as the Wesla Model 3. In this regard, both Italian cars are from the same manufacturer, and also have similar silhouettes and model numbers. However, Loneshan 3 is the older, more expensive and prestigious car. The AI appears to have been confused by these similarities and provided an incorrect listing and incorrect pricing.
10. Sometime in or around November 2020, when the Respondent was preparing the delivery of the two antique cars, the Respondent realised that the Robo Curator had mixed up the Wesla Model 3 with the Loneshan 3. The Respondent never had any stocks of the Wesla Model 3 and only had the Loneshan 3 for sale. **[Respondent's Exhibit 3]**
11. Upon realising the mistake, the Respondent immediately informed the Claimant, and allowed the Claimant the opportunity to top up the price difference of S\$5 million for each of the cars, failing which the Respondent would exercise its rights under the Terms of Use to terminate the Sales Contracts. **[Claimant's Exhibit 6]**
12. The Claimant refused to pay the price difference, and the Respondent duly terminated the Sales Contracts and provided a refund on or about 15 November 2020. **[Claimant's Exhibit 6]**

13. The Claimant was obliged to inform the Respondent about the mistake when it received the Respondent's email about having found a match for the antique car. The image provided clearly shows that the model being sold was the Loneshan 3, and the Claimant knew, or ought to have known, that a mistake had been inadvertently made. **[Respondent's Exhibit 4]** Further, the fact that the Claimant made two buy orders to purchase the same Loneshan car, at such a steep discount of 50%, strongly suggests that it was capitalising on this mistake. **[Respondent's Exhibit 5]**
- B. *The Respondent's Terms of Use, which had been agreed to by the Claimant, operates to allow the Respondent to terminate any transactions that had been formed on the basis of any malfunctioning software*
14. Further and/or in the alternative, the Respondent is permitted to terminate the Sales Contracts.
15. The Claimant, having registered as a user of the Respondent's website, had agreed to the Respondent's Terms of Use, which are only a total of 10 pages, comprising 5 clauses.
16. On or about 3 August 2020, the Respondent revised its Terms of Use (the "**Amended Terms of Use**"). Clauses 2.2 and 2.3 of the Amended Terms of Use provide that the Respondent is entitled to terminate any contract that had been formed on the basis of the Respondent's malfunctioning artificial intelligence software. Clauses 2.2 and 2.3 state as follows: **[Respondent's Exhibit 6]**

"2.2 You accept that contracts formed between you, and any other User or us as a result of malfunctioning artificial intelligence software (whether designed by us or not) may be terminated at our discretion and at any point by us, and a full refund will be effected within 7 working days.

2.3 You accept that we shall not be under any liability to you, the User, in contract, tort or otherwise, as a result of any contract that is terminated as a result of malfunctioning artificial intelligence software (whether designed by us or not)."

17. Notice of the Amended Terms of Use was also brought to the attention of the Claimant as it was sent to all of the Respondent's users by email on the same day, on or about 3 August 2020. [**Respondent's Exhibit 7**]
18. Pursuant to Clause 2.2 of the Amended Terms of Use, the Respondent is entitled to terminate the contract entered into with the Claimant since the AI had misidentified the Loneshan 3 as the Wesla Model 3.
19. Further and/or in the alternative, Clause 1.3 of the Terms of Use and Clauses 2.2 and 2.3 of the Amended Terms of Use are reasonable under the UCTA.

II. REQUESTED RELIEF

20. For the foregoing reasons, the Respondent requests that the Tribunal issues an award on the following terms:
 - (a) A declaration that the Sales Contracts are not valid and/or binding on the Parties;
 - (b) Further and/or alternatively, the Respondent is entitled to vitiate the Sales Contracts for unilateral mistake;
 - (c) Further and/or alternatively, the Respondent is not liable to the Claimant for any losses suffered pursuant to Clause 2.3 of the Amended Terms of Use;
 - (d) Costs;
 - (e) Interest; and
 - (f) Such other reliefs as the Tribunal deems fit.

III. NOMINATION OF ARBITRATOR

21. The Claimant nominates Ms Dorothy Johnson, who has consented to this nomination.

RESPONDENT'S EXHIBIT 1

Wesla Model 3



LoneShan 3



RESPONDENT'S EXHIBIT 2

THE NEW YORK TIMES **The Reliability of Artificial Intelligence**

(12/04/2020) – It is an oft-repeated refrain that artificial intelligence is on the rise. In view of this, has there been enough regulation and testing of artificial intelligence before it is being put to market?

Recent events have suggested otherwise. Just last month, an artificial intelligence used to stagger inmates' yard time in prison malfunctioned, opening all the cell doors in a single block at the same time and causing a prison riot. A few weeks before that, British police used facial recognition AI software to identify banned people who were attempting to enter football matches, but it was wrong the majority of the time.

Misadventures have similarly occurred in commercial use. When IBW rolled out their AI which purported to recommend the most affordable combination of products out of a store's catalogue, matched to the customer's needs, it was found to be biased towards certain items in certain categories. Also, some, like Singapore-based start-up, Merchant to Venice, have been using their AIs as a form of aggregation, in scanning websites for text and images to collate information for items. Although the AI performed admirably well, there were cases where the AI got confused. Researchers have found that deep neural networks, while brilliant at image recognition, can misread images when, for example, stickers were placed on the items in question or when the items are in less than pristine condition.

These problems can have real-world ramifications. While AI can be brilliant and a wonder to behold, when faced with the complexity of the real world, can we really trust AI?

Nevertheless, despite the obvious shortcomings, there are industries which are undeterred. For example, Mario Idraulico from Il Collezionista S.P.A., a notable curator for private museums based in Italy, has pushed on with the adoption of AI in his company. He commented:

"I know that AI can be a little hit or miss when I use it in my job to source for antiquities, but we must be ahead of the technological curve and support its development – just look at all the technological advances on the horizon. On very rare occasions, we can see that AI can really make life a bit difficult for us by identifying the wrong item, which is not uncommon when you're dealing with collectibles and antiques in less than mint condition. In my line of work, AI helps but it's up to us humans to separate the wheat from the chaff and get the item that we are looking for at the most attractive price.

It's time for you to make your choice.

RESPONDENT'S EXHIBIT 3

From: doug_evans@merchanttovenice.com
Sent: 2 November 2020 9:19 AM
To: cody_tay@merchanttovenice.com; micellar_tan@merchanttovenice.com;
sales@merchanttovenice.com; support@merchanttovenice.com
Subject: RE: Transactions Number 0000949 and 0000989

Approved.

CEO

From: cody_tay@ilcollezionista.com
Sent: 1 November 2020 2:04 PM
To: micellar_tan@merchanttovenice.com; sales@merchanttovenice.com;
support@merchanttovenice.com
Subject: RE: Transactions Number 0000949 and 0000989

Dear Micellar,

This is not uncommon. We've been having some issues with the AI of late – ever since the latest patch, the AI struggles a bit more than usual with distinguishing vintage car models, especially when they all look so similar. I will work with the other engineers to resolve this ASAP.

Doug, subject to your views, propose to terminate the contracts pursuant to the revised Terms of Use.

Regards,
Cody Tay

Chief Programmer

From: micellar_tan@merchanttovenice.com
Sent: 1 November 2020 11:27 PM
To: sales@merchanttovenice.com; support@merchanttovenice.com
Subject: Transactions Number 0000949 and 0000989

Dear Team,

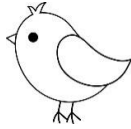
I was preparing the documentation for delivery of Transactions Number 0000949 and 0000989 when I realised that Robo Curator made a mistake. The Robo Curator listed the Loneshan Model 3 as the Wesla Model 3. They're similar but the price difference is significant – market price for Loneshan 3 is S\$10mil vs S\$5mil for the Wesla Model 3.

Please advise.

Best regards,
Micellar Tan

Sales Executive

RESPONDENT'S EXHIBIT 4



TWIZZER

George Latifi

@goatifi

I'm sure my fellow car collectors have all heard of Christian Wolff's designer antique cars, but can you believe how Christian Wolff's two antique car designs, the Loneshan 3 is so much more expensive than the Wesla Model 3??? They look identical!

21:35 8 August 2020 / Singapore

Mario Idraulico

@car_enthusiast

Haha you are not very experienced, are you? Look closely at the bumper, radiator and boot design! The unique features are all there!

12:29 9 August 2020 / Singapore

RESPONDENT'S EXHIBIT 5

Your search:

Search terms	"Italian" "antique" "car" "designed by" "Christian Wolff"	
Images		
Quantity	1	

Item identified:



Item Details:

Antique Italian Car designed by Italian car designer Christian Wolff

Dimensions: Length 1.69m, Width 1.84m, Height 1.44m

Price: \$5,000,000

Quantity: 2

Seller: Merchant to Venice Pte Ltd

Please note that a contract has been formed between you and MERCHANT TO VENICE PTE LTD. If the item identified is not what you were looking for, or if you have changed your mind, please let us know by 12 SEPTEMBER 2020, and you may terminate the aforementioned contract without penalty.

Your feedback:

This item will suit my needs. I see that there are two cars available and I would like to purchase both.

mario_idraulico@ilcollezionista.com, 6 September 2020, 11:29am

RESPONDENT'S EXHIBIT 6

TERMS OF USE (rev 2.0 wef 3 August 2020)

[...]

OUR SERVICES

- 2.1 We provide the User with a platform to search and/or request for rare antiquities or collector's items for purchase. Robo Curator will source for the items that best match the description provided by the User. Upon a successful match, a binding and valid contract will automatically be concluded between the User and the Seller, and each contract will be subject to these Terms of Use. The onus is on the User to provide the most accurate description of the items, and verify and confirm that the identified item matches the User's description and needs. The User has 7 days from the date of the match to notify the Seller or us if the identified item does not match the User's description and needs, and to terminate the contract without penalty. We will deliver the items to the User anywhere in the world within two months.
- 2.2 **You accept that contracts formed between you, the User, and us as a result of malfunctioning artificial intelligence software (whether designed by us or not) may be terminated at our discretion and at any point by us, and a full refund will be effected within 7 working days.**
- 2.3 **You accept that we shall not be under any liability to you, the User, in contract, tort or otherwise, as a result of any contract that is terminated as a result of malfunctioning artificial intelligence software (whether designed by us or not).**

[...]

[emphasis in red and bold in original]

RESPONDENT'S EXHIBIT 7

From: support@merchanttovenice.com
Sent: 3 August 2020 11.59 AM
To: general@ilcollenzionista.com
Subject: Revision to Terms of Use

Dear Users of Robo Curator,

We are emailing you to inform you that we have updated our Terms of Use. The updated Terms of Use can be found on our website at www.merchanttovenice.com. You are responsible for ensuring that you have read the updated standard terms and conditions.

For any further questions or enquiries, please contact us at support@merchanttovenice.com.

Best regards,
Merchant to Venice Pte Ltd

**IN THE MATTER OF AN ARBITRATION BETWEEN IL COLLEZIONISTA S.P.A.
AND MERCHANT TO VENICE PTE LTD**

PROCEDURAL ORDER NO. 1

1. Pursuant to Rule 19.1 of the SIAC Rules 2016, the Tribunal hereby makes the following orders.
2. On 21 December 2022, the parties to this arbitration, through their counsel, and the Tribunal had a conference call to determine the procedure that would be followed in this arbitration.
3. Pursuant to the conference call, the parties have agreed that at this stage of the proceedings, the Tribunal will first hear the parties' arguments on the following issues:
 - (a) Whether the Respondent is entitled to terminate the Sales Contracts on the basis of unilateral mistake;
 - (b) Further and in the alternative, whether the Respondent is entitled to terminate the Sales Contracts on the basis of Clause 2.2 of its Terms of Use.
4. The Tribunal will determine all other issues at a later date.
5. A memorandum setting out arguments in support of either the Claimant's or the Respondent's position on the issues above must be submitted by **8 February 2023, 11:59pm** via email. Oral arguments will be heard from **6:30pm to 10:30pm on 10 February 2023**.
6. No party should raise any issue other than those at paragraph 3 above in their memorandum or at the oral hearing.

Dated this 30th day of January 2023

Daniel Jackson
(Presiding Arbitrator)
(on behalf of the Tribunal)