UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

REPUBLIC OF KAZAKHSTAN and OUTRIDER MANAGEMENT, L.L.C., Plaintiffs, v. DANIEL CHAPMAN; ARGENTEM CREEK HOLDINGS LLC; ARGENTEM CREEK PARTNERS LP; PATHFINDER ARGENTEM CREEK GP LLC; and ACP I TRADING LLC, Defendants.	**Civil Action No. _____** *Removed from:* Supreme Court of New York, County of New York State Court Index No. 652522/2020

DEFENDANTS' NOTICE OF REMOVAL

Pursuant to Chapter 2 of the Federal Arbitration Act (the "FAA"), 9 U.S.C. §§ 201–205, and, by incorporation, the United Nations Convention for the Recognition and Enforcement of Foreign Arbitral Awards, 21 U.S.T. 2517, 330 U.N.T.S. 38 (the "Convention"), and 28 U.S.C. §§ 1331, 1367, 1441, and 1446, the Defendants Argentem Creek Holdings LLC, Argentem Creek Partners LP, Pathfinder Argentem Creek GP LLC, ACP I Trading LLC, and Daniel Chapman (collectively, the "Argentem Parties"), hereby remove this action (the "Action") originally filed in the Supreme Court of the State of New York, County of New York (the "State Court"), to the United States District Court for the Southern District of New York. Removal is proper because this Action relates to an arbitration agreement award under the Convention. *See* 9 U.S.C. § 205.

In support of removal, the Argentem Parties state as follows:

I. STATE COURT PROCEEDINGS AND FACTUAL BACKGROUND

1. On June 16, 2020, Plaintiff Republic of Kazakhstan filed a complaint (the "Complaint") in the State Court, commencing an action against the Argentem Parties (the "State

Court Action"). The State Court Action was assigned Index Number 652522/2020. On July 13, 2020, Plaintiff Kazakhstan served the Argentem Parties with the Complaint.

2. On December 31, 2020, Plaintiff Kazakhstan filed an amended complaint in the State Court Action (the "First Amended Complaint"). The First Amended Complaint added Outrider Management, L.L.C., as a plaintiff. On December 31, 2020, Plaintiffs served the Argentem Parties with the First Amended Complaint.

3. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the State Court Action's case file is attached hereto as Exhibit A and incorporated by reference herein. Exhibit A includes all process, pleadings, motions, and orders served upon Defendants in the State Court Action.

4. Plaintiffs' allegations in the First Amended Complaint rely on claims that non-parties, Anatolie Stati, Gabriel Stati, and their various companies (collectively, the "Statis") committed fraud in procuring a nearly $500 million international arbitration award from the Stockholm Chamber of Commerce ("SCC") in 2013. *See* Ex. A, Am. Compl. ¶¶ 12, 29, 38, 162, 164–77, 183, 236–37. The Statis filed an arbitration (the "Arbitration") claim in July 2010 in the SCC under the Energy Charter Treaty, an international agreement to which Plaintiff Kazakhstan is a signatory. *See* Ex. A, Am. Compl. ¶¶ 29, 164. In December 2013, the SCC issued the nearly $500 million final award (the "SCC Award") in favor of the Statis after finding that Plaintiff Kazakhstan engaged in a "campaign of harassment and illegal acts" against the Statis that expropriated the Statis' oilfield facilities. *See* Ex. A, Am. Compl. ¶¶ 38, 164, 183.

5. Notwithstanding the full and final adjudication of the matter before the SCC, Plaintiffs allege in the First Amended Complaint that the Statis committed fraud in procuring the SCC Award and that the Argentem Parties aided and abetted the Statis in connection with the Statis' alleged fraud by: (i) entering into an agreement with the Statis, which amended the Statis'

debt obligations to pay secured loan notes (the "Sharing Agreement"), and encouraging the Statis to pursue arbitration; and (ii) providing funding for subsequent proceedings to enforce and confirm the SCC Award. *See* Ex. A, Am. Compl. ¶¶ 34, 142–161, 190–93, 241–44, 247–55.

6. Based on these and other allegations related to the Arbitration and SCC Award, Plaintiffs assert claims against the Argentem Parties for civil conspiracy to commit fraud, aiding and abetting wrongful conduct, and unlawful means conspiracy under English Law. Each of Plaintiffs' claims turns on allegations that the Statis committed fraud in procuring the SCC Award and that the Argentem Parties contributed to the Statis' alleged fraud scheme by, among other things, entering into the Sharing Agreement. *See* Ex. A, Am. Compl. ¶¶ 236–46, 248–57, 259–67, 269–78, 281–90, 293–301.

7. Plaintiffs seek actual damages, punitive damages, attorneys' fees, interest, and costs, and "such other relief the Court deems just and proper." *See* Ex. A, Am. Compl. ¶ 303.

8. In addition to the foregoing, the Sharing Agreement contains a valid, enforceable arbitration provision against Plaintiff Outrider. The Sharing Agreement requires that "any suit, action or proceeding" between or among the Statis or any of the participating noteholders "arising out of or based upon [the Sharing Agreement] or the transactions contemplated [t]hereby shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce." Ex. B, Sharing Agreement at § 18(k).

9. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the Sharing Agreement is attached hereto as Exhibit B and incorporated by reference herein.

II. REMOVAL IS PROPER BECAUSE THE COURT HAS ORIGINAL JURISDICTION OVER THE ACTION

10. Under § 203 of the FAA, an "action or proceeding falling under the Convention shall be deemed to arise under the laws and treaties of the United States" and the "district courts

of the United States (including the courts enumerated in section 460 of title 28) shall have original jurisdiction over such an action or proceeding, regardless of the amount in controversy." 9 U.S.C. § 203.

11. Under § 205 of the FAA,

> Where the subject matter of an action or proceeding pending in a State court relates to an arbitration agreement or award falling under the Convention, the defendant or the defendants may, at any time before the trial thereof, remove such action or proceeding to the district court of the United States for the district and division embracing the place where the action or proceeding is pending. The procedure for removal of causes otherwise provided by law shall apply, except that the ground for removal provided in this section need not appear on the face of the complaint but may be shown in the petition for removal. For the purposes of Chapter 1 of this title any action or proceeding removed under this section shall be deemed to have been brought in the district court to which it is removed.

9 U.S.C. § 205.

12. This court has original jurisdiction over the Action under 9 U.S.C. § 205 because the State Court Action is predicated entirely upon the Statis' alleged fraud scheme in procuring the SCC Award and, thus, plainly "relates to" an arbitration agreement and award falling under the Convention.

13. Additionally, under § 202 of the FAA, an "arbitration agreement or arbitral award arising out of a legal relationship, whether contractual or not, which is considered as commercial, including a transaction, contract, or agreement described in section 2 of this title, falls under the Convention." 9 U.S.C. § 202. Therefore, this court also has original jurisdiction over the Action under 9 U.S.C. § 202 because the Action is predicated upon the Sharing Agreement, which contains a valid, enforceable arbitration agreement arising out of a legal, commercial relationship, and therefore falls under the Convention.

III. ALL OTHER REMOVAL REQUIREMENTS ARE MET

14. Under 28 U.S.C. § 1391, venue in the Southern District of New York is proper because Plaintiffs allege that "a substantial part of the events or omissions giving rise to the claims" in the First Amended Complaint occurred in the County encompassed by the Southern District of New York. Ex. A, Am. Compl. ¶ 11.

15. Under 9 U.S.C. § 205, this Notice of Removal is timely because it was filed before a trial in the State Court Action.

16. The Argentem Parties have not filed any responsive pleadings or filed any papers responding to the Complaint or First Amended Complaint in the State Court.

17. Pursuant to 28 U.S.C. § 1446(d), the Argentem Parties will promptly file a copy of this Notice of Removal in the State Court and give written notice of the removal of this Action to Plaintiffs' counsel.

CONCLUSION

WHEREFORE, the Argentem Parties hereby give notice that this Action is removed in its entirety from the Supreme Court of the State of New York to this Honorable Court, pursuant to 9 U.S.C. §§ 201–205.

Respectfully submitted,

Dated: 4/20/2021
New York, New York

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Case Caption: **Republic of Kazakhstan et al v. Daniel Chapman et al**

Judge Name: **Andrew S Borrok**

Doc#	Document Type/Information	Status	Date Received	Filed By
1	SUMMONS	Processed	06/16/2020	Galant, F.
2	COMPLAINT	Processed	06/16/2020	Galant, F.
3	STIPULATION - TIME TO ANSWER Stipulation Extending Time to Response to the	Processed	07/28/2020	Carney, B.
4	AFFIRMATION/AFFIDAVIT OF SERVICE Affidavits of Service (4)	Processed	07/29/2020	Galant, F.
5	NOTICE OF MOTION Notice of Motion for Pro Hac Vice Admission of Matthew H. Kirtland	Processed	09/28/2020	Galant, F.
6	AFFIDAVIT OR AFFIRMATION IN SUPPORT OF Affirmation of Felice Galant in Support of Motion for Admission of Matthew H. Kirtland Pro Hac Vice	Processed	09/28/2020	Galant, F.
7	EXHIBIT(S) Exhibit A - Certificates of Good Standing	Processed	09/28/2020	Galant, F.
8	EXHIBIT(S) Exhibit B - Proposed Order	Processed	09/28/2020	Galant, F.
9	AFFIDAVIT OR AFFIRMATION IN SUPPORT OF Affidavit of Matthew H. Kirtland for Pro Hac Vice Admission	Processed	09/28/2020	Galant, F.
10	RJI -RE: NOTICE OF MOTION RJI	Processed	09/28/2020	Galant, F.
11	ADDENDUM - COMMERCIAL DIVISION (840C)	Processed	09/28/2020	Galant, F.
12	DECISION + ORDER ON MOTION	Processed	10/15/2020	Court User
13	NOTIFICATION FROM COURT Notice of Neutral Evaluation Program - Commercial Division - Supreme NY Civil	Processed	12/09/2020	Court User
14	COMPLAINT (AMENDED) First Amended Complaint	Processed	12/31/2020	Galant, F.
15	NOTICE TO COUNTY CLERK - AMENDMENT OF CAPTION	Processed	12/31/2020	Galant, F.
16	NOTICE OF APPEARANCE (POST RJI)	Pending	04/20/2021	Kamboj, E.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN, Plaintiff, -against- DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC, Defendants.	Index No.: Date Index No. Purchased: 6/16/2020 **SUMMONS**

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer, or, if the Complaint is not served with this Summons, to serve a notice of appearance, on Plaintiff's attorneys within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Plaintiff designates New York County as the place of trial. Venue is proper pursuant to CPLR § 503(a) and CPLR § 503(d), because Defendants reside and/or have their principal place of business in New York County and because a substantial part of the events giving rise to the claims asserted in the Complaint occurred in New York County.

Dated: New York, New York
June 16, 2020

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN,

Plaintiff,

v.

DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC,

Defendants.

Index No. _____

COMPLAINT

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1. Plaintiff Republic of Kazakhstan, by and through its undersigned counsel, brings this action against Defendants Daniel Chapman, Argentem Creek Holdings LLC, Argentem Creek Partners LP, Pathfinder Argentem Creek GP LLC, and ACP I Trading LLC (collectively, "Defendants"). In support thereof, Plaintiff alleges as follows:

NATURE OF THE ACTION

2. This case arises from Defendants' knowing participation in, conspiracy to commit, and aiding and abetting of, an ongoing fraudulent scheme that has damaged Plaintiff.

THE PARTIES

3. Plaintiff Republic of Kazakhstan ("**Plaintiff**" or "**Kazakhstan**") is a sovereign state.

4. Defendant Daniel Chapman ("**Chapman**") is the founder, Managing Partner, Chief Executive Officer, and Chief Investment Officer of Argentem Creek Partners LP. He also wholly owns Argentem Creek Holdings LLC. Prior to founding Argentem Creek Partners LP, Chapman was a member of the senior management at Black River Asset Management LLC ("**Black River**"). Chapman resides at 165 West 91st Street, New York, NY 10024.

5. Defendant Argentem Creek Holdings LLC ("**Argentem Creek Holdings**") is a limited liability company organized under the laws of the State of Delaware. Argentem Creek Holdings is the controlling owner of Argentem Creek Partners LP. Argentem Creek Holdings' principal place of business is at 12 East 49th Street, New York, NY 10017.

6. Defendant Argentem Creek Partners LP ("**Argentem Creek Partners**") is a registered investment advisor organized as a limited partnership under the laws of the State of Delaware. Both Argentem Creek Holdings and Argentem Creek Partners were formed in

connection with a spin-off from Black River in December 2015. Argentem Creek Partners' principal place of business is at 12 East 49th Street, New York, NY 10017.

7. Defendant Pathfinder Argentem Creek GP LLC ("**Pathfinder**") is organized as a limited liability company under the laws of the State of Delaware. Pathfinder is the general partner of Pathfinder Strategic Credit LP and Pathfinder Strategic Credit II LP. Pathfinder's principal place of business is at 12 East 49th Street, New York, NY 10017.

8. Upon information and belief, Defendant ACP I Trading LLC ("**ACP I**") is a limited liability company organized under the laws of the Cayman Islands. Its legal address is P.O. Box 309, Ugland House, South Church Street, George Town KY1-1104, Cayman Islands. ACP I's principal place of business is at 12 East 49th Street, New York, NY 10017.

JURISDICTION AND VENUE

9. This Court has personal jurisdiction over Defendants under CPLR § 302(1) and (2) because they transact business within the State and have committed tortious acts within the State. This Court also has personal jurisdiction under CPLR § 302(4) because, upon information and belief, Defendants own, use, or possess real property situated within the State.

10. Venue is proper in New York County pursuant to CPLR §§ 503(a) and 503 (d), because Defendants reside and/or have their principal offices in this County, and a substantial part of the events or omissions giving rise to the claims occurred in this County.

FACTUAL ALLEGATIONS

I. OVERVIEW

11. Defendants are conspiring with, and aiding and abetting, a fraudulent scheme led by Moldovan oligarch Anatolie Stati, his son Gabriel Stati, and a murky web of companies that they control, often secretly (collectively the "**Statis**").

12. Between 1999 and 2004, the Statis purchased two Kazakh companies – Kazpolmunay LLP ("**KPM**") and Tolkynneftegaz LLP ("**TNG**") – that were licensed to engage in the exploration and production of oil and gas in Kazakhstan.[1]

13. For the purported purpose of raising funds to finance the operations of KPM and TNG, the Statis sold notes to third-party investors. Specifically, in 2006 and 2007, the Statis used their special-purpose entity Tristan Oil Ltd. ("**Tristan Oil**") to sell two tranches of notes in the aggregate principal amount of $420 million (the "**Tristan Notes**") to Noteholders (the "**Tristan Noteholders**").

14. One of the largest Tristan Noteholders was Black River Asset Management LLC ("**Black River**"), which invested through several of its funds. Defendant Argentem Creek Holdings and its subsidiary Defendant Argentem Creek Partners (collectively, "**Argentem Creek Partners**") were spun out from Black River as an employee-owned investment firm in December 2015 and became the successor in interest to Black River, including by assuming ownership of the Tristan Notes. Defendant Chapman, who had managed the investments for Black River, became the owner and CEO of Argentem Creek Partners.[2]

15. The Statis represented to Black River and the other Tristan Noteholders that their invested monies would be used for legitimate business activities in Kazakhstan; specifically, to

[1] TNG was wholly owned by Terra Raf Trans Traiding Ltd., which in turn is owned in equal shares by Anatolie and Gabriel Stati, while KPM was wholly owned by Ascom Group S.A. ("**Ascom**"), which in turn is wholly owned by Anatolie Stati. At all relevant times, the Statis had the power to direct the actions of KPM and TNG.

[2] Hereinafter, the term "Defendants," unless otherwise indicated, shall include the named Defendants and their predecessor in interest, Black River. Upon information and belief, Black River no longer exists as an operating entity, and Defendants now hold all the rights, responsibilities, and interests that Black River used to hold with regard to this matter.

repay debts of TNG, to make a shareholder distribution, and for working capital and general corporate purposes of KPM and TNG. KPM and TNG also guaranteed the Tristan Notes.

16. In fact, the Statis always intended to, and did, steal the monies invested by the Tristan Noteholders. The Statis did this by engaging in fraudulently inflated related-party transactions that systematically stripped assets from KPM and TNG and put them into the pockets of the Statis.

17. The Statis' fraud took several forms. For example, the Statis fraudulently skimmed more than $120 million in oil sales from the Kazakh fields. They did so by "selling" the oil at artificially low prices to a secretly related party, which would then in turn sell the oil to a third party at market prices. This difference in revenues was not properly returned to the Statis' Kazakh companies, but were instead diverted directly to the Statis.

18. Another example of the involved the Statis paying related parties – including Kaspy Asia Service Company Limited ("**KASKO**") and Ascom – an estimated half billion dollars at artificially inflated prices for drilling services.

19. The Statis also paid nearly $100 million in "salaries," "dividends," and "management fees" directly to themselves, despite a lack of any justification for these payments.

20. Another key component of the Statis' fraud was a series of related-party transactions made in connection with the unfinished construction of a liquefied petroleum gas plant (the "**LPG Plant**") in Kazakhstan. The principal equipment for the LPG Plant was supplied to the Statis by an independent third party at a cost of approximately $35 million. However, through a series of sham related-party transactions, and machinations, the Statis falsely inflated the stated costs of the LPG Plant to $245 million, and thereby stole the difference between this amount and the amount of the actual costs.

21. The Statis perpetrated their fraudulent scheme through a series of lies. A key lie of the Statis was that the fraudulent related-party transactions through which they stripped assets from KPM and TNG were legitimate business expenditures. The Statis began telling this lie as early as 2006, when they contrived their scheme and put it into action. To cover up this key lie, and to maintain their fraudulent scheme, the Statis had to tell other lies.

22. The Statis told this key lie to multiple persons, including Plaintiff. They also told it to their investors, business partner, and auditors. The Statis have told this key lie to multiple arbitral tribunals and courts.

23. The Statis' key lie has taken many forms. To Plaintiff, the Statis falsely represented that their fraudulent related-party transactions were legitimate business transactions, thereby falsely inflating the value of their Kazakh assets. To their investors, including Defendants (before they discovered and joined in the scheme), the Statis fraudulently stated that their monies would be spent on legitimate business expenditures in Kazakhstan, when in fact the Statis intended to and in fact did steal these monies. To their business partner, the Statis fraudulently inflated the costs of their joint business operation in Kazakhstan. To their auditor, KPMG Audit LLC ("**KPMG**"), the Statis fraudulently represented that the companies through which they effected their fraudulent related-party transactions were not Stati companies.

24. To perpetuate their fraudulent scheme, the Statis cooked up years of materially false financial statements, all of which recorded their fraudulently inflated related-party transactions as legitimate and at arm's-length. The Statis provided these fraudulent financial statements to multiple persons, including Plaintiff. The Statis also provided them to their investors, auditor, and multiple arbitral tribunals and courts.

25. The Statis used fraudulent misrepresentations to obtain audit reports from KPMG opining that these financial statements were materially correct when in fact they were materially false. The Statis then repeatedly relied on the KPMG audit reports to bolster their fraudulent financial statements.

26. On July 1, 2010, the Statis defaulted on the interest payments due to the Tristan Noteholders. But for the Statis' fraudulent asset-stripping and theft of the Tristan Noteholders' monies, these interest payments could have been made by Tristan.

27. On July 21, 2010, the Statis initiated an international arbitration against Plaintiff under the terms of the Energy Charter Treaty (the "**ECT Arbitration**"). In the ECT Arbitration, the Statis repeated their key lie, *i.e.*, that the fraudulent related-party transactions through which they had stolen the Tristan Noteholders' monies were legitimate business expenditures. To support this lie, the Statis produced and relied upon the falsified financial statements and the fraudulently obtained KPMG audit reports. The Statis' purpose in perpetuating this lie in the arbitration was to obtain from Plaintiff as damages the monies that the Statis had stolen from the Tristan Noteholders.

28. Defendants discovered the Statis' fraudulent scheme during the course of the ECT Arbitration, in or about 2011. Specifically, Defendants learned that the Statis had stolen their money (and that of the other Tristan Noteholders) through their fraudulent related-party transactions and asset stripping. However, rather than taking legal action against the Statis, Defendants decided to conspire with and support the Statis in an effort to perpetuate their fraudulent scheme and damage Plaintiff, including the perpetuation of the Statis' key lie that the fraudulent related-party transactions were legitimate business expenditures.

29. Defendants did so through a written agreement. On December 17, 2012, Defendants and several other (but not all) Tristan Noteholders signed an agreement with the Statis to share in the proceeds of any arbitral award against Plaintiff (the "**Sharing Agreement**").[3]

30. The Sharing Agreement released the Statis and Tristan Oil from liability to the Noteholders and provided that any amounts collected by the Statis on any award issued in their favor and against Plaintiff in the ECT Arbitration would be distributed among the Noteholders. The Sharing Agreement thereby gave Defendants a financial incentive to conspire with, and aid and abet, the Statis in perpetuating their fraudulent scheme.

31. Pursuant to the Sharing Agreement, the Statis kept Defendants apprised of the developments and legal strategy in the ECT Arbitration. As a result, Defendants knew the Statis were making and relying upon fraudulent misrepresentations in the ECT Arbitration. Although they knew that the Statis were making such misrepresentations, Defendants chose to join and support the fraud. At a minimum, Defendants encouraged the Statis to pursue the arbitration against Plaintiff and consulted with them on legal strategy. Defendants did so maliciously, knowing that the ECT Arbitration was based on fraudulent misrepresentations, in an attempt to obtain hundreds of millions of dollars from Plaintiff for their and the Statis' own personal self-enrichment and for the wrongful and corrupt enrichment of others.

32. Defendants conspired with and/or aided and abetted the Statis' ongoing fraud for their own financial benefit. Defendants did so with a willful, wanton, and malicious disregard for Plaintiff's rights, so that Plaintiff would unknowingly be forced to pay Defendants for the monies that the Statis had stolen from Defendants.

[3] Defendants later assumed Black River's interest in the Sharing Agreement.

33. In knowingly conspiring with and aiding and abetting the Statis in their scheme, Defendants' actions are akin to those of a victim of a Ponzi scheme who, rather than taking legal action that would risk collapsing the scheme, decides to join and support the scheme to obtain money from a new victim (Plaintiff) rather than seeking to recover their own stolen monies in a legitimate and legal way.

34. In December 2013, the tribunal in the ECT Arbitration (the "**ECT Tribunal**") issued an award (the "**ECT Award**") in favor of the Statis and against Plaintiff in the total amount of $497,685,101.00, plus $8,975,496.40 in costs, of which $199 million was awarded to the Statis for the LPG Plant.

35. Once they had obtained the ECT Award, the Statis initiated proceedings in several jurisdictions to confirm and enforce the award, as well as proceedings to attach assets to satisfy the ECT Award. This included proceedings in Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy (collectively, the "**Enforcement Proceedings**"). In each of these proceedings, the Statis maintained and propagated their key lie that their fraudulent related-party transactions were legitimate business expenditures, to the detriment of Plaintiff.

36. The Statis did this with the active encouragement and support of Defendants, who consulted with the Statis on legal strategy and provided critical financing that allowed the Statis to engage in these legal proceedings against Plaintiff despite having knowledge of their fraudulent scheme.

37. Plaintiff justifiably relied to its detriment on the Statis' misrepresentations during the ECT Arbitration and Enforcement Proceedings. This detriment, at minimum, took the form of legal fees and other damages and costs that were wasted. Plaintiff would not have incurred these costs or suffered these injuries but for the Statis' fraudulent misrepresentations, and Defendants'

wrongful and malicious assistance to the Statis. Plaintiff's defenses in these proceedings were, by definition, prepared in response to and in reliance on the Statis' claims and allegations, as supported by and joined in by Defendants. Had the Statis made truthful instead of fraudulent representations in these proceedings, Plaintiff would have made different defenses, would not have incurred the costs that it did, and the conduct of these proceedings would have been materially different.

38. To date, the only court to rule on the merits of the Statis' fraudulent scheme is the English High Court. The Statis commenced proceedings to enforce the ECT Award in the English High Court in February 2014 (the "**English Enforcement Proceedings**"). In August 2015, after its initial discovery of the fraud, Plaintiff applied for permission to amend its pleadings to introduce the defense that the ECT Award was unenforceable as a matter of English public policy because it was obtained by fraud. The Statis opposed this application. On June 6, 2017, on the basis of extensive evidence and legal submissions, the English High Court granted Plaintiff's application to amend. In a 22-page, fully reasoned opinion, it held that "there is a sufficient prima facie case that the Award was obtained by fraud" and that the Statis had committed "fraud on the Tribunal." It further held that the interests of justice required Plaintiff's fraud allegations to be "examined at trial and decided on their merits."[4]

39. However, in February 2018, the Statis unexpectedly filed a notice seeking to voluntarily discontinue the English Enforcement Proceedings so as to avoid the trial on the merits of the fraud. This discontinuance was rejected by the High Court, but the Statis appealed and were eventually allowed to discontinue the case, but only on the condition that they pay Plaintiff's legal

[4] A copy of this judgment is reported at 2017 EWHC 1348 (Comm) and can be found online at http://www.bailii.org/ew/cases/EWHC/Comm/2017/1348.html (last accessed June 10, 2020).

fees and costs and never again institute any proceedings in England and Wales to enforce the ECT Award.

40. By letter dated July 30, 2018, the Statis disclosed to Plaintiff for the first time that costs relating to the appeal in the English Enforcement Proceedings were funded by Pathfinder Strategic Credit LP, Pathfinder Strategic Credit II LP, and ACP I, which the letter identified as "Noteholders." According to the letter, "There is no repayment obligation as the Noteholders are funding this matter at their own expense and in order to protect their interests under the Sharing Agreement."

41. Defendant Pathfinder, upon information and belief, is the general manager of Pathfinder Strategic Credit LP and Pathfinder Strategic Credit II LP, and Defendant Argentem Creek Partners is the general manager of ACP I. All of these entities are ultimately controlled by Defendants Chapman and/or Argentem Creek Partners.

42. Upon information and belief, these funds and/or other funds controlled by Defendants have provided additional funding to the Statis in the Enforcement Proceedings beyond that alleged above. Upon information and belief, this funding served as the horsepower for the Statis' ability to continue their campaign of lies before multiple tribunals and courts. It was a sine qua non for the dissemination of those lies.

43. Defendants thus funded the Statis' efforts to escape the fraud trial in the English proceedings, which they realized the Statis stood no chance of winning, so that final judgment on the Statis' fraud could be avoided in England.

44. In the ongoing Enforcement Proceedings in various jurisdictions, the Statis, with the substantial assistance of Defendants, have continued to make a series of representations that the Statis and Defendants know are materially false. These misrepresentations have been made in

order to perpetuate the Statis' key lie, *i.e.*, that the Statis' fraudulent related-party transactions were legitimate business expenditures when, in fact, and as Defendants know, these transactions were fraudulent and these amounts were stolen by the Statis. These misrepresentations have also been made in order to cover up the Statis' scheme. These misrepresentations have damaged Plaintiff by, among other things, increasing Plaintiff's legal expenses and other costs in the Enforcement Proceedings.

45. On April 3, 2019, Plaintiff obtained sworn deposition testimony from Mr. Artur Lungu, the former Chief Financial Officer of Tristan Oil and Vice President of Ascom. Mr. Lungu testified, *inter alia*, that Anatolie Stati repeatedly made material misrepresentations to KPMG in connection with its reviews and audits of the Stati financial statements.

46. On August 21, 2019, KPMG issued a letter revoking all of its audit reports for the Stati financial statements – 18 audit reports covering three years of financial statements, stating that "reliance should not be placed on the audit reports." KPMG took this extraordinary action after reviewing evidence, including the Lungu deposition transcript, showing that Anatolie Stati had made a series of material misrepresentations to KPMG concerning the financial statements. KPMG stated in its August 21, 2019 letter that it took this decision after it "conducted a thorough and independent assessment." KPMG also stated that, consistent with International Standards of Auditing, it had sought to engage with Anatolie Stati and Ascom on this matter but that the Statis had not provided any explanation for his false and fraudulent representations.

II. FURTHER DETAILS OF THE FRAUDULENT SCHEME

A. The Statis' Scheme to Defraud the Tristan Noteholders, Including Defendants

47. In 2006, the Statis raised money by a private placement of loan notes through Tristan Oil, a company wholly owned by Anatolie Stati.

48. Pursuant to an Indenture and its amendments (collectively, the "**Indenture**"), Tristan Oil issued 10.5% senior secured loan notes in the aggregate principal amount of $300 million on or about December 20, 2006 and a second tranche of notes in the aggregate principal amount of $120 million on or about June 7, 2007. The issue of these Tristan Notes was fully subscribed, and the notes did not mature until January 1, 2012. Prior to maturity, the Indenture required that the Statis make regular interest payments to the Tristan Noteholders.

49. The following investors, among possibly others, purchased the Tristan Notes: (i) Argo Capital Investors Fund SPC – Argo Global Special Situations Fund; (ii) Argo Distressed Credit Fund; (iii) Black River Emerging Markets Fund Ltd.; (iv) Black River EMCO Master Fund Ltd.; (v) Black River Emerging Markets Credit Fund Ltd.; (vi) BlueBay Multi-Strategy (Master) Fund Limited; (vii) BlueBay Specialised Funds: Emerging Market Opportunity Fund (Master); (viii) CarVal Master S.a.r.l; (ix) CVI GVF (Lux) Master S.a.r.l. (by CarVal Investors, LLC Its Attorney in-Fact); (x) Deutsche Bank AG London; (xi) Goldman Sachs International; (xii) Gramercy Funds Management LLC (not in its individual capacity but solely on behalf of its investment funds and managed accounts holding the notes); (xiii) Latin America Recovery Fund LLC; (xiv) Outrider Management LLC (on behalf of Outrider Master Fund, LP); (xv) Standard Americas, Inc.; and (xvi) Standard Bank Plc.

50. Black River Emerging Markets Fund Ltd., Black River EMCO Master Fund Ltd., and Black River Emerging Markets Credit Fund Ltd. were funds managed by Black River and are the predecessors in interest to Defendants.

51. The Statis represented to the purchasers of the Tristan Notes that the funds raised from them would be invested in KPM and TNG. Specifically, the Statis represented that proceeds from the Tristan Notes would be used to repay KPM's and TNG's existing debt and to fund their

working capital, general corporate purposes, and capital expenditures, including for construction of the LPG Plant. These representations were false, and known by the Statis to be false, when made. As described below, through the mechanism of multiple fraudulent related-party transactions, the Statis inflated the stated costs of KPM and TNG and stole the delta.

52. The Indenture named Wells Fargo N.A. as the Trustee and was guaranteed by KPM and TNG. Anatolie Stati executed the Indenture on behalf of Tristan Oil, KPM, and TNG. He also executed a Tristan Note Guarantee on behalf of KPM and TNG.

53. The Indenture included a mechanism by which related-party transactions between Tristan Oil, KPM, and TNG, and any other Stati company, defined as "Affiliates," were prohibited unless certain approvals were provided by the Statis, with the level of approval increasing in line with the dollar value of the related-party transaction. Specifically, Section 4.12 of the Indenture stated that Tristan Oil, KPM, and TNG could not "make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate" unless the transactions met certain criteria. Transactions greater than $1 million (in aggregate) were required to be on an arm's-length basis (*i.e.*, they must be on terms no less favorable than a comparable transaction "with an unrelated Person"). Transactions greater than $3 million further required a board resolution and an officer's certification that a majority of the disinterested members of the board and at least one independent director determined that the transaction complied with Section 4.12. Finally, transactions greater than $10 million also required an independent fairness opinion "issued by an accounting, appraisal or investment banking firm of national standing."

54. The Indenture further required that the Statis provide audited financial statements to the Tristan Noteholders on a regular basis. Section 4.03 of the Indenture required that the Statis furnish the Tristan Noteholders with combined financial statements of Tristan Oil, KPM, and TNG on a quarterly and annual basis, as well as a reserve report from an independent petroleum engineer on an annual basis. The combined financial statements were to include audit reports by a certified independent accountant.

55. Tristan Oil, KPM, and TNG also were required to conduct conference calls to discuss the information furnished in the audited financial statements and reserve reports and to post the audited financial statements on Tristan Oil's website.

56. Section 4.04(b) of the Indenture required that the year-end financial statements delivered pursuant to Section 4.03 be accompanied by a written statement of Tristan Oil's independent public accountants that "in making the examination necessary for certification of such financial statements, nothing has come to their attention that would lead them to believe that [Tristan Oil] has violated any of the [Indenture's] provisions."

57. As alleged herein, the Statis violated the above terms of the Indenture by falsely certifying the identity of related parties and related-party transactions to KPMG, by failing to obtain the necessary approvals for certain related-party transactions, and by circulating to the Tristan Noteholders financial statements that were materially falsified and for which the audit reports had been fraudulently obtained.

58. As alleged herein, the multiple related-party transactions through which TNG's reported costs were artificially inflated were undisclosed and, through such inflation, the Statis defrauded the Tristan Noteholders. Specifically, the Statis' scheme breached the covenant in

section 4.12(a) of the Indenture that prohibited related-party transactions involving aggregate consideration of in excess of $10 million.

59. Also in breach of their representations and covenants under the Indenture, the Statis diverted millions of dollars of the proceeds of the Tristan Notes received from U.S. investors to a Stati company in South Sudan, Ascom Sudd Operating Limited, which was subsequently placed on the U.S. Department of Commerce's list of companies "reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States." According to the U.S. Government, the companies on this list contribute to the crisis in South Sudan because they supply the country with significant "revenue that, through public corruption, is used to fund the purchase of weapons and other material that undermine the peace, security, and stability of South Sudan rather than support the welfare of the South Sudanese people."[5]

60. At his April 2019 deposition, Mr. Lungu confirmed that the Stati related-party transactions alleged herein triggered the $10 million threshold under the Indenture. However, as Mr. Lungu further testified, because Anatolie Stati fraudulently concealed certain related parties, the Statis avoided having to obtain and provide the Noteholders with the board resolution and independent fairness opinion required by the Indenture's covenant for related-party transactions. In so doing, the Statis further perpetuated their fraud on the Tristan Noteholders.

[5] *Addition of Certain Persons to the Entity List and Removal of Certain Persons From the Entity List; Correction of License Requirements*, 83 Fed Reg. 12,475–12,476 (Mar. 22, 2018); 15 South Sudanese Entities Added to the Entity List (Mar. 22, 2018), U.S. DEPARTMENT OF COMMERCE, https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear/17-regulations.

61. The Statis' motive in misleading the Tristan Noteholders was to cover up the fact that the Statis were stealing or misappropriating nearly $150 million of the Tristan Noteholders' funds that, as alleged herein, had been advanced to TNG by Tristan Oil.

B. The Statis Fraudulently Inflate the Stated Costs of the LPG Plant

62. In mid-2015, as a result of discovery obtained pursuant to 28 U.S.C. § 1782, Plaintiff began to unravel the Statis' fraudulent scheme with regard to the LPG Plant that they were constructing in Kazakhstan before abandoning it in March 2009. In the December 2013 ECT Award, the Statis obtained an award against Plaintiff for $199 million in compensation for the LPG Plant.

63. The LPG Plant was to be owned by TNG and operated jointly by Ascom and an affiliate of Vitol. The principal equipment for the LPG Plant was supplied by an independent third-party, TGE Gas Engineering GmbH, formerly Tractebel Gas Engineering GmbH ("**Tractebel**").

64. Rather than having TNG purchase the equipment directly from Tractebel, the Statis instead laundered the transactions through two companies that they controlled. Specifically, the Statis structured the transactions so that Azalia Ltd. ("**Azalia**") (a company the Statis owned) would purchase the equipment from Tractebel at the market price of approximately $35 million. The Statis then had Azalia "sell" the equipment at wildly inflated prices to Perkwood Investment Limited ("**Perkwood**") (another company the Statis secretly owned), which would in turn "sell" the equipment again to TNG at the same wildly inflated prices. Through these machinations, and others described herein, the Statis falsely inflated the price of the LPG Plant equipment and stole such amounts from the Tristan Noteholders in the amount of at least $148 million.

65. Perkwood was a critical element in the Statis' fraudulent scheme. To the outside world, the Statis presented Perkwood as an independent, London-based company with which they

engaged in arm's-length business transactions. In fact, Perkwood was a sham company, covertly owned and operated by the Statis, and used by the Statis for the fraudulent purposes alleged herein,

66. The Statis took extraordinary measures to conceal the fact that Perkwood was their company. They created a series of forged documents and made a series of false declarations to present Perkwood as an independent third party. This was done to give the impression that payments from TNG to Perkwood were legitimate and at arm's length, when in fact they were fraudulently inflated.

67. The Perkwood transactions were a sham and intended by the Statis to disguise the fact that they were stealing or misappropriating funds from the Tristan Noteholder (and TNG). A number of facts confirm this:

a. Perkwood was under the ultimate ownership and control of the Statis at all times.

b. Anatolie Stati and Gabriel Stati were the signatories and sole beneficiaries of Perkwood's bank account held at Rietumu Bank in Latvia.

c. Perkwood was a shell company. It never had any employees, premises, or operations. It never paid any taxes, salaries, or rent, and it did not incur any costs normally incurred by a company that actually carries out business. From 2006 to 2009 – the same time period when TNG was recording on its books purchases of LPG Plant equipment from Perkwood valued at hundreds of millions of dollars – the Statis filed dormant accounts for Perkwood with the British Companies House. Under English law, for a company to legally file dormant accounts, that company must not have carried out any substantial business transactions for the relevant time period.

d. The sole director and shareholder of Perkwood was Sarah Petre-Mears. Her husband, Edward Petre-Mears, was the company secretary. Mr. and Mrs. Petre-Mears are

identified in public documents as sham directors and the "directors" of thousands of companies.[6] Mr. and Mrs. Petre-Mears granted a series of general powers of attorney to Anatolie Stati and Gabriel Stati to act for Perkwood.[7]

e. Franjo Zaja was the lead engineer for Tractebel, the German company that supplied the main equipment for the LPG Plant. He was personally involved in the construction of the LPG Plant and worked on site until the Statis abandoned the construction in early 2009. He testified in a witness statement that he was not aware of a company called Perkwood. He further testified that the equipment "sold" from Perkwood to TNG is the identical equipment that Tractebel delivered under its contract with Azalia, but was presented as different equipment and at materially inflated prices.

68. The Statis used multiple, overlapping schemes to fraudulently inflate the LPG Plant construction costs through Azalia and Perkwood. These schemes included: (1) the "**Resale Fraud**"; **(2)** the "**Double-Billing Fraud**;" (3) the "**Equipment for Construction Fraud**;" (4) the "**Management Fee Fraud**;" and (5) the "**Interest Fraud**." Alleged below is an overview of each scheme:

a. **Resale Fraud** – The Statis had Perkwood "sell" TNG, and TNG pay for, the LPG Plant equipment already purchased from Tractebel, but at almost triple the price – inflating the stated LPG Plant costs by approximately $58 million;

[6] James Ball, The Guardian, *Sham Directors: the woman running 1,200 companies from a Caribbean rock,* Nov. 25, 2012, https://www.theguardian.com/uk/2012/nov/25/sham-directors-woman-companies-caribbean.

[7] Plaintiff first obtained copies of these powers of attorney in 2016 and filed them with the Svea Court of Appeal in Sweden that Plaintiff has asked to annul the ECT Award. It was only thereafter, on the first day of the hearing in the annulment proceedings in September 2016, that the Statis finally admitted that Perkwood was a Stati company. Prior to this, the Statis had concealed and/or denied this fact.

b. **Double-Billing Fraud** – The Statis had Perkwood "sell" TNG certain of the same LPG Plant equipment twice, using differently worded descriptions – inflating the stated LPG Plant costs by approximately $22 million;

c. **Equipment for Construction Fraud** – The Statis included non-existent equipment in the Perkwood Agreement – inflating the stated LPG Plant costs by approximately $72 million;

d. **Management Fee Fraud** – The Statis had TNG "pay" Perkwood a fictitious "management fee," inflating the stated LPG Plant costs by approximately $44 million; and

e. **Interest Fraud** – The Statis charged inter-company interest on the fraudulently inflated LPG Plant costs – further inflating the stated LPG Plant construction costs by up to approximately $60 million.

69. **Payments to Perkwood.** Between on or about April 19, 2006 and on or about April 14, 2009**,** the Statis caused TNG to pay the total sum of approximately $175 million to Perkwood out of loans made by Tristan Oil using the monies invested by the Tristan Noteholders.

70. The bulk of this $175 million was then laundered by the Statis through their various companies. During the same period, Perkwood paid approximately $175 million to Azalia. In addition to making legitimate payments to Tractebel of approximately $34 million, Azalia also paid a total of approximately $148 million to two Stati companies – approximately $94 million to Hayden Intervest Ltd. ("**Hayden**") and the remainder to Terra Raf Trans Traiding Ltd. ("**Terra Raf**"). Neither company had any contractual entitlement to receive this money from Azalia.

71. Because the $148 million paid to Hayden and Terra Raf was the product of the Statis' fraudulent inflation, and was paid by the Statis to themselves using the monies of the Tristan Noteholders, the Statis defrauded the Tristan Noteholders out of the inflated amounts.

72. As alleged herein, after Defendants discovered that the Statis had defrauded them of their invested monies, they made the unlawful and malicious decision to join with the Statis in their efforts to obtain the amount of these stolen monies from Plaintiff.

C. The Statis Intentionally Falsify Their Financial Statements

73. The Statis included the fraudulently inflated LPG Plant costs in the combined financial statements of Tristan Oil, KPM, and TNG knowing that such costs were fraudulent. This made the financial statements materially false.

74. In the combined 2007 annual report for Tristan Oil, KPM, and TNG, the Statis made the following express, fraudulent misrepresentations:

> **LPG Plant**. TNG is currently building a new LPG processing facility for liquid petroleum gas. As of December 31, 2007 TNG has made advance payments of approximately $158.6 million related to the LPG project. TNG expects to spend a total of $232.6 million in capital expenditures on this project through 2008.

75. In Tristan Oil's 2008 annual report, the Statis made the following express, fraudulent misrepresentations:

> **LPG Plant**. TNG is currently building a new LPG processing facility for liquid petroleum gas. As of December 31, 2008 TNG has invested approximately $223.2 million in the LPG project. TNG expects to spend a total of $241.7 million in capital expenditures on this project through 2009.

76. In the annual financial statements for 2009, the Statis made the express, fraudulent misrepresentation that the costs of construction of the LPG Plant as of December 31, 2009 were more than $248 million.

77. All of these representations were false. The Statis had not invested these amounts in the construction of the LPG Plant, nor did they intend to. These figures were based on the amounts of the related-party transactions with Perkwood, through which the Statis fraudulently

inflated the stated construction costs of the LPG Plant, and stole the amount of this inflation from the monies invested by the Tristan Noteholders.

D. The Statis Fraudulently Obtain Audit Reports for Their Falsified Financial Statements

78. Another key step in the Statis' scheme was to legitimize their fraudulent transactions by obtaining the stamp of approval of an international accounting firm. They accomplished this by misrepresenting to their auditors that the transactions were at arm's length and by falsely portraying Perkwood as an independent third party.

1. Principles Governing Financial Statements and Auditing

79. A company's financial statements are the primary source of financial information available to interested third parties for the purpose of making economic decisions on the business. To be of value for its intended users, financial statements are prepared in compliance with an accounting standards framework.

80. In view of the importance of financial statements for interested third parties, financial statements are normally subject to an independent audit that ensures that the financial statements are complete, fair, and accurate. To achieve this outcome, audit procedures are regulated by international standards, in particular the audit standards developed by the International Auditing and Assurance Standards Board ("**IAASB**"), which include the International Standards on Auditing ("**ISA**").

2. The Importance of Accurate Identification of "Related Parties" and Related-Party Transactions: The IAS 24 Standard

81. One of the fundamental items of information that must be disclosed in a company's financial statements is the identity of "related parties," as well as any transactions and outstanding balances with those related parties. In general terms, the term "related parties" refers to companies

that are under the influence or control of the same person(s) or companies, who may influence their decisions.

82. The objective regarding "Related Party Disclosures" is set forth in IAS 24.1:

> The objective of this standard is to ensure that an entity's financial statements contain the disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and by transactions and outstanding balances of such parties.

83. The importance of identifying related parties and related-party transactions is due to, in particular, the heightened risk that transactions between related parties may not reflect normal market conditions (the concept of "arm's length"). IAS 24.6 explains the reason why related parties must be identified:

> A related party relationship could have an effect on the profit or loss and financial position of an entity. Related parties may enter into transactions that unrelated parties would not. For example, an entity that sells goods to its parent at cost might not sell on those terms to another customer. Also, transactions between related parties may not be made at the same amounts as between unrelated parties.

84. In view of this risk, it is essential for company management to truthfully identify to its auditors all related parties and related-party transactions.

3. The Statis Fraudulently Conceal that Perkwood Was a Related Party

85. The Statis falsely represented that their financial statements were prepared in accordance with the International Financial Reporting Standards ("**IFRS**").

86. KPMG audited the individual and combined financial statements of Tristan Oil, TNG, and KPM (collectively referred to by KPMG as the "**Company**") for 2007, 2008, and 2009.[8]

[8] Deloitte audited the Statis' financial statements prior to 2007.

87. The financial statements emphasize the importance of "related-party" status because transactions with related parties were a key part of the Statis' "business model." For example, the combined 2008 financial statements of the Company state that a "significant proportion of the Companies' business is conducted through transactions with related parties and the effect of these, on the basis determined between the related parties, is reflected below. The Company's ultimate controlling party is Anatolie Stati."

88. Because TNG (and Ascom) are and were at all relevant times controlled by the Statis, and Perkwood was also at all relevant times under the ownership and/or control of the Statis, Perkwood was at all relevant times a "related party" to TNG (and Ascom) within the meaning of IAS 24.

89. Pursuant to the requirements of IFRS (and, in particular, IAS 24), all of the transactions between TNG and Perkwood should therefore have been disclosed as related-party transactions. Specifically, TNG's financial statements should have provided all of the information that was "necessary for an understanding of the potential effect of the relationship [between TNG and Perkwood] on the financial statements."

90. In violation of this requirement, TNG's audited financial statements for 2007 to 2009 (i) did not disclose the status of Perkwood as a related party to TNG; (ii) did not disclose the fact that any transactions between Perkwood and TNG were related-party transactions; and (iii) did not disclose the information that should have been disclosed pursuant to IAS 24 in relation to those transactions.

91. Instead, the statements stated that a "significant proportion of the Company's business is conducted through transactions with related parties and the effect of these, on the basis

determined between the related parties is reflected below," but the fraudulently omitted Perkwood from the list of Stati related companies.

92. Instead, the Statis stated that the (only) related parties with whom TNG had conducted transactions during the relevant time period were (i) Ascom; (ii) Arpega Trading; (iii) General Affinity; (iv) KASKO; (v) KASKO-Petrostar; (vi) KPM; and (vii) Tristan Oil.

93. Artur Lungu, the former Chief Financial Officer of Tristan Oil and Vice President of Ascom, testified at his April 3, 2019 deposition that Anatolie Stati knowingly misled KPMG by failing to identify Perkwood as a related party in the financial statements. Mr. Stati did this by falsely stating to KPMG in multiple management representation letters in 2008, 2009 and 2010 that all related parties and related-party transactions were accurately disclosed, when in fact Perkwood was not disclosed as a related party and the transactions with Perkwood were not disclosed as related-party transactions. Mr. Lungu testified that these omissions rendered the management representation letters materially false.

94. As a result of the failure to disclose that Perkwood was a related party, the Statis concealed the materially falsified LPG Plant construction costs that they engineered through the sham Perkwood transactions, as set forth above. As a result of these misrepresentations, the Statis obtained audit reports from KPMG opining that the financial statements were materially correct when, in fact, they were materially false.

95. The Statis knew and intended that the fraudulently obtained audit reports would be relied upon by the Tristan Noteholders. Confirming this, Mr. Lungu admitted in his deposition that the audited financial statements were required under the Tristan Trust Indenture so that the Tristan Noteholders would have a true and accurate understanding of the financial position of KPM, TNG, and Tristan Oil.

96. Mr. Lungu further testified that each of the year-end combined financial statements of Tristan Oil, TNG, and KPM for 2007, 2008, and 2009, as well as various interim financial statements, were materially false because they failed to identify Perkwood as a related party and failed to identify the transactions between TNG and Perkwood as related-party transactions.

97. After receipt of these fraudulent misrepresentations, KPMG issued audit reports for 2007 to 2009 that opined that the combined financial statements of Tristan Oil, TNG, and KPM fairly presented their combined financial position, their combined financial performance, and their combined cashflows in accordance with IFRS. In fact, these financial statements were materially false.

98. After receipt of these fraudulent misrepresentations, KPMG also approved the combined interim financial statements for the periods ending March 31, 2008, June 30, 2008, September 30, 2008, March 31, 2009, June 30, 2009, and September 30, 2009. All these financial statements were materially false.

99. On August 21, 2019, after reviewing Mr. Lungu's deposition testimony and after conducting its own independent assessment, KPMG took the extraordinary step of revoking all of its audit reports for the Stati financial statements – eighteen audit reports covering three years of financial statements – and it notified Anatolie Stati and Ascom and, separately, Plaintiff that it had done so.

100. As alleged herein, in or around 2012, Defendants discovered that the Statis had materially misrepresented the extent and value of the related-party transactions within the Stati group of companies and thereby stripped significant monies from TNG and KPM to offshore companies.

E. The Statis Use Their Falsified "Audited" Financial Statements to Fraudulently Obtain Inflated Bids for Their Kazakh Operations

101. In June 2008, the Statis continued the fraudulent scheme by using their falsified "audited" financial statements to obtain bids for their Kazakh operations from prospective purchasers. This was done through a bidding process that the Statis called "Project Zenith." The Statis then deployed these fraudulently obtained bids in the ECT Arbitration, along with their falsified "audited" financial statements, to obtain an award of $199 million in compensation for the LPG Plant.

1. The Teaser Contained False and Misleading Information

102. In June 2008, the Statis caused Ascom and Terra Raf (as the shareholders of KPM and TNG) to retain Renaissance Securities (Cyprus) Limited and Renaissance Capital Central Asia JSC (together, "**Renaissance Capital**") as the financial advisor for Project Zenith.

103. In July 2008, Renaissance Capital distributed a "teaser" offer (the "**Teaser**") to 129 potential purchasers. The prospective purchasers included companies located in the United States, Europe, the Middle East, Russia, Asia, and Kazakhstan. The Teaser stated that the information contained therein – "assembled" by the "management" of Tristan Oil, TNG, and KPM with the assistance of Renaissance Capital – was "believed to be accurate and reliable."

104. The Teaser further stated that the Statis expected to spend $230 million on capital expenditures on the LPG Plant and had already spent $160 million to date. For the reasons alleged herein, these statements were knowingly false, as they reflected the fraudulently inflated LPG Plant construction costs.

2. The Information Memorandum Contained False and Misleading Information

105. For those parties that responded to the Teaser, the Statis caused Renaissance Capital to distribute an August 2008 Information Memorandum that contained further false information

about KPM and TNG (the "**Information Memorandum**"). The stated "sole purpose" of the Information Memorandum was to "assist" potential purchasers in "evaluating" the Statis' operations in Kazakhstan.

106. Like the Teaser, the Information Memorandum stated that the information contained therein was "assembled by the management" of KPM and TNG with the assistance of Renaissance Capital and "believed to be accurate and reliable."

107. The Information Memorandum included false financial information regarding the Statis' operations offered for sale, including the LPG Plant. It stated that this financial information was derived from, among other things, the audited individual and combined balance sheets and financial statements of KPM, TNG, and Tristan Oil from 2005 to 2007. Mr. Lungu confirmed at his 2019 deposition that the Information Memorandum was false to the extent it relied on the underlying falsified financial statements.

108. The Information Memorandum further represented that these financial statements were audited and had been prepared in accordance with IFRS:

> [KPM's and TNG's] and Tristan Oil's financial statements have been prepared in accordance with International Financial Reporting Standards ("IFRS"). Prior to 01 January 2007, the combined and individual financial statements of Tristan Oil, KPM and TNG were audited by Deloitte. Following the best practice to change auditors periodically, the Companies and Tristan Oil changed to KPMG as auditor for the year ended 31 December 2007 and thereafter.

109. This representation was knowingly false and misleading, for the reasons alleged herein. The financial statements had not been prepared in accordance with IFRS, and the Statis knew this.

110. The Statis also fraudulently represented in the Information Memorandum that they had changed auditors from Deloitte to KPMG because they were "[f]ollowing best practice." In

fact, the Statis changed auditors because Deloitte had begun asking troublesome questions regarding the Statis' related-party transactions.

111. The Information Memorandum also repeated the misrepresentations from the Stati financial statements regarding the LPG Plant construction costs. Specifically, the Information Memorandum stated that the "LPG plant is expected to be commissioned in the second quarter of 2009 with total CAPEX requirement of US$233 million." It also stated that "[a]s of 1 July 2008, TNG had spent approximately $193 million on the LPG plant." These representations were known by the Statis to be false and misleading, for the reasons alleged above.

112. The Information Memorandum also described the Tristan Notes. It highlighted the Indenture's covenant limiting the ability of Tristan Oil, KPM, and TNG to enter into related-party transactions unless the requisite approvals and/or independent fairness opinions were obtained. The Statis highlighted this to create the false and deceptive impression that there were no Stati related-party transactions on the books of the Company that did not have the approvals and/or independent fairness opinions required by the Indenture's covenant.

3. The KPMG Vendor Due Diligence Report

113. In connection with Project Zenith, the Statis retained KPMG's Tax and Advisory department to prepare a financial "Vendor Due Diligence" document intended to be circulated to potential investors, entitled "*Project Zenith – Vendor Due Diligence Report*" ("**VDD Report**"). The Statis induced KPMG to prepare this report so that it falsely stated that Perkwood was an independent third party, and not a Stati-related party.

114. The VDD Report was supposed to report on the combined businesses of Tristan Oil, KPM, and TNG. The "primary source" for the data in the VDD Report was information and representations made to KPMG by the Statis.

115. The final VDD Report stated that its contents had been reviewed in detail by the directors of Tristan Oil, KPM, and TNG, who confirmed the factual accuracy of the report in writing and represented that there were no material facts or information omitted from the report that "may cause the view it gives of the Tristan Oil Group to be misleading."

116. One of the VDD Report's key areas of analysis was related-party transactions. In this respect, KPMG stated that its scope of work was to:

> Identify significant related party transactions, enquire into their rationale, the underlying terms and nature of such transactions; [e]nquire if these transactions have been at arms' length and assess the financial impact and related risks; and [c]omment on the impact of discontinuing related party transactions on the business of the target companies.

117. On August 31, 2008, KPMG provided the Statis with a draft of the VDD Report. This draft mentioned Perkwood four times and each time correctly identified Perkwood as a Stati "related party."

118. If KPMG had issued the VDD Report with Perkwood identified as a Stati company, it would have exposed the Stati fraudulent scheme. Accordingly, the Statis had to procure the falsification of the report.

119. Mr. Lungu testified at his 2019 deposition that, upon receipt of the draft VDD Report, he held a telephone call with KPMG in which he expressly instructed KPMG to change all identifications of Perkwood in the VDD Report from that of a "related party" to that of an unrelated "third party." KPMG followed this instruction and changed the report. These changes falsified the VDD Report, as Mr. Lungu acknowledged at his deposition.

120. The VDD Report also repeated the misrepresentations from the Stati financial statements regarding the LPG Plant construction costs, *i.e.*, that the total cost of the LPG Plant was estimated to be $233 million, of which $193 million had been invested as of June 30, 2008.

121. As a result of these misrepresentations, a document intended to be distributed to prospective purchasers for the Stati operations in Kazakhstan, including the LPG Plant, was intentionally falsified to describe Perkwood as an unrelated "third party." The Statis deliberately engaged in these falsifications to conceal their fraudulent scheme and to deceive third parties.

4. KMG Submits Bid on the Basis of the Falsified "Audited" Financial Statements

122. KazMunaiGas ("**KMG**"), the state-owned oil and gas company of Kazakhstan, was one of the eight prospective purchasers that responded to the Teaser and Information Memorandum.

123. KMG's response was an "indicative offer" dated September 25, 2008 (the "**KMG Indicative Offer**"). The KMG Indicative Offer relied on the false and misleading information provided by the Statis. It stated: "[i]n formulating our Indicative Offer, we have relied upon the information contained in the Information Memorandum and certain other publicly available information. Our valuation depends upon this information and assumptions being substantiated in the next round through due diligence materials and meetings." KMG also stated that any final bid depended on a review of the documents constituting "standard customary due diligence from a buyer's point of view," which included "commercial, financing and related parties' contracts."

124. With regard to the calculation of the value of the Statis' operations in Kazakhstan and in particular the LPG Plant, the Indicative Offer stated that among its "key assumptions" was that the $193 million in LPG Plant construction costs stated in the Information Memorandum was accurate: "[O]ur estimates of the Company's value and the present Indicative Offer are based on the following key assumptions: … Historical production, revenues, costs and CAPEX were as reported in the Information Memorandum."

125. The Indicative Offer also made clear that its stated $199 million valuation of the LPG Plant was calculated using the "[h]istorical costs of US$193 million," as stated by the Statis, "as a base for cost method valuation."

126. Thus, the KMG Indicative Offer was expressly based upon information that the Statis knew to be false (*i.e.*, the fictitiously inflated construction costs of the LPG Plant and the concealed related-party status of Perkwood set forth in the financial statements and Information Memorandum).

127. If KMG had known of the Statis' fraudulent scheme, it would not have made the KMG Indicative Offer. At minimum, if KMG had instead been provided with the true construction costs of the LPG Plant, then the value it assigned to the LPG Plant in the Indicative Offer would have been materially lower.

III. DEFENDANTS' KNOWLEDGE OF AND PARTICIPATION IN THE FRAUDULENT SCHEME

128. Upon information and belief, Defendants had knowledge of and/or were on notice of the Statis' fraudulent scheme at least as early as 2011.

A. The Laren Transaction

129. In June 2009, the Statis caused Tristan Oil to issue additional notes (the "**Laren Notes**") to new investors (the "**Laren Noteholders**"). The Laren Notes were issued at a significant discount to their face value. Specifically, Tristan Oil issued $111,110,000 in notes to Laren Holdings, Ltd. ("**Laren**") in exchange for a $30,000,000 loan. Laren then issued the Laren Notes to the Laren Noteholders (the "**Laren Transaction**").

130. The Laren Transaction was put in place by the Statis by deception that included at least two different elements. First, Laren was an entity secretly created and controlled by the Statis. As was the case with Perkwood, Laren was presented by the Statis as an independent third

party, not under the control of the Statis. In fact, Laren is a Stati company. Confirming this, key Laren documents were signed for Laren by Eldar Kasumov, who is the personal chauffer for Anatolie Stati. Second, the Laren Transaction was structured so that Anatolie Stati could materially benefit from its supposed conditions. Specifically, in the event that Anatolie Stati timely repaid the "loan," he stood to receive a substantial kickback – referred to as an "upside."

131. The issuance of the Laren Notes spurred Defendant Chapman and Defendants' predecessors in interest to investigate the Stati operations in Kazakhstan. In connection with this investigation, Defendants uncovered the Statis' broader fraudulent scheme involving the related-party transactions, money laundering, and asset stripping of the Statis' Kazakh companies. This discovery occurred while the ECT Arbitration was ongoing. In pertinent part, Defendants discovered the following:

a. That TNG had shipped at least $160 million in crude oil to another Stati company, Montvale Invest Limited ("**Montvale**"), without any payment back to TNG.

b. That the Statis' claim in the ECT Arbitration that the cash crunch that TNG and KPM experienced in 2009 was the result of a harassment campaign by Plaintiff was pretextual; that in fact the cash crunch was caused by the Statis' asset stripping; and that the Statis never had any intention of paying back the Tristan Noteholders.

c. That the Statis were systematically stripping their assets in Kazakhstan, partly through the scheme of shipping oil to related parties that was never paid for and also by paying a large dividend to a related company, in violation of the Indenture.

d. That the 2009 Laren Transaction was entirely unnecessary to fund the operations of TNG and KPM and that it was likely another sham transaction designed to defraud additional investors.

e. That claims could be brought by the Tristan Noteholders against the Statis in Kazakhstan for their fraudulent scheme, including claims for unjust enrichment and for piercing the corporate veil because Anatolie Stati signed the promissory notes on behalf of TNG and KPM and directed the oil-skimming scheme and the fraudulent dividend through an array of companies that he owned and controlled.

f. That the Statis appeared to have taken more than $200 million through fraudulent transfers from TNG and KPM to related companies that should have gone to the Tristan and Laren Noteholders, including tens of millions in dividends, a salary of $9 million paid to Anatolie Stati as CEO of Tristan Oil (whose only activity was to issue the Laren Notes), and other illegitimate related-party transfers.

g. That the Statis had been overstating (by 200% to 350%) the capital expenses for production of the Kazakh wells and then laundering the amount of the overstated costs through other Stati-controlled companies; and rather than paying the market rate to drill the wells, the Statis paid pay one of their other companies, KASKO, to drill them at inflated rates, then pocketed the difference.

h. That the Statis, based on an initial investment of approximately $10 million, were able to pay themselves salaries and cash dividends of $40 million, skim as much as $250 million in oil revenues, and raise and steal several hundred million dollars in investments from the Tristan Noteholders.

132. In summary, Defendants discovered:

a. That the Statis ran an overarching fraudulent scheme to strip assets from TNG and KPM worth more than $1.04 billion since 2004, with approximately half of that representing pure profit to the Statis;

b. That the Statis' financial statements were fraudulent and showed a systematic stripping of assets of KPM and TNG in part by failing to return revenue from the sale of crude oil; and

c. That the Statis' fraud included a total of $555 million in related-party transactions, including approximately $124 million in skimmed oil sales, nearly $40 million in dividends and salaries paid to the Statis, and other transfers of funds to other Stati companies.

B. Defendants Enter into the Sharing Agreement

133. In or about July 2012, Defendants knew conclusively as a result of their investigation that they had been defrauded by the Statis. However, they decided that their best hope of recovering their stolen monies was to not to pursue legal action against the Statis, but rather to try to conspire with and aid and abet the Statis in perpetrating their fraud against Plaintiff, so that Plaintiff ultimately paid Defendants the amounts that the Statis had stolen from Defendants.

134. To that end, Defendants negotiated and entered into the 2012 Sharing Agreement with the Statis.

135. Defendant Chapman negotiated the Sharing Agreement with the Statis during the period from July to December 2012. Leading up to the execution of the Sharing Agreement, Defendant Chapman was in frequent contact with the Statis and their representatives. For example, Defendant Chapman met with Anatolie Stati and Mr. Lungu on or about January 17, 2012 in New York. Other telephone, electronic, and in-person communications took place between Defendants and the Statis and their representatives from March 2012 to July 2012.

136. Eleven Tristan Noteholders constituting the majority of the ownership rights of the Tristan Notes signed the Sharing Agreement, including the three funds managed by Black River, Defendants' predecessors in interest.

137. The Sharing Agreement recognized that Tristan Oil and the Note guarantors (TNG and KPM) had defaulted on the Tristan Notes and that the parties "desire to restructure the obligations owed by Tristan Oil to the Noteholders and to provide the benefits of the Sharing Agreement" to the signatory Tristan Noteholders.

138. The Sharing Agreement restructured the obligations by requiring the Statis to pay the Tristan Noteholders the "Proceeds" that they obtained from Plaintiff in the ECT Arbitration. Specifically, Section 4(b) of the Sharing Agreement provided that the first $18 million of any such Proceeds obtained by the Statis from Plaintiff would be used for legal fees for, among other things, obtaining and then collecting on any arbitral award against Plaintiff. The signatory Noteholders would receive 70 percent of any additional Proceeds until they had been fully paid, with the Statis receiving the remaining 30 percent. The Statis would also receive 100 percent of any Proceeds above that amount. Such Proceeds included not only any award rendered in the ECT Arbitration, but also any order in favor of the Statis in any confirmation, recognition, or execution proceedings against Plaintiff.

139. The Sharing Agreement thereby gave Defendants a powerful financial incentive to support the Statis in their fraudulent scheme.

140. The Agreement required that the Statis keep Defendants and other signatories "reasonably informed of any and all material developments with respect to the Arbitration and all Claims, including the issuance of any Awards and any monies received in respect of any such Awards." The Agreement also required that the Statis make themselves reasonably available to

respond to inquiries from Defendants regarding the status of the ECT Arbitration and the collection and enforcement of any awards against Plaintiff. The Agreement also provided various incentives and penalties for the Statis to comply with its terms.

141. Under Section 6 of the Sharing Agreement, in exchange for sharing in the Proceeds, Defendants agreed not to take any legal action against the Statis to remedy the default on the Tristan Notes.

C. Defendants Take Overt Actions to Support the Statis' Fraud

142. Following the execution of the Sharing Agreement, Defendants took other overt acts in support of the Statis' fraudulent scheme. For example, Defendants provided critical funding for the Statis' efforts to avoid a trial on the merits of the fraud in England. Defendants, upon information and belief, also funded the Statis' legal proceedings against Plaintiff in other jurisdictions. Defendants have also regularly consulted with, and provided guidance to, the Statis regarding the strategy for enforcing the ECT Award in various jurisdictions since at least 2014. They have also worked to frustrate Plaintiff's attempts to discover information related to the fraudulent scheme. These wrongful acts were done with willful and wanton disregard for Plaintiff's rights.

143. By engaging in these activities with knowledge of the Statis' fraudulent scheme, Defendants have knowingly participated in, and provided substantial assistance to, the perpetuation of the fraudulent scheme. In doing so, they have aided and abetted the continuation of the fraudulent scheme by the Statis. Defendants' actions have caused damage to Plaintiff.

144. Defendants' knowing participation in, provision of substantial assistance to, and aiding and abetting of the Statis' fraudulent scheme is evidenced in a series of communications

between Defendants and the Statis that took place during the period from December 2012 – when Black River was the Noteholder of the Tristan Notes – to the present, as alleged below.

145. From the date the Sharing Agreement was executed to the date the ECT Award was issued, December 19, 2013, Defendants were in frequent contact with the Statis and their representatives regarding, upon information and belief, legal strategy, the potential likelihood of success in the ECT Arbitration, and litigation financing related to the ECT Arbitration.

146. Defendants remained in frequent contact with the Statis and their representatives during the period that the Statis were attempting to enforce the ECT Award in various jurisdictions, including England. This included, at a minimum, multiple electronic communications between August and October 2015. Upon information and belief, these communications concerned legal strategy, the potential likelihood of success in the Enforcement Proceedings, and litigation financing related to those proceedings.

147. From December 2015 until December 2016, Defendants remained in frequent contact with the Statis and their representatives regarding, upon information and belief, legal strategy, the potential likelihood of success, and litigation financing related to the Enforcement Proceedings. Such communications occurred by telephone, electronic mail, and in person in, at minimum, March, April, August, September, October, and December 2016.

148. Further communications between Defendants and the Statis and their representatives occurred in January 2017, when the Statis and Plaintiff were making submissions regarding the Statis' fraudulent scheme in the English Enforcement Proceedings. The communications related to, *inter alia*, hiring a communications consultant focusing on government and media relations and reputation and crisis management.

149. Defendants remained in frequent contact with the Statis and their representatives regarding the February 2017 hearing in the English Enforcement Proceedings. The February 2017 communications related to, *inter alia*, the "amount required" to fund the Enforcement Proceedings and "calculations" thereof. Further communications occurred in March 2017 related to, *inter alia*, the legal strategy of, the potential likelihood of success in, and litigation financing for the English Enforcement Proceedings.

150. Upon information and belief, throughout the remainder of 2017, Defendants remained in frequent contact with the Statis and their representatives, during which time the Statis initiated further proceedings to attempt to enforce the ECT Award in Belgium, Luxembourg, the Netherlands, Italy, Sweden, and the United States. Communications by electronic mail, for example, occurred in July, October, November, and December 2017. Upon information and belief, these communications related to, *inter alia*, the legal strategy of, the potential likelihood of success in, and litigation financing for the new Enforcement Proceedings.

151. Defendants provided the above-referenced funding to the Statis for use in the appeal of the English Enforcement Proceedings, which enabled the Statis to discontinue and abandon those proceedings to escape final judgment on the fraudulent scheme. Plaintiff now knows that Defendants agreed to provide and did provide such funding maliciously, with the intention of harming Plaintiff by depriving it of the opportunity to prove the Statis' fraud in England. Had Plaintiff proven this fraud at trial, the Statis' efforts to enforce the ECT Award would have been adversely affected, and thus Defendants' unlawful plan to obtain from Plaintiff the monies that Defendants knew had been stolen from them by the Statis would have been adversely affected.

152. From January 2018 to present, Defendants have remained in frequent contact with the Statis and their representatives regarding, upon information and belief, the legal strategy of, the potential likelihood of success in, and litigation financing for the Enforcement Proceedings.

153. The Enforcement Proceedings continue to the present, wherein the Statis, with the substantial assistance of Defendants, are attempting to continue to cover up the fraud perpetrated by the Statis against the Tristan Noteholders (and Plaintiff), all to accomplish Defendants' above-referenced unlawful plan.

IV. PERPETUATION OF THE FRAUD IN THE ECT ARBITRATION

154. As alleged above, the Statis' fraudulent scheme centered around the key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures, thereby stripping assets from those companies, laundering money through them, and falsely portraying them as having more assets than they actually did. This key lie is at the center of their continuing fraud against Plaintiff, which Defendants joined and actively supported to accomplish their unlawful plan.

A. The Statis Institute Arbitral Proceedings Against Plaintiff

155. On July 1, 2010, the Statis (Tristan) defaulted on the interest payments due to the Tristan Noteholders. This default occurred as a result of the Statis' fraudulent asset stripping of their Kazakh companies (TNG and KPM), through which the defrauded the Tristan Noteholders of their invested monies.

156. On July 26, 2010, the Statis filed a Request for Arbitration with the Stockholm Chamber of Commerce, claiming that Plaintiff had engaged in a "campaign of harassment" that violated various provisions of the ECT. The Statis claimed as damages all, or substantially all, of the monies they had unlawfully stripped from their Kazakh companies and stolen from the Tristan Noteholders.

157. The arbitration hearings were held in Paris, France. In the ECT Arbitration, the Statis contended that, as a result of Plaintiff's alleged breaches of the ECT, the Statis were entitled to damages for, *inter alia*, (i) their actual investment in the LPG Plant, which they claimed was approximately $245 million; and (ii) the additional profit that they contended would have been realized from the LPG Plant but for Plaintiff's alleged breaches of the ECT, which the Statis asserted was $84,077,000.00.

B. In Furtherance of the Fraudulent Scheme, the Statis Make Multiple Misrepresentations in the ECT Arbitration

158. During the ECT Arbitration, the Statis made a series of false statements and submitted a range of falsified evidence on a range of subjects, including false evidence supporting their key lie that the related-party transactions were legitimate business expenditures.

159. With regard to the LPG Plant, the Statis contended that the LPG Plant should be valued based on the investment that they had allegedly made on the plant, while Plaintiff contended that it should be valued as scrap, given that it was never completed and was not a viable investment.

160. The Statis, in making their arguments regarding the quantum of damages, made several misrepresentations, the falsity of which Plaintiff did not discover until years later.

161. First, the Statis, in reliance on the fraudulently obtained audit reports and falsified financial statements, represented that they had invested more than $245 million in the development and construction of the LPG Plant, and should be awarded that amount. In fact, the amount invested by the Statis in the development and construction of the LPG Plant was substantially less than the claimed $245 million, and this amount had been fictitiously inflated through the LPG Plant fraud scheme described above.

162. In addition to submitting fraudulent documentary evidence, the Statis made the following misrepresentations to the ECT Tribunal:

a. The Statis' May 18, 2011 Statement of Claim stated that they "invested more than USD 245 million in development and construction of the LPG plant."

b. The First Witness Statement of Mr. Lungu, dated May 17, 2011, asserted that "[w]hen the State seized KPM and TNG and all of their assets, including the LPG Plant, in July of 2010, more than USD 245 million had been invested in construction of the LPG Plant."

c. The May 17, 2011 expert report of FTI Consulting, Inc. ("**FTI**") stated that "[p]er the audited financial statements for the period ended 31 December 2009, TNG has invested approximately $245 million in the design and construction of the LPG Plant," and that "[a]s of 30 September 2008, TNG reported $208.5 million related to total capital costs invested into the LPG Plant."

d. The Statis' May 7, 2012 Reply Memorial on Jurisdiction and Liability stated that "in May of 2009, Claimants ceased their capital outlays for construction of the LPG Plant, having already invested more than US $245 million in its construction."

e. The Second Witness Statement of Anatolie Stati, dated May 7, 2012, stated that "[f]aced with this climate of fear and uncertainty, I [*i.e.*, Anatolie Stati] chose in May of 2009 to postpone the LPG Plant project, having already spent more than USD 245 million toward its construction."

f. The supplemental expert report of FTI dated May 28, 2012 stated that the "[t]otal investment that the Claimants have invested in the LPG Plant is $245 million."

g. The Statis' May 28, 2012 Reply Memorial on Quantum [*i.e.*, damages] reiterated that "[i]n the event the Tribunal chooses not to award the prospective value of the LPG Plant, Claimants request an award of the investment value of the LPG Plant,

as adjusted by FTI to account for the approximately US $37 million in additional expenditures by Claimants through May, 2009, in the sum of US $245 million."

h. In oral evidence at a hearing during the arbitration proceedings, on October 2, 2012, Anatolie Stati repeated the statement made in his Second Witness Statement.

i. In oral evidence at a hearing in the arbitration on January 28, 2013, Mr. Lungu repeated the statement made in his First Witness Statement.

j. The Statis' April 8, 2013 First Post-Hearing Brief stated that "Claimants invested more than US $240 million in construction of the LPG plant," that the investment cost of the LPG Plant was $245 million, and that they were claiming their investment cost of $245 million for the LPG Plant.

k. The Statis' June 3, 2013 Second Post-Hearing Brief stated that "TNG's audited 2009 financial statements … list the net book value of the LPG Plant as US $248 million at December 31, 2009, which corroborates FTI's assessment of US $245 million. Data from the Claimants' historical financial records, particularly data from audited financial statements, is perfectly reliable evidence, and is not simply FTI parroting the Claimants." They urged the ECT Tribunal to "award damages for the LPG Plant based on . . . Claimants' out-of-pocket investment costs of US $245 million."

163. Each of the above statements was false because the stated construction costs did not represent the true costs that had been incurred in connection with the construction of the LPG Plant. Instead, the stated construction costs had been materially and fraudulently inflated through the above-referenced schemes that included (but may not have been limited to) the Resale Fraud,

the Double-Billing Fraud, the Equipment for Construction Fraud, the Management Fee Fraud, and the Interest Fraud.

164. Second, the Statis concealed the existence of highly relevant documents from Plaintiff and the ECT Tribunal. In a February 3, 2012 Order, the ECT Tribunal ordered the Statis to disclose to Plaintiff, *inter alia*, documents in their possession, custody, or control "specifying the cost of construction and assembly operations, start-up and adjustment works in respect of basic facilities" of the LPG Plant. Documentation regarding the transfers between Tractebel, Azalia, and Perkwood all fell directly within the scope of this Order, and should have been disclosed by the Statis. However, in breach of the Order, the Statis failed to disclose these documents.

165. Third, the Statis used the KMG Indicative Offer during the ECT Arbitration as evidence that the value of the LPG Plant, at minimum, was the $199 million included in the KMG Indicative Offer. The Statis did this despite knowing that the KMG Indicative Offer (i) had been procured by fraud; and (ii) was not, and could not be regarded as, a valid indicator of the market value of the LPG Plant. For example, the Statis made the following misrepresentations:

a. The Statis' May 18, 2011 Statement of Claim stated that "[t]he non-binding indicative offers … provide a record of the actual reaction of willing and able buyers to an offer of the properties by a willing and able seller, with each acting at arms' length in an open and unrestricted market, without compulsion to buy or sell, and each having knowledge of the relevant facts."

b. The Statis' May 7, 2012 Reply Memorial on Jurisdiction and Liability twice referred to the KMG Indicative Offer, once again representing that it comprised a relevant (if conservative) guide to the value of its subject matter.

c. The Statis' May 28, 2012 Reply Memorial on Quantum (*i.e.*, damages) invited the Tribunal to consider the KMG Indicative Offer in the following terms:

> Indeed, the offer made for the LPG Plant by [KMG] at that time was US $199 million. While Claimants did not accept these offers because at the time they deemed them too low and did not feel that they would lead to a sale, the Tribunal should note that State-owned [KMG] itself offered almost US $200 million for the [LPG] Plant, more than six times the highest value assigned to the LPG Plant by Deloitte of US $32 million. Little more is needed to demonstrate that Deloitte's salvage value assumptions and calculations are worthless.

d. The Statis' April 8, 2013 First Post-Hearing Brief, again referred to the KMG Indicative Offer, directly and indirectly, representing that it comprised a relevant (if conservative) guide to the value of its subject matter.

e. At a hearing on damages on January 28, 2013, the Statis submitted that damages should, at a minimum, be awarded in the amount of the KMG Indicative Offer.

166. Fourth, the Statis submitted expert reports that relied on the fraudulently obtained audit reports, the falsified financial statements, the fraudulently obtained KMG Indicative Offer, and the false testimony of Anatolie Stati and Mr. Lungu. Specifically, the Statis retained FTI to assess the economic damages related to their Kazakh operations, including the LPG Plant.

167. For example, FTI's May 28, 2012 supplemental expert report relied on two categories of the Statis' false information. First, in Paragraph 7.5, it cited the indicative offers on the LPG Plant, including KMG's $199 million Indicative Offer, to demonstrate that the value of the LPG Plant was "well in excess of its salvage value":

> Offers made by interested buyers in 2008 for buying Claimants' assets … valued the LPG Plant at $150 million on average. The offer made by state-owned KazMunaiGaz at that time was $199 million for the LPG Plant. Hence it is clear that the value of the LPG Plant at the 2008 Valuation Date was well in excess of its salvage value.

168. This report also relied on the false representations in the Stati financial statements and annual reports when assessing the investment value of the LPG Plant.

169. At no point did the Statis disclose that the financial statements were falsified and fraudulent. Instead, during the ECT Arbitration, the Statis affirmatively relied on the falsified financial statements to support their claims. For example, in their Second Post-Hearing Brief, the Statis defended criticisms of FTI's assessment of the investment value of the LPG Plant on the basis that the financial statements and annual reports were "prepared for investors in the ordinary course of business, and not for the purposes of litigation." In the same document, the Statis also falsely represented that their "historical financial records, particularly data from audited financial statements," were "perfectly reliable evidence."

C. Plaintiff Relied to Its Detriment on the Fraudulent Misrepresentations

170. Plaintiff justifiably relied to its detriment on the Statis' misrepresentations throughout the ECT Arbitration. This justifiable reliance took multiple forms.

171. First, in preparing and presenting its defenses on jurisdiction, Plaintiff relied on the Statis' misrepresentations – both in its financial statements, pleadings, and expert evidence – that the expenses stated therein were legitimately and lawfully incurred. Had the Statis not made these misrepresentations, and instead disclosed the truth – that the Statis were engaged in a massive fraud through the operations of Tristan Oil, KPM, and TNG – Plaintiff's defenses would have been materially different. As a result of the Statis' misrepresentations, Plaintiff incurred damages, including litigation costs in connection with preparing its defenses on jurisdiction and liability, which were completely wasted.

172. Second, in preparing and presenting its defenses concerning liability, Plaintiff relied on the Statis' misrepresentation that their financial statements were materially correct, as

evidenced by the KPMG audit reports. Had the Statis not made this misrepresentation, and instead disclosed the truth – that the Statis materially falsified the financial statements and obtained the KPMG audit reports by fraud – Plaintiff's defenses would have been materially different. As a result of the Statis' misrepresentations, Plaintiff incurred damages, including litigation costs in connection with preparing its defenses concerning jurisdiction, liability, and damages that were completely wasted.

173. Third, in preparing and presenting its defenses concerning the value of the LPG Plant, Plaintiff relied on the Statis' misrepresentations – in their financial statements, pleadings, and expert evidence – that they had invested $245 million in the construction of the LPG Plant. For example, Plaintiff relied on the Statis' misrepresentation of the LPG Plant's costs to calculate how much the Statis lost as a result of building the plant, arguing that the Statis "invested USD 245 million to create an asset that, in the best case scenario, had a value of only USD 67 million."[9]

174. Had the Statis not made these misrepresentations, and instead disclosed the truth – that their claimed investments in the LPG Plant were based on falsified and fraudulent evidence – Plaintiff's defenses would have been materially different. As a result of the Statis' misrepresentations, at minimum, Plaintiff incurred damages, including litigation costs in connection with preparing its defenses concerning damages that were completely wasted.

D. Impact of the Fraud on the ECT Tribunal's Decision

175. The Statis' fraud affected the outcome of the ECT Arbitration because it impacted the ECT Tribunal's determinations regarding jurisdiction, liability, and damages. For example, with respect to damages, the ECT Tribunal awarded the Statis total compensation in the amount of $497,685,101, comprised of the following: (i) $277.8 million for two oil and gas fields; (ii)

[9] *Id.* ¶ 1728 (citing Kazakhstan's Second Post-Hearing Brief, June 3, 2013, ¶¶ 829–32).

$31.3 million for another contract area; and (iii) $199 million for the LPG Plant. After deducting $10,444,899 in the Statis' debts (not including debt related to the Laren Transaction), the ECT Tribunal issued the final award in the amount of $497,685,101.[10]

176. Under the terms of its analysis, the ECT Tribunal concluded that the LPG Plant should be assessed in the amount of $199 million based on the amount of the KMG Indicative Offer.[11] This decision was the result of fraud committed by the Statis, from three perspectives.

177. First, KMG almost certainly would not have issued the KMG Indicative Offer had it known of the Statis' fraudulent scheme, particularly that the audit opinions for the Statis' financial statements had been obtained fraudulently and that the LPG Plant costs stated in the financially were materially falsified.

178. Second, the KMG Indicative Offer was explicitly based on the historical costs of construction of the LPG Plant included in the Information Memorandum.[12] This Information Memorandum was prepared unilaterally by the Statis using the materially inflated and fictitious construction costs resulting from the transactions with Perkwood and Azalia. The Information Memorandum failed to mention the Perkwood/Azalia transactions and presented the construction costs as if they corresponded to the costs of supply by Tractebel. Despite this, the Statis affirmatively introduced the KMG Indicative Offer into the ECT Arbitration and asked the ECT Tribunal to use the KMG Indicative Offer as a basis to award them damages.[13] Given that the ECT Tribunal accepted the Statis' request and awarded them $199 million on the basis of the fraudulently obtained KMG Indicative Offer, the Statis obtained the ECT Award by fraud.

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[10] *Id.* ¶¶ 1856–59.

[11] *Id.* ¶ 1747.

[12] *Id.*

[13] *Id.* ¶ 1707.

179. Third, the ECT Tribunal relied on the amount included in the KMG Indicative Offer on the grounds that in its view, this was "the relatively best source of information."[14] However, this conclusion was based on the Statis' fraud, in that the Statis:

a. Concealed a series of essential elements that determined the price fixed in the KMG Indicative Offer, including the artificially inflated costs and the fact that the suppliers of equipment at fictitious prices were related parties;

b. Filed in the ECT Arbitration falsified documents (the altered VDD Report, the annual accounts of TNG, the Information Memorandum, among other items described above), and on this basis repeatedly falsely represented that they had invested $245 million in construction costs for the LPG Plant; and

c. Urged the Tribunal to rely on the submitted KMG Indicative Offer as a valid minimum valuation for the LPG Plant.

180. These facts caused the English court to decide in 2017:

> If construction costs were … fraudulently inflated by the Claimants … then, because the … Indicative Bid valued the LPG Plant [on the basis of these inflated construction costs] there is the clearest argument that the … Indicative Bid would have been lower.
>
> [I]n asking the Tribunal to rely on the … Indicative Bid in circumstances (concealed from the Tribunal, as from the bidder) of the alleged fraud, there was a fraud on the Tribunal.[15]

181. As a result, the Statis' fraudulent inflation of the costs of the LPG Plant directly affected the decision of the ECT Tribunal regarding the amount of damages awarded to the Statis for the LPG Plant.

[14] *Id.* ¶ 1747.

[15] Anatolie Stati, Gabriel Stati. Ascom Group S.A. and Terra Raf Trans Traiding Ltd., Case no. CL-2014-000070 (June 6, 2017), ¶¶ 43, 48.

V. PERPETUATION OF THE FRAUD IN THE ENFORCEMENT PROCEEDINGS

182. After the Statis obtained the ECT Award against Plaintiff, they began recognition and enforcement proceedings in a series of jurisdictions, including England, Italy, the Netherlands, Luxembourg, Belgium, and the United States.[16] Plaintiff, meanwhile, initiated proceedings to have the award set aside or invalidated and to seek discovery from Defendants.[17] In initiating or defending themselves in these proceedings, the Statis continued to perpetrate and cover up the fraud against their investors with the substantial and continuous assistance of Defendants and to the detriment of Plaintiff.

183. In these proceedings, upon information and belief, Defendants worked with the Statis to provide funding and to create legal strategy. They did so, in part, through the dozens of communications detailed above, as well as others. Rather than trying to recoup their stolen investments from the Statis through lawful means, Defendants joined and assisted the Statis' fraudulent schemes so that they could unlawfully have Plaintiff pay them the amounts stolen by the Statis. In so doing, Defendants entered into a civil conspiracy to commit fraud, of which Plaintiff was a victim, and aided and abetted the Statis' wrongful activities.

184. As the Statis prosecuted or defended these proceedings, they and their counsel engaged in a series of misrepresentations to the various courts. This had the effect of furthering the fraud. Although the Statis and their counsel have made dozens of different misrepresentations in dozens of different proceedings, the five categories listed below represent the majority of such misrepresentations.

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[16] Specifically, they began enforcement proceedings in England and the United States in 2014, and in Sweden, Belgium and Italy in 2017. They also began attachment or exequatur proceedings in the Netherlands beginning in 2014, in Sweden, Luxembourg, and Belgium in 2017, and in Italy in 2018.

[17] Plaintiff asked the Svea Court of Appeal in Sweden to set aside the ECT Award in 2014. It initiated discovery proceedings in the United States starting in 2015.

185. Upon information and belief, Defendants knew that these representations were false and that the Statis were attempting to enforce an arbitral award that they had procured by fraud in order to continue the cover-up of the underlying fraud. Nevertheless, Defendants continued to encourage and support the Statis in these enforcement efforts, including by providing guidance and critical funding for these efforts.

A. The Statis Falsely Claim that the Perkwood Transactions Were Legitimate

186. As alleged above, the heart of the Statis' fraud against Plaintiff was the fraudulent accounting at the LPG Plant, in which they falsely inflated the costs of the plant through related-party transactions. When confronted by the truth, as presented in Plaintiff's legal submissions and evidence, the Statis made a series of misrepresentations regarding these related-party transactions.

187. After they belatedly admitted that they actually owned Perkwood after hiding this fact for years, the Statis continued to hide the fraudulent LPG Plant costs by falsely claiming in several European proceedings that Perkwood was an operational company that handled the delivery of equipment to Kazakhstan, so the markups could be attributed to associated delivery costs. For example:

a. The Statis told the Svea Court of Appeal in Sweden, without evidence or explanation, that "Perkwood did deliver. They did perform services."

b. The Statis asserted to the Luxembourg Court of Appeal that:

> [D]espite being part of the group of companies that the Statis controlled/owned, the Perkwood Company had a separate legal personality, distinct from the Statis as individuals and other entities within the Statis' group of companies. The Perkwood company was able to have rights and obligations, regardless of the fact that it did not own any premises or employees…. [T]he Perkwood company was fully operational. The company was set up to take care of the bidding process and to take over equipment delivery to Kazakhstan, in order to allow the construction of the LPG [Plant] by TNG.

c. Before the Rome Court of Appeals, the Statis argued that Perkwood was a fully functional company. Using circular logic (and no evidence), the Statis argued that the fact that Perkwood filed dormant company accounts in the U.K. during all relevant years was irrelevant because Perkwood was a fully operative company.

188. The Statis also made the false representation in various proceedings that the sham Perkwood transactions were a "bona fide transfer pricing agreement" and that their decision to use related parties was a legitimate "tax optimization scheme." These misrepresentations were made notwithstanding the fact that the Statis concealed their relationship with Perkwood from the outside world (including from their own auditors) and that Perkwood, a sham company without employees or offices for which the Statis filed dormant company reports, could not offer any value.

189. The Statis made the following misrepresentations in the Swedish proceedings:

a. "The Perkwood agreement was not a sham agreement. Perkwood's role was to manage the purchasing and delivery of equipment for the construction of the LPG Plant.… In other words, there has been no question of any misleading arrangement or sham agreement between TNG and Perkwood."

b. They denied, without evidence, that the financial statements reflected the purchase of $72 million in equipment that, in fact, never existed.

c. They claimed, again without evidence, that up to $60 million in interest costs "corresponds to the actual cost."

d. They further claimed that the "management fee" of $44 million paid to Perkwood was a legitimate cost: "this assertion that the management fee that was paid to Perkwood without any basis in any agreement, no account of performance in the form of services, well, we know that from the bank history that was not true."

190. The Statis never explained to the Swedish court what services Perkwood performed, how the management fee was calculated, or who decided the amount of the management fee. Instead, they falsely represented that the management fee was valid consideration for Perkwood coordinating the project, arranging for storage at various delivery sites, transportation, insurance, customs duties, and legal liability.

191. In England, the Statis repeated the key lie that the related-party transactions constituted a legitimate transfer pricing arrangement. In their "Points of Defence," they falsely claimed:

> Some of the Claimants' investments into the construction of the LPG Plant, in so far as they related to delivery of certain equipment for the LPG Plant, were structured using a transfer pricing arrangement involving transactions between related business entities affiliated with the Claimants…. This constituted a lawful arrangement driven by tax optimisation purposes. At no point did this arrangement involve fraudulent trade or misinvoicing or any other dishonest practice.

192. They further falsely attributed the price increases, in which the price of the equipment was tripled, to the fact "that Perkwood was responsible for the costly loading in Europe and unloading in Kazakhstan and the transportation in between" and that "Perkwood also bore all related insurance and storage costs relating to the requisite equipment during its delivery to Kazakhstan." Finally, the Statis claimed (falsely) that the "management fee was a legitimate add-on cost for the equipment supplied under the Perkwood Contract, corresponding to approximately a third of the total value of the Perkwood Contract."

193. The Statis made the same false assertions in Belgian exequatur proceedings: "Perkwood had to bear the excessive costs and much higher for the loading of goods in Europe, their unloading in Kazakhstan and the corresponding transport. Unlike Azalia, Perkwood also had to insure the goods concerned, as well as organize their storage to allow delivery to Kazakhstan." They further asserted that "[s]uch a tax optimization is a perfectly legal arrangement and is

customary in a group of companies and in complex construction projects of this magnitude…. This tax optimization mechanism allowed Perkwood (and Azalia) to minimise their tax base for corporate income tax in their country of incorporation, namely Russia (for the Azalia Company) and England (for the Perkwood Company)."

194. The Statis repeated these false assertions in the Luxembourg proceedings:

> The Perkwood Company and Contract were part of a Transfer Pricing Agreement, which involved operations between different entities, belonging to the Statis. It is around this Transfer Pricing Agreement, that a part of the investments made by the Statis in the construction of the LPG Plant (in particular as regards the delivery of certain equipment) was structured. Such a mechanism is a perfectly legal arrangement for tax optimisation purposes, as is customary in a group of companies and in complex construction projects of this size…. [T]hese 'fees and management fees' were initially perfectly legitimate, since Perkwood bore all costs and expenses relating to deliveries, storage, insurance and costs related to the conversion of EUR/USD currencies in relationship to equipment deliveries from Europe to Kazakhstan. They corresponded to about a third of the value of the Perkwood contract.

195. In the Netherlands, the Statis also made these false assertions, stating during a hearing that a large part of the inflated LPG Plant costs were bona fide costs for the transport of equipment. Later, however, the Statis changed their position and claimed in a filing that the (non-existent) management fee was an explanation for the costs. Either way, the Statis falsely asserted that the increase of the construction costs was part of a bona fide transfer pricing arrangement.

196. In Italy, the Statis again asserted that the Perkwood transactions were part of a lawful transfer pricing arrangement. They claimed in a brief that the price increase for the equipment was explained by transportation costs, insurance costs, and the floating exchange rate between the US dollar and the Euro. The Statis also asserted that the $44 million management fee paid by TNG to Perkwood was a legitimate construction cost and had a sound legal basis.

B. The Statis Misrepresented that KPMG Endorsed their Financial Statements Based on Access to Complete and Truthful Information.

197. In the European courts, the Statis relied heavily on the false assertion that their financial statements had been audited by KPMG to defend against Plaintiff's allegation that the statements were fraudulent. The Statis falsely claimed that KPMG had full access to all company records and that they were fully aware of Perkwood's status as a related company.

198. For example, the Statis made the following false statements to these courts:

a. They falsely told the Swedish court that "[w]hen reviewing the prepared annual statements, TNG's auditors, KPMG, had full access to all accounting records. KPMG was aware of Perkwood's function." They reiterated to the same court that "KPMG was aware of Perkwood's function" and that "KPMG had full access to all accounting documents."

b. The Statis also falsely informed the court in the Netherlands that "[d]uring the examination of the annual financial accounts, TNG's auditors, KPMG, had full access to all the accounting records. KPMG was aware of Perkwood's function."

c. They claimed to the Luxembourg court that "TNG, who was also a co-contractor in the allegedly fictitious contract, was also independently audited by KPMG Audit LLC ('KPMG'), who had access to all of the accounting records concerning Perkwood. KPMG never issued the slightest remark regarding the existence of Perkwood or the incriminating contract."

199. These representations were knowingly false, given the clear evidence that Anatolie Stati deliberately concealed the fact that Perkwood was a related company from KPMG and, further, instructed KPMG's Tax and Advisory department to remove any reference to Perkwood as a related company from relevant documents. These representations by the Statis are also proven

false by the newly discovered (October 2019) correspondence between KPMG and the Statis in February 2016 in which KPMG warned that it would withdraw its audit reports on the basis of the new information discovered by Plaintiff that Perkwood was a related party, unless the Statis were able to provide an explanation. All of the misrepresentations alleged in this section were made after the Statis received the KPMG correspondence in 2016.

200. The Statis' representations regarding KPMG also are proven false by the August 2019 decision by KPMG to invalidate all of its audit reports for the Statis' financial statements after KPMG was provided Mr. Lungu's deposition testimony and after Anatolie Stati could not explain his deliberate lies.

201. As evidence of their claim that KPMG knew that Perkwood was a related company, the Statis falsely represented to the Netherlands court that the "Vendor Due Diligence report drawn up by KPMG, which was compiled in 2008 in the context of a possible sale of TNG by Stati, submitted in the ECT Arbitration, mentions Perkwood as a 'related party' and supplier of materials for the LPG Plant."

202. Similarly, in Belgium they falsely represented that:

> Perkwood is further mentioned several times in a KPMG Due Diligence report entitled "Zenith Project" which was produced by the Statis in the course of the arbitral proceedings. More particularly, the report in question (i) refers to Perkwood as a 'related party' of the Statis; (ii) lists Perkwood as the main supplier of equipment for the LPG Plant; and (iii) was used by Kazakhstan during the arbitration proceedings, for the cross-examination conducted on the Statis and their witnesses (Anatolie STATI and Artur LUNGU).

203. They also falsely represented to the English High Court that "Perkwood's status as a related party to TNG was set out in the vendor due diligence report for Project Zenith." Finally, to the Luxembourg court, they falsely represented that "Perkwood's status as a party affiliated to TNG was established in KPMG's due diligence report."

204. These representations were knowingly false. As Mr. Lungu admitted at his 2019 deposition, the draft Vendor Due Diligence Report prepared by KPMG stated in four separate places that Perkwood was a Stati-related party. Upon reviewing this draft, Mr. Lungu informed KPMG that this was incorrect and he instructed KPMG to change the Vendor Due Diligence Report so that it (falsely) stated that KPMG was an unrelated third party. KPMG followed these instructions. Mr. Lungu testified that he issued these instructions because he, as the Statis' CFO, had been misled by the Statis into believing that Perkwood was an unrelated third party and not a Stati company.

205. The KPMG Vendor Due Diligence Report therefore was a direct product of the Statis' fraudulent scheme, and was engineered by the Statis to continue the scheme.

C. The Statis Misrepresented that They Never Concealed Perkwood's Status from KPMG or the Outside World

206. The evidence shows that the Statis consistently sought to conceal the fact that Perkwood was a company they owned and controlled, and that the transactions with Perkwood were not at arm's length. The Statis continued to misrepresent this fact to various courts.

207. For example, after evidence of the Statis' double accounting had been revealed in the U.S. discovery proceedings, the Statis continued to conceal the fact that Perkwood was a related party by refusing to admit or deny the fact before the Svea Court of Appeal. In a submission to that court, the Statis attempted to fend off Plaintiff's complaint that they were evading the issue by stating that they "have not asserted that Perkwood was 'freestanding from the Investors' sphere.' What has been stated by the Investors is that they do not concede to the fact that Perkwood was an affiliate in some – yet unspecified by Kazakhstan – way." They also evaded the question by stating that they "have never been able to contest (but neither to admit) that Perkwood is in any particular way an 'affiliated' company." Only on September 5, 2016,

once Plaintiff introduced documents that it had obtained from Latvian authorities showing that the Statis had full powers of attorney over Perkwood, did the Statis finally concede that Perkwood was a related party. In a September 8, 2016 hearing, counsel for the Statis stated that "we are not contesting that it is an affiliate company. We don't need to argue on this case, because it is an affiliate company."

208. Despite this clear example of attempting to conceal Perkwood's status, the Statis continued to falsely claim to the various courts that they had never tried to conceal that information. In Belgium, for example, they told the court that "it is therefore incorrect to claim that 'the Statis never informed KPMG of their relationship with Perkwood." They further insisted (falsely) in the same submission that "[i]t should be recalled that the Statis have never tried to hide the Perkwood Contract and Company" and that "it should be noted that the Statis never sought to conceal the facts of Perkwood being part of the group of companies they controlled/owned." They continued to make such representations the next year, stating that "it should be stressed that the Statis have never sought to conceal the status of Perkwood as part of the group of companies they controlled/possessed, unlike what Kazakhstan keeps repeating."

209. The Statis consistently made this misrepresentation to other courts as well. In England, they "denied that the Claimants at any time sought to conceal Perkwood's status as part of the group of companies owned and/or controlled by the Statis." In Luxembourg, they claimed that "[t]here was no deliberate concealment of Perkwood's status as a party affiliated to TNG within the meaning of the IFRS standards and IAS 24 or in any manner whatsoever." And in Italy, they further argued that neither Perkwood nor documentation regarding Perkwood had been concealed.

D. The Statis Misrepresented by Omission the Incriminating KPMG Correspondence and Concealed It from the Courts

210. On February 2, 2016, after KPMG belatedly learned, as a result of the disclosures obtained by Plaintiff, that Perkwood was actually a related company that had significantly inflated the costs of the equipment for the LPG Plant, KPMG reached out to the Statis for an explanation. It did so as part of its ongoing responsibility to revisit any audit reports "if we become aware of facts which may have caused the audit reports to be amended, had such facts been known to us at the audit report date."

211. The 2016 KPMG letter (which Plaintiff did not discover until October 2019) identified three primary issues that it was unaware of at the time of the audits. This included (a) the fact that Perkwood charged a management fee of approximately $44 million; (b) the fact that Perkwood was a related party controlled by the Statis; and (c) that Perkwood was not the "actual supplier of the equipment for the LPG Plant," but instead was a dormant company that was passing through costs that were "significantly different from the corresponding cost" charged by the actual supplier of the equipment. The letter demanded written responses to a series of six questions regarding these issues and warned that if it did not receive this information, it could "prevent future reliance on our audit reports and in particular to withdraw our audit reports and to inform about such withdrawal all parties who are still, in our view, relying on these reports, including … the Svea Court of Appeals." The Statis, however, did not substantively respond to KPMG's questions, but instead threatened legal action against KPMG.

212. After the disclosure by the Statis of documents in the then-ongoing English proceedings in June 2018, Plaintiff located Mr. Lungu in Houston, Texas and obtained his deposition in April 2019. Plaintiff then provided this deposition transcript to KPMG, along with

other materials evidencing the Statis' fraud. KPMG (as Plaintiff subsequently discovered in October 2019), contacted Anatolie Stati and demanded an explanation. None was provided.

213. On August 5, 2019, KPMG again reached out to the Statis and stated that "[o]ur audit files indicate that transactions with Perkwood were not disclosed in the financial statements of the [Stati] Companies, and that Perkwood was not included in the list of related parties which management provided to us during our audits." The letter again requested information regarding Perkwood's status.

214. After receiving no response, on August 21, 2019, KPMG took the extraordinary and rare step of invalidating all of its audit reports for the Statis' financial statements, and further instructed the Statis to "immediately take all necessary steps to prevent any further, or future, reliance" on the audit reports, including informing all parties in receipt of the financial statements or audit reports of this "development," *i.e.*, KPMG's decision to invalidate the reports.

215. Instead of complying with KPMG's instruction, the Statis continued to conceal the KPMG correspondence from Plaintiff and the various courts. They did not inform any court, or other recipients of the audited financial statements, of KPMG's decision to invalidate its audit reports. They also did not submit the KPMG correspondence to any of the courts that were in the process of adjudicating issues relating to the ECT Award in late 2019, including the Amsterdam Court of Appeal and the Luxembourg Court of Appeal. Far from preventing any reliance on the audit reports, the Statis continued to falsely represent to the courts that KPMG had performed their audits with full access to all documents and full knowledge of Perkwood's status despite knowing that the exact opposite was true. When Plaintiff eventually learned of the KPMG correspondence

in October 2019, the Statis sought to block Plaintiff from introducing the correspondence and to minimize its significance.[18]

216. In Luxembourg, Plaintiff asked the Statis in a November 15, 2019 letter to disclose the KPMG correspondence to the Court of Appeal of Luxembourg even though the submission date for evidence had passed. The Statis did not respond. When Plaintiff attempted to submit the evidence itself, the Statis sought to block the request in a letter to the Court of Appeal of Luxembourg. They falsely asserted that Plaintiff's request was unfounded and that the KPMG correspondence was the result of threats by Plaintiff against KPMG.

217. The Statis elaborated on this misrepresentation in a letter to the court in Belgium, stating as follows:

> Kazakhstan had first put KPMG Audit LLC (Kazakhstan) under pressure in 2016 – the subject of the notorious correspondence of 2016 of which the production is now requested by Kazakhstan – but the manoeuvre failed at the time; the letter of KPMG Audit LLC (Kazakhstan) dated 21 August 2019 is manifestly the result of new pressure exercised by Kazakhstan and is by no means the result of an independent and impartial investigation that we can expect from an auditor as renowned as KPMG.

218. The Statis further represented that the 2016 and 2019 KPMG correspondence was "far from new" because it related to fraud arguments already dismissed by the Svea Court of Appeal. Even so, the Statis represented, the correspondence did not establish any fraud: "the so-called KPMG documents do not show any fraud; Kazakhstan attempts to give these 'new' documents a scope they do not have."

219. In the Netherlands, the Statis actively sought to falsify the record regarding the KPMG correspondence. They sent a letter to the Court of Appeal asking it to correct the record

[18] Although Plaintiff received notification in August 2019 from KPMG regarding its decision that month to withdraw its audit reports, it did not receive the 2016 and 2019 correspondence between KPMG and the Statis until November 2019, after the submission date for evidence in the various proceedings had passed.

and add statements that were never pleaded before the court. Specifically, they attempted to include a reference to their offering to produce the 2016 KPMG correspondence, although no such offer had ever been made.

VI. NOTICE OF INTENT TO RAISE ISSUES UNDER ENGLISH LAW

220. Certain of the above-alleged acts of Defendants occurred in England such that English law applies.

221. Pursuant to CPLR § 4511, Plaintiff hereby gives notice of its intent to raise issues under the laws of England, including but not limited to, the law governing the economic tort of unlawful means conspiracy. Plaintiff intends to offer expert testimony, documents, and other relevant sources to the Court to determine the foreign law at issue.

222. English law recognizes the economic tort of unlawful means conspiracy, which arises when two or more persons conspire to take action through unlawful means that results in damages to another person.

223. The elements of an unlawful means conspiracy are: (a) an agreement or understanding between two or more parties, (b) an intent to act unlawfully, (c) concerted action pursuant to that agreement or understanding, and (d) damages to a third party as a result.

224. A conspirator is liable for all damages suffered by a victim of the conspiracy from the time the conspirator joins the conspiracy.

225. Under English law, the conspirators' sole or predominant purpose need not be to harm the plaintiff. In *OBG Ltd and others v. Allan*, [2007] UKHL 21 (OBG), the House of Lords found that the intent element of the tort can be satisfied where a defendant harms the plaintiff in furtherance of an unlawful conspiracy:

> A defendant may intend to harm the claimant as an end in itself, where, for instance, he has a grudge against the claimant. More usually a

> defendant intentionally inflicts harm on a claimant[]. . . as a means to an end. He inflicts damage as the means whereby to protect or promote his own economic interests. Intentional harm inflicted against a claimant in either of these circumstances satisfies the mental ingredient of this tort.

226. Unlawful means include acts which are themselves unlawful under criminal or civil law.

COUNT I

CIVIL CONSPIRACY TO COMMIT FRAUD

227. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1–226 above as if fully set forth herein.

228. The Statis engaged in a fraudulent scheme, as alleged herein.

229. The Statis made misrepresentations and material omissions of fact that were false and known to be false. The Statis made the misrepresentations and material omissions for the purpose of inducing multiple parties, including Plaintiff, the Tristan Noteholders, KPMG, the ECT Tribunal, and the courts of Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy to rely upon them.

230. These parties and/or others, justifiably relied on the Statis' misrepresentations and material omissions.

231. The Statis' misrepresentations and material omissions caused injury to Plaintiff.

232. The Statis' misrepresentations and material omissions were part of their fraudulent scheme, premised on their key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures. These misrepresentations are being perpetuated in the Enforcement Proceedings, wherein the Statis continue to misrepresent that the amounts they stole were legitimate expenditures.

233. Defendants had knowledge that the Statis stole the monies through their fraudulent related-party transactions and, to cover up this theft, falsely represented that these stolen monies were legitimate business expenses.

234. Defendants agreed to participate in the unlawful acts of the Statis. Specifically, Defendants knew that the Statis had stolen the monies and were claiming reimbursement for such stolen monies as investment costs in the ECT Arbitration but, despite this, Defendants agreed to enter into the Sharing Agreement with the Statis under the terms of which Defendants joined, and actively supported, the unlawful objective of obtaining from Plaintiff the monies that the Statis had stolen from Defendants (and the other Tristan Noteholders).

235. Further, Defendants subsequently engaged in overt acts in furtherance of the unlawful scheme. For example, they agreed to provide funding to the Statis for the Enforcement Proceedings, and they did provide such funding, knowing that the Statis had made numerous fraudulent misrepresentations in the ECT Arbitration and in the Enforcement Proceedings. They also regularly consulted with the Statis and/or their counsel and provided guidance regarding the legal strategy to enforce the fraudulently obtained ECT Award. They also sought to frustrate Plaintiff's attempts to discover information regarding the Statis' fraud.

236. By engaging in these activities with knowledge of the Statis' fraud, Defendants have knowingly participated in, and provided substantial assistance to, the fraudulent scheme.

237. As a direct and proximate result of the fraudulent scheme, in which Defendants knowingly participated, Plaintiff was injured and suffered damages, including but not limited to the amount of the litigation costs that it otherwise would not have incurred in the ECT Arbitration and the Enforcement Proceedings and that were wasted.

238. Defendants' acts as alleged in Count I were willful, wanton, malicious, and oppressive.

COUNT II

AIDING AND ABETTING WRONGFUL CONDUCT

239. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1–238 above as if fully set forth herein.

240. The Statis made misrepresentations and material omissions of fact that were false and known to be false. The Statis made the misrepresentations and material omissions for the purpose of inducing multiple parties, including Plaintiff, the Tristan Noteholders, KPMG, the ECT Tribunal, and the courts of Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy to rely upon them.

241. These parties and/or others, justifiably relied on the Statis' misrepresentations and material omissions.

242. The Statis' misrepresentations and material omissions caused injury to Plaintiff.

243. The Statis' misrepresentations and material omissions were part of their fraudulent scheme, premised on their key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures. These misrepresentations are being perpetuated in the Enforcement Proceedings, wherein the Statis continue to misrepresent that the amounts they stole were legitimate expenditures.

244. Defendants had knowledge that the Statis stole the monies through their fraudulent related-party transactions and, to cover up this theft, falsely represented that these stolen monies were legitimate business expenses.

245. Defendants aided and abetted the unlawful acts of the Statis. Specifically, Defendants knew that the Statis had stolen the monies and were claiming reimbursement for such stolen monies as investment costs in the ECT Arbitration but, despite this, Defendants agreed to enter into the Sharing Agreement with the Statis under the terms of which Defendants joined, and actively supported, the unlawful objective of obtaining from Plaintiff the monies that the Statis had stolen from Defendants (and the other Tristan Noteholders)

246. Further, Defendants subsequently engaged in overt acts in furtherance of the unlawful scheme. For example, they agreed to provide funding to the Statis for the Enforcement Proceedings, and they did provide such funding, knowing that the Statis had made numerous fraudulent misrepresentations in the ECT Arbitration and subsequent enforcement proceedings. They also regularly consulted with the Statis and/or their counsel and provided guidance regarding the legal strategy to enforce the fraudulently obtained ECT Award. They also sought to frustrate Plaintiff's attempts to discover information regarding the Statis' fraud.

247. Defendants actions substantially assisted the Statis in furthering the fraudulent scheme.

248. As a direct and proximate result of Defendants' substantial assistance to the Statis, Plaintiff was injured and suffered damages, including but not limited to the amount of the litigation costs that it otherwise would not have incurred in the ECT Arbitration and the Enforcement Proceedings and that were wasted.

249. Defendants' acts as alleged in Count II were willful, wanton, malicious, and oppressive.

COUNT III

UNLAWFUL MEANS CONSPIRACY UNDER ENGLISH LAW

250. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1–249 above as if fully set forth herein.

251. Defendants knowingly joined a conspiracy amongst the Statis and others to steal monies from the Tristan Noteholders and Plaintiff through unlawful means.

252. Among other unlawful means, the Statis conspired to, and did, commit fraud against the Tristan Noteholders through the illegitimate and systematic stripping of assets from TNG and KPM using sham related-party transactions that devalued the companies. These sham related-party transactions were made with the proceeds of fraud, and thus constituted money laundering.

253. The Statis made misrepresentations and material omissions of fact that were false and known to be false. The Statis made the misrepresentations and material omissions for the purpose of inducing multiple parties, including Plaintiff, the Tristan Noteholders, KPMG, the ECT Tribunal, and the courts of Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy to rely upon them.

254. These parties and/or others, justifiably relied on the Statis' misrepresentations and material omissions.

255. The Statis' misrepresentations and material omissions caused injury to Plaintiff.

256. Defendants had knowledge that the Statis stole the monies through unlawful means and, to cover up this theft, conspired to, and did, falsely represent that these stolen monies were legitimate business expenses.

257. Defendants conspired to, and did, engage in numerous acts in furtherance of the Statis' fraudulent scheme with the intention of causing damage to Plaintiff. Specifically,

Defendants knew that the Statis were claiming reimbursement for such stolen monies as investment costs in the ECT Arbitration but, despite this, Defendants agreed to enter into the Sharing Agreement with the Statis under the terms of which Defendants joined, and actively supported, the unlawful objective of obtaining from Plaintiff the monies that the Statis had stolen from Defendants (and the other Tristan Noteholders).

258. Further, Defendants agreed to provide funding to the Statis for the Enforcement Proceedings, and did provide such funding, knowing that the Statis had made numerous fraudulent misrepresentations in the ECT Arbitration and subsequent enforcement proceedings. They also regularly consulted with the Statis and/or their counsel and provided guidance regarding the legal strategy to enforce the fraudulently obtained ECT Award. They also sought to frustrate Plaintiff's attempts to discover information regarding the Statis' fraud.

259. As a result of the unlawful means conspiracy, Plaintiff was injured and suffered damages, including but not limited to the amount of the litigation costs that it otherwise would not have incurred in the ECT Arbitration and the Enforcement Proceedings and that were therefore wasted.

DEMAND FOR JURY TRIAL

260. Plaintiff hereby demands a trial by jury of all issues in this action for which a trial may be had.

PRAYER FOR RELIEF

261. WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

a. actual damages in an amount to be proven at trial;

b. punitive damages in an amount to be proven at trial;

c. attorneys' fees, interests, and costs; and

d. such other relief that the Court deems just and proper.

Dated: June 16, 2020
New York, New York

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

By: /s/ *Felice B. Galant*

Felice B. Galant
1301 Avenue of the Americas
New York, New York 10019
Tel.: (212) 318-3000
Fax: (212) 318-3400
felice.galant@nortonrosefulbright.com

OF COUNSEL:
Matthew H. Kirtland (pending filing of pro hac vice application)
Esha Kamboj
799 9th Street NW, Suite 1000
Washington, D. C. 20001
Tel.: (202) 662-0200
Fax: (202) 662-4642
matthew.kirtland@nortonrosefulbright.com
esha.kamboj@nortonrosefulbright.com

Attorneys for Plaintiff Republic of Kazakhstan

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN, Plaintiff, v. DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC, Defendants.	Index No. 652522/2020

STIPULATION EXTENDING TIME
TO RESPOND TO THE COMPLAINT

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned counsel for the parties hereto that Defendants' time to answer, move or otherwise respond to the Complaint is hereby extended to September 9, 2020.

IT IS FURTHER HEREBY STIPULATED AND AGREED that in exchange for this extension of time, (i) the undersigned counsel for Defendants has accepted service of the Summons and Complaint on behalf of ACP I Trading LLC, and (ii) Defendants will not dispute or challenge service of the Summons and Complaint as to any Defendant.

IT IS FURTHER HEREBY STIPULATED AND AGREED that this stipulation may be executed in counterparts and facsimile and/or scanned e-mail signatures will be accorded the same force and effect as if they were original signatures.

Dated: New York, New York
July 28, 2020

AKIN GUMP STRAUSS HAUER & FELD LLP

By: _____
Brian T. Carney

Brian T. Carney
Kristen Diane White
One Bryant Park
Bank of America Tower
New York, NY 10036
Tel.: (212) 872-8156
Fax: (212) 872-1002
bcarney@akingump.com
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Clay J. Pierce
Andrew Van Houter
FAEGRE DRINKER BIDDLE & REATH LLP
1177 Avenue of the Americas
New York, NY 10036
Tel.: (212) 248-3186
clay.pierce@faegredrinker.com

Attorneys for Defendants Daniel Chapman, Argentem Creek Holdings LLC, Argentem Creek Partners LP, Pathfinder Argentem Creek GP LLC, and ACP I Trading LLC

NORTON ROSE FULBRIGHT US LLP

By: Felice B. Galant
Felice B. Galant

Felice B. Galant
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New York, NY 10019
Tel.: (212) 318-3000
Fax: (212) 318-3400
felice.galant@nortonrosefulbright.com

Matthew H. Kirtland (*pro hac vice* motion to be filed)
Esha Kamboj
799 9th Street NW, Suite 1000
Washington, D. C. 20001
Tel.: (202) 662-0200
Fax: (202) 662-4642
matthew.kirtland@nortonrosefulbright.com
esha.kamboj@nortonrosefulbright.com

Attorneys for Plaintiff Republic of Kazakhstan

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Job #: 1445023

Attorney: Norton Rose Fulbright US LLP - New York
Address: 1301 Avenue of the Americas New York , NY 10019

REPUBLIC OF KAZAKHSTAN,

Plaintiff

v

DANIEL CHAPMAN, et al.,

Defendant

Index Number: 652522/2020

Date Filed: 06/16/2020

STATE OF NEW YORK, COUNTY OF NASSAU, SS.:

AFFIDAVIT OF SERVICE

Baldeo C. Drepaul, being sworn says:
Deponent is not a party herein; is over the age of 18 years and resides in the State of New York.

On **7/13/2020**, at **7:04 AM** at: **165 WEST 91ST STREET, LOBBY, NEW YORK, NY 10024** Deponent served the within **Summons, Complaint and Notice of Electronic Filing (Mandatory Case) - Form EFM -1**
On: **DANIEL CHAPMAN**, therein named.

Said documents were conformed with index number and date of filing endorsed thereon.

☒ **#1 SUITABLE AGE PERSON**
By delivering thereat a true copy of each to Luis Gonzalez (Doorman) a person of suitable age and discretion who stated that he/she is authorized to accept service. Said premises is recipient's :[] actual place of business / employment [X] dwelling house (usual place of abode) within the state.

☒ **#2 DESCRIPTION**
Sex: Male **Color of skin**: Hispanic **Color of hair:** Black **Glasses**: No
Age: 36-50 **Height**: 5ft 4inch - 5ft 8inch **Weight**: 161-200 Lbs.

☒ **#3 MILITARY SERVICE**
I asked the person spoken to whether defendant was in active military service of the United States or the State of New York in any capacity whatsoever and received a negative reply. The source of my information and the grounds of my belief are the conversations and observations above narrated.

☐ **#4 WITNESS FEES**
Subpoena Fee Tendered in the amount of

☒ **#5 OTHER**
Mr. Gonazalez, stated that the Subject was not available and entry was REFUSED/DENIED to Apt. 8E but he stated that he is authorized to accept on the Subject's behalf.

☒ **#6 MAILING**
Baldeo C. Drepaul being duly sworn, deponent completed service by depositing a copy of the said documents in a postpaid properly addressed envelope, bearing the words "Personal and Confidential" by first class mail on: **07/13/2020** to **DANIEL CHAPMAN** at **165 WEST 91ST STREET, APT. 8E, NEW YORK, NY 10024** in an official depository of the United States Postal Service in the State of New York.

:

Sworn to before me on 07/13/2020

LATCHME DEVI DREPAUL
Notary Public, State of New York
Registration No. 01DR6332029
Qualified in Queens County
Certificate filed in New York County
Commission Expires 10/26/2023

Baldeo C. Drepaul
DCA License # 2093879

Court Support, Inc., 181 Hillside Avenue, Williston Park, NY 11596 License #1382542

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK *Index No.* 652522/2020

filed 6/16/2020
Calendar No.

REPUBLIC OF KAZAKHSTAN *Plaintiff(s) Petitioner(s)*

against

DANIEL CHAPMAN et al *Defendant(s) Respondent(s)*

1~ AFFIDAVIT OF SERVICE

STATE OF DELAWARE, COUNTY OF: NEW CASTLE Ss.:

The undersigned, being sworn, says: Deponent is not a party herein, is over 18 years of age and resides at Wilmington, DE

On 7/13/2020 at 9:30 A .M., at C/O THE CORPORATION TRUST CO. 1209 ORANGE STREET WILMINGTON, DE 19801 deponent served the within

☒ summons and complaint
☐ subpoena duces tecum
☐ citation
☒ NOTICE OF ELECTRONIC FILING.

on Argentem Creek Holdings LLC ☒ defendant ☐ witness hereinafter called therein ☐ -espondent the recipient lamed

INDIVIDUAL 1. ☐ by delivering a true copy *of each* to said recipient personally; deponent knew the person so served to be the person described as said recipient therein.

CORPORATION 2. ☒ a DELAWARE corporation, by delivering thereat a true *copy of each* to AMY MCLAREN (authorized person at agent) personally, deponent knew said corporation so served to be the corporation, described in same as said recipient and knew said individual to be MANAGING AGENT thereof

SUITABLE AGE PERSON 3. ☐ by delivering thereat a true copy *of each* to a person of suitable age and discretion. Said premises is recipient's ☐ actual place of business ☐ dwelling place ☐ usual place of abode within the state.

AFFIXING TO DOOR, ETC. 4. ☐ by affixing a true copy of *each* to the door of said premises, which is recipient's ☐ actual place of business ☐ dwelling place ☐ usual place of abode within the state. Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, thereat, having called there

MAILING TO RESIDENCE USE WITH 3 OR 4 5A. ☐ Deponent talked to at said premises who stated that recipient ☐ lived ☐ worked there. Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to recipient at recipient's last known residence, at and deposited said envelope in an official depository under exclusive care and custody of the U.S. Postal Service within New York State.

MAILING TO BUSINESS USE WITH 3 OR 4 5B. ☐ Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class post paid envelope properly addressed to recipient at recipient's actual place of business, at in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the recipient.

DESCRIPTION ☒

☐ Male	☒ White Skin	☐ Black Hair	☐ White Hair	☐ 14-20 Yrs.	☐ Under 5'	☐ Under 100 Lbs.
☒ Female	☐ Black Skin	☒ Brown Hair	☐ Balding	☐ 21-35 Yrs.	☐ 5'0"-5'3"	☐ 100- 130 Lbs.
	☐ Yellow Skin	☐ Blonde Hair	☐ Mustache	☒ 36-50 Yrs.	☒ 5'4"-5'8"	☒ 131-160 Lbs.
	☐ Brown Skin	☐ Gray Hair	☐ Beard	☐ 51-65 Yrs.	☐ 5'9"-6'0"	☐ 161-200 Lbs.
	☐ Red Skin	☐ Red Hair	☐ Glasses	☐ Over 65 Yrs.	[- I Over 6'	☐ Over 200 Lbs.

Other identifying features:

☐

WITNESS FEES ☐ $ the authorizing traveling expenses and one days' witness fee: ☐ was paid (tendered) to the recipient ☐ was mailed to the witness with subpeona copy.

MILITARY SERVICE ☐ I asked the person spoken to whether recipient was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Recipient *wore* ordinary *civilian clothes and no military* uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the recipient is not in military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on 7/13/2020

DENORRIS ANGELO BRITT
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires May 1, 2022

License No.

KEVIN DUNN
BRANDYWINE PROCESS SERVERS, LTD.
302-475-2600

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK *Index No.* 652522/2020

filed 6/16/2020
Calendar No.

REPUBLIC OF KAZAKHSTAN *Plaintiff(s) Petitioner(s)*

against

DANIEL CHAPMAN et al *Defendant(s) Respondent(s)*

1~ *AFFIDAVIT OF SERVICE*

STATE OF DELAWARE, COUNTY OF: NEW CASTLE Ss.:

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deponent served the within

☒ summons and complaint
☐ subpoena duces tecum
☐ citation
☒ NOTICE OF ELECTRONIC FILING.

on Argentem Creek Partners LP ☒ defendant ☐ witness hereinafter called therein ☐ -espondent the recipient named

INDIVIDUAL 1. ☐ by delivering a true copy *of each* to said recipient personally; deponent knew the person so served to be the person described as said recipient therein.

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Sworn to before me on 7/13/2020

DENORRIS ANGELO BRITT
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires May 1, 2022

License No.

KEVIN DUNN
BRANDYWINE PROCESS SERVERS, LTD.
302-475-2600

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK *Index No.* 652522/2020

filed 6/16/2020
Calendar No.

REPUBLIC OF KAZAKHSTAN *Plaintiff(s) Petitioner(s)*

against

DANIEL CHAPMAN et al *Defendant(s) Respondent(s)*

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on Pathfinder Argentem Creek GP LLC. ☒ defendant ☐ witness ☐ -espondent hereinafter called therein the recipient lamed

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Sworn to before me on 7/13/2020

DENORRIS ANGELO BRITT
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires May 1, 2022

License No.

KEVIN DUNN
BRANDYWINE PROCESS SERVERS, LTD.
302-475-2600

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN, Plaintiff, v. DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC, Defendants.	Index No. 652522/2020 **NOTICE OF MOTION FOR PRO HAC VICE ADMISSION OF MATTHEW H. KIRTLAND**

PLEASE TAKE NOTICE that upon the annexed Affirmation of Felice B. Galant, the Affidavit of Matthew H. Kirtland, and the Certificates of Good Standing annexed thereto, Norton Rose Fulbright US LLP, attorneys for Plaintiff Republic of Kazakhstan, will move this Court in the Motion Submission Office, Room 130, of the New York County Courthouse of the Supreme Court, State of New York, at 60 Centre Street, New York, New York, 10007-1474 on October 9, 2020 at 10:00 a.m., or as soon thereafter as counsel may be heard, or at such other time as the parties may be directed to appear, for an Order admitting Matthew H. Kirtland as an attorney *pro hac vice* to act as co-counsel for Plaintiff Republic of Kazakhstan.

PLEASE TAKE FURTHER NOTICE that, in accordance with CPLR § 2214(b), answering affidavits and papers shall by served no less than two (2) days prior to the return date set forth above.

Dated: September 28, 2020
New York, New York

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

By: /s/ *Felice B. Galant*

Felice B. Galant
1301 Avenue of the Americas
New York, New York 10019
Tel.: (212) 318-3000
Fax: (212) 318-3400
felice.galant@nortonrosefulbright.com

OF COUNSEL:
Matthew H. Kirtland (pending filing of pro hac vice application)
Esha Kamboj
799 9th Street NW, Suite 1000
Washington, D. C. 20001
Tel.: (202) 662-0200
Fax: (202) 662-4642
matthew.kirtland@nortonrosefulbright.com

Attorneys for Plaintiff Republic of Kazakhstan

TO:

Brian T. Carney
Kristen Diane White
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Bank of America Tower
New York, NY 10036

Paul Butler
AKIN GUMP STRAUSS HAUER & FELD
20001 K Street NW
Washington, DC 20006

Clay J. Pierce
Andrew Van Houter
FAEGRE DRINKER BIDDLE & REATH LLP
1177 Avenue of the Americas
New York, NY 10036

Attorneys for Defendants Daniel Chapman,

Argentem Creek Holdings, LLC,
Argentem Creek Partners LP,
Pathfinder Argentem Creek GP LLC, and
ACP I Trading LLC

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN, Plaintiff, v. DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC, Defendants.	Index No. 652522/2020 **AFFIRMATION OF FELICE GALANT IN SUPPORT OF MOTION FOR ADMISSION OF MATTHEW H. KIRTLAND *PRO HAC VICE***

I, FELICE B. GALANT, hereby state and affirm the following under the penalties of perjury:

1. I am an attorney duly admitted to practice law before the Courts of the State of New York and have been a member of this Court since 1992.

2. I am a senior counsel in the law firm Norton Rose Fulbright US LLP, counsel for Plaintiff Republic of Kazakhstan ("Plaintiff").

3. Pursuant to 22 N.Y.C.R.R. § 520.11, I submit this affirmation in support of the motion for admission *pro hac vice* of my colleague, Matthew H. Kirtland, to act as my co-counsel on behalf of Plaintiff in the above-captioned action.

4. Annexed hereto is the Affidavit of Matthew Kirtland. Mr. Kirtland is licensed to practice law before the Bars of the District of Columbia and the State of Maryland. His certificates of good standing with the State of Maryland and the District of Columbia are annexed hereto as Exhibit A. Mr. Kirtland is also licensed to practice before the United States District Courts for the District of Columbia and Maryland, the United States Courts of Appeals for the

District of Columbia, the Fourth Circuit, the Fifth Circuit, and Sixth Circuit, and the United States Court of Federal Claims. He is currently in good standing with all states, courts, and bars in which he is admitted.

5. Mr. Kirtland is a partner at Norton Rose Fulbright LLP, resident in its Washington, D.C. office.

6. Mr. Kirtland is fully acquainted with the facts and circumstances of this case, and is competent to represent the interests of Plaintiff Republic of Kazakhstan in this matter.

7. It is respectfully submitted that this motion be granted and an Order entered permitting Matthew H. Kirtland to be admitted as an attorney *pro hac vice* on behalf of Plaintiff Republic of Kazakhstan. A Proposed Order is annexed as Exhibit B.

Dated: September 28, 2020
New York, New York

NORTON ROSE FULBRIGHT US LLP

By: /s/ *Felice B. Galant*
Felice B. Galant
1301 Avenue of the Americas
New York, New York 10019
Tel.: (212) 318-3000
Fax: (212) 318-3400
felice.galant@nortonrosefulbright.com

Attorneys for Plaintiff Republic of Kazakhstan

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN, Plaintiff, v. DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC, Defendants.	Index No. 652522/2020

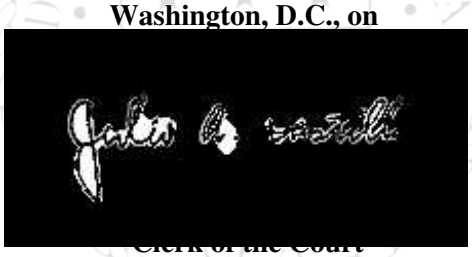
EXHIBIT A

On behalf of JULIO A. CASTILLO, Clerk of the District of Columbia Court of Appeals, the District of Columbia Bar does hereby certify that

Matthew H Kirtland

was duly qualified and admitted on November 6, 1998 as an attorney and counselor entitled to practice before this Court; and is, on the date indicated below, a(n) ACTIVE member in good standing of this Bar.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of this Court at the City of Washington, D.C., on



Clerk of the Court

Issued By:
District of Columbia Bar Membership

For questions or concerns, please contact the D.C. Bar Membership Office at 202-626-3475 or email memberservices@dcbar.org.

Court of Appeals of Maryland

Annapolis, MD

CERTIFICATE OF GOOD STANDING

STATE OF MARYLAND, ss:

I, Suzanne Johnson, Clerk of the Court of Appeals of Maryland, do hereby certify that on the seventeenth day of December, 1997,

Matthew Harris Kirtland

having first taken and subscribed the oath prescribed by the Constitution and Laws of this State, was admitted as an attorney of said Court, is now in good standing, and as such is entitled to practice law in any of the Courts of said State, subject to the Rules of Court.

In Testimony Whereof, *I have hereunto set my hand as Clerk, and affixed the Seal of the Court of Appeals of Maryland, this twenty-seventh day of August, 2020.*

Clerk of the Court of Appeals of Maryland

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN, Plaintiff, v. DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC, Defendants.	Index No. 652522/2020

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN, Plaintiff, v. DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC, Defendants.	Index No. 652522/2020 **[PROPOSED] ORDER**

ORDER GRANTING ADMISSION *PRO HAC VICE*

Upon the motion of Plaintiff Republic of Kazakhstan and Norton Rose Fulbright US LLP, including the Certificates of Good Standing of the applicant, for the admission of Matthew H. Kirtland, *pro hac vice*, to this Court,

IT IS HEREBY ORDERED that Matthew H. Kirtland of Norton Rose Fulbright US LLP be admitted to practice *pro hac vice* before this Court in the above-captioned action as co-counsel for Plaintiff Republic of Kazakhstan.

_____
J.S.C.

Dated: New York, New York
_____, 2020

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN, Plaintiff, v. DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC, Defendants.	Index No. 652522/2020 **AFFIDAVIT OF MATTHEW H. KIRTLAND FOR *PRO HAC VICE* ADMISSION**

I, MATTHEW H. KIRTLAND, being duly sworn, deposes and says:

1. I am more than eighteen (18) years of age and submit this affidavit based upon my personal knowledge of the facts contained herein.

2. I am a partner of the law firm of Norton Rose Fulbright US LLP, resident in the firm's Washington, D.C. office.

3. I submit this affidavit in support of the motion to permit me to act as co-counsel, *pro hac vice,* on behalf of Plaintiff Republic of Kazakhstan in this matter.

4. I am admitted to practice law in the District of Columbia and Maryland. My certificates of good standing with the Bars of the District of Columbia and Maryland are annexed to the accompanying affirmation of Felice B. Galant.

5. I am also licensed to practice before the United States District Courts for the District of Columbia and Maryland, the United States Courts of Appeals for the District of Columbia, the Fourth Circuit, the Fifth Circuit, and Sixth Circuit, and the United States Court of

Federal Claims. I have never been disciplined by any bar and currently am in good standing with all states, courts, and bars in which I am admitted.

6. Norton Rose Fulbright and I have been retained to provide legal representation in connection with the above-captioned case now pending before this Court.

7. I have represented Plaintiff Republic of Kazakhstan in other cases and am familiar with the facts and circumstances underlying this litigation, and have firsthand knowledge of, and experience in, this matter.

8. I certify that I am familiar with the standards of professional conduct imposed upon members of the New York Bar and the relevant statutes, rules, and procedures, and will abide by them. I agree to be subject to the jurisdiction of the courts of New York with respect to any acts occurring during the course of my participation in this matter.

9. I am not currently admitted to practice *pro hac vice* in the courts of New York.

I certify under penalty of perjury that the foregoing is true and correct.

WHEREFORE, it is respectfully requested that this motion be granted, thereby admitting me to practice *pro hac vice* to act as co-counsel for Plaintiff Republic of Kazakhstan in the above-captioned litigation.

Dated: September 28, 2020

Matthew Kirtland

MATTHEW H. KIRTLAND

Sworn to before me this 28th day of Sept. 2020

Barbara Coleman Brill BCB

Notary Public

Online Notary Public. This notarial act involved the use of online audio/video communication technology.

CERTIFICATE OF CONFORMITY

I, Matthew H. Kirtland, an attorney duly licensed to practice law in the State of Maryland and in the District of Columbia, affirm under penalty of perjury and certify that I witnessed the signature of Barbara Coleman Brill, which was signed on September 28, 2020. The manner in which same was signed was, and is, in accordance with, and conforms to, the laws for taking oaths and acknowledgements in the State of Maryland.

Dated: 09/28/2020 11:52 AM CDT

Matthew Kirtland

Matthew H. Kirtland

REQUEST FOR JUDICIAL INTERVENTION

UCS-840
(rev. 07/29/2019)

SUPREME COURT, COUNTY OF NEW YORK

Index No: 652522/2020 Date Index Issued: 06/24/2020

For Court Use Only:
IAS Entry Date
Judge Assigned
RJI Filed Date

CAPTION Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet.

Republic of Kazakhstan

Plaintiff(s)/Petitioner(s)

-against-

Daniel Chapman, Argentem Creek Holdings LLC, Argentem Creek Partners LP, Pathfinder Argentem Creek GP LLC, and ACP I Trading LLC

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING Check only one box and specify where indicated.

COMMERCIAL
- (●) Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)
- ( ) Contract
- ( ) Insurance (where insurance company is a party, except arbitration)
- ( ) UCC (includes sales and negotiable instruments)
- ( ) Other Commercial (specify): _____

NOTE: *For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the* ***COMMERCIAL DIVISION RJI ADDENDUM (UCS-840C)****.*

REAL PROPERTY Specify how many properties the application includes: _____
- ( ) Condemnation
- ( ) Mortgage Foreclosure (specify): ( ) Residential ( ) Commercial
  Property Address: _____
  NOTE: *For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the* ***FORECLOSURE RJI ADDENDUM (UCS-840F)****.*
- ( ) Tax Certiorari
- ( ) Tax Foreclosure
- ( ) Other Real Property (specify): _____

OTHER MATTERS
- ( ) Certificate of Incorporation/Dissolution [see ***NOTE*** in **COMMERCIAL** section]
- ( ) Emergency Medical Treatment
- ( ) Habeas Corpus
- ( ) Local Court Appeal
- ( ) Mechanic's Lien
- ( ) Name Change
- ( ) Pistol Permit Revocation Hearing
- ( ) Sale or Finance of Religious/Not-for-Profit Property
- ( ) Other (specify): _____

MATRIMONIAL
- ( ) Contested
  NOTE: *If there are children under the age of 18, complete and attach the* ***MATRIMONIAL RJI ADDENDUM (UCS-840M)****.*
  *For Uncontested Matrimonial actions, use the Uncontested Divorce RJI (****UD-13****).*

TORTS
- ( ) Asbestos
- ( ) Child Victims Act
- ( ) Environmental (specify): _____
- ( ) Medical, Dental or Podiatric Malpractice
- ( ) Motor Vehicle
- ( ) Products Liability (specify): _____
- ( ) Other Negligence (specify): _____
- ( ) Other Professional Malpractice (specify): _____
- ( ) Other Tort (specify): _____

SPECIAL PROCEEDINGS
- ( ) CPLR Article 75 (Arbitration) [see ***NOTE*** in **COMMERCIAL** section]
- ( ) CPLR Article 78 (Body or Officer)
- ( ) Election Law
- ( ) Extreme Risk Protection Order
- ( ) MHL Article 9.60 (Kendra's Law)
- ( ) MHL Article 10 (Sex Offender Confinement-Initial)
- ( ) MHL Article 10 (Sex Offender Confinement-Review)
- ( ) MHL Article 81 (Guardianship)
- ( ) Other Mental Hygiene (specify): _____
- ( ) Other Special Proceeding (specify): _____

STATUS OF ACTION OR PROCEEDING Answer YES or NO for every question and enter additional information where indicated.

	YES	NO		
Has a summons and complaint or summons with notice been filed?	(●)	( )	If yes, date filed:	06/16/2020
Has a summons and complaint or summons with notice been served?	(●)	( )	If yes, date served:	07/13/2020
Is this action/proceeding being filed post-judgment?	( )	(●)	If yes, judgment date:	

NATURE OF JUDICIAL INTERVENTION Check one box only and enter additional information where indicated.
- ( ) Infant's Compromise
- ( ) Extreme Risk Protection Order Application
- ( ) Note of Issue/Certificate of Readiness
- ( ) Notice of Medical, Dental or Podiatric Malpractice — Date Issue Joined: _____
- (●) Notice of Motion — Relief Requested: Pro Hac Vice Admission — Return Date: 10/09/2020
- ( ) Notice of Petition — Relief Requested: _____ — Return Date: _____
- ( ) Order to Show Cause — Relief Requested: _____ — Return Date: _____
- ( ) Other Ex Parte Application — Relief Requested: _____
- ( ) Poor Person Application
- ( ) Request for Preliminary Conference
- ( ) Residential Mortgage Foreclosure Settlement Conference
- ( ) Writ of Habeas Corpus
- ( ) Other (specify): _____

RELATED CASES List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the **RJI ADDENDUM (UCS-840A)**.

Case Title	Index/Case Number	Court	Judge (if assigned)	Relationship to instant case

PARTIES For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the **RJI ADDENDUM (UCS-840A)**.

Un-Rep	Parties List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3rd party plaintiff, etc.)	Attorneys and Unrepresented Litigants For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	Issue Joined For each defendant, indicate if issue has been joined.	Insurance Carriers For each defendant, indicate insurance carrier, if applicable.
☐	Name: Republic of Kazakhstan Role(s): Plaintiff	Felice B. Galant, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019, (212) 318-3000, felice.galant@nortonrosefulbright.com	○ YES ○ NO	
☐	Name: Daniel Chapman Role(s): Defendant	Brian T. Carney, Kristen Diane White, Akin Gump Strauss Hauer & Feld, One Bryant Park, Bank of America Tower, New York, NY 10036, (212) 872-8156, bcarney@akingump.com, kwhite@akingump.com	○ YES ○ NO	
☐	Name: Argentem Creek Holdings LLC Role(s): Defendant	Brian T. Carney, Kristen Diane White, Akin Gump Strauss Hauer & Feld, One Bryant Park, Bank of America Tower, New York, NY 10036, (212) 872-8156, bcarney@akingump.com, kwhite@akingump.com	○ YES ○ NO	
☐	Name: Argentem Creek Partners LP Role(s): Defendant	Brian T. Carney, Kristen Diane White, Akin Gump Strauss Hauer & Feld, One Bryant Park, Bank of America Tower, New York, NY 10036, (212) 872-8156, bcarney@akingump.com, kwhite@akingump.com	○ YES ○ NO	
☐	Name: Pathfinder Argentem Creek GP LLC Role(s): Defendant	Brian T. Carney, Kristen Diane White, Akin Gump Strauss Hauer & Feld, One Bryant Park, Bank of America Tower, New York, NY 10036, (212) 872-8156, bcarney@akingump.com, kwhite@akingump.com	○ YES ○ NO	
☐	Name: ACP I Trading LLC Role(s): Defendant	Brian T. Carney, Kristen Diane White, Akin Gump Strauss Hauer & Feld, One Bryant Park, Bank of America Tower, New York, NY 10036, (212) 872-8156, bcarney@akingump.com, kwhite@akingump.com	○ YES ○ NO	
☐	Name: Role(s):		○ YES ○ NO	
☐	Name: Role(s):		○ YES ○ NO	
☐	Name: Role(s):		○ YES ○ NO	
☐	Name: Role(s):		○ YES ○ NO	
☐	Name: Role(s):		○ YES ○ NO	
☐	Name: Role(s):		○ YES ○ NO	
☐	Name: Role(s):		○ YES ○ NO	
☐	Name: Role(s):		○ YES ○ NO	
☐	Name: Role(s):		○ YES ○ NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: 09/28/2020

Felice B. Galant
Signature

2502706
Attorney Registration Number

Felice B. Galant
Print Name

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF New York

Republic of Kazakhstan

Plaintiff(s)/Petitioner(s)

-against-

Daniel Chapman, et al.

Defendant(s)/Respondent(s)

Index No. 652522/2020

RJI No. (if any) _____

COMMERCIAL DIVISION
Request for Judicial Intervention Addendum

UCS-840C
3/2011

COMPLETE WHERE APPLICABLE [add additional pages if needed]:

Plaintiff/Petitioner's cause(s) of action [check all that apply]:

- [x] Breach of contract or fiduciary duty, fraud, misrepresentation, business tort (e.g. unfair competition), or statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings (e.g. sales of assets or securities; corporate restructuring; partnership, shareholder, joint venture, and other business agreements; trade secrets; restrictive covenants; and employment agreements not including claims that principally involve alleged discriminatory practices)
- [ ] Transactions governed by the Uniform Commercial Code (exclusive of those concerning individual cooperative or condominium units)
- [ ] Transactions involving commercial real property, including Yellowstone injunctions and excluding actions for the payment of rent only
- [ ] Shareholder derivative actions — without consideration of the monetary threshold
- [ ] Commercial class actions — without consideration of the monetary threshold
- [ ] Business transactions involving or arising out of dealings with commercial banks and other financial institutions
- [ ] Internal affairs of business organizations
- [ ] Malpractice by accountants or actuaries, and legal malpractice arising out of representation in commercial matters
- [ ] Environmental insurance coverage
- [ ] Commercial insurance coverage (e.g. directors and officers, errors and omissions, and business interruption coverage)
- [ ] Dissolution of corporations, partnerships, limited liability companies, limited liability partnerships and joint ventures — without consideration of the monetary threshold
- [ ] Applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief pursuant to CPLR Article 75 involving any of the foregoing enumerated commercial issues — without consideration of the monetary threshold

Plaintiff/Petitioner's claim for compensatory damages [exclusive of punitive damages, interest, costs and counsel fees claimed]:

$ Actual damages exceeding $500,000 in an amount to be proven at trial

Plaintiff/Petitioner's claim for equitable or declaratory relief [brief description]:

Defendant/Respondent's counterclaim(s) [brief description, including claim for monetary relief]:

I REQUEST THAT THIS CASE BE ASSIGNED TO THE COMMERCIAL DIVISION. I CERTIFY THAT THE CASE MEETS THE JURISDICTIONAL REQUIREMENTS OF THE COMMERCIAL DIVISION SET FORTH IN 22 NYCRR § 202.70(a), (b) AND (c).

Dated: 09/28/2020

/s/ Felice B. Galant
SIGNATURE

Felice B. Galant
PRINT OR TYPE NAME

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. ANDREW BORROK** **PART** **IAS MOTION 53EFM**

Justice

----------X

REPUBLIC OF KAZAKHSTAN,

Plaintiff,

- v -

DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC,ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC,ACP I TRADING LLC

Defendant.

----------X

INDEX NO. 652522/2020

MOTION DATE 10/09/2020

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11 were read on this motion to/for PRO HAC VICE.

Upon the foregoing documents, it is

ORDERED that the motion for leave to appear *pro hac vice* is granted and Matthew H. Kirtland, Esq. is permitted to appear and to participate in this action on behalf of the Republic of Kazakhstan, and it is further

ORDERED that the attorney hereby admitted *pro hac vice* shall at all times during this action be associated with counsel who is a member in good standing of the Bar of the State of New York and is attorney of record for the aforesaid party; and it is further

ORDERED that all pleadings, briefs, and other papers filed with the court shall be signed by the attorney of record, who shall be responsible for such papers and for the conduct of this action; and it is further

ORDERED that, pursuant to Section 520.11 of the Rules of the Court of Appeals and Section 602.2 of the Rules of the Appellate Division, First Department, the attorney hereby admitted *pro hac vice* shall be familiar with and abide by the standards of professional conduct imposed upon members of the New York Bar, including the rules of the courts governing the conduct of attorneys and the Rules of Professional Conduct; and it is further

ORDERED that the attorney hereby admitted *pro hac vice* shall be subject to the jurisdiction of the courts of the State of New York with respect to any acts occurring during the course of said attorney's participation in this matter; and it is further

ORDERED that the attorney hereby admitted *pro hac vice* shall notify the court immediately of any matter or event in this or any other jurisdiction that affects said attorney's standing as a member of the bar.

20201015105405ABORROK99650FBA0335ADD2BF570E73BC7F6FD4

10/14/2020
DATE

ANDREW BORROK, J.S.C.

CHECK ONE:		**CASE DISPOSED**			X	**NON-FINAL DISPOSITION**	
	X	**GRANTED**		**DENIED**		**GRANTED IN PART**	**OTHER**
APPLICATION:		**SETTLE ORDER**				**SUBMIT ORDER**	
CHECK IF APPROPRIATE:		**INCLUDES TRANSFER/REASSIGN**				**FIDUCIARY APPOINTMENT**	**REFERENCE**

STATE OF NEW YORK
UNIFIED COURT SYSTEM
FIRST JUDICIAL DISTRICT
SUPREME COURT, CIVIL BRANCH
60 CENTRE STREET
NEW YORK, NY 10007-1474
(646) 386-5567
FAX (212) 401-9037

LAWRENCE K. MARKS
Chief Administrative Judge

DEBORAH A. KAPLAN
Administrative Judge for Civil Matters
First Judicial District

GEORGE J. SILVER
Deputy Chief Administrative Judge
New York City Courts

NOTICE OF NEUTRAL EVALUATION PROGRAM FOR COMMERCIAL DIVISION MATTERS SUPREME COURT NEW YORK COUNTY CIVIL BRANCH

Consistent with the policy of the Unified Court System, Supreme Court, New York County Civil Branch encourages the resolution of civil legal disputes utilizing Alternative or Appropriate Dispute Resolution (ADR) methods including mediation, arbitration, neutral evaluation, in-court settlement practices, and summary trials.

During the Coronavirus (Covid-19) pandemic, New York County Supreme Court is committed to finding less costly and innovative ways of resolving matters, and offers free, remote Neutral Evaluation services for commercial matters through the **Neutral Evaluation Program** (the "**NEP**") with trained, well qualified and experienced Neutral Evaluators from our court roster.

Cases may be referred to Neutral Evaluation on consent of the parties at any time during the litigation. The Neutral Evaluator hears abbreviated case presentations, provides an informal assessment of the strengths and weaknesses of the arguments and may offer a non-binding opinion. Neutral Evaluators have significant experience in their specified area of law and specific training in Neutral Evaluation. Their assessments and opinions may help parties to analyze the case, facilitate discussion, and generate a settlement. Referral to the NEP will not stay the court proceedings.

The Court strongly encourages you to try Neutral Evaluation. Acceptance into the program through this notice requires that all parties consent to be referred to the NEP. Please do not contact the Court Part where your case is pending regarding this program. If all parties agree, please email Jean Norton, ADR Coordinator for Supreme Court, New York County Civil Branch, at: jnorton@nycourts.gov.

We look forward to working with you.

Hon. Deborah A. Kaplan
Administrative Judge
Supreme Court, New York County-
Civil Branch

Jean Norton-jnorton@nycourts.gov
ADR Coordinator
Supreme Court, New York County-
Civil Branch

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN and OUTRIDER MANAGEMENT, L.L.C.,

Plaintiffs,

v.

DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC,

Defendants.

Index No. 652522/2020

FIRST AMENDED COMPLAINT

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1. Plaintiffs Republic of Kazakhstan and Outrider Management, L.L.C. (collectively, "Plaintiffs"), by and through their undersigned counsel, bring this action against Defendants Daniel Chapman, Argentem Creek Holdings LLC, Argentem Creek Partners LP, Pathfinder Argentem Creek GP LLC, and ACP I Trading LLC (collectively, "Defendants"). In support thereof, Plaintiffs allege as follows:

NATURE OF THE ACTION

2. This case arises from Defendants' knowing participation in, conspiracy to commit, and aiding and abetting of, an ongoing fraudulent scheme that has damaged Plaintiffs.

THE PARTIES

3. Plaintiff Republic of Kazakhstan ("**Kazakhstan**") is a sovereign state.

4. Plaintiff Outrider Management, L.L.C. ("**Outrider**") is an investment advisor that invests in distressed assets in emerging markets. Outrider's principal place of business is at One Franklin Parkway, Building 920, San Mateo, CA 94403.

5. Defendant Daniel Chapman ("**Chapman**") is the founder, Managing Partner, Chief Executive Officer, and Chief Investment Officer of Argentem Creek Partners LP. He also wholly owns Argentem Creek Holdings LLC. Prior to founding Argentem Creek Partners LP, Chapman was a member of the senior management at Black River Asset Management LLC ("**Black River**"). Chapman resides at 165 West 91st Street, New York, NY 10024.

6. Defendant Argentem Creek Holdings LLC ("**Argentem Creek Holdings**") is a limited liability company organized under the laws of the State of Delaware. Argentem Creek Holdings is the controlling owner of Argentem Creek Partners LP. Argentem Creek Holdings' principal place of business is at 12 East 49th Street, New York, NY 10017.

7. Defendant Argentem Creek Partners LP ("**Argentem Creek Partners**") is a registered investment advisor organized as a limited partnership under the laws of the State of Delaware. Both Argentem Creek Holdings and Argentem Creek Partners were formed in connection with a spin-off from Black River in December 2015. Argentem Creek Partners' principal place of business is at 12 East 49th Street, New York, NY 10017.

8. Defendant Pathfinder Argentem Creek GP LLC ("**Pathfinder**") is organized as a limited liability company under the laws of the State of Delaware. Pathfinder is the general partner of Pathfinder Strategic Credit LP and Pathfinder Strategic Credit II LP. Pathfinder's principal place of business is at 12 East 49th Street, New York, NY 10017.

9. Upon information and belief, Defendant ACP I Trading LLC ("**ACP I**") is a limited liability company organized under the laws of the Cayman Islands. Its legal address is P.O. Box 309, Ugland House, South Church Street, George Town KY1-1104, Cayman Islands. ACP I's principal place of business is at 12 East 49th Street, New York, NY 10017.

JURISDICTION AND VENUE

10. This Court has personal jurisdiction over Defendants under CPLR § 302(1) and (2) because they transact business within the State and have committed tortious acts within the State. This Court also has personal jurisdiction under CPLR § 302(4) because, upon information and belief, Defendants own, use, or possess real property situated within the State.

11. Venue is proper in New York County pursuant to CPLR §§ 503(a) and 503(d), because Defendants reside and/or have their principal offices in this County, and a substantial part of the events or omissions giving rise to the claims occurred in this County.

FACTUAL ALLEGATIONS

I. OVERVIEW

12. Defendants are conspiring with, and aiding and abetting, a fraudulent scheme led by Moldovan oligarch Anatolie Stati, his son Gabriel Stati, and a murky web of companies that they control, often secretly (collectively the "**Statis**").

13. Between 1999 and 2004, the Statis purchased two Kazakh companies – Kazpolmunay LLP ("**KPM**") and Tolkynneftegaz LLP ("**TNG**") – that were licensed to engage in the exploration and production of oil and gas in Kazakhstan.[1]

14. For the purported purpose of raising funds to finance the operations of KPM and TNG, the Statis sold notes to third-party investors. Specifically, in 2006 and 2007, the Statis used their special-purpose entity Tristan Oil Ltd. ("**Tristan Oil**") to sell two tranches of notes in the aggregate principal amount of $420 million (the "**Tristan Notes**") to Noteholders (the "**Tristan Noteholders**").

15. One of the largest Tristan Noteholders was Black River Asset Management LLC ("**Black River**"), which invested through several of its funds. Defendant Argentem Creek Holdings and its subsidiary Defendant Argentem Creek Partners (collectively, "**Argentem Creek Partners**") were spun out from Black River as an employee-owned investment firm in December 2015 and became the successor in interest to Black River, including by assuming ownership of the Tristan Notes. Defendant Chapman, who had managed the investments for Black River, became

[1] TNG was wholly owned by Terra Raf Trans Traiding Ltd., which in turn is owned in equal shares by Anatolie and Gabriel Stati, while KPM was wholly owned by Ascom Group S.A. ("**Ascom**"), which in turn is wholly owned by Anatolie Stati. At all relevant times, the Statis had the power to direct the actions of KPM and TNG.

the owner and CEO of Argentem Creek Partners.[2] On information and belief, Defendants bought and sold Tristan Notes after 2006 and 2007.

16. Plaintiff Outrider, through its Caymans-based fund Outrider Master Fund, L.P., began incrementally purchasing and selling Tristan Notes on the open market beginning in October 2009. Between 2009 and 2014, Outrider purchased Tristan Notes with a face value of nearly $48 million. Outrider sold the last of its Tristan Notes in September 2016, and it did so at a significant loss.

17. The Statis represented to Black River, Plaintiff Outrider, and the other Tristan Noteholders that their invested monies would be used for legitimate business activities in Kazakhstan; specifically, to repay debts of TNG, to make a shareholder distribution, and for working capital and general corporate purposes of KPM and TNG. KPM and TNG also guaranteed the Tristan Notes.

18. In fact, the Statis always intended to, and did, steal the monies invested by the Tristan Noteholders. The Statis did this by engaging in fraudulently inflated related-party transactions that systematically stripped assets from KPM and TNG and put them into the pockets of the Statis.

19. The Statis' fraud took several forms. For example, the Statis fraudulently skimmed more than $120 million in oil sales from the Kazakh fields. They did so by "selling" the oil at artificially low prices to a secretly related party, which would then in turn sell the oil to a third

[2] Hereinafter, the term "Defendants," unless otherwise indicated, shall include the named Defendants and their predecessor in interest, Black River. Upon information and belief, Black River no longer exists as an operating entity, and Defendants now hold all the rights, responsibilities, and interests that Black River used to hold with regard to this matter.

party at market prices. This difference in revenues was not properly returned to the Statis' Kazakh companies, but were instead diverted directly to the Statis.

20. Another example of the involved the Statis paying related parties – including Kaspy Asia Service Company Limited ("**KASKO**") and Ascom – an estimated half billion dollars at artificially inflated prices for drilling services.

21. The Statis also paid nearly $100 million in "salaries," "dividends," and "management fees" directly to themselves, despite a lack of any justification for these payments.

22. Another key component of the Statis' fraud was a series of related-party transactions made in connection with the unfinished construction of a liquefied petroleum gas plant (the "**LPG Plant**") in Kazakhstan. The principal equipment for the LPG Plant was supplied to the Statis by an independent third party at a cost of approximately $35 million. However, through a series of sham related-party transactions and machinations, the Statis falsely inflated the stated costs of the LPG Plant to $245 million, and thereby stole the difference between this amount and the amount of the actual costs.

23. The Statis perpetrated their fraudulent scheme through a series of lies. A key lie of the Statis was that the fraudulent related-party transactions through which they stripped assets from KPM and TNG were legitimate business expenditures. The Statis began telling this lie as early as 2006, when they contrived their scheme and put it into action. To cover up this key lie, and to maintain their fraudulent scheme, the Statis had to tell other lies.

24. The Statis told this key lie to multiple persons, including to Plaintiffs. They also told it to their other investors, business partner, and auditors. The Statis have also told this key lie to multiple arbitral tribunals and courts.

25. The Statis' key lie has taken many forms. To Plaintiff Kazakhstan, the Statis falsely represented that their fraudulent related-party transactions were legitimate business transactions, thereby falsely inflating the value of their Kazakh assets. To their investors, including Defendants (before they discovered and joined in the scheme) and Plaintiff Outrider, the Statis fraudulently stated that their monies would be spent on legitimate business expenditures in Kazakhstan, when in fact the Statis intended to and did steal these monies. To their business partner, the Statis fraudulently inflated the costs of their joint business operation in Kazakhstan. To their auditor, KPMG Audit LLC ("**KPMG**"), the Statis fraudulently represented that the companies through which they effected their fraudulent related-party transactions were not Stati companies.

26. To perpetuate their fraudulent scheme, the Statis cooked up years of materially false financial statements, all of which recorded their fraudulently inflated related-party transactions as legitimate and at arm's-length. The Statis provided these fraudulent financial statements to multiple persons, including Plaintiff Kazakhstan. The Statis also provided them to their investors, including but not limited to Plaintiff Outrider, their auditors, and multiple arbitral tribunals and courts.

27. The Statis used fraudulent misrepresentations to obtain audit reports from KPMG opining that these financial statements were materially correct when in fact they were materially false. The Statis then repeatedly relied on the KPMG audit reports to bolster their fraudulent financial statements.

28. On July 1, 2010, the Statis defaulted on the interest payments due to the Tristan Noteholders. But for the Statis' fraudulent asset-stripping and theft of the Tristan Noteholders' monies, these interest payments could have been made by Tristan.

29. On July 21, 2010, the Statis initiated an international arbitration against Plaintiff Kazakhstan under the terms of the Energy Charter Treaty (the "**ECT Arbitration**"). In the ECT Arbitration, the Statis repeated their key lie, *i.e.*, that the fraudulent related-party transactions through which they had stolen the Tristan Noteholders' monies were legitimate business expenditures. To support this lie, the Statis produced and relied upon the falsified financial statements and the fraudulently obtained KPMG audit reports. The Statis' purpose in perpetuating this lie in the arbitration was to obtain from Plaintiff Kazakhstan as damages the monies that the Statis had stolen from the Tristan Noteholders.

30. Defendants discovered the Statis' fraudulent scheme during the course of the ECT Arbitration, in or about 2011. Specifically, Defendants learned that the Statis had stolen their money (and that of the other Tristan Noteholders) through their fraudulent related-party transactions and asset stripping. However, rather than taking legal action against the Statis, Defendants decided to conspire with and support the Statis in an effort to perpetuate their fraudulent scheme and damage Plaintiffs, including the perpetuation of the Statis' key lie that the fraudulent related-party transactions were legitimate business expenditures.

31. Defendants did so through a written agreement. On December 17, 2012, Defendants and several other (but not all) Tristan Noteholders, including Plaintiff Outrider, signed an agreement with the Statis to share in the proceeds of any arbitral award against Plaintiff Kazakhstan (the "**Sharing Agreement**").[3]

32. Unlike Defendants, Plaintiff Outrider was not aware of the Statis' fraudulent scheme when it signed the Sharing Agreement. Defendants led the negotiations with the Statis regarding the Sharing Agreement and, unlike Plaintiff Outrider, were in direct contact with the

[3] Defendants later assumed Black River's interest in the Sharing Agreement.

Statis throughout the negotiations. Defendants also led an investigation into the Statis' business activities in an effort to gain informational leverage for the agreement negotiations. Defendants, despite knowing of the Statis' fraudulent scheme, induced the other Noteholders into joining the Agreement and therefore into aligning with the Statis rather than exercising their legal rights against the Statis or pursuing other alternative courses of action.

33. In exchange for the waiver of any legal claims that the Noteholders may have had against the Statis, the Sharing Agreement released the Statis and Tristan Oil from liability to the Noteholders and provided that any amounts collected by the Statis on any award issued in their favor and against Plaintiff Kazakhstan in the ECT Arbitration would be distributed among the signing Noteholders. The Sharing Agreement thereby gave Defendants a financial incentive to conspire with, and aid and abet, the Statis in perpetuating their fraudulent scheme.

34. Pursuant to the Sharing Agreement, the Statis kept Defendants apprised of the developments and legal strategy in the ECT Arbitration. As a result, and given their knowledge of the Statis' fraudulent scheme, Defendants knew the Statis were making and relying upon fraudulent misrepresentations in the ECT Arbitration. Although they knew that the Statis were making such misrepresentations, Defendants chose to join and support the fraud. At a minimum, Defendants encouraged the Statis to pursue the arbitration against Plaintiff Kazakhstan and consulted with them on legal strategy. Defendants did so maliciously, knowing that the ECT Arbitration was based on fraudulent misrepresentations, in an attempt to obtain hundreds of millions of dollars from Plaintiff Kazakhstan for their and the Statis' own personal self-enrichment and for the wrongful and corrupt enrichment of others.

35. Defendants conspired with and/or aided and abetted the Statis' ongoing fraud for their own financial benefit. Defendants did so with a willful, wanton, and/or malicious disregard

for the rights of Plaintiff Outrider. Defendants also did so with a willful, wanton, and/or malicious disregard for Plaintiff Kazakhstan's rights, so that Plaintiff Kazakhstan would unknowingly be forced to pay Defendants for the monies that the Statis had stolen.

36. Plaintiff Outrider justifiably relied to its detriment on the Statis' and/or Defendants' misrepresentations. This detriment took *inter alia* the form of (a) continuing to act as a Noteholder without knowledge of the Statis' fraud, including continuing to purchase, retain, and sell the Notes; (b) incurring legal fees and other expenses; (c) entering into the Sharing Agreement; (d) not exercising and/or waiving legal rights against the Statis; and (e) not exercising other alternative options vis-à-vis the Tristan Notes, the Statis and/or Defendants. Plaintiff Outrider would not have suffered these detriments but for the Statis' fraudulent misrepresentations and Defendants' wrongful and malicious assistance to the Statis that maintained and perpetuated the Statis' fraudulent scheme.

37. In knowingly conspiring with and aiding and abetting the Statis in their scheme, Defendants' actions are akin to those of a victim of a Ponzi scheme who, rather than taking legal action that would risk collapsing the scheme, decides to join and support the scheme to obtain money from a new victim (Plaintiff Kazakhstan) rather than seeking to recover their own stolen monies in a legitimate and legal way, and in so doing caused harm to other unknowing persons such as Plaintiff Outrider.

38. In December 2013, the tribunal in the ECT Arbitration (the "**ECT Tribunal**") issued an award (the "**ECT Award**") in favor of the Statis and against Plaintiff Kazakhstan in the total amount of $497,685,101.00, plus $8,975,496.40 in costs, of which $199 million was awarded to the Statis for the LPG Plant. Because the Statis continued to cover up their fraud, including from Plaintiff Kazakhstan, the ECT Tribunal issued the award without any knowledge of the fraud.

39. Once they had obtained the ECT Award, the Statis initiated proceedings in several jurisdictions to confirm and enforce the award, as well as proceedings to attach assets to satisfy the ECT Award. This included proceedings in Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy (collectively, the "**Enforcement Proceedings**"). In each of these proceedings, the Statis maintained and propagated their key lie that their fraudulent related-party transactions were legitimate business expenditures, to the detriment of Plaintiffs.

40. The Statis did this with the active encouragement and support of Defendants, who consulted with the Statis on legal strategy and provided critical financing that allowed the Statis to engage in these legal proceedings against Plaintiff Kazakhstan despite having knowledge of their fraudulent scheme.

41. Plaintiff Kazakhstan justifiably relied to its detriment on the Statis' misrepresentations during the ECT Arbitration and Enforcement Proceedings. This detriment, at minimum, took the form of legal fees and other damages and costs that were wasted. Plaintiff Kazakhstan would not have incurred these costs or suffered these injuries but for the Statis' fraudulent misrepresentations and Defendants' wrongful and malicious assistance to the Statis. Plaintiff Kazakhstan's defenses in these proceedings were, by definition, prepared in response to and in reliance on the Statis' claims and allegations, as supported by and joined in by Defendants. Had the Statis made truthful instead of fraudulent representations in these proceedings, Plaintiff Kazakhstan would have made different defenses, would not have incurred the costs that it did, and the conduct of these proceedings would have been materially different.

42. To date, the only court to rule on the merits of the Statis' fraudulent scheme is the English High Court. The Statis commenced proceedings to enforce the ECT Award in the English High Court in February 2014 (the "**English Enforcement Proceedings**"). In August 2015, after

its initial discovery of the fraud, Plaintiff Kazakhstan applied for permission to amend its pleadings to introduce the defense that the ECT Award was unenforceable as a matter of English public policy because it was obtained by fraud. The Statis opposed this application. On June 6, 2017, on the basis of extensive evidence and legal submissions, the English High Court granted Plaintiff Kazakhstan's application to amend. In a 22-page, fully reasoned opinion, it held that "there is a sufficient prima facie case that the Award was obtained by fraud" and that the Statis had committed "fraud on the Tribunal." It further held that the interests of justice required Plaintiff Kazakhstan's fraud allegations to be "examined at trial and decided on their merits."[4]

43. However, in February 2018, the Statis unexpectedly filed a notice seeking to voluntarily discontinue the English Enforcement Proceedings so as to avoid the trial on the merits of the fraud. This discontinuance was rejected by the High Court. The Statis appealed and were eventually allowed to discontinue the case, but only on the condition that they pay Plaintiff Kazakhstan's legal fees and costs and never again institute any proceedings in England and Wales to enforce the ECT Award.

44. As part of the English proceedings, by letter dated July 30, 2018, the Statis disclosed to Plaintiff Kazakhstan for the first time that costs relating to the appeal in the English Enforcement Proceedings were funded by Pathfinder Strategic Credit LP, Pathfinder Strategic Credit II LP, and ACP I, which the letter identified as "Noteholders." According to the letter, "There is no repayment obligation as the Noteholders are funding this matter at their own expense and in order to protect their interests under the Sharing Agreement."

[4] A copy of this judgment is reported at 2017 EWHC 1348 (Comm) and can be found online at http://www.bailii.org/ew/cases/EWHC/Comm/2017/1348.html (last accessed June 10, 2020).

45. Defendant Pathfinder, upon information and belief, is the general manager of Pathfinder Strategic Credit LP and Pathfinder Strategic Credit II LP, and Defendant Argentem Creek Partners is the general manager of ACP I. All of these entities are ultimately controlled by Defendants Chapman and/or Argentem Creek Partners.

46. Upon information and belief, these funds and/or other funds controlled by Defendants have provided additional funding to the Statis in the Enforcement Proceedings beyond that alleged above. Upon information and belief, this funding served as the horsepower for the Statis' ability to continue their campaign of lies before multiple tribunals and courts. It was a *sine qua non* for the dissemination of those lies.

47. Defendants thus funded the Statis' efforts to escape the fraud trial in the English proceedings, which they realized the Statis stood no chance of winning, so that final judgment on the Statis' fraud could be avoided in England.

48. In the ongoing Enforcement Proceedings in various jurisdictions, the Statis, with the substantial assistance of Defendants, have continued to make a series of representations that the Statis and Defendants know are materially false. These misrepresentations have been made in order to perpetuate the Statis' key lie, *i.e.*, that the Statis' fraudulent related-party transactions were legitimate business expenditures when, in fact, and as Defendants know, these transactions were fraudulent and these amounts were stolen by the Statis. These misrepresentations have also been made in order to cover up the Statis' scheme. These misrepresentations have damaged Plaintiff Kazakhstan by, among other things, increasing Kazakhstan's legal expenses and other costs in the Enforcement Proceedings.

49. On April 3, 2019, Plaintiff Kazakhstan obtained sworn deposition testimony from Mr. Artur Lungu, the former Chief Financial Officer of Tristan Oil and Vice President of Ascom.

Mr. Lungu testified, *inter alia*, that Anatolie Stati repeatedly made material misrepresentations to KPMG in connection with its reviews and audits of the Stati financial statements.

50. On August 21, 2019, KPMG issued a letter revoking all of its audit reports for the Stati financial statements – 18 audit reports covering three years of financial statements, stating that "reliance should not be placed on the audit reports." KPMG took this extraordinary action after reviewing evidence, including the Lungu deposition transcript, showing that Anatolie Stati had made a series of material misrepresentations to KPMG concerning the financial statements. KPMG stated in its August 21, 2019 letter that it took this decision after it "conducted a thorough and independent assessment." KPMG also stated that, consistent with International Standards of Auditing, it had sought to engage with Anatolie Stati and Ascom on this matter but that the Statis had not provided any explanation for his false and fraudulent representations.

II. FURTHER DETAILS OF THE FRAUDULENT SCHEME

A. The Statis' Scheme to Defraud the Tristan Noteholders, Including Defendants

51. In 2006, the Statis raised money by a private placement of loan notes through Tristan Oil, a company wholly owned by Anatolie Stati.

52. Pursuant to an Indenture and its amendments (collectively, the "**Indenture**"), Tristan Oil issued 10.5% senior secured loan notes in the aggregate principal amount of $300 million on or about December 20, 2006 and a second tranche of notes in the aggregate principal amount of $120 million on or about June 7, 2007. The issue of these Tristan Notes was fully subscribed, and the notes did not mature until January 1, 2012. Prior to maturity, the Indenture required that the Statis make regular interest payments to the Tristan Noteholders.

53. The following investors, among possibly others, purchased the Tristan Notes: (i) Argo Capital Investors Fund SPC – Argo Global Special Situations Fund; (ii) Argo Distressed

Credit Fund; (iii) Black River Emerging Markets Fund Ltd.; (iv) Black River EMCO Master Fund Ltd.; (v) Black River Emerging Markets Credit Fund Ltd.; (vi) BlueBay Multi-Strategy (Master) Fund Limited; (vii) BlueBay Specialised Funds: Emerging Market Opportunity Fund (Master); (viii) CarVal Master S.a.r.l; (ix) CVI GVF (Lux) Master S.a.r.l. (by CarVal Investors, LLC Its Attorney in-Fact); (x) Deutsche Bank AG London; (xi) Goldman Sachs International; (xii) Gramercy Funds Management LLC (not in its individual capacity but solely on behalf of its investment funds and managed accounts holding the notes); (xiii) Latin America Recovery Fund LLC; (xiv) Outrider Management LLC (on behalf of Outrider Master Fund, LP); (xv) Standard Americas, Inc.; and (xvi) Standard Bank Plc.

54. Black River Emerging Markets Fund Ltd., Black River EMCO Master Fund Ltd., and Black River Emerging Markets Credit Fund Ltd. were funds managed by Black River and are the predecessors in interest to Defendants.

55. An after-market in these Notes developed as the original Noteholders, including, on information and belief, Defendants, began selling their Notes and/or purchasing them from other Noteholders. Plaintiff Outrider entered into this market on or about October 8, 2009, when it first purchased Notes with a face value of $850,000. Overall, between October 2009 and February 2014, Outrider purchased Notes with a face value of $47,673,000. In making these purchases, Plaintiff Outrider relied on the same representations made by the Statis as did the original Noteholders, such as the Statis' audited financials.

56. The Statis represented to the purchasers of the Tristan Notes that the funds raised from them would be invested in KPM and TNG. Specifically, the Statis represented that proceeds from the Tristan Notes would be used to repay KPM's and TNG's existing debt and to fund their working capital, general corporate purposes, and capital expenditures, including for construction

of the LPG Plant. These representations were false, and known by the Statis to be false, when made. As described below, through the mechanism of multiple fraudulent related-party transactions, the Statis inflated the stated costs of KPM and TNG and stole the delta.

57. The Indenture named Wells Fargo N.A. as the Trustee and was guaranteed by KPM and TNG. Anatolie Stati executed the Indenture on behalf of Tristan Oil, KPM, and TNG. He also executed a Tristan Note Guarantee on behalf of KPM and TNG.

58. The Indenture included a mechanism by which related-party transactions between Tristan Oil, KPM, and TNG, and any other Stati company, defined as "Affiliates," were prohibited unless certain approvals were provided by the Statis, with the level of approval increasing in line with the dollar value of the related-party transaction. Specifically, Section 4.12 of the Indenture stated that Tristan Oil, KPM, and TNG could not "make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate" unless the transactions met certain criteria. Transactions greater than $1 million (in aggregate) were required to be on an arm's-length basis (*i.e.*, they must be on terms no less favorable than a comparable transaction "with an unrelated Person"). Transactions greater than $3 million further required a board resolution and an officer's certification that a majority of the disinterested members of the board and at least one independent director determined that the transaction complied with Section 4.12. Finally, transactions greater than $10 million also required an independent fairness opinion "issued by an accounting, appraisal or investment banking firm of national standing."

59. The Indenture further required that the Statis provide audited financial statements to the Tristan Noteholders on a regular basis. Section 4.03 of the Indenture required that the Statis

furnish the Tristan Noteholders with combined financial statements of Tristan Oil, KPM, and TNG on a quarterly and annual basis, as well as a reserve report from an independent petroleum engineer on an annual basis. The combined financial statements were to include audit reports by a certified independent accountant.

60. Tristan Oil, KPM, and TNG also were required to conduct conference calls to discuss the information furnished in the audited financial statements and reserve reports and to post the audited financial statements on Tristan Oil's website.

61. Section 4.04(b) of the Indenture required that the year-end financial statements delivered pursuant to Section 4.03 be accompanied by a written statement of Tristan Oil's independent public accountants that "in making the examination necessary for certification of such financial statements, nothing has come to their attention that would lead them to believe that [Tristan Oil] has violated any of the [Indenture's] provisions."

62. As alleged herein, the Statis violated the above terms of the Indenture by falsely certifying the identity of related parties and related-party transactions to KPMG, by failing to obtain the necessary approvals for certain related-party transactions, and by circulating to the Tristan Noteholders financial statements that were materially falsified and for which the audit reports had been fraudulently obtained.

63. As alleged herein, the multiple related-party transactions through which TNG's reported costs were artificially inflated were undisclosed and, through such inflation, the Statis defrauded the Tristan Noteholders. Specifically, the Statis' scheme breached each of the covenants in section 4.12(a) of the Indenture that prohibited related-party transactions.

64. Also in breach of their representations and covenants under the Indenture, the Statis diverted millions of dollars of the proceeds of the Tristan Notes received from U.S. investors to a

Stati company in South Sudan, Ascom Sudd Operating Limited, which was subsequently placed on the U.S. Department of Commerce's list of companies "reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States." According to the U.S. Government, the companies on this list contribute to the crisis in South Sudan because they supply the country with significant "revenue that, through public corruption, is used to fund the purchase of weapons and other material that undermine the peace, security, and stability of South Sudan rather than support the welfare of the South Sudanese people."[5]

65. At his April 2019 deposition, Mr. Lungu confirmed that the Stati related-party transactions alleged herein triggered the $10 million threshold under the Indenture. However, as Mr. Lungu further testified, because Anatolie Stati fraudulently concealed certain related parties, the Statis avoided having to obtain and provide the Noteholders with the board resolution and independent fairness opinion required by the Indenture's covenant for related-party transactions. In so doing, the Statis further perpetuated their fraud on the Tristan Noteholders.

66. The Statis' motive in misleading the Tristan Noteholders was to cover up the fact that the Statis were stealing or misappropriating nearly $150 million of the Tristan Noteholders' funds that, as alleged herein, had been advanced to TNG by Tristan Oil.

B. The Statis Fraudulently Inflate the Stated Costs of the LPG Plant

67. In mid-2015, as a result of discovery obtained pursuant to 28 U.S.C. § 1782, Plaintiff Kazakhstan began to unravel the Statis' fraudulent scheme with regard to the LPG Plant that they were constructing in Kazakhstan before abandoning it in March 2009. In the December

[5] *Addition of Certain Persons to the Entity List and Removal of Certain Persons From the Entity List; Correction of License Requirements*, 83 Fed Reg. 12,475–12,476 (Mar. 22, 2018); 15 South Sudanese Entities Added to the Entity List (Mar. 22, 2018), U.S. DEPARTMENT OF COMMERCE, https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear/17-regulations.

2013 ECT Award, the Statis obtained an award against Plaintiff Kazakhstan for $199 million in compensation for the LPG Plant.

68. The LPG Plant was to be owned by TNG and operated jointly by Ascom and an affiliate of Vitol. The principal equipment for the LPG Plant was supplied by an independent third-party, TGE Gas Engineering GmbH, formerly Tractebel Gas Engineering GmbH ("**Tractebel**").

69. Rather than having TNG purchase the equipment directly from Tractebel, the Statis instead laundered the transactions through two companies that they controlled. Specifically, the Statis structured the transactions so that Azalia Ltd. ("**Azalia**") (a company the Statis owned) would purchase the equipment from Tractebel at the market price of approximately $35 million. The Statis then had Azalia "sell" the equipment at wildly inflated prices to Perkwood Investment Limited ("**Perkwood**") (another company the Statis secretly owned), which would in turn "sell" the equipment again to TNG at the same wildly inflated prices. Through these machinations, and others described herein, the Statis falsely inflated the price of the LPG Plant equipment and stole such amounts from the Tristan Noteholders in the amount of at least $148 million.

70. Perkwood was a critical element in the Statis' fraudulent scheme. To the outside world, the Statis presented Perkwood as an independent, London-based company with which they engaged in arm's-length business transactions. In fact, Perkwood was a sham company, covertly owned and operated by the Statis, and used by the Statis for the fraudulent purposes alleged herein,

71. The Statis took extraordinary measures to conceal the fact that Perkwood was their company. They created a series of forged documents and made a series of false declarations to present Perkwood as an independent third party. This was done to give the impression that

payments from TNG to Perkwood were legitimate and at arm's length, when in fact they were fraudulently inflated.

72. The Perkwood transactions were a sham and intended by the Statis to disguise the fact that they were stealing or misappropriating funds from the Tristan Noteholders (and TNG). A number of facts confirm this:

a. Perkwood was under the ultimate ownership and control of the Statis at all times.

b. Anatolie Stati and Gabriel Stati were the signatories and sole beneficiaries of Perkwood's bank account held at Rietumu Bank in Latvia.

c. Perkwood was a shell company. It never had any employees, premises, or operations. It never paid any taxes, salaries, or rent, and it did not incur any costs normally incurred by a company that actually carries out business. From 2006 to 2009 – the same time period when TNG was recording on its books purchases of LPG Plant equipment from Perkwood valued at hundreds of millions of dollars – the Statis filed dormant accounts for Perkwood with the British Companies House. Under English law, for a company to legally file dormant accounts, that company must not have carried out any substantial business transactions for the relevant time period.

d. The sole director and shareholder of Perkwood was Sarah Petre-Mears. Her husband, Edward Petre-Mears, was the company secretary. Mr. and Mrs. Petre-Mears are identified in public documents as sham directors and the "directors" of thousands of

companies.[6] Mr. and Mrs. Petre-Mears granted a series of general powers of attorney to Anatolie Stati and Gabriel Stati to act for Perkwood.[7]

e. Franjo Zaja was the lead engineer for Tractebel, the German company that supplied the main equipment for the LPG Plant. He was personally involved in the construction of the LPG Plant and worked on site until the Statis abandoned the construction in early 2009. He testified in a witness statement that he was not aware of a company called Perkwood. He further testified that the equipment "sold" from Perkwood to TNG is the identical equipment that Tractebel delivered under its contract with Azalia, but was presented as different equipment and at materially inflated prices.

73. The Statis used multiple, overlapping schemes to fraudulently inflate the LPG Plant construction costs through Azalia and Perkwood. These schemes included: (1) the "**Resale Fraud**"; **(2)** the "**Double-Billing Fraud**;" (3) the "**Equipment for Construction Fraud**;" (4) the "**Management Fee Fraud**;" and (5) the "**Interest Fraud**." Alleged below is an overview of each scheme:

a. **Resale Fraud** – The Statis had Perkwood "sell" TNG, and TNG pay for, the LPG Plant equipment already purchased from Tractebel, but at almost triple the price – inflating the stated LPG Plant costs by approximately $58 million;

[6] James Ball, The Guardian, *Sham Directors: the woman running 1,200 companies from a Caribbean rock,* Nov. 25, 2012, https://www.theguardian.com/uk/2012/nov/25/sham-directors-woman-companies-caribbean.

[7] Plaintiff first obtained copies of these powers of attorney in 2016 and filed them with the Svea Court of Appeal in Sweden that Plaintiff has asked to annul the ECT Award. It was only thereafter, on the first day of the hearing in the annulment proceedings in September 2016, that the Statis finally admitted that Perkwood was a Stati company. Prior to this, the Statis had concealed and/or denied this fact.

b. **Double-Billing Fraud** – The Statis had Perkwood "sell" TNG certain of the same LPG Plant equipment twice, using differently worded descriptions – inflating the stated LPG Plant costs by approximately $22 million;

c. **Equipment for Construction Fraud** – The Statis included non-existent equipment in the Perkwood Agreement – inflating the stated LPG Plant costs by approximately $72 million;

d. **Management Fee Fraud** – The Statis had TNG "pay" Perkwood a fictitious "management fee," inflating the stated LPG Plant costs by approximately $44 million; and

e. **Interest Fraud** – The Statis charged inter-company interest on the fraudulently inflated LPG Plant costs – further inflating the stated LPG Plant construction costs by up to approximately $60 million.

74. **Payments to Perkwood.** Between on or about April 19, 2006 and on or about April 14, 2009**,** the Statis caused TNG to pay the total sum of approximately $175 million to Perkwood out of loans made by Tristan Oil using the monies invested by the Tristan Noteholders.

75. The bulk of this $175 million was then laundered by the Statis through their various companies. During the same period, Perkwood paid approximately $175 million to Azalia. In addition to making legitimate payments to Tractebel of approximately $34 million, Azalia also paid a total of approximately $148 million to two Stati companies – approximately $94 million to Hayden Intervest Ltd. ("**Hayden**") and the remainder to Terra Raf Trans Traiding Ltd. ("**Terra Raf**"). Neither company had any contractual entitlement to receive this money from Azalia.

76. Because the $148 million paid to Hayden and Terra Raf was the product of the Statis' fraudulent inflation, and was paid by the Statis to themselves using the monies of the Tristan Noteholders, the Statis defrauded the Tristan Noteholders out of the inflated amounts.

77. As alleged herein, after Defendants discovered that the Statis had defrauded them of their invested monies, they made the unlawful and malicious decision to join with the Statis in their efforts to obtain the amount of these stolen monies from Plaintiff Kazakhstan.

C. The Statis Intentionally Falsify Their Financial Statements

78. The Statis included the fraudulently inflated LPG Plant costs in the combined financial statements of Tristan Oil, KPM, and TNG knowing that such costs were fraudulent. This made the financial statements materially false.

79. In the combined 2007 annual report for Tristan Oil, KPM, and TNG, the Statis made the following express, fraudulent misrepresentations:

> **LPG Plant**. TNG is currently building a new LPG processing facility for liquid petroleum gas. As of December 31, 2007 TNG has made advance payments of approximately $158.6 million related to the LPG project. TNG expects to spend a total of $232.6 million in capital expenditures on this project through 2008.

80. In Tristan Oil's 2008 annual report, the Statis made the following express, fraudulent misrepresentations:

> **LPG Plant**. TNG is currently building a new LPG processing facility for liquid petroleum gas. As of December 31, 2008 TNG has invested approximately $223.2 million in the LPG project. TNG expects to spend a total of $241.7 million in capital expenditures on this project through 2009.

81. In the annual financial statements for 2009, the Statis made the express, fraudulent misrepresentation that the costs of construction of the LPG Plant as of December 31, 2009 were more than $248 million.

82. All of these representations were false. The Statis had not invested these amounts in the construction of the LPG Plant, nor did they intend to. These figures were based on the amounts of the related-party transactions with Perkwood, through which the Statis fraudulently

inflated the stated construction costs of the LPG Plant, and stole the amount of this inflation from the monies invested by the Tristan Noteholders.

D. The Statis Fraudulently Obtain Audit Reports for Their Falsified Financial Statements

83. Another key step in the Statis' scheme was to legitimize their fraudulent transactions by obtaining the stamp of approval of an international accounting firm. They accomplished this by misrepresenting to their auditors that the transactions were at arm's length and by falsely portraying Perkwood as an independent third party.

1. Principles Governing Financial Statements and Auditing

84. A company's financial statements are the primary source of financial information available to interested third parties for the purpose of making economic decisions on the business. To be of value for its intended users, financial statements are prepared in compliance with an accounting standards framework.

85. In view of the importance of financial statements for interested third parties, financial statements are normally subject to an independent audit that ensures that the financial statements are complete, fair, and accurate. To achieve this outcome, audit procedures are regulated by international standards, in particular the audit standards developed by the International Auditing and Assurance Standards Board ("**IAASB**"), which include the International Standards on Auditing ("**ISA**").

2. The Importance of Accurate Identification of "Related Parties" and Related-Party Transactions: The IAS 24 Standard

86. One of the fundamental items of information that must be disclosed in a company's financial statements is the identity of "related parties," as well as any transactions and outstanding balances with those related parties. In general terms, the term "related parties" refers to companies

that are under the influence or control of the same person(s) or companies, who may influence their decisions.

87. The objective regarding "Related Party Disclosures" is set forth in IAS 24.1:

> The objective of this standard is to ensure that an entity's financial statements contain the disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and by transactions and outstanding balances of such parties.

88. The importance of identifying related parties and related-party transactions is due to, in particular, the heightened risk that transactions between related parties may not reflect normal market conditions (the concept of "arm's length"). IAS 24.6 (emphasis added) explains the reason why related parties must be identified:

> A related party relationship could have an effect on the profit or loss and financial position of an entity. Related parties may enter into transactions that unrelated parties would not. For example, an entity that sells goods to its parent at cost might not sell on those terms to another customer. Also, transactions between related parties may not be made at the same amounts as between unrelated parties.

89. In view of this risk, it is essential for company management to truthfully identify to its auditors all related parties and related-party transactions.

3. The Statis Fraudulently Conceal that Perkwood Was a Related Party

90. The Statis falsely represented that their financial statements were prepared in accordance with the International Financial Reporting Standards ("**IFRS**").

91. KPMG audited the individual and combined financial statements of Tristan Oil, TNG, and KPM (collectively referred to by KPMG as the "**Company**") for 2007, 2008, and 2009.[8]

[8] Deloitte audited the Statis' financial statements prior to 2007.

92. The financial statements emphasize the importance of "related-party" status because transactions with related parties were a key part of the Statis' "business model." For example, the combined 2008 financial statements of the Company state that a "significant proportion of the Companies' business is conducted through transactions with related parties and the effect of these, on the basis determined between the related parties, is reflected below. The Company's ultimate controlling party is Anatolie Stati."

93. Because TNG (and Ascom) are and were at all relevant times controlled by the Statis, and Perkwood was also at all relevant times under the ownership and/or control of the Statis, Perkwood was at all relevant times a "related party" to TNG (and Ascom) within the meaning of IAS 24.

94. Pursuant to the requirements of IFRS (and, in particular, IAS 24), all of the transactions between TNG and Perkwood should therefore have been disclosed as related-party transactions. Specifically, TNG's financial statements should have provided all of the information that was "necessary for an understanding of the potential effect of the relationship [between TNG and Perkwood] on the financial statements."

95. In violation of this requirement, TNG's audited financial statements for 2007 to 2009 (i) did not disclose the status of Perkwood as a related party to TNG; (ii) did not disclose the fact that any transactions between Perkwood and TNG were related-party transactions; and (iii) did not disclose the information that should have been disclosed pursuant to IAS 24 in relation to those transactions.

96. Instead, the statements stated that a "significant proportion of the Company's business is conducted through transactions with related parties and the effect of these, on the basis

determined between the related parties is reflected below," but the fraudulently omitted Perkwood from the list of Stati related companies.

97. Instead, the Statis stated that the (only) related parties with whom TNG had conducted transactions during the relevant time period were (i) Ascom; (ii) Arpega Trading; (iii) General Affinity; (iv) KASKO; (v) KASKO-Petrostar; (vi) KPM; and (vii) Tristan Oil.

98. Artur Lungu, the former Chief Financial Officer of Tristan Oil and Vice President of Ascom, testified at his April 3, 2019 deposition that Anatolie Stati knowingly misled KPMG by failing to identify Perkwood as a related party in the financial statements. Mr. Stati did this by falsely stating to KPMG in multiple management representation letters in 2008, 2009 and 2010 that all related parties and related-party transactions were accurately disclosed, when in fact Perkwood was not disclosed as a related party and the transactions with Perkwood were not disclosed as related-party transactions. Mr. Lungu testified that these omissions rendered the management representation letters materially false.

99. As a result of the failure to disclose that Perkwood was a related party, the Statis concealed the materially falsified LPG Plant construction costs that they engineered through the sham Perkwood transactions, as set forth above. As a result of these misrepresentations, the Statis obtained audit reports from KPMG opining that the financial statements were materially correct when, in fact, they were materially false.

100. The Statis knew and intended that the fraudulently obtained audit reports would be relied upon by the Tristan Noteholders. Confirming this, Mr. Lungu admitted in his deposition that the audited financial statements were required under the Tristan Trust Indenture so that the Tristan Noteholders would have a true and accurate understanding of the financial position of KPM, TNG, and Tristan Oil.

101. Mr. Lungu further testified that each of the year-end combined financial statements of Tristan Oil, TNG, and KPM for 2007, 2008, and 2009, as well as various interim financial statements, were materially false because they failed to identify Perkwood as a related party and failed to identify the transactions between TNG and Perkwood as related-party transactions.

102. After receipt of these fraudulent misrepresentations, KPMG issued audit reports for 2007 to 2009 that opined that the combined financial statements of Tristan Oil, TNG, and KPM fairly presented their combined financial position, their combined financial performance, and their combined cash flows in accordance with IFRS. In fact, these financial statements were materially false.

103. After receipt of these fraudulent misrepresentations, KPMG also approved the combined interim financial statements for the periods ending March 31, 2008, June 30, 2008, September 30, 2008, March 31, 2009, June 30, 2009, and September 30, 2009. All these financial statements were materially false.

104. On August 21, 2019, after reviewing Mr. Lungu's deposition testimony and after conducting its own independent assessment, KPMG took the extraordinary step of revoking all of its audit reports for the Stati financial statements – eighteen audit reports covering three years of financial statements – and it notified Anatolie Stati and Ascom and, separately, Plaintiff Kazakhstan that it had done so.

105. As alleged herein, in or around 2012, Defendants discovered that the Statis had materially misrepresented the extent and value of the related-party transactions within the Stati group of companies and thereby stripped significant monies from TNG and KPM to offshore companies.

E. The Statis Use Their Falsified "Audited" Financial Statements to Fraudulently Obtain Inflated Bids for Their Kazakh Operations

106. In June 2008, the Statis continued the fraudulent scheme by using their falsified "audited" financial statements to obtain bids for their Kazakh operations from prospective purchasers. This was done through a bidding process that the Statis called "Project Zenith." The Statis then deployed these fraudulently obtained bids in the ECT Arbitration, along with their falsified "audited" financial statements, to obtain an award of $199 million in compensation for the LPG Plant.

1. The Teaser Contained False and Misleading Information

107. In June 2008, the Statis caused Ascom and Terra Raf (as the shareholders of KPM and TNG) to retain Renaissance Securities (Cyprus) Limited and Renaissance Capital Central Asia JSC (together, "**Renaissance Capital**") as the financial advisor for Project Zenith.

108. In July 2008, Renaissance Capital distributed a "teaser" offer (the "**Teaser**") to 129 potential purchasers. The prospective purchasers included companies located in the United States, Europe, the Middle East, Russia, Asia, and Kazakhstan. The Teaser stated that the information contained therein – "assembled" by the "management" of Tristan Oil, TNG, and KPM with the assistance of Renaissance Capital – was "believed to be accurate and reliable."

109. The Teaser further stated that the Statis expected to spend $230 million on capital expenditures on the LPG Plant and had already spent $160 million to date. For the reasons alleged herein, these statements were knowingly false, as they reflected the fraudulently inflated LPG Plant construction costs.

2. The Information Memorandum Contained False and Misleading Information

110. For those parties that responded to the Teaser, the Statis caused Renaissance Capital to distribute an August 2008 Information Memorandum that contained further false information

about KPM and TNG (the "**Information Memorandum**"). The stated "sole purpose" of the Information Memorandum was to "assist" potential purchasers in "evaluating" the Statis' operations in Kazakhstan.

111. Like the Teaser, the Information Memorandum stated that the information contained therein was "assembled by the management" of KPM and TNG with the assistance of Renaissance Capital and "believed to be accurate and reliable."

112. The Information Memorandum included false financial information regarding the Statis' operations offered for sale, including the LPG Plant. It stated that this financial information was derived from, among other things, the audited individual and combined balance sheets and financial statements of KPM, TNG, and Tristan Oil from 2005 to 2007. Mr. Lungu confirmed at his 2019 deposition that the Information Memorandum was false to the extent it relied on the underlying falsified financial statements.

113. The Information Memorandum further represented that these financial statements were audited and had been prepared in accordance with IFRS:

> [KPM's and TNG's] and Tristan Oil's financial statements have been prepared in accordance with International Financial Reporting Standards ("IFRS"). Prior to 01 January 2007, the combined and individual financial statements of Tristan Oil, KPM and TNG were audited by Deloitte. Following the best practice to change auditors periodically, the Companies and Tristan Oil changed to KPMG as auditor for the year ended 31 December 2007 and thereafter.

114. This representation was knowingly false and misleading, for the reasons alleged herein. The financial statements had not been prepared in accordance with IFRS, and the Statis knew this.

115. The Statis also fraudulently represented in the Information Memorandum that they had changed auditors from Deloitte to KPMG because they were "[f]ollowing best practice." In

fact, the Statis changed auditors because Deloitte had begun asking troublesome questions regarding the Statis' related-party transactions.

116. The Information Memorandum also repeated the misrepresentations from the Stati financial statements regarding the LPG Plant construction costs. Specifically, the Information Memorandum stated that the "LPG plant is expected to be commissioned in the second quarter of 2009 with total CAPEX requirement of US$233 million." It also stated that "[a]s of 1 July 2008, TNG had spent approximately $193 million on the LPG plant." These representations were known by the Statis to be false and misleading, for the reasons alleged above.

117. The Information Memorandum also described the Tristan Notes. It highlighted the Indenture's covenant limiting the ability of Tristan Oil, KPM, and TNG to enter into related-party transactions unless the requisite approvals and/or independent fairness opinions were obtained. The Statis highlighted this to create the false and deceptive impression that there were no Stati related-party transactions on the books of the Company that did not have the approvals and/or independent fairness opinions required by the Indenture's covenant.

3. The KPMG Vendor Due Diligence Report

118. In connection with Project Zenith, the Statis retained KPMG's Tax and Advisory department to prepare a financial "Vendor Due Diligence" document intended to be circulated to potential investors, entitled "*Project Zenith – Vendor Due Diligence Report*" ("**VDD Report**"). The Statis induced KPMG to prepare this report so that it falsely stated that Perkwood was an independent third party, and not a Stati-related party.

119. The VDD Report was supposed to report on the combined businesses of Tristan Oil, KPM, and TNG. The "primary source" for the data in the VDD Report was information and representations made to KPMG by the Statis.

120. The final VDD Report stated that its contents had been reviewed in detail by the directors of Tristan Oil, KPM, and TNG, who confirmed the factual accuracy of the report in writing and represented that there were no material facts or information omitted from the report that "may cause the view it gives of the Tristan Oil Group to be misleading."

121. One of the VDD Report's key areas of analysis was related-party transactions. In this respect, KPMG stated that its scope of work was to:

> Identify significant related party transactions, enquire into their rationale, the underlying terms and nature of such transactions; [e]nquire if these transactions have been at arms' length and assess the financial impact and related risks; and [c]omment on the impact of discontinuing related party transactions on the business of the target companies.

122. On August 31, 2008, KPMG provided the Statis with a draft of the VDD Report. This draft mentioned Perkwood four times and each time correctly identified Perkwood as a Stati "related party."

123. If KPMG had issued the VDD Report with Perkwood identified as a Stati company, it would have exposed the Stati fraudulent scheme. Accordingly, the Statis had to procure the falsification of the report.

124. Mr. Lungu testified at his 2019 deposition that, upon receipt of the draft VDD Report, he held a telephone call with KPMG in which he expressly instructed KPMG to change all identifications of Perkwood in the VDD Report from that of a "related party" to that of an unrelated "third party." KPMG followed this instruction and changed the report. These changes falsified the VDD Report, as Mr. Lungu acknowledged at his deposition.

125. The VDD Report also repeated the misrepresentations from the Stati financial statements regarding the LPG Plant construction costs, *i.e.*, that the total cost of the LPG Plant was estimated to be $233 million, of which $193 million had been invested as of June 30, 2008.

126. As a result of these misrepresentations, a document intended to be distributed to prospective purchasers for the Stati operations in Kazakhstan, including the LPG Plant, was intentionally falsified to describe Perkwood as an unrelated "third party." The Statis deliberately engaged in these falsifications to conceal their fraudulent scheme and to deceive third parties.

4. KMG Submits Bid on the Basis of the Falsified "Audited" Financial Statements

127. KazMunaiGas ("**KMG**"), the state-owned oil and gas company of Kazakhstan, was one of the eight prospective purchasers that responded to the Teaser and Information Memorandum.

128. KMG's response was an "indicative offer" dated September 25, 2008 (the "**KMG Indicative Offer**"). The KMG Indicative Offer relied on the false and misleading information provided by the Statis. It stated: "[i]n formulating our Indicative Offer, we have relied upon the information contained in the Information Memorandum and certain other publicly available information. Our valuation depends upon this information and assumptions being substantiated in the next round through due diligence materials and meetings." KMG also stated that any final bid depended on a review of the documents constituting "standard customary due diligence from a buyer's point of view," which included "commercial, financing and related parties' contracts."

129. With regard to the calculation of the value of the Statis' operations in Kazakhstan and in particular the LPG Plant, the Indicative Offer stated that among its "key assumptions" was that the $193 million in LPG Plant construction costs stated in the Information Memorandum was accurate: "[O]ur estimates of the Company's value and the present Indicative Offer are based on the following key assumptions: … Historical production, revenues, costs and CAPEX were as reported in the Information Memorandum."

130. The Indicative Offer also made clear that its stated $199 million valuation of the LPG Plant was calculated using the "[h]istorical costs of US$193 million," as stated by the Statis, "as a base for cost method valuation."

131. Thus, the KMG Indicative Offer was expressly based upon information that the Statis knew to be false (*i.e.*, the fictitiously inflated construction costs of the LPG Plant and the concealed related-party status of Perkwood set forth in the financial statements and Information Memorandum).

132. If KMG had known of the Statis' fraudulent scheme, it would not have made the KMG Indicative Offer. At minimum, if KMG had instead been provided with the true construction costs of the LPG Plant, then the value it assigned to the LPG Plant in the Indicative Offer would have been materially lower.

III. DEFENDANTS' KNOWLEDGE OF AND PARTICIPATION IN THE FRAUDULENT SCHEME

133. Upon information and belief, Defendants had knowledge of and/or were on notice of the Statis' fraudulent scheme at least as early as 2011.

A. The Laren Transaction

134. In June 2009, the Statis caused Tristan Oil to issue additional notes (the "**Laren Notes**") to new investors (the "**Laren Noteholders**"). The Laren Notes were issued at a significant discount to their face value. Specifically, Tristan Oil issued $111,110,000 in notes to Laren Holdings, Ltd. ("**Laren**") in exchange for a $30,000,000 loan. Laren then issued the Laren Notes to the Laren Noteholders (the "**Laren Transaction**").

135. The Laren Transaction was put in place by the Statis by deception that included at least two different elements. First, Laren was an entity secretly created and controlled by the Statis. As was the case with Perkwood, Laren was presented by the Statis as an independent third

party, not under the control of the Statis. In fact, Laren is a Stati company. Confirming this, key Laren documents were signed for Laren by Eldar Kasumov, who is the personal chauffer for Anatolie Stati. Second, the Laren Transaction was structured so that Anatolie Stati could materially benefit from its supposed conditions. Specifically, in the event that Anatolie Stati timely repaid the "loan," he stood to receive a substantial kickback – referred to as an "upside."

136. The issuance of the Laren Notes spurred Defendant Chapman and Defendants' predecessors-in-interest to investigate the Stati operations in Kazakhstan. In connection with their investigation, Defendants uncovered the Statis' broader fraudulent scheme involving the related-party transactions, money laundering, and asset stripping of the Statis' Kazakh companies. This discovery occurred while the ECT Arbitration was ongoing. In pertinent part, Defendants discovered the following:

a. That TNG had shipped at least $160 million in crude oil to another Stati company, Montvale Invest Limited ("**Montvale**"), without any payment back to TNG.

b. That the Statis' claim in the ECT Arbitration that the cash crunch that TNG and KPM experienced in 2009 was the result of a harassment campaign by Plaintiff Kazakhstan was pretextual; that in fact the cash crunch was caused by the Statis' asset stripping; and that the Statis never had any intention of paying back the Tristan Noteholders.

c. That the Statis were systematically stripping their assets in Kazakhstan, partly through the scheme of shipping oil to related parties that was never paid for and also by paying a large dividend to a related company, in violation of the Indenture.

d. That the 2009 Laren Transaction was entirely unnecessary to fund the operations of TNG and KPM and that it was likely another sham transaction designed to defraud additional investors.

e. That claims could be brought by the Tristan Noteholders against the Statis in Kazakhstan for their fraudulent scheme, including claims for unjust enrichment and for piercing the corporate veil because Anatolie Stati signed the promissory notes on behalf of TNG and KPM and directed the oil-skimming scheme and the fraudulent dividend through an array of companies that he owned and controlled.

f. That the Statis appeared to have taken more than $200 million through fraudulent transfers from TNG and KPM to related companies that should have gone to the Tristan and Laren Noteholders, including tens of millions in dividends, a salary of $9 million paid to Anatolie Stati as CEO of Tristan Oil (whose only activity was to issue the Laren Notes), and other illegitimate related-party transfers.

g. That the Statis had been overstating (by 200% to 350%) the capital expenses for production of the Kazakh wells and then laundering the amount of the overstated costs through other Stati-controlled companies; and rather than paying the market rate to drill the wells, the Statis paid pay one of their other companies, KASKO, to drill them at inflated rates, then pocketed the difference.

h. That the Statis, based on an initial investment of approximately $10 million, were able to pay themselves salaries and cash dividends of $40 million, skim as much as $250 million in oil revenues, and raise and steal several hundred million dollars in investments from the Tristan Noteholders.

137. In summary, Defendants discovered:

a. That the Statis ran an overarching fraudulent scheme to strip assets from TNG and KPM worth more than $1.04 billion since 2004, with approximately half of that representing pure profit to the Statis;

b. That the Statis' financial statements were fraudulent and showed a systematic stripping of assets of KPM and TNG in part by failing to return revenue from the sale of crude oil; and

c. That the Statis' fraud included a total of $555 million in related-party transactions, including approximately $124 million in skimmed oil sales, nearly $40 million in dividends and salaries paid to the Statis, and other transfers of funds to other Stati companies.

138. The Defendants did not communicate their knowledge of the Statis' fraudulent scheme to Plaintiff Outrider. At certain relevant times, Plaintiff Outrider was a member of an ad hoc committee of Noteholders (the "**Ad Hoc Committee**") and paid certain of the costs of legal counsel and other expenses. Defendants were also members of the Ad Hoc Committee but maintained independent lines of communication with the Statis and the investigators -- meeting with the Statis and their representatives outside of the presence of Plaintiff Outrider, and communicated with the investigators in Kazakhstan outside of the presence of Plaintiff Outrider. On information and belief, Defendants obtained their knowledge of the Statis' fraud through these independent lines of communications.

139. Plaintiff Outrider, unlike Defendants, was not aware of that the Statis were engaged in a fraudulent scheme. Instead, as a result of what was communicated to the Ad Hoc Committee, Plaintiff Outrider believed that the Statis were legitimately shielding their assets from the risk of expropriation from Kazakhstan. This is precisely what the Statis asserted in the ECT Arbitration and in the subsequent enforcement efforts. For example, the Statis claimed to the ECT tribunal that Plaintiff Kazakhstan's argument that the Statis "stripped KPM and TNG of cash in preparation to abandon them is unsupported and wrong. KPM paid dividends in 2009 and 2010 to avoid seizure of the funds - not to prepare for voluntary abandonment."

140. Outrider did not learn the truth of the matter – that the Statis were engaged in a systemic fraud and that Defendants were aware of, conspired in and aided and abetted this fraud – until years later, after this lawsuit was filed in June 2020.

B. Defendants Enter into the Sharing Agreement

141. In or about July 2012, Defendants knew conclusively as a result of their investigation that they had been defrauded by the Statis. However, they decided that their best hope of recovering their stolen monies was to not to pursue legal action against the Statis, but rather to try to conspire with and aid and abet the Statis in perpetrating their fraud against Plaintiff Kazakhstan, so that Kazakhstan ultimately paid Defendants the amounts that the Statis had stolen from Defendants.

142. To that end, Defendants negotiated and entered into the 2012 Sharing Agreement with the Statis.

143. Defendant Chapman negotiated the Sharing Agreement with the Statis during the period from July to December 2012. Leading up to the execution of the Sharing Agreement, Defendant Chapman was in frequent contact with the Statis and their representatives. For example, Defendant Chapman met with Anatolie Stati and Mr. Lungu on or about January 17, 2012 in New York, without Plaintiff Outrider or the other Noteholders. Other telephone, electronic, and in-person communications took place between Defendants and the Statis and their representatives from March 2012 to July 2012.

144. Eleven Tristan Noteholders constituting the majority of the ownership rights of the Tristan Notes signed the Sharing Agreement, including the three funds managed by Black River, Defendants' predecessors in interest. This included Plaintiff Outrider, which Defendants induced

to sign by, in part, failing to disclose the extent of the Statis' fraud despite having knowledge of same.

145. The Sharing Agreement recognized that Tristan Oil and the Note guarantors (TNG and KPM) had defaulted on the Tristan Notes and that the parties "desire to restructure the obligations owed by Tristan Oil to the Noteholders and to provide the benefits of the Sharing Agreement" to the signatory Tristan Noteholders.

146. The Sharing Agreement restructured the obligations by requiring the Statis to pay the Tristan Noteholders the "Proceeds" that they obtained from Plaintiff Kazakhstan in the ECT Arbitration. Specifically, Section 4(b) of the Sharing Agreement provided that the first $18 million of any such Proceeds obtained by the Statis from Kazakhstan would be used for legal fees for, among other things, obtaining and then collecting on any arbitral award against Kazakhstan. The signatory Noteholders would receive 70 percent of any additional Proceeds until they had been fully paid, with the Statis receiving the remaining 30 percent. The Statis would also receive 100 percent of any Proceeds above that amount. Such Proceeds included not only any award rendered in the ECT Arbitration, but also any order in favor of the Statis in any confirmation, recognition, or execution proceedings against Kazakhstan.

147. The Sharing Agreement thereby gave Defendants a powerful financial incentive to support the Statis in their fraudulent scheme.

148. The Agreement required that the Statis keep Defendants and other signatories "reasonably informed of any and all material developments with respect to the Arbitration and all Claims, including the issuance of any Awards and any monies received in respect of any such Awards." The Agreement also required that the Statis make themselves reasonably available to respond to inquiries from Defendants regarding the status of the ECT Arbitration and the collection

and enforcement of any awards against Plaintiff Kazakhstan. The Agreement also provided various incentives and penalties for the Statis to comply with its terms.

149. Under Section 6 of the Sharing Agreement, in exchange for sharing in the Proceeds, Defendants agreed not to take any legal action against the Statis to remedy the default on the Tristan Notes. Specifically, it required the Noteholders to forbear "from exercising any and all default-related remedies to the extent provided under the Indenture or otherwise under any related documents (other than this Agreement) or under applicable law or at equity against the Tristan Parties or any family member of A. Stati or G. Stati." The Agreement also blocked the Noteholders "from asserting any claims against the Guarantors and/or the Republic of Kazakhstan or any of its Affiliates, arising out of or connected to the Notes (including the Modified Notes) or the Indenture."

C. Defendants Take Overt Actions to Support the Statis' Fraud

150. Following the execution of the Sharing Agreement, Defendants took other overt acts in support of the Statis' fraudulent scheme. For example, Defendants provided critical funding for the Statis' efforts to avoid a trial on the merits of the fraud in England. Defendants, upon information and belief, also funded the Statis' legal proceedings against Plaintiff Kazakhstan in other jurisdictions. Defendants have also regularly consulted with, and provided guidance to, the Statis regarding the strategy for enforcing the ECT Award in various jurisdictions since at least 2014. They have also worked to frustrate Plaintiff Kazakhstan's attempts to discover information related to the fraudulent scheme. These wrongful acts were done with willful and wanton disregard for Kazakhstan's rights.

151. By engaging in these activities with knowledge of the Statis' fraudulent scheme, Defendants have knowingly participated in, and provided substantial assistance to, the

perpetuation of the fraudulent scheme. In doing so, they have aided and abetted the continuation of the fraudulent scheme by the Statis. Defendants' actions have caused separate damage to Plaintiff Kazakhstan and Plaintiff Outrider.

152. Defendants' knowing participation in, provision of substantial assistance to, and aiding and abetting of the Statis' fraudulent scheme is evidenced in a series of communications between Defendants and the Statis that took place during the period from December 2012 – when Black River was the Noteholder of the Tristan Notes – to the present, as alleged below.

153. From the date the Sharing Agreement was executed to the date the ECT Award was issued, December 19, 2013, Defendants were in frequent contact with the Statis and their representatives regarding, upon information and belief, legal strategy, the potential likelihood of success in the ECT Arbitration, and litigation financing related to the ECT Arbitration.

154. Defendants remained in frequent contact with the Statis and their representatives during the period that the Statis were attempting to enforce the ECT Award in various jurisdictions, including England. This included, at a minimum, multiple electronic communications between August and October 2015. Upon information and belief, these communications concerned legal strategy, the potential likelihood of success in the Enforcement Proceedings, and litigation financing related to those proceedings.

155. From December 2015 until December 2016, Defendants remained in frequent contact with the Statis and their representatives regarding, upon information and belief, legal strategy, the potential likelihood of success, and litigation financing related to the Enforcement Proceedings. Such communications occurred by telephone, electronic mail, and in person in, at minimum, March, April, August, September, October, and December 2016.

156. Further communications between Defendants and the Statis and their representatives occurred in January 2017, when the Statis and Plaintiff Kazakhstan were making submissions regarding the Statis' fraudulent scheme in the English Enforcement Proceedings. The communications related to, *inter alia*, hiring a communications consultant focusing on government and media relations and reputation and crisis management.

157. Defendants remained in frequent contact with the Statis and their representatives regarding the February 2017 hearing in the English Enforcement Proceedings. The February 2017 communications related to, *inter alia*, the "amount required" to fund the Enforcement Proceedings and "calculations" thereof. Further communications occurred in March 2017 related to, *inter alia*, the legal strategy of, the potential likelihood of success in, and litigation financing for the English Enforcement Proceedings.

158. Upon information and belief, throughout the remainder of 2017, Defendants remained in frequent contact with the Statis and their representatives, during which time the Statis initiated further proceedings to attempt to enforce the ECT Award in Belgium, Luxembourg, the Netherlands, Italy, Sweden, and the United States. Communications by electronic mail, for example, occurred in July, October, November, and December 2017. Upon information and belief, these communications related to, *inter alia*, the legal strategy of, the potential likelihood of success in, and litigation financing for the new Enforcement Proceedings.

159. Defendants provided the above-referenced funding to the Statis for use in the appeal of the English Enforcement Proceedings, which enabled the Statis to discontinue and abandon those proceedings to escape final judgment on the fraudulent scheme. Defendants agreed to provide and did provide such funding maliciously, with the intention of harming Kazakhstan by depriving it of the opportunity to prove the Statis' fraud in England. Had Kazakhstan proven this

fraud at trial, the Statis' efforts to enforce the ECT Award would have been adversely affected, and thus Defendants' unlawful plan to obtain from Kazakhstan the monies that Defendants knew had been stolen from them by the Statis would have been adversely affected.

160. From January 2018 to present, Defendants have remained in frequent contact with the Statis and their representatives regarding, upon information and belief, the legal strategy of, the potential likelihood of success in, and litigation financing for the Enforcement Proceedings.

161. The Enforcement Proceedings continue to the present, wherein the Statis, with the substantial assistance of Defendants, are attempting to continue to cover up the fraud perpetrated by the Statis against the Tristan Noteholders, including Plaintiff Outrider, (and Plaintiff Kazakhstan), all to accomplish Defendants' above-referenced unlawful plan.

IV. PERPETUATION OF THE FRAUD IN THE ECT ARBITRATION

162. As alleged above, the Statis' fraudulent scheme centered around the key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures, thereby stripping assets from those companies, laundering money through them, and falsely portraying them as having more assets than they actually did. This key lie is at the center of the Statis' fraud, which Defendants joined and actively supported to accomplish their unlawful plan.

A. The Statis Institute Arbitral Proceedings Against Plaintiff Kazakhstan

163. On July 1, 2010, the Statis (Tristan) defaulted on the interest payments due to the Tristan Noteholders. This default occurred as a result of the Statis' fraudulent asset stripping of their Kazakh companies (TNG and KPM), through which the defrauded the Tristan Noteholders of their invested monies.

164. On July 26, 2010, the Statis filed a Request for Arbitration with the Stockholm Chamber of Commerce, claiming that Plaintiff Kazakhstan had engaged in a "campaign of

harassment" that violated various provisions of the ECT. The Statis claimed as damages all, or substantially all, of the monies they had unlawfully stripped from their Kazakh companies and stolen from the Tristan Noteholders.

165. The arbitration hearings were held in Paris, France. In the ECT Arbitration, the Statis contended that, as a result of Plaintiff Kazakhstan's alleged breaches of the ECT, the Statis were entitled to damages for, *inter alia*, (i) their actual investment in the LPG Plant, which they falsely claimed was approximately $245 million; and (ii) the additional profit that they contended would have been realized from the LPG Plant but for Plaintiff Kazakhstan's alleged breaches of the ECT, which the Statis asserted was $84,077,000.00.

B. In Furtherance of the Fraudulent Scheme, the Statis Make Multiple Misrepresentations in the ECT Arbitration

166. During the ECT Arbitration, the Statis made a series of false statements and submitted a range of falsified evidence on a range of subjects, including false evidence supporting their key lie that the related-party transactions were legitimate business expenditures.

167. With regard to the LPG Plant, the Statis contended that the LPG Plant should be valued based on the investment that they had allegedly made on the plant, while Plaintiff Kazakhstan contended that it should be valued as scrap, given that it was never completed and was not a viable investment.

168. The Statis, in making their arguments regarding the quantum of damages, made several misrepresentations, the falsity of which Plaintiff Kazakhstan and Plaintiff Outrider did not discover until years later.

169. First, the Statis, in reliance on the fraudulently obtained audit reports and falsified financial statements, represented that they had invested more than $245 million in the development and construction of the LPG Plant, and should be awarded that amount. In fact, the amount

invested by the Statis in the development and construction of the LPG Plant was substantially less than the claimed $245 million, and this amount had been fictitiously inflated through the LPG Plant fraud scheme described above.

170. In addition to submitting fraudulent documentary evidence, the Statis made the following misrepresentations to the ECT Tribunal:

a. The Statis' May 18, 2011 Statement of Claim stated that they "invested more than USD 245 million in development and construction of the LPG plant."

b. The First Witness Statement of Mr. Lungu, dated May 17, 2011, asserted that "[w]hen the State seized KPM and TNG and all of their assets, including the LPG Plant, in July of 2010, more than USD 245 million had been invested in construction of the LPG Plant."

c. The May 17, 2011 expert report of FTI Consulting, Inc. ("**FTI**") stated that "[p]er the audited financial statements for the period ended 31 December 2009, TNG has invested approximately $245 million in the design and construction of the LPG Plant," and that "[a]s of 30 September 2008, TNG reported $208.5 million related to total capital costs invested into the LPG Plant."

d. The Statis' May 7, 2012 Reply Memorial on Jurisdiction and Liability stated that "in May of 2009, Claimants ceased their capital outlays for construction of the LPG Plant, having already invested more than US $245 million in its construction."

e. The Second Witness Statement of Anatolie Stati, dated May 7, 2012, stated that "[f]aced with this climate of fear and uncertainty, I [*i.e.*, Anatolie Stati] chose in May of 2009 to postpone the LPG Plant project, having already spent more than USD 245 million toward its construction."

f. The supplemental expert report of FTI dated May 28, 2012 stated that the "[t]otal investment that the Claimants have invested in the LPG Plant is $245 million."

g. The Statis' May 28, 2012 Reply Memorial on Quantum [*i.e.*, damages] reiterated that "[i]n the event the Tribunal chooses not to award the prospective value of the LPG Plant, Claimants request an award of the investment value of the LPG Plant, as adjusted by FTI to account for the approximately US $37 million in additional expenditures by Claimants through May, 2009, in the sum of US $245 million."

h. In oral evidence at a hearing during the arbitration proceedings, on October 2, 2012, Anatolie Stati repeated the statement made in his Second Witness Statement.

i. In oral evidence at a hearing in the arbitration on January 28, 2013, Mr. Lungu repeated the statement made in his First Witness Statement.

j. The Statis' April 8, 2013 First Post-Hearing Brief stated that "Claimants invested more than US $240 million in construction of the LPG plant," that the investment cost of the LPG Plant was $245 million, and that they were claiming their investment cost of $245 million for the LPG Plant.

k. The Statis' June 3, 2013 Second Post-Hearing Brief stated that "TNG's audited 2009 financial statements … list the net book value of the LPG Plant as US $248 million at December 31, 2009, which corroborates FTI's assessment of US $245 million. Data from the Claimants' historical financial records, particularly data from audited financial statements, is perfectly reliable evidence, and is not simply FTI parroting the Claimants." They urged the ECT Tribunal to "award damages for the LPG Plant based on . . . Claimants' out-of-pocket investment costs of US $245 million."

171. Each of the above statements was false because the stated construction costs did not represent the true costs that had been incurred in connection with the construction of the LPG Plant. Instead, the stated construction costs had been materially and fraudulently inflated through the above-referenced schemes that included (but may not have been limited to) the Resale Fraud, the Double-Billing Fraud, the Equipment for Construction Fraud, the Management Fee Fraud, and the Interest Fraud.

172. Second, the Statis concealed the existence of highly relevant documents from Plaintiff Kazakhstan and the ECT Tribunal. In a February 3, 2012 Order, the ECT Tribunal ordered the Statis to disclose to Kazakhstan, *inter alia*, documents in their possession, custody, or control "specifying the cost of construction and assembly operations, start-up and adjustment works in respect of basic facilities" of the LPG Plant. Documentation regarding the transfers between Tractebel, Azalia, and Perkwood all fell directly within the scope of this Order, and should have been disclosed by the Statis. However, in breach of the Order, the Statis failed to disclose these documents.

173. Third, the Statis used the KMG Indicative Offer during the ECT Arbitration as evidence that the value of the LPG Plant, at minimum, was the $199 million included in the KMG Indicative Offer. The Statis did this despite knowing that the KMG Indicative Offer (i) had been procured by fraud; and (ii) was not, and could not be regarded as, a valid indicator of the market value of the LPG Plant. For example, the Statis made the following misrepresentations:

a. The Statis' May 18, 2011 Statement of Claim stated that "[t]he non-binding indicative offers … provide a record of the actual reaction of willing and able buyers to an offer of the properties by a willing and able seller, with each acting at arms' length in an

open and unrestricted market, without compulsion to buy or sell, and each having knowledge of the relevant facts."

b. The Statis' May 7, 2012 Reply Memorial on Jurisdiction and Liability twice referred to the KMG Indicative Offer, once again representing that it comprised a relevant (if conservative) guide to the value of its subject matter.

c. The Statis' May 28, 2012 Reply Memorial on Quantum (*i.e.*, damages) invited the Tribunal to consider the KMG Indicative Offer in the following terms:

> Indeed, the offer made for the LPG Plant by [KMG] at that time was US $199 million. While Claimants did not accept these offers because at the time they deemed them too low and did not feel that they would lead to a sale, the Tribunal should note that State-owned [KMG] itself offered almost US $200 million for the [LPG] Plant, more than six times the highest value assigned to the LPG Plant by Deloitte of US $32 million. Little more is needed to demonstrate that Deloitte's salvage value assumptions and calculations are worthless.

d. The Statis' April 8, 2013 First Post-Hearing Brief, again referred to the KMG Indicative Offer, directly and indirectly, representing that it comprised a relevant (if conservative) guide to the value of its subject matter.

e. At a hearing on damages on January 28, 2013, the Statis submitted that damages should, at a minimum, be awarded in the amount of the KMG Indicative Offer.

174. Fourth, the Statis submitted expert reports that relied on the fraudulently obtained audit reports, the falsified financial statements, the fraudulently obtained KMG Indicative Offer, and the false testimony of Anatolie Stati and Mr. Lungu. Specifically, the Statis retained FTI to assess the economic damages related to their Kazakh operations, including the LPG Plant.

175. For example, FTI's May 28, 2012 supplemental expert report relied on two categories of the Statis' false information. First, in Paragraph 7.5, it cited the indicative offers on

the LPG Plant, including KMG's $199 million Indicative Offer, to demonstrate that the value of the LPG Plant was "well in excess of its salvage value":

> Offers made by interested buyers in 2008 for buying Claimants' assets … valued the LPG Plant at $150 million on average. The offer made by state-owned KazMunaiGaz at that time was $199 million for the LPG Plant. Hence it is clear that the value of the LPG Plant at the 2008 Valuation Date was well in excess of its salvage value.

176. This report also relied on the false representations in the Stati financial statements and annual reports when assessing the investment value of the LPG Plant.

177. At no point did the Statis disclose that the financial statements were falsified and fraudulent. Instead, during the ECT Arbitration, the Statis affirmatively relied on the falsified financial statements to support their claims. For example, in their Second Post-Hearing Brief, the Statis defended criticisms of FTI's assessment of the investment value of the LPG Plant on the basis that the financial statements and annual reports were "prepared for investors in the ordinary course of business, and not for the purposes of litigation." In the same document, the Statis also falsely represented that their "historical financial records, particularly data from audited financial statements," were "perfectly reliable evidence."

C. Plaintiff Kazakhstan Relied to Its Detriment on the Fraudulent Misrepresentations

178. Plaintiff Kazakhstan justifiably relied to its detriment on the Statis' misrepresentations throughout the ECT Arbitration. This justifiable reliance took multiple forms.

179. First, in preparing and presenting its defenses on jurisdiction, Plaintiff Kazakhstan relied on the Statis' misrepresentations – both in its financial statements, pleadings, and expert evidence – that the expenses stated therein were legitimately and lawfully incurred. Had the Statis not made these misrepresentations, and instead disclosed the truth – that the Statis were engaged in a massive fraud through the operations of Tristan Oil, KPM, and TNG – Kazakhstan's defenses

would have been materially different. As a result of the Statis' misrepresentations, Kazakhstan incurred damages, including litigation costs in connection with preparing its defenses on jurisdiction and liability, which were completely wasted.

180. Second, in preparing and presenting its defenses concerning liability, Plaintiff Kazakhstan relied on the Statis' misrepresentation that their financial statements were materially correct, as evidenced by the KPMG audit reports. Had the Statis not made this misrepresentation, and instead disclosed the truth – that the Statis materially falsified the financial statements and obtained the KPMG audit reports by fraud – Kazakhstan's defenses would have been materially different. As a result of the Statis' misrepresentations, Kazakhstan incurred damages, including litigation costs in connection with preparing its defenses concerning jurisdiction, liability, and damages that were completely wasted.

181. Third, in preparing and presenting its defenses concerning the value of the LPG Plant, Plaintiff Kazakhstan relied on the Statis' misrepresentations – in their financial statements, pleadings, and expert evidence – that they had invested $245 million in the construction of the LPG Plant. For example, Kazakhstan relied on the Statis' misrepresentation of the LPG Plant's costs to calculate how much the Statis lost as a result of building the plant, arguing that the Statis "invested USD 245 million to create an asset that, in the best case scenario, had a value of only USD 67 million."[9]

182. Had the Statis not made these misrepresentations, and instead disclosed the truth – that their claimed investments in the LPG Plant were based on falsified and fraudulent evidence – Plaintiff Kazakhstan's defenses would have been materially different. As a result of the Statis'

[9] *Id.* ¶ 1728 (citing Kazakhstan's Second Post-Hearing Brief, June 3, 2013, ¶¶ 829–32).

misrepresentations, at minimum, Kazakhstan incurred damages, including litigation costs in connection with preparing its defenses concerning damages that were completely wasted.

D. Impact of the Fraud on the ECT Tribunal's Decision

183. The Statis' fraud affected the outcome of the ECT Arbitration because it impacted the ECT Tribunal's determinations regarding jurisdiction, liability, and damages. For example, with respect to damages, the ECT Tribunal awarded the Statis total compensation in the amount of $497,685,101, comprised of the following: (i) $277.8 million for two oil and gas fields; (ii) $31.3 million for another contract area; and (iii) $199 million for the LPG Plant. After deducting $10,444,899 in the Statis' debts (not including debt related to the Laren Transaction), the ECT Tribunal issued the final award in the amount of $497,685,101.[10]

184. Under the terms of its analysis, the ECT Tribunal concluded that the LPG Plant should be assessed in the amount of $199 million based on the amount of the KMG Indicative Offer.[11] This decision was the result of fraud committed by the Statis, from three perspectives.

185. First, KMG almost certainly would not have issued the KMG Indicative Offer had it known of the Statis' fraudulent scheme, particularly that the audit opinions for the Statis' financial statements had been obtained fraudulently and that the LPG Plant costs stated in the financially were materially falsified.

186. Second, the KMG Indicative Offer was explicitly based on the historical costs of construction of the LPG Plant included in the Information Memorandum.[12] This Information Memorandum was prepared unilaterally by the Statis using the materially inflated and fictitious

[10] *Id.* ¶¶ 1856–59.

[11] *Id.* ¶ 1747.

[12] *Id.*

construction costs resulting from the transactions with Perkwood and Azalia. The Information Memorandum failed to mention the Perkwood/Azalia transactions and presented the construction costs as if they corresponded to the costs of supply by Tractebel. Despite this, the Statis affirmatively introduced the KMG Indicative Offer into the ECT Arbitration and asked the ECT Tribunal to use the KMG Indicative Offer as a basis to award them damages.[13] Given that the ECT Tribunal accepted the Statis' request and awarded them $199 million on the basis of the fraudulently obtained KMG Indicative Offer, the Statis obtained the ECT Award by fraud.

187. Third, the ECT Tribunal relied on the amount included in the KMG Indicative Offer on the grounds that in its view, this was "the relatively best source of information."[14] However, this conclusion was based on the Statis' fraud, in that the Statis:

a. Concealed a series of essential elements that determined the price fixed in the KMG Indicative Offer, including the artificially inflated costs and the fact that the suppliers of equipment at fictitious prices were related parties;

b. Filed in the ECT Arbitration falsified documents (the altered VDD Report, the annual accounts of TNG, the Information Memorandum, among other items described above), and on this basis repeatedly falsely represented that they had invested $245 million in construction costs for the LPG Plant; and

c. Urged the Tribunal to rely on the submitted KMG Indicative Offer as a valid minimum valuation for the LPG Plant.

188. These facts caused the English court to decide in 2017:

> If construction costs were … fraudulently inflated by the Claimants … then, because the … Indicative Bid valued the LPG Plant [on the basis of these

[13] *Id.* ¶ 1707.

[14] *Id.* ¶ 1747.

> inflated construction costs] there is the clearest argument that the … Indicative Bid would have been lower.
>
> [I]n asking the Tribunal to rely on the … Indicative Bid in circumstances (concealed from the Tribunal, as from the bidder) of the alleged fraud, there was a fraud on the Tribunal.[15]

189. The Statis, rather than attempt to defend against the fraud allegations in the English proceedings, dismissed their own action to enforce the arbitral award, which efforts were materially assisted by Defendants.

V. PERPETUATION OF THE FRAUD IN THE ENFORCEMENT PROCEEDINGS

190. After the Statis obtained the ECT Award against Plaintiff Kazakhstan, they began recognition and enforcement proceedings in a series of jurisdictions, including England, Italy, the Netherlands, Luxembourg, Belgium, and the United States.[16] Plaintiff Kazakhstan, meanwhile, initiated proceedings to have the award set aside or invalidated and to seek discovery from Defendants.[17] In initiating or defending themselves in these proceedings, the Statis continued to perpetrate and cover up the fraud against their investors with the substantial and continuous assistance of Defendants and to the detriment of Plaintiff Kazakhstan.

191. In these proceedings, upon information and belief, Defendants worked with the Statis to provide funding and to create legal strategy. They did so, in part, through the dozens of communications detailed above, as well as others. Rather than trying to recoup their stolen investments from the Statis through lawful means, Defendants joined and assisted the Statis'

[15] Anatolie Stati, Gabriel Stati. Ascom Group S.A. and Terra Raf Trans Traiding Ltd., Case no. CL-2014-000070 (June 6, 2017), ¶¶ 43, 48.

[16] Specifically, they began enforcement proceedings in England and the United States in 2014, and in Sweden, Belgium and Italy in 2017. They also began attachment or exequatur proceedings in the Netherlands beginning in 2014, in Sweden, Luxembourg, and Belgium in 2017, and in Italy in 2018.

[17] Plaintiff asked the Svea Court of Appeal in Sweden to set aside the ECT Award in 2014. It initiated discovery proceedings in the United States starting in 2015.

fraudulent schemes so that they could unlawfully have Plaintiff Kazakhstan pay them the amounts stolen by the Statis. In so doing, Defendants entered into a civil conspiracy to commit fraud, of which Plaintiff Kazakhstan was a victim, and aided and abetted the Statis' wrongful activities.

192. As the Statis prosecuted or defended these proceedings, they and their counsel engaged in a series of misrepresentations to the various courts. This had the effect of furthering the fraud. Although the Statis and their counsel have made dozens of different misrepresentations in dozens of different proceedings, the five categories listed below represent the majority of such misrepresentations.

193. Upon information and belief, Defendants knew that these representations were false and that the Statis were attempting to enforce an arbitral award that they had procured by fraud in order to continue the cover-up of the underlying fraud. Nevertheless, Defendants continued to encourage and support the Statis in these enforcement efforts, including by providing guidance and critical funding for these efforts.

A. The Statis Falsely Claim that the Perkwood Transactions Were Legitimate

194. As alleged above, one component of the Statis' fraud against Plaintiffs was the fraudulent accounting at the LPG Plant, in which they falsely inflated the costs of the plant through related-party transactions. When confronted by the truth, as presented in Plaintiff Kazakhstan's legal submissions and evidence, the Statis made a series of misrepresentations regarding these related-party transactions.

195. After they belatedly admitted that they actually owned Perkwood after hiding this fact for years, the Statis continued to hide the fraudulent LPG Plant costs by falsely claiming in several European proceedings that Perkwood was an operational company that handled the

delivery of equipment to Kazakhstan, so the markups could be attributed to associated delivery costs. For example:

a. The Statis told the Svea Court of Appeal in Sweden, without evidence or explanation, that "Perkwood did deliver. They did perform services."

b. The Statis asserted to the Luxembourg Court of Appeal that:

> [D]espite being part of the group of companies that the Statis controlled/owned, the Perkwood Company had a separate legal personality, distinct from the Statis as individuals and other entities within the Statis' group of companies. The Perkwood company was able to have rights and obligations, regardless of the fact that it did not own any premises or employees…. [T]he Perkwood company was fully operational. The company was set up to take care of the bidding process and to take over equipment delivery to Kazakhstan, in order to allow the construction of the LPG [Plant] by TNG.

c. Before the Rome Court of Appeals, the Statis argued that Perkwood was a fully functional company. Using circular logic (and no evidence), the Statis argued that the fact that Perkwood filed dormant company accounts in the U.K. during all relevant years was irrelevant because Perkwood was a fully operative company.

196. The Statis also made the false representation in various proceedings that the sham Perkwood transactions were a "bona fide transfer pricing agreement" and that their decision to use related parties was a legitimate "tax optimization scheme." These misrepresentations were made notwithstanding the fact that the Statis concealed their relationship with Perkwood from the outside world (including from their own auditors) and that Perkwood, a sham company without employees or offices for which the Statis filed dormant company reports, could not offer any value.

197. The Statis made the following misrepresentations in the Swedish proceedings:

a. "The Perkwood agreement was not a sham agreement. Perkwood's role was to manage the purchasing and delivery of equipment for the construction of the LPG Plant.…

In other words, there has been no question of any misleading arrangement or sham agreement between TNG and Perkwood."

b. They denied, without evidence, that the financial statements reflected the purchase of $72 million in equipment that, in fact, never existed.

c. They claimed, again without evidence, that up to $60 million in interest costs "corresponds to the actual cost."

d. They further claimed that the "management fee" of $44 million paid to Perkwood was a legitimate cost: "this assertion that the management fee that was paid to Perkwood without any basis in any agreement, no account of performance in the form of services, well, we know that from the bank history that was not true."

198. The Statis never explained to the Swedish court what services Perkwood performed, how the management fee was calculated, or who decided the amount of the management fee. Instead, they falsely represented that the management fee was valid consideration for Perkwood coordinating the project, arranging for storage at various delivery sites, transportation, insurance, customs duties, and legal liability.

199. In England, the Statis repeated the key lie that the related-party transactions constituted a legitimate transfer pricing arrangement. In their "Points of Defence," they falsely claimed:

> Some of the Claimants' investments into the construction of the LPG Plant, in so far as they related to delivery of certain equipment for the LPG Plant, were structured using a transfer pricing arrangement involving transactions between related business entities affiliated with the Claimants…. This constituted a lawful arrangement driven by tax optimisation purposes. At no point did this arrangement involve fraudulent trade or misinvoicing or any other dishonest practice.

200. They further falsely attributed the price increases, in which the price of the equipment was tripled, to the fact "that Perkwood was responsible for the costly loading in Europe

and unloading in Kazakhstan and the transportation in between" and that "Perkwood also bore all related insurance and storage costs relating to the requisite equipment during its delivery to Kazakhstan." Finally, the Statis claimed (falsely) that the "management fee was a legitimate add-on cost for the equipment supplied under the Perkwood Contract, corresponding to approximately a third of the total value of the Perkwood Contract."

201. The Statis made the same false assertions in Belgian exequatur proceedings: "Perkwood had to bear the excessive costs and much higher for the loading of goods in Europe, their unloading in Kazakhstan and the corresponding transport. Unlike Azalia, Perkwood also had to insure the goods concerned, as well as organize their storage to allow delivery to Kazakhstan." They further asserted that "[s]uch a tax optimization is a perfectly legal arrangement and is customary in a group of companies and in complex construction projects of this magnitude…. This tax optimization mechanism allowed Perkwood (and Azalia) to minimise their tax base for corporate income tax in their country of incorporation, namely Russia (for the Azalia Company) and England (for the Perkwood Company)."

202. The Statis repeated these false assertions in the Luxembourg proceedings:

> The Perkwood Company and Contract were part of a Transfer Pricing Agreement, which involved operations between different entities, belonging to the Statis. It is around this Transfer Pricing Agreement, that a part of the investments made by the Statis in the construction of the LPG Plant (in particular as regards the delivery of certain equipment) was structured. Such a mechanism is a perfectly legal arrangement for tax optimisation purposes, as is customary in a group of companies and in complex construction projects of this size…. [T]hese 'fees and management fees' were initially perfectly legitimate, since Perkwood bore all costs and expenses relating to deliveries, storage, insurance and costs related to the conversion of EUR/USD currencies in relationship to equipment deliveries from Europe to Kazakhstan. They corresponded to about a third of the value of the Perkwood contract.

203. In the Netherlands, the Statis also made these false assertions, stating during a hearing that a large part of the inflated LPG Plant costs were bona fide costs for the transport of

equipment. Later, however, the Statis changed their position and claimed in a filing that the (non-existent) management fee was an explanation for the costs. Either way, the Statis falsely asserted that the increase of the construction costs was part of a bona fide transfer pricing arrangement.

204. In Italy, the Statis again asserted that the Perkwood transactions were part of a lawful transfer pricing arrangement. They claimed in a brief that the price increase for the equipment was explained by transportation costs, insurance costs, and the floating exchange rate between the US dollar and the Euro. The Statis also asserted that the $44 million management fee paid by TNG to Perkwood was a legitimate construction cost and had a sound legal basis.

B. The Statis Misrepresented that KPMG Endorsed their Financial Statements Based on Access to Complete and Truthful Information.

205. In the European courts, the Statis relied heavily on the false assertion that their financial statements had been audited by KPMG to defend against Plaintiff Kazakhstan's allegation that the statements were fraudulent. The Statis falsely claimed that KPMG had full access to all company records and that they were fully aware of Perkwood's status as a related company.

206. For example, the Statis made the following false statements to these courts:

a. They falsely told the Swedish court that "[w]hen reviewing the prepared annual statements, TNG's auditors, KPMG, had full access to all accounting records. KPMG was aware of Perkwood's function." They reiterated to the same court that "KPMG was aware of Perkwood's function" and that "KPMG had full access to all accounting documents."

b. The Statis also falsely informed the court in the Netherlands that "[d]uring the examination of the annual financial accounts, TNG's auditors, KPMG, had full access to all the accounting records. KPMG was aware of Perkwood's function."

c. They claimed to the Luxembourg court that "TNG, who was also a co-contractor in the allegedly fictitious contract, was also independently audited by KPMG Audit LLC ('KPMG'), who had access to all of the accounting records concerning Perkwood. KPMG never issued the slightest remark regarding the existence of Perkwood or the incriminating contract."

207. These representations were knowingly false, given the clear evidence that Anatolie Stati deliberately concealed the fact that Perkwood was a related company from KPMG and, further, instructed KPMG's Tax and Advisory department to remove any reference to Perkwood as a related company from relevant documents. These representations by the Statis are also proven false by the newly discovered (October 2019) correspondence between KPMG and the Statis in February 2016 in which KPMG warned that it would withdraw its audit reports on the basis of the new information discovered by Plaintiff Kazakhstan that Perkwood was a related party, unless the Statis were able to provide an explanation. All of the misrepresentations alleged in this section were made after the Statis received the KPMG correspondence in 2016.

208. The Statis' representations regarding KPMG also are proven false by the August 2019 decision by KPMG to invalidate all of its audit reports for the Statis' financial statements after KPMG was provided Mr. Lungu's deposition testimony and after Anatolie Stati could not explain his deliberate lies.

209. As evidence of their claim that KPMG knew that Perkwood was a related company, the Statis falsely represented to the Netherlands court that the "Vendor Due Diligence report drawn up by KPMG, which was compiled in 2008 in the context of a possible sale of TNG by Stati, submitted in the ECT Arbitration, mentions Perkwood as a 'related party' and supplier of materials for the LPG Plant."

210. Similarly, in Belgium they falsely represented that:

> Perkwood is further mentioned several times in a KPMG Due Diligence report entitled "Zenith Project" which was produced by the Statis in the course of the arbitral proceedings. More particularly, the report in question (i) refers to Perkwood as a 'related party' of the Statis; (ii) lists Perkwood as the main supplier of equipment for the LPG Plant; and (iii) was used by Kazakhstan during the arbitration proceedings, for the cross-examination conducted on the Statis and their witnesses (Anatolie STATI and Artur LUNGU).

211. They also falsely represented to the English High Court that "Perkwood's status as a related party to TNG was set out in the vendor due diligence report for Project Zenith." Finally, to the Luxembourg court, they falsely represented that "Perkwood's status as a party affiliated to TNG was established in KPMG's due diligence report."

212. These representations were knowingly false. As Mr. Lungu admitted at his 2019 deposition, the draft Vendor Due Diligence Report prepared by KPMG stated in four separate places that Perkwood was a Stati-related party. Upon reviewing this draft, Mr. Lungu informed KPMG that this was incorrect and he instructed KPMG to change the Vendor Due Diligence Report so that it (falsely) stated that KPMG was an unrelated third party. KPMG followed these instructions. Mr. Lungu testified that he issued these instructions because he, as the Statis' CFO, had been misled by the Statis into believing that Perkwood was an unrelated third party and not a Stati company.

213. The KPMG Vendor Due Diligence Report therefore was a direct product of the Statis' fraudulent scheme, and was engineered by the Statis to continue the scheme.

C. The Statis Misrepresented that They Never Concealed Perkwood's Status from KPMG or the Outside World

214. The evidence shows that the Statis consistently sought to conceal the fact that Perkwood was a company they owned and controlled, and that the transactions with Perkwood were not at arm's length. The Statis continued to misrepresent this fact to various courts.

215. For example, after evidence of the Statis' double accounting had been revealed in the U.S. discovery proceedings, the Statis continued to conceal the fact that Perkwood was a related party by refusing to admit or deny the fact before the Svea Court of Appeal. In a submission to that court, the Statis attempted to fend off Plaintiff Kazakhstan's complaint that they were evading the issue by stating that they "have not asserted that Perkwood was 'freestanding from the Investors' sphere.' What has been stated by the Investors is that they do not concede to the fact that Perkwood was an affiliate in some – yet unspecified by Kazakhstan – way." They also evaded the question by stating that they "have never been able to contest (but neither to admit) that Perkwood is in any particular way an 'affiliated' company." Only on September 5, 2016, once Plaintiff Kazakhstan introduced documents that it had obtained from Latvian authorities showing that the Statis had full powers of attorney over Perkwood, did the Statis finally concede that Perkwood was a related party. In a September 8, 2016 hearing, counsel for the Statis stated that "we are not contesting that it is an affiliate company. We don't need to argue on this case, because it is an affiliate company."

216. Despite this clear example of attempting to conceal Perkwood's status, the Statis continued to falsely claim to the various courts that they had never tried to conceal that information. In Belgium, for example, they told the court that "it is therefore incorrect to claim that 'the Statis never informed KPMG of their relationship with Perkwood." They further insisted (falsely) in the same submission that "[i]t should be recalled that the Statis have never tried to hide the Perkwood Contract and Company" and that "it should be noted that the Statis never sought to conceal the facts of Perkwood being part of the group of companies they controlled/owned." They continued to make such representations the next year, stating that "it should be stressed that the

Statis have never sought to conceal the status of Perkwood as part of the group of companies they controlled/possessed, unlike what Kazakhstan keeps repeating."

217. The Statis consistently made this misrepresentation to other courts as well. In England, they "denied that the Claimants at any time sought to conceal Perkwood's status as part of the group of companies owned and/or controlled by the Statis." In Luxembourg, they claimed that "[t]here was no deliberate concealment of Perkwood's status as a party affiliated to TNG within the meaning of the IFRS standards and IAS 24 or in any manner whatsoever." And in Italy, they further argued that neither Perkwood nor documentation regarding Perkwood had been concealed.

D. The Statis Misrepresented by Omission the Incriminating KPMG Correspondence and Concealed It from the Courts

218. On February 2, 2016, after KPMG belatedly learned, as a result of the disclosures obtained by Plaintiff Kazakhstan, that Perkwood was actually a related company that had significantly inflated the costs of the equipment for the LPG Plant, KPMG reached out to the Statis for an explanation. It did so as part of its ongoing responsibility to revisit any audit reports "if we become aware of facts which may have caused the audit reports to be amended, had such facts been known to us at the audit report date."

219. The 2016 KPMG letter (which Plaintiff Kazakhstan did not discover until October 2019) identified three primary issues that it was unaware of at the time of the audits. This included (a) the fact that Perkwood charged a management fee of approximately $44 million; (b) the fact that Perkwood was a related party controlled by the Statis; and (c) that Perkwood was not the "actual supplier of the equipment for the LPG Plant," but instead was a dormant company that was passing through costs that were "significantly different from the corresponding cost" charged by the actual supplier of the equipment. The letter demanded written responses to a series of six

questions regarding these issues and warned that if it did not receive this information, it could "prevent future reliance on our audit reports and in particular to withdraw our audit reports and to inform about such withdrawal all parties who are still, in our view, relying on these reports, including … the Svea Court of Appeals." The Statis, however, did not substantively respond to KPMG's questions, but instead threatened legal action against KPMG.

220. After the disclosure by the Statis of documents in the then-ongoing English proceedings in June 2018, Plaintiff Kazakhstan located Mr. Lungu in Houston, Texas and obtained his deposition in April 2019. Kazakhstan then provided this deposition transcript to KPMG, along with other materials evidencing the Statis' fraud. KPMG (as Kazakhstan subsequently discovered in October 2019), contacted Anatolie Stati and demanded an explanation. None was provided.

221. On August 5, 2019, KPMG again reached out to the Statis and stated that "[o]ur audit files indicate that transactions with Perkwood were not disclosed in the financial statements of the [Stati] Companies, and that Perkwood was not included in the list of related parties which management provided to us during our audits." The letter again requested information regarding Perkwood's status.

222. After receiving no response, on August 21, 2019, KPMG took the extraordinary and rare step of invalidating all of its audit reports for the Statis' financial statements, and further instructed the Statis to "immediately take all necessary steps to prevent any further, or future, reliance" on the audit reports, including informing all parties in receipt of the financial statements or audit reports of this "development," *i.e.*, KPMG's decision to invalidate the reports.

223. Instead of complying with KPMG's instruction, the Statis continued to conceal the KPMG correspondence from Plaintiffs and the various courts. They did not inform any court, or other recipients of the audited financial statements, of KPMG's decision to invalidate its audit

reports. They also did not submit the KPMG correspondence to any of the courts that were in the process of adjudicating issues relating to the ECT Award in late 2019, including the Amsterdam Court of Appeal and the Luxembourg Court of Appeal. Far from preventing any reliance on the audit reports, the Statis continued to falsely represent to the courts that KPMG had performed their audits with full access to all documents and full knowledge of Perkwood's status despite knowing that the exact opposite was true. When Plaintiff Kazakhstan eventually learned of the KPMG correspondence in October 2019, the Statis sought to block Kazakhstan from introducing the correspondence and to minimize its significance.[18]

224. In Luxembourg, Plaintiff Kazakhstan asked the Statis in a November 15, 2019 letter to disclose the KPMG correspondence to the Court of Appeal of Luxembourg even though the submission date for evidence had passed. The Statis did not respond. When Kazakhstan attempted to submit the evidence itself, the Statis sought to block the request in a letter to the Court of Appeal of Luxembourg. They falsely asserted that Kazakhstan's request was unfounded and that the KPMG correspondence was the result of threats by Kazakhstan against KPMG.

225. The Statis elaborated on this misrepresentation in a letter to the court in Belgium, stating as follows:

> Kazakhstan had first put KPMG Audit LLC (Kazakhstan) under pressure in 2016 – the subject of the notorious correspondence of 2016 of which the production is now requested by Kazakhstan – but the manoeuvre failed at the time; the letter of KPMG Audit LLC (Kazakhstan) dated 21 August 2019 is manifestly the result of new pressure exercised by Kazakhstan and is by no means the result of an independent and impartial investigation that we can expect from an auditor as renowned as KPMG.

[18] Although Plaintiff received notification in August 2019 from KPMG regarding its decision that month to withdraw its audit reports, it did not receive the 2016 and 2019 correspondence between KPMG and the Statis until November 2019, after the submission date for evidence in the various proceedings had passed.

226. The Statis further represented that the 2016 and 2019 KPMG correspondence was "far from new" because it related to fraud arguments already dismissed by the Svea Court of Appeal. Even so, the Statis represented, the correspondence did not establish any fraud: "the so-called KPMG documents do not show any fraud; Kazakhstan attempts to give these 'new' documents a scope they do not have."

227. In the Netherlands, the Statis actively sought to falsify the record regarding the KPMG correspondence. They sent a letter to the Court of Appeal asking it to correct the record and add statements that were never pleaded before the court. Specifically, they attempted to include a reference to their offering to produce the 2016 KPMG correspondence, although no such offer had ever been made.

VI. NOTICE OF INTENT TO RAISE ISSUES UNDER ENGLISH LAW

228. Certain of the above-alleged acts of Defendants occurred in England such that English law applies.

229. Pursuant to CPLR § 4511, Plaintiffs hereby give notice of their intent to raise issues under the laws of England, including but not limited to, the law governing the economic tort of unlawful means conspiracy. Plaintiffs intend to offer expert testimony, documents, and other relevant sources to the Court to determine the foreign law at issue.

230. English law recognizes the economic tort of unlawful means conspiracy, which arises when two or more persons conspire to take action through unlawful means that results in damages to another person.

231. The elements of an unlawful means conspiracy are: (a) an agreement or understanding between two or more parties, (b) an intent to act unlawfully, (c) concerted action pursuant to that agreement or understanding, and (d) damages to a third party as a result.

232. A conspirator is liable for all damages suffered by a victim of the conspiracy from the time the conspirator joins the conspiracy.

233. Under English law, the conspirators' sole or predominant purpose need not be to harm the plaintiff. In *OBG Ltd and others v. Allan,* [2007] UKHL 21 (OBG), the House of Lords found that the intent element of the tort can be satisfied where a defendant harms the plaintiff in furtherance of an unlawful conspiracy:

> A defendant may intend to harm the claimant as an end in itself, where, for instance, he has a grudge against the claimant. More usually a defendant intentionally inflicts harm on a claimant[]. . . as a means to an end. He inflicts damage as the means whereby to protect or promote his own economic interests. Intentional harm inflicted against a claimant in either of these circumstances satisfies the mental ingredient of this tort.

234. Unlawful means include acts which are themselves unlawful under criminal or civil law.

COUNT I
CIVIL CONSPIRACY TO COMMIT FRAUD
(PLAINTIFF KAZAKHSTAN AGAINST ALL DEFENDANTS)

235. Plaintiffs re-allege and incorporate by reference each and every allegation in paragraphs 1–234 above as if fully set forth herein.

236. The Statis engaged in a fraudulent scheme, as alleged herein.

237. The Statis made misrepresentations and material omissions of fact that were false and known to be false. The Statis made the misrepresentations and material omissions for the purpose of inducing multiple parties, including Plaintiff Kazakhstan, Plaintiff Outrider and the other Tristan Noteholders, KPMG, the ECT Tribunal, and the courts of Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy to rely upon them.

238. These parties and/or others, justifiably relied on the Statis' misrepresentations and material omissions.

239. The Statis' misrepresentations and material omissions caused injury to Plaintiff Kazakhstan.

240. The Statis' misrepresentations and material omissions were part of their fraudulent scheme, premised on their key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures. These misrepresentations are being perpetuated in the Enforcement Proceedings, wherein the Statis continue to misrepresent that the amounts they stole were legitimate expenditures.

241. Defendants had knowledge that the Statis stole the Noteholders' monies through their fraudulent related-party transactions and, to cover up this theft, falsely represented that these stolen monies were legitimate business expenses.

242. Defendants agreed to participate in the unlawful acts of the Statis. Specifically, Defendants knew that the Statis had stolen the Noteholders' monies and were claiming reimbursement for such stolen monies as investment costs in the ECT Arbitration. Despite this, Defendants agreed to enter into the Sharing Agreement with the Statis, under the terms of which Defendants joined, and actively supported, the unlawful objective of obtaining from Plaintiff Kazakhstan the monies that the Statis had stolen from Defendants (and the other Tristan Noteholders).

243. Further, Defendants subsequently engaged in overt acts in furtherance of the unlawful scheme. For example, they agreed to provide funding to the Statis for the Enforcement Proceedings, and they did provide such funding, knowing that the Statis had made numerous fraudulent misrepresentations in the ECT Arbitration and in the Enforcement Proceedings. They also regularly consulted with the Statis and/or their counsel and provided guidance regarding the

legal strategy to enforce the fraudulently obtained ECT Award. They also sought to frustrate Plaintiff Kazakhstan's attempts to discover information regarding the Statis' fraud.

244. By engaging in these activities with knowledge of the Statis' fraud, Defendants have knowingly participated in, and provided substantial assistance to, the fraudulent scheme.

245. As a direct and proximate result of the fraudulent scheme, in which Defendants knowingly participated, Plaintiff Kazakhstan was injured and suffered damages, including but not limited to the amount of the litigation costs that it otherwise would not have incurred in the ECT Arbitration and the Enforcement Proceedings and that were wasted.

246. Defendants' acts as alleged in Count I were willful, wanton, malicious, and/or oppressive.

COUNT II
AIDING AND ABETTING WRONGFUL CONDUCT
(PLAINTIFF KAZAKHSTAN AGAINST ALL DEFENDANTS)

247. Plaintiffs re-allege and incorporate by reference each and every allegation in paragraphs 1–246 above as if fully set forth herein.

248. The Statis made misrepresentations and material omissions of fact that were false and known to be false. The Statis made the misrepresentations and material omissions for the purpose of inducing multiple parties, including Plaintiff Kazakhstan, Plaintiff Outrider and the other Tristan Noteholders, KPMG, the ECT Tribunal, and the courts of Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy to rely upon them.

249. These parties and/or others, justifiably relied on the Statis' misrepresentations and material omissions.

250. The Statis' misrepresentations and material omissions caused injury to Plaintiff Kazakhstan.

251. The Statis' misrepresentations and material omissions were part of their fraudulent scheme, premised on their key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures. These misrepresentations are being perpetuated in the Enforcement Proceedings, wherein the Statis continue to misrepresent that the amounts they stole were legitimate expenditures.

252. Defendants had knowledge that the Statis stole the monies through their fraudulent related-party transactions and, to cover up this theft, falsely represented that these stolen monies were legitimate business expenses.

253. Defendants aided and abetted the unlawful acts of the Statis. Specifically, Defendants knew that the Statis had stolen the monies and were claiming reimbursement for such stolen monies as investment costs in the ECT Arbitration but, despite this, Defendants agreed to enter into the Sharing Agreement with the Statis under the terms of which Defendants joined, and actively supported, the unlawful objective of obtaining from Plaintiff the monies that the Statis had stolen from Defendants (and the other Tristan Noteholders)

254. Further, Defendants subsequently engaged in overt acts in furtherance of the unlawful scheme. For example, they agreed to provide funding to the Statis for the Enforcement Proceedings, and they did provide such funding, knowing that the Statis had made numerous fraudulent misrepresentations in the ECT Arbitration and subsequent enforcement proceedings. They also regularly consulted with the Statis and/or their counsel and provided guidance regarding the legal strategy to enforce the fraudulently obtained ECT Award. They also sought to frustrate Plaintiff Kazakhstan's attempts to discover information regarding the Statis' fraud.

255. Defendants' actions substantially assisted the Statis in furthering the fraudulent scheme.

256. As a direct and proximate result of Defendants' substantial assistance to the Statis, Plaintiff was injured and suffered damages, including but not limited to the amount of the litigation costs that it otherwise would not have incurred in the ECT Arbitration and the Enforcement Proceedings and that were wasted.

257. Defendants' acts as alleged in Count II were willful, wanton, malicious, and/or oppressive.

COUNT III
UNLAWFUL MEANS CONSPIRACY UNDER ENGLISH LAW
(PLAINTIFF KAZAKHSTAN AGAINST ALL DEFENDANTS)

258. Plaintiffs re-allege and incorporate by reference each and every allegation in paragraphs 1–257 above as if fully set forth herein.

259. Defendants knowingly joined a conspiracy amongst the Statis and others to steal monies from the Tristan Noteholders and Plaintiff Kazakhstan through unlawful means.

260. Among other unlawful means, the Statis conspired to, and did, commit fraud against the Tristan Noteholders through the illegitimate and systematic stripping of assets from TNG and KPM using sham related-party transactions that devalued the companies. These sham related-party transactions were made with the proceeds of fraud, and thus constituted money laundering.

261. The Statis made misrepresentations and material omissions of fact that were false and known to be false. The Statis made the misrepresentations and material omissions for the purpose of inducing multiple parties, including Plaintiffs, the Tristan Noteholders, KPMG, the ECT Tribunal, and the courts of Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy to rely upon them.

262. These parties and/or others, justifiably relied on the Statis' misrepresentations and material omissions.

263. The Statis' misrepresentations and material omissions caused injury to Plaintiff Kazakhstan.

264. Defendants had knowledge that the Statis stole the monies through unlawful means and, to cover up this theft, conspired to, and did, falsely represent that these stolen monies were legitimate business expenses.

265. Defendants conspired to, and did, engage in numerous acts in furtherance of the Statis' fraudulent scheme with the intention of causing damage to Plaintiff Kazakhstan. Specifically, Defendants knew that the Statis were claiming reimbursement for such stolen monies as investment costs in the ECT Arbitration but, despite this, Defendants agreed to enter into the Sharing Agreement with the Statis under the terms of which Defendants joined, and actively supported, the unlawful objective of obtaining from Plaintiff Kazakhstan the monies that the Statis had stolen from Defendants (and the other Tristan Noteholders).

266. Further, Defendants agreed to provide funding to the Statis for the Enforcement Proceedings, and did provide such funding, knowing that the Statis had made numerous fraudulent misrepresentations in the ECT Arbitration and subsequent enforcement proceedings. They also regularly consulted with the Statis and/or their counsel and provided guidance regarding the legal strategy to enforce the fraudulently obtained ECT Award. They also sought to frustrate Plaintiff Kazakhstan's attempts to discover information regarding the Statis' fraud.

267. As a result of the unlawful means conspiracy, Plaintiff Kazakhstan was injured and suffered damages, including but not limited to the amount of the litigation costs that it otherwise would not have incurred in the ECT Arbitration and the Enforcement Proceedings and that were therefore wasted.

COUNT IV
CIVIL CONSPIRACY TO COMMIT FRAUD
(PLAINTIFF OUTRIDER AGAINST ALL DEFENDANTS)

268. Plaintiffs re-allege and incorporate by reference each and every allegation in paragraphs 1–267 above as if fully set forth herein.

269. The Statis engaged in a fraudulent scheme, as alleged herein.

270. The Statis made misrepresentations and material omissions of fact that were false and known to be false. The Statis made the misrepresentations and material omissions for the purpose of inducing multiple parties, including Plaintiff Kazakhstan, Plaintiff Outrider and the other Tristan Noteholders, KPMG, the ECT Tribunal, and the courts of Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy to rely upon them.

271. The Statis' misrepresentations and material omissions were part of their fraudulent scheme, premised on their key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures. In fact, these transactions were designed to enrich the Statis by fraudulently diverting assets from KPM and TNG. Because these companies were the guarantors of the Tristan and Laren Notes, this fraudulent scheme had the effect of depressing the value of the Notes and thereby defrauding the Noteholders.

272. When Plaintiff Outrider made decisions concerning the Notes, including *inter alia* decisions concerning their purchase, retention and sale, it reasonably relied on the Statis' various statements detailed above claiming that these transactions were legitimate business expenses.

273. Defendants had knowledge that the Statis stole the Noteholders' monies through their fraudulent related-party transactions and, to cover up this theft, falsely represented that these stolen monies were legitimate business expenses. Defendants knew that the Statis were claiming reimbursement for such stolen monies as investment costs in the ECT Arbitration.

274. Despite this, Defendants agreed to participate in the unlawful acts of the Statis. They agreed to enter into the Sharing Agreement with the Statis, under the terms of which Defendants joined, and actively supported, the unlawful objective of obtaining from Plaintiff Kazakhstan the monies that the Statis had stolen from Defendants (and the other Tristan Noteholders). As part of this fraudulent scheme, Defendants aided the Statis in maintaining and perpetuating the key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures.

275. Further, Defendants subsequently engaged in overt acts in furtherance of the unlawful scheme. For example, they agreed to provide funding to the Statis for the Enforcement Proceedings, and they did provide such funding, knowing that the Statis had made numerous fraudulent misrepresentations in the ECT Arbitration and in the Enforcement Proceedings. They also regularly consulted with the Statis and/or their counsel and provided guidance regarding the legal strategy to enforce the fraudulently obtained ECT Award. They also sought to frustrate Plaintiff Kazakhstan's attempts to discover information regarding the Statis' fraud.

276. By engaging in these activities with knowledge of the Statis' fraud, Defendants have knowingly participated in, and provided substantial assistance to, the fraudulent scheme.

277. As a direct and proximate result of the fraudulent scheme, in which Defendants knowingly participated, Plaintiff Outrider was injured and suffered damages, including but not limited to damages caused by (a) acting as a Noteholder without knowledge of the Statis' fraud, including purchasing, retaining, and selling the Notes; (b) incurring legal fees and other expenses; (c) entering into the Sharing Agreement; (d) not exercising and/or waiving legal rights against the Statis; and (e) not exercising other alternative options vis-à-vis the Tristan Notes, the Statis and/or Defendants.

278. Had the Statis and Defendants made truthful rather than fraudulent representations, Plaintiff Outrider would not have would not have suffered these damages.

279. Defendants' acts as alleged in Count IV were willful, wanton, malicious, and/or oppressive.

COUNT V
AIDING AND ABETTING WRONGFUL CONDUCT
(PLAINTIFF OUTRIDER AGAINST ALL DEFENDANTS)

280. Plaintiffs re-allege and incorporate by reference each and every allegation in paragraphs 1–279 above as if fully set forth herein.

281. The Statis engaged in a fraudulent scheme, as alleged herein.

282. Pursuant to that scheme, the Statis made misrepresentations and material omissions of fact that were false and known to be false. The Statis made the misrepresentations and material omissions for the purpose of inducing multiple parties, including Plaintiff Kazakhstan, Plaintiff Outrider and the other Tristan Noteholders, KPMG, the ECT Tribunal, and the courts of Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy to rely upon them.

283. The Statis' misrepresentations and material omissions were part of their fraudulent scheme, premised on their key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures. In fact, these transactions were designed to enrich the Statis by fraudulently diverting assets from KPM and TNG. Because these companies were the guarantors of the Tristan and Laren Notes, this fraudulent scheme had the effect of depressing the value of the Notes and thereby defrauding the Noteholders.

284. When Plaintiff Outrider made decisions concerning the Notes, including *inter alia* decisions concerning their purchase, retention and sale, it reasonably relied on the Statis' various statements detailed above claiming that these transactions were legitimate business expenses.

285. Defendants had knowledge that the Statis stole the monies through their fraudulent related-party transactions and, to cover up this theft, falsely represented that these stolen monies were legitimate business expenses. Specifically, Defendants knew that the Statis had stolen the monies and were claiming reimbursement for such stolen monies as investment costs in the ECT Arbitration.

286. Despite this, Defendants aided and abetted the unlawful acts of the Statis. They agreed to enter into the Sharing Agreement with the Statis, under the terms of which Defendants joined, and actively supported, the unlawful objective of obtaining from Plaintiff the monies that the Statis had stolen from Defendants (and the other Tristan Noteholders). As part of this fraudulent scheme, Defendants aided the Statis in maintaining and perpetuating the key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures.

287. Further, Defendants subsequently engaged in overt acts in furtherance of the unlawful scheme. For example, they agreed to provide funding to the Statis for the Enforcement Proceedings, and they did provide such funding, knowing that the Statis had made numerous fraudulent misrepresentations in the ECT Arbitration and subsequent enforcement proceedings. They also regularly consulted with the Statis and/or their counsel and provided guidance regarding the legal strategy to enforce the fraudulently obtained ECT Award. They also sought to frustrate Plaintiff Kazakhstan's attempts to discover information regarding the Statis' fraud.

288. Defendants' actions substantially assisted the Statis in furthering the fraudulent scheme.

289. As a direct and proximate result of the fraudulent scheme, in which Defendants knowingly participated, Plaintiff Outrider was injured and suffered damages, including but not

limited to damages caused by (a) acting as a Noteholder without knowledge of the Statis' fraud, including purchasing, retaining, and selling the Notes; (b) incurring legal fees and other expenses; (c) entering into the Sharing Agreement; (d) not exercising and/or waiving legal rights against the Statis; and (e) not exercising other alternative options vis-à-vis the Tristan Notes, the Statis and/or Defendants.

290. Had the Statis and Defendants made truthful instead of fraudulent representations, Plaintiff Outrider would not have suffered these damages.

291. Defendants' acts as alleged in Count V were willful, wanton, malicious, and/or oppressive.

COUNT VI
UNLAWFUL MEANS CONSPIRACY UNDER ENGLISH LAW
(PLAINTIFF OUTRIDER AGAINST ALL DEFENDANTS)

292. Plaintiffs re-allege and incorporate by reference each and every allegation in paragraphs 1–291 above as if fully set forth herein.

293. Defendants knowingly joined a conspiracy amongst the Statis and others to steal monies from the Tristan Noteholders, including Plaintiff Outrider, and Plaintiff Kazakhstan through unlawful means.

294. Among other unlawful means, the Statis conspired to, and did, commit fraud against the Tristan Noteholders through the illegitimate and systematic stripping of assets from TNG and KPM using sham related-party transactions that devalued the companies. These sham related-party transactions were made with the proceeds of fraud, and thus constituted money laundering.

295. The Statis made misrepresentations and material omissions of fact that were false and known to be false. The Statis made the misrepresentations and material omissions for the purpose of inducing multiple parties, including Plaintiff Outrider, Plaintiff Kazakhstan, the Tristan

Noteholders, KPMG, the ECT Tribunal, and the courts of Sweden, the United States, England, Belgium, the Netherlands, Luxembourg, and Italy to rely upon them.

296. These parties and/or others, justifiably relied on the Statis' misrepresentations and material omissions.

297. The Statis' misrepresentations and material omissions caused injury to Plaintiff Outrider.

298. Defendants had knowledge that the Statis stole the monies through unlawful means and, to cover up this theft, conspired to, and did, falsely represent that these stolen monies were legitimate business expenses, having knowledge that Plaintiff Outrider would suffer injury as a result.

299. Defendants conspired to, and did, engage in numerous acts in furtherance of the Statis' fraudulent scheme. They agreed to enter into the Sharing Agreement with the Statis, under the terms of which Defendants joined, and actively supported, the unlawful objective of obtaining from Plaintiff the monies that the Statis had stolen from Defendants (and the other Tristan Noteholders). As part of this fraudulent scheme, Defendants aided the Statis in maintaining and perpetuating the key lie that their fraudulent related-party transactions involving KPM and TNG were legitimate business expenditures.

300. Further, Defendants subsequently engaged in overt acts in furtherance of the unlawful scheme. For example, they agreed to provide funding to the Statis for the Enforcement Proceedings, and they did provide such funding, knowing that the Statis had made numerous fraudulent misrepresentations in the ECT Arbitration and subsequent enforcement proceedings. They also regularly consulted with the Statis and/or their counsel and provided guidance regarding

the legal strategy to enforce the fraudulently obtained ECT Award. They also sought to frustrate Plaintiff Kazakhstan's attempts to discover information regarding the Statis' fraud.

301. As a result of the unlawful means conspiracy, Plaintiff Outrider was injured and suffered damages, including but not limited to damages caused by (a) acting as a Noteholder without knowledge of the Statis' fraud, including purchasing, retaining, and selling the Notes; (b) incurring legal fees and other expenses; (c) entering into the Sharing Agreement; (d) not exercising and/or waiving legal rights against the Statis; and (e) not exercising other alternative options vis-à-vis the Tristan Notes, the Statis and/or Defendants.

DEMAND FOR JURY TRIAL

302. Plaintiffs hereby demand a trial by jury of all issues in this action for which a trial may be had.

PRAYER FOR RELIEF

303. WHEREFORE, Plaintiffs pray for judgment against Defendants, jointly and severally, as follows:

a. actual damages in an amount to be proven at trial;

b. punitive damages in an amount to be proven at trial;

c. attorneys' fees, interests, and costs; and

d. such other relief that the Court deems just and proper.

Dated: December 31, 2020
New York, New York

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

By: /s/ *Felice B. Galant*

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Attorneys for Plaintiff Republic of Kazakhstan and for Plaintiff Outrider Management, L.L.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF New York

----------x

Republic of Kazakhstan

Plaintiff(s)/Petitioner(s),

Index No. 652522/2020

- against -

Daniel Chapman, Argentem Creek Holdings LLC, Argentem Creek Partners LP, Pathfinder Argentem Creek GP LLC, and ACP I Trading LLC

Defendant(s)/Respondent(s).

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NOTICE TO COUNTY CLERK
AMENDMENT TO CAPTION

Republic of Kazakhstan and Outrider Management, L.L.C., a [plaintiff/defendant or petitioner/respondent] in this case, hereby requests that the County Clerk amend the caption to conform to the caption in the amended pleading filed as Document Number 14

[X] by adding the following parties as plaintiff(s)/petitioner(s):

Outrider Management, L.L.C.

[ ] by adding the following parties as defendant(s)/respondent(s):

[ ] by adding the following parties as _____:

The basis for this amendment is:

[ ] A stipulation of all parties who have appeared in this matter (copy attached); or

[X] An amendment as of right under CPLR § 1003.

Dated: December 31, 2020

/s/ Felice B. Galant (Signature)

Felice B. Galant (Name)
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(212) 318-3000 (Phone)
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Attorney(s) for Plaintiffs

THIS FORM (FILED AS A COVER PAGE), A COPY OF THE AMENDED CAPTION AS IT APPEARS ON THE NEWLY-FILED PLEADING, AND ANY OTHER ACCOMPANYING DOCUMENT MUST BE E-FILED AS ONE PDF.

7/10/13

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN and OUTRIDER MANAGEMENT, L.L.C.,

Plaintiffs,

v.

DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC,

Defendants.

Index No. 652522/2020

FIRST AMENDED COMPLAINT

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

REPUBLIC OF KAZAKHSTAN and OUTRIDER MANAGEMENT, L.L.C., Plaintiffs, v. DANIEL CHAPMAN, ARGENTEM CREEK HOLDINGS LLC, ARGENTEM CREEK PARTNERS LP, PATHFINDER ARGENTEM CREEK GP LLC, and ACP I TRADING LLC, Defendants.	Index No. 652522/2020 **NOTICE OF APPEARANCE**

PLEASE TAKE NOTICE that Esha Kamboj, an attorney with the law firm Norton Rose Fulbright US LLP, being admitted to practice in this Court, hereby enters an appearance as counsel for Plaintiffs Republic of Kazakhstan and Outrider Management, L.L.C. in the above-captioned matter.

Dated: Washington, D.C.
April 20, 2021

NORTON ROSE FULBRIGHT US LLP

By: /s/ Esha Kamboj
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Attorney for Plaintiffs

EXHIBIT B

OFFER TO EXCHANGE
AND
CONSENT SOLICITATION STATEMENT

TRISTAN OIL LTD.

Offer to Exchange
10 1/2% Senior Secured Notes due 2012 (CUSIPs: 89676XAA1, G90748AA5, G90748AB3)
for
Senior Secured Notes due 2016
and
Solicitation of Consents for Proposed Amendments to the Indenture Related thereto

THE OFFER TO EXCHANGE AND CONSENT SOLICITATION WILL EXPIRE AT 5:00 P.M., NEW YORK CITY TIME, ON FEBRUARY 14, 2013, UNLESS EXTENDED (SUCH TIME AND DATE, AS THE SAME MAY BE EXTENDED, THE "EXPIRATION DATE"). HOLDERS OF NOTES ("HOLDERS") MUST TENDER THEIR NOTES AND DELIVER THEIR CONSENTS ON OR BEFORE THE EXPIRATION DATE. BY TENDERING SUCH NOTES AND DELIVERING SUCH CONSENTS, HOLDERS WILL ALSO BE AGREEING TO BE BOUND BY THE SUPPLEMENTAL INDENTURE (AS DEFINED BELOW) AND THE MODIFIED NOTES (AS DEFINED BELOW), INCLUDING AS MODIFIED BY THE TERMS AND CONDITIONS OF THE SHARING AGREEMENT (AS DEFINED BELOW). TENDERS OF NOTES MAY NOT BE REVOKED OR WITHDRAWN AND CONSENTS MAY NOT BE REVOKED OR WITHDRAWN ONCE THEY HAVE BEEN PROVIDED.

Tristan Oil, Ltd., a British Virgin Islands company (the "Company"), is, upon the terms and subject to the conditions set forth in this Offer to Exchange and Consent Solicitation Statement (as it may be amended or supplemented from time to time, this "Statement") and in the accompanying Letter of Transmittal and Consent Form (as it may be amended or supplemented from time to time, the "Letter of Transmittal and Consent Form") (i) offering to exchange its 10½% Senior Secured Notes due 2012 (CUSIPs: 89676XAA1, G90748AA5, G90748AB3) (the "Existing Notes") for its Senior Secured Notes due 2016 (the "Modified Notes") and (ii) seeking your consent (the "Consent") to certain amendments to and one waiver (together, the "Proposed Amendments") under the Indenture (the "Indenture"), dated as of December 20, 2006, by and among the Company, Kazpolmunay LLP, Tolkynneftegaz LLP (together, the "Guarantors") and Wells Fargo Bank, N.A., as trustee (the "Trustee"), as amended from time to time. The solicitation of Consents is referred to as the "Consent Solicitation" and the offer to exchange the Existing Notes for the Modified Notes is referred to as the "Exchange Offer." The Existing Notes and the Modified Notes are referred to collectively as the "Notes." For each $1,000 principal amount of Existing Notes that is validly tendered and accepted for exchange, and for which a Consent is validly delivered, Holders will receive $1,000 in principal amount of the Modified Notes. Holders who tender their Existing Notes in the Exchange Offer must deliver a corresponding Consent to the Proposed Amendments, and Holders may not deliver Consents without tendering their respective Existing Notes in the Exchange Offer.

The Proposed Amendments to the Indenture would, among other modifications, give effect to the terms of the Sharing Agreement (as defined below). Certain of the Proposed Amendments (the "General Amendments") will be effective as to all Holders. Certain of the other Proposed Amendments relating to the terms of the Sharing Agreement (the "Sharing Amendments") will be effective only as to each Holder who exchanges Existing Notes for Modified Notes in the Exchange Offer and delivers a corresponding consent. In all cases, the Proposed Amendments will not become operative until a supplemental indenture (the "Supplemental Indenture") giving effect to the Proposed Amendments is executed. Tenders of Existing Notes may not be revoked or withdrawn and Holders may not revoke or withdraw their Consents once they have been delivered. Upon the receipt of Consents from Holders of at least 85% of the principal amount of the Existing Notes (and the satisfaction of the other General Conditions set forth herein), the Company intends to promptly effect the Supplemental Indenture. The settlement date of the Exchange Offer (the "Early Settlement Date") for all Existing Notes validly tendered on or prior to the effective date of the Supplemental Indenture (the "Effective Date") will occur promptly following the Effective Date. The settlement date of the Exchange Offer (the "Final Settlement Date") for all Existing Notes validly tendered after the Effective Date and prior to the Expiration Date will occur promptly following the Expiration Date. The Early Settlement Date and the Final Settlement Date are referred to collectively as the "Settlement Dates."

By providing a Consent and tendering your Existing Notes in the Exchange Offer, you will be agreeing to become bound by the Supplemental Indenture and the terms of the Modified Notes, including as modified by the terms and conditions of the Sharing Agreement and Assignment of Rights (the "Sharing Agreement"), dated as of December 17, 2012, by and

among the Company and the Holders named on the signature pages thereto and those Holders who have joined the Sharing Agreement prior to the date of this Statement (collectively, the "Majority Noteholders"). The Sharing Agreement provides, among other things, that Holders who deliver Consents (such Holders, together with the Majority Noteholders, the "Participating Noteholders") will be entitled to share in proceeds that the Claimant Parties (as defined herein) may receive in the Arbitration (as defined herein). In return, the Participating Noteholders will agree, among other things, not to pursue certain claims against the Company and the Guarantors with respect to events of default existing immediately prior to the time the Proposed Amendments become effective. The Modified Notes which will be issued in the Exchange Offer will contain certain terms related to the Sharing Agreement. **If you do not validly tender your Existing Notes and deliver the corresponding Consents prior to the Expiration Date, you will not be entitled to the benefits of the Sharing Agreement.**

As of the date of this Statement, Holders of approximately 90% of the Existing Notes have already signed the Sharing Agreement and agreed to tender their Existing Notes in the Exchange Offer and deliver Consents in favor of the Proposed Amendments in the Consent Solicitation. However, if Holders owning less than 85% of the outstanding principal amount of the Existing Notes tender their Existing Notes and deliver Consents in the Consent Solicitation, the Company will not consummate the Exchange Offer or Consent Solicitation and will instead pursue a pre-packaged Chapter 11 bankruptcy plan (the "Bankruptcy").

THIS STATEMENT AND THE LETTER OF TRANSMITTAL AND CONSENT FORM SHOULD BE READ CAREFULLY BEFORE A DECISION IS MADE WITH RESPECT TO THE EXCHANGE OFFER AND CONSENT SOLICITATION.

NEITHER THIS STATEMENT NOR ANY OF THE OTHER DOCUMENTS RELATING TO THE EXCHANGE OFFER AND CONSENT SOLICITATION HAVE BEEN FILED WITH OR REVIEWED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY OF ANY COUNTRY, NOR HAS ANY SUCH COMMISSION OR AUTHORITY PASSED UPON THE ACCURACY OR ADEQUACY OF THIS STATEMENT OR ANY OF THE OTHER DOCUMENTS RELATING TO THE EXCHANGE OFFER AND CONSENT SOLICITATION. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL AND MAY BE A CRIMINAL OFFENSE.

The Exchange Agent for the Exchange Offer and Consent Solicitation is:
Wells Fargo Bank, N.A.

The date of this Statement is January 16, 2013

Adoption of the Proposed Amendments may have adverse consequences for Holders that do not tender their Existing Notes in the Exchange Offer and deliver consents in the Consent Solicitation. The Notes are secured obligations of the Company. In addition, two of the Claimant Parties, Moldova-based Ascom Grup S.A. ("Ascom") and Gibraltar-based Terra Raf Trans Traiding Ltd ("Terra Raf"), have executed pledge agreements that pledge their participation interests in the Guarantors as security for the Notes. Further, Terra Raf has also pledged a $76 million promissory note as collateral for the Notes. Under the various pledge agreements, Holders have a right to the equity interests in the Guarantors and have a right to pursue claims to share in monies received by Ascom and Terra Raf as a result of their ownership of equity interests in the Guarantors. However, none of the Claimant Parties are direct obligors of the Notes under the terms of the Indenture. The terms of the Sharing Agreement create a direct contractual nexus between the holders of Modified Notes and the Claimant Parties, expressly requiring the Claimant Parties to share the recovery of any proceeds in the Arbitration with holders of Modified Notes. As disclosed herein, due to the Arbitration and the allegations raised therein, the Company has been unable to pay interest and principal on the Existing Notes. Therefore, the Company believes that the sharing of potential Proceeds among the Participating Holders pursuant to the Sharing Agreement is the most direct avenue through which any Holder may receive payment in respect of its Notes.

Holders are also advised that to the extent Holders owning less than 85% of the outstanding principal amount of the Existing Notes tender their Existing Notes in the Exchange Offer and deliver Consents in the Consent Solicitation, the Company will not consummate the Exchange Offer or Consent Solicitation and will instead pursue the Bankruptcy, which could have adverse effects on all Holders. However, as of the date of this Statement, Holders of approximately 90% of the Existing Notes have already signed the Sharing Agreement and agreed to tender their Existing Notes in the Exchange Offer and deliver Consents in favor of the Proposed Amendments in the Consent Solicitation. In addition, such Holders have agreed, pursuant to the Sharing Agreement, not to sell or otherwise transfer their Notes to any person unless such person agrees to become bound by the terms and conditions of the Sharing Agreement, including the voting agreements contained therein.

Holders will not be afforded withdrawal rights in the Exchange Offer or Consent Solicitation. Accordingly, once a tender of Existing Notes and Consent is provided, it may not thereafter be withdrawn. The Company's obligation to accept tenders of Existing Notes in the Exchange Offer and Consents provided in the Consent Solicitation is conditioned only upon the satisfaction of the General Conditions (as defined herein). If the Exchange Offer and Consent Solicitation is not consummated, the Indenture will remain in effect in its present form.

Any requests for additional copies of this Statement, the Letter of Transmittal and Consent Form or the related documents (the "Offer Documents") should be directed to Wells Fargo Bank, N.A., as exchange agent (the "Exchange Agent"), at the address and telephone numbers set forth on the back cover page of this Statement. Beneficial owners may also contact their broker, dealer, commercial bank, trust company or other nominee for assistance concerning the Exchange Offer and Consent Solicitation.

NONE OF THE COMPANY, ITS BOARD OF DIRECTORS OR MANAGEMENT, THE CLAIMANT PARTIES, THE TRUSTEE, THE EXCHANGE AGENT, THE MAJORITY NOTEHOLDERS OR ANY OF THEIR RESPECTIVE AFFILIATES MAKES ANY RECOMMENDATION AS TO WHETHER OR NOT HOLDERS SHOULD TENDER EXISTING NOTES AND DELIVER CONSENTS IN CONNECTION WITH THE EXCHANGE OFFER AND CONSENT SOLICITATION. EACH HOLDER MUST MAKE ITS OWN DECISION AS TO WHETHER TO TENDER ITS EXISTING NOTES AND DELIVER ITS CONSENT, AND, IF SO, THE PRINCIPAL AMOUNT OF THE NOTES AS TO WHICH ACTION IS TO BE TAKEN.

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IMPORTANT INFORMATION

THIS STATEMENT AND THE ACCOMPANYING LETTER OF TRANSMITTAL AND CONSENT FORM CONTAIN IMPORTANT INFORMATION THAT SHOULD BE READ BEFORE ANY DECISION IS MADE WITH RESPECT TO THE EXCHANGE OFFER AND CONSENT SOLICITATION.

To effectively tender Existing Notes and deliver Consents in respect of Existing Notes as to which the Holder is a custodian bank, depositary, broker, trust company or other nominee, the beneficial owner of those Notes must instruct the Holder to tender such Existing Notes and deliver such Consents on behalf of the beneficial owner. A set of instructions is included in the Letter of Transmittal and Letter of Transmittal and Consent Form accompanying this Statement.

Any beneficial owner of Notes held of record by The Depository Trust Company ("DTC") or its nominee, through authority granted by DTC, must direct the DTC participant (a "Participant") through which such beneficial owner's Notes are held in DTC to tender Existing Notes and deliver Consents on such beneficial owner's behalf. A set of instructions is included in the Letter of Transmittal and Consent Form provided along with this Offer that may be used by a beneficial owner in this process to effect the delivery. DTC has authorized Participants that hold Notes on behalf of beneficial owners of Notes through DTC to tender Existing Notes and deliver Consents as if they were Holders. To effect a tender of Existing Notes and delivery of Consents, Participants must, in lieu of physically completing, signing and delivering the Letter of Transmittal and Consent Form to the Exchange Agent, electronically deliver Consents to DTC through DTC's Automated Tender Offer Program ("ATOP"). In accordance with ATOP procedures, DTC will then verify the tender of Existing Notes and delivery of Consents and send an Agent's Message to the Exchange Agent for its acceptance.

The Offer Documents have not been approved or reviewed by any federal or state securities commission or regulatory authority of any country or other jurisdiction, nor has any such commission or authority passed on the accuracy or adequacy of this Statement. Any representation to the contrary is a criminal offense.

The Exchange Offer and Consent Solicitation is not being made to Holders in any jurisdiction in which the making or acceptance of the Exchange Offer and Consent Solicitation would not be in compliance with the laws of such jurisdiction.

No person has been authorized to give any information with respect to the Exchange Offer and Consent Solicitation, or to make any representation in connection therewith, other than those contained herein or in the related Letter of Transmittal and Consent Form. If made or given, such unauthorized recommendation or any such unauthorized information or representation must not be relied on as having been authorized by the Company, the Exchange Agent or the Trustee. No person has been authorized to make any recommendation on behalf of the Company as to whether Holders should tender Existing Notes and deliver Consents pursuant to the Consent Solicitation.

Neither the delivery of this Statement nor any acceptance of tenders of Existing Notes and Consents will under any circumstances create any implication that the information contained herein is correct as of any time subsequent to the date hereof or that there has been no change in the information contained herein, the Company, or any of its subsidiaries or affiliates since the date hereof.

WHERE YOU CAN FIND MORE INFORMATION

Neither the Company nor any Guarantor is required to file periodic reports under Sections 13 or 15 of the United States Securities Exchange Act of 1934, as amended (the "Exchange Act") with the SEC. To permit compliance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act") in connection with resales and transfers of Notes pursuant to Rule 144A, the Company and the Guarantors have agreed to provide to any Holder or beneficial owner of Notes, or to any prospective purchaser of Notes designated by a holder or beneficial owner, upon the request of such holder, beneficial owner or prospective purchaser, the information required to be provided by Rule 144A(d)(4) under the Securities Act.

STATEMENT REGARDING FORWARD-LOOKING INFORMATION

This Statement includes forward-looking statements within the meaning of Section 27A of the Securities Act, and Section 21E of the Exchange Act. All statements other than statements of historical facts included in this Statement, including, without limitation, statements regarding the outcome of the Arbitration and the receipt of proceeds by the Claimant Parties in the Arbitration and the collection thereof, are forward-looking statements. In addition, forward looking statements generally can be identified by the use of forward-looking terminology such as "may," "will," "expect," "intend," "project," "estimate," "anticipate," "believe," or "continue" or the negative thereof or variations thereon or similar terminology. Although the Company believes that the expectations reflected in such forward-looking statements are reasonable, the Company cannot give assurance that such expectations will prove to be correct. Important factors that could cause actual results to differ materially from the Company's expectations ("cautionary statements") include, but are not limited to, the lack of assurance that the Arbitration will result in any award or that such award will be collectible. The Company assumes no duty to update or revise forward-looking statements based on changes in its expectations or otherwise. All subsequent written and oral forward looking statements attributable to the Company or persons acting on the Company's behalf are expressly qualified in their entirety by these cautionary statements.

SUMMARY

The following summary is provided solely for the convenience of the Holders of Existing Notes. This summary highlights selected information contained in this Statement and the Letter of Transmittal and Consent Form and may not contain all of the information that is important to you. For a more complete understanding of the Exchange Offer and Consent Solicitation, you should read this entire Statement and the accompanying Letter of Transmittal and Consent Form.

The Issuer	Tristan Oil Ltd., a British Virgin Islands company.
The Existing Notes	$531,110,000 in aggregate principal amount of 10 $^1/_2$% Senior Secured Notes due 2012 (CUSIP Numbers 89676XAA1, G90748AA5, G90748AB3).
The Exchange Offer	The Company is, upon the terms and subject to the conditions set forth in this Statement, offering to exchange its 10½% Senior Secured Notes due 2012 (CUSIPs: 89676XAA1, G90748AA5, G90748AB3) (the "Existing Notes") for its Senior Secured Notes due 2016 (the "Modified Notes").
The Modified Notes	The Modified Notes will be Notes issued under the Indenture that will constitute a separate series from the Existing Notes and will have separate CUSIP numbers. The terms of the Modified Notes vary significantly from the terms of the Existing Notes, as further described herein, and the Modified Notes are not fungible with the Existing Notes.
The Consent Solicitation	The Company is also soliciting Consents, upon the terms and subject to the conditions set forth in this Statement (including, if the Consent Solicitation is extended or amended, the terms and conditions of such extension or amendment). The execution and delivery of a Letter of Transmittal and Consent Form by a Holder will constitute (i) such Holder's consent to the Proposed Amendments and (ii) such Holder's agreement to be bound by the Supplemental Indenture and the Modified Notes, including as modified by the terms and conditions of the Sharing Agreement. Holders who tender their Existing Notes in the Exchange Offer must deliver a corresponding Consent to the Proposed Amendments, and Holders may not deliver Consents without tendering their respective Existing Notes in the Exchange Offer.
Expiration Date	The Consent Solicitation will expire at 5:00 p.m., New York City time, on February 14, 2013 unless extended. The term "Expiration Date" means such time and date or, if the Exchange Offer and Consent Solicitation is extended, the latest time and date to which the Exchange Offer and Consent Solicitation is so extended. Subject to the terms of the Sharing Agreement, the Company may extend the Expiration Date, from time to time as may be required by applicable law.
Settlement Dates	The Early Settlement Date for all Existing Notes validly tendered on or prior to the Effective Date will occur promptly following the Effective Date of the Supplemental Indenture. The Final Settlement Date for all Existing Notes validly tendered after the Effective Date and prior to the Expiration Date will occur promptly following the Expiration Date.

Consideration	For each $1,000 principal amount of Existing Notes that is validly tendered and accepted for exchange, and for which a Consent is validly delivered, Holders will receive $1,000 in principal amount of the Modified Notes. All accrued interest on the Existing Notes owing as of January 1, 2012 will be deemed owing under the Modified Notes, but will only be due and payable when principal payments are due in the future under the terms of the Modified Notes.
Agreement to Tender and Deliver Consents	As of the date of this Statement, Holders of approximately 90% of the Existing Notes have already signed the Sharing Agreement and agreed to tender their Existing Notes in the Exchange Offer and deliver Consents in favor of the Proposed Amendments in the Consent Solicitation. In addition, such Holders have agreed, pursuant to the Sharing Agreement, not to sell or otherwise transfer their Notes to any person unless such person agrees to become bound by the terms and conditions of the Sharing Agreement, including the voting agreements contained therein.
How to Tender Existing Notes and Deliver Consents	To validly tender Existing Notes and validly deliver Consents, you must deliver your Existing Notes along with the Letter of Transmittal and Consent Form and the related documents to the Exchange Agent (or comply with the ATOP procedures) on or before the Expiration Date. • A Holder whose Existing Notes are held by a custodian bank, broker, dealer, trust company or other nominee must contact such nominee if such Holder desires to consent to the Proposed Amendments and instruct such nominee to consent to the Proposed Amendments on the Holder's behalf. • **Holders who are Participants must tender Existing Notes and deliver Consents electronically through ATOP.** • Any Holder whose Existing Notes are held in certificated form must properly complete and execute the Letter of Transmittal and Consent Form, and deliver such Letter of Transmittal and Consent Form, along with the certificate for such Existing Notes, to the Exchange Agent, with any other required documents, on or before the Expiration Date. See "The Consent Solicitation—Procedures for Delivering Consents."
The Proposed Amendments; Non-Consenting Holders	The General Amendments will modify certain of the restrictive covenants contained in the Indenture and will provide for the creation of the Modified Notes as a new series of Notes under the Indenture. The consent of Holders owning at least a majority of the aggregate principal amount of the Existing Notes outstanding must deliver Consents in order for the General Amendments to become effective. If and when they become operative, the General Amendments will be binding on all Holders. The Sharing Amendments will modify certain provisions of the Indenture and the Notes in order to codify certain terms of the Sharing Agreement. The Sharing Amendments will only

	be operative as to each Holder who tenders Existing Notes and delivers a Consent in the Exchange Offer and Consent Solicitation. See "The Consent Solicitation—The Proposed Amendments."
The Supplemental Indenture	Promptly following the Effective Date, the Company and the Trustee will enter into the Supplemental Indenture to amend and supplement the Indenture to give effect to the Proposed Amendments.
Withdrawal and Revocation Rights	Holders will not be afforded withdrawal rights with respect to Existing Notes tendered in the Exchange Offer or consents delivered in the Consent Solicitation.
Conditions to the Exchange Offer and the Consent Solicitation	The Company's obligation to accept Existing Notes validly tendered and Consents validly delivered is conditioned upon the General Conditions. See "The Exchange Offer and Consent Solicitation—Conditions to the Exchange Offer and the Consent Solicitation."
Extensions and Amendments	Subject to the terms of the Sharing Agreement, the Company may extend the Expiration Date, and, prior to the satisfaction or waiver of the conditions to the Exchange Offer and Consent Solicitation, and otherwise amend the terms of the Exchange Offer and Consent Solicitation as described herein. Any such extension or amendment will be followed as promptly as practicable by an announcement thereof. If the Company makes a material change to the terms of the Exchange Offer and Consent Solicitation or the information concerning the Consent Solicitation or waives a material condition of the Exchange Offer and Consent Solicitation, the Company will disseminate additional disclosure materials to the Holders, extend the Exchange Offer and Consent Solicitation and permit withdrawal of Existing Notes tendered and Consents deliver, in each case to the extent required by law.
Certain Significant Considerations	Holders should read the sections "The Exchange Offer and Consent Solicitation—Background of the Arbitration and the Sharing Agreement" and "The Exchange Offer and Consent Solicitation—The Proposed Amendments" before deciding whether to participate in the Exchange Offer and Consent Solicitation.
Certain United States Federal Income Tax Consequences	For a discussion of certain United States federal income tax consequences with respect to the Exchange Offer and Consent Solicitation, see "Certain United States Federal Income Tax Consequences."
Trustee	Wells Fargo Bank, N.A.
Exchange Agent	Wells Fargo Bank, N.A.
Additional Copies; Further Information	Additional copies of this Statement may be obtained by contacting the Exchange Agent at its address and telephone numbers set forth on the back cover page of this Statement. A beneficial owner may also contact its custodian for assistance concerning the Consent Solicitation.

THE EXCHANGE OFFER AND CONSENT SOLICITATION

General

The Company is, upon the terms and subject to the conditions set forth in this Statement, offering to exchange its 10½% Senior Secured Notes due 2012 (CUSIPs: 89676XAA1, G90748AA5, G90748AB3) (the "Existing Notes") for its Senior Secured Notes due 2016 (the "Modified Notes"). For each $1,000 principal amount of Existing Notes that is validly tendered and accepted for exchange, and for which a Consent is validly delivered, Holders will receive $1,000 in principal amount of the Modified Notes. All accrued interest on the Existing Notes owing as of January 1, 2012 will be deemed owing under the Modified Notes, but will only be due and payable when principal payments are due in the future under the terms of the Modified Notes.

The Company is also hereby seeking your consent to the Proposed Amendments upon the terms and subject to the conditions set forth in this Statement and the related Letter of Transmittal and Consent Form. By providing a Consent and tendering your Existing Notes in the Exchange Offer, you will be agreeing to become bound by the Supplemental Indenture and the terms of the Modified Notes, including as modified by the terms and conditions of the Sharing Agreement.

The Proposed Amendments, including the Sharing Amendments, will be set forth in the Supplemental Indenture that will be executed promptly upon the receipt of Consents from holders of at least 85% of the principal amount of the Existing Notes (and the satisfaction of the other General Conditions set forth herein).

Holders who tender their Existing Notes in the Exchange Offer must deliver a corresponding Consent to the Proposed Amendments, and Holders may not deliver Consents without tendering their respective Existing Notes in the Exchange Offer.

Background of the Arbitration and the Sharing Agreement

The Arbitration

Anatolie Stati and Gabriel Stati are the owners of Moldova-based Ascom Grup S.A. ("Ascom") and Gibraltar-based Terra Raf Trans Traiding Ltd ("Terra Raf"), which in turn owned two large Kazakh energy companies: Kazpolmunay LLP ("KPM") and Tolkynneftegaz LLP ("TNG"), the Guarantors of the Notes. The Company was incorporated solely for the purpose of issuing the Notes under the Indenture and has never had any business operations of its own. The Company depends on the cash flow generated by the Guarantors to meet its obligations under the Notes. Anatolie Stati, Gabriel Stati, Ascom and Terra Raf are collectively referred to as the "Claimant Parties."

KPM and TNG were parties to contracts with the Government of Kazakhstan for the exploration and/or extraction of hydrocarbons (the "Subsoil Use Contracts"). The Subsoil Use Contracts covered the Borankol field, the Tolkyn field, and the Tabyl Block in the Pre-Caspian basin of western Kazakhstan. The Claimant Parties allege that between 2008 and 2010, Kazakhstan engaged in a campaign of harassment and illegal acts against KPM and TNG that culminated on July 21, 2010 with Kazakhstan's notice of unilateral termination of the Guarantors' Subsoil Use Contracts, the illegal expropriation of the Claimant Parties' Kazakh investments, and the subsequent commandeering of KPM's and TNG's offices by personnel of State-owned KazMunaiGas and the Kazakh Ministry of Oil and Gas. The Claimant Parties allege that the actions of Kazakhstan commencing in 2008 had the effect of destroying both the market value and transferability of Claimant Parties' investments.

Following the expropriation of the Company's assets as described above, the Company failed to pay the installment of interest on the Notes due on July 1, 2010. This failure constituted a default under the Indenture that thereafter became an event of default when the Company failed to make such payment within thirty days of the original scheduled payment date. No further payments have been made on the Notes in respect of interest or principal since then, including following the maturity of the Notes on January 1, 2012.

Pursuant to a Request for Arbitration dated July 26, 2010, the Claimant Parties requested the initiation of an arbitration proceeding against the Republic of Kazakhstan under The Energy Charter Treaty (the "ECT"). The arbitration (the "Arbitration") concerns what the Claimant Parties allege is Kazakhstan's illegal treatment and expropriation of significant investments made by Claimant Parties in Kazakhstan's energy sector. As of the date of this Statement, the Arbitration is ongoing. In the Arbitration, the Claimant Parties are seeking an award granting them the following relief, among other damages: (i) a declaration that Kazakhstan has violated the ECT and international law with respect to Claimant Parties' investments; (ii) compensation to the Claimant Parties for all damages they have suffered, to be developed and quantified in the course of the Arbitration but likely to include, without limitation, lost profits, the fair market value of KPM and TNG and their licenses and contracts prior to Kazakhstan's breaches of the Treaty and international law, sums invested by Claimants in relation to their Kazakh operations, and any compound interest to which Claimants may be entitled; (iii) all costs of the Arbitration; and (iv) an award of compound interest until the date of Kazakhstan's final satisfaction of the award. A substantive hearing in the Arbitration dealing with issues of jurisdiction and liability took place during the weeks of October 1, 2012 and October 8, 2012. A further hearing in relation to damages is scheduled to take place in January 2013 and thereafter final submissions are expected to be filed by April 2013.

The Sharing Agreement

None of the Claimant Parties are direct obligors under the Notes. The Notes are secured obligations of the Company. In addition, two of the Claimant Parties, Ascom and Terra Raf, have executed pledge agreements that pledge their participation interests in the Guarantors as security for the Notes. Further, Terra Raf has also pledged a $76 million promissory note as collateral for the Notes. Under the various pledge agreements, Holders have a right to the equity interests in the Guarantors and a right to pursue claims to share in monies received by Ascom and Terra Raf as a result of their ownership of equity interests in the Guarantors. However, none of the Claimant Parties are direct obligors of the Notes under the terms of the Indenture. The terms of the Sharing Agreement create a direct contractual nexus between the holders of Modified Notes and the Claimant Parties, expressly requiring the Claimant Parties to share the recovery of any proceeds (the "Proceeds") of an award in the Arbitration (an "Award"). In short, the Sharing Agreement and the Sharing Amendments allow Holders who tender Existing Notes and deliver Consents to share with the Claimant Parties in the Proceeds recovered by the Claimant Parties through the Arbitration without having to pursue their contractual rights against Ascom and Terra Raf under the various pledge agreements. In return, Participating Noteholders will be agreeing not to pursue any enforcement action against the Company and certain of its affiliates for a specified period of time, as described below under "Standstills". As of the date of this Statement, Holders of approximately 90% of the Existing Notes have already signed the Sharing Agreement and agreed to tender their Existing Notes in the Exchange Offer and deliver Consents in favor of the Proposed Amendments in the Consent Solicitation. A brief summary of the terms of the Sharing Agreement and the related terms of the Modified Notes is set forth below. The full text of the Sharing Agreement is attached hereto as Schedule A and the form of Modified Note is attached as Schedule I to Schedule B hereto. Holders are encouraged to read the full text of the Sharing Agreement and the form of Modified Note in order to more fully understand the rights, privileges and obligations of a Participating Noteholder.

Key Terms of the Sharing Agreement and Related Provisions of the Modified Notes

Waterfall

Pursuant to the terms of the Sharing Agreement and the Indenture as modified by the Proposed Amendments, an account (the "Account") will be opened with a security agent (the "Security Agent") and all Proceeds will be deposited into the Account. Prior to the Effective Date, GTCS Borders Limited will act as representative of the Participating Noteholders and will be a party to an agreement with the Security Agent governing the Account. Following the Effective Date, the Company expects that the Trustee will assume this role.

The Claimant Parties have agreed to collaterally assign the Proceeds, the Account and any other monies or other assets received by any of the Claimant Parties or any of their respective affiliates in settlement of or through the enforcement of an Award or otherwise paid into the Account, and any and all products and proceeds of the foregoing to the Participating Noteholders. Prior to the date of this Statement, this collateral assignment was made in favor of GTCS Borders Limited, as representative of the Participating Noteholders, for the ratable benefit of the Participating Noteholders. Following the Effective Date, the Company expects that the collateral assignment will be

made in favor of the Trustee for the ratable benefit of the Participating Noteholders and will act on behalf of the Participating Noteholders and at their direction.

Proceeds in the Account will be distributed in the following order of priority:

First, to the Claimant Parties in an amount equal to $15,000,000 to cover the legal fees, expenses and other costs incurred by the Claimant Parties with respect to the Arbitration, the Sharing Agreement, the Consent Solicitation and the Bankruptcy (including any fees and expenses incurred in enforcing and/or collecting an Award);

Second, to the Majority Noteholders and the Trustee *pro rata* (based on their respective proportion of the aggregate legal fees, expenses and other costs incurred in relation to the drafting, negotiation and execution of the term sheets related to the Sharing Agreement, the documents related to the Consent Solicitation and the Bankruptcy and the implementation of any restructuring of the Company's obligations) in an amount equal to $3,000,000 in the aggregate;

Third, 70% to the Participating Noteholders pro rata and 30% to the Claimant Parties until the Participating Noteholders have received aggregate distributions of Proceeds totaling their respective pro rata share of the Outstanding Amount; and

Fourth, after the Participating Noteholders have received aggregate distributions totaling their respective pro rata share of the Outstanding Amount pursuant to step three, above, 100% to the Claimant Parties.

For the purposes of the Sharing Agreement and the Sharing Global Note, "Outstanding Amount" means the sum of the Participating Noteholders' pro rata share of $642,643,100 (being all principal and accrued interest under the Existing Notes up to January 1, 2012 (the "Original Amount") plus the participating Noteholders pro rata share of interest on the Original Amount at the highest of any rate of interest provided in the Award.

The Modified Notes will provide that Holders of Modified Notes have the right to receive any such distributions pursuant to the Sharing Agreement, as described above.

Standstills

In return for the right to receive a share of the Proceeds, each Participating Noteholder will agree to not, directly or indirectly through the Trustee or otherwise, assert any claims against the Claimant Parties or the Company (collectively, the "Tristan Parties") arising out of or connected to the Notes or the Indenture, other than in respect of any New Default (as defined in the Sharing Agreement) under the Modified Notes or a material breach of the Sharing Agreement (in each case occurring after the Effective Date). This standstill agreement began with respect to the Majority Noteholders on December 17, 2012 and will end with respect to the Participating Noteholders on January 1, 2016, subject to certain limited exceptions (the "Tristan Standstill Period").

In addition, from the period beginning on December 17, 2012 and ending on January 1, 2014 (the "Guarantors Standstill Period"), subject to certain limited exceptions, the Participating Noteholders will agree to not, directly or indirectly through the Trustee or otherwise, assert any claims against the Guarantors and/or the Republic of Kazakhstan or any of its affiliates, arising out of or connected to the Notes (including the Modified Notes) or the Indenture.

In addition to terminating in the event of material breaches of the Sharing Agreement or New Defaults under the Modified Notes, each of the Tristan Standstill Period and the Guarantors Standstill Period will end automatically if the Arbitration concludes and no Award has been rendered in favor of the Claimant Parties or an Award or Awards for a sum less than $10,000,000 in the aggregate have been rendered in favor of the Claimant Parties.

Asset Recovery Amounts

Under the Sharing Agreement, "Proceeds" generally includes any funds received by the Participating Noteholders outside of Kazakhstan and generated by a sale of any assets of the Guarantors (the "Assets") following enforcement against, or foreclosure on, the Assets by or on behalf of the Participating Noteholders. These amounts are referred to as "Asset Recovery Amounts." To the extent the Participating Noteholders receive any Asset Recovery Amounts, they are generally obligated to deposit them into the Account, subject to the limitations described in the next paragraph.

The Sharing Agreement provides that if and to the extent an Award of at least $10,000,000 has not been rendered prior to January 1, 2016, the obligations of the Participating Noteholders to deposit Asset Recovery Amounts into the Account shall cease. However, if and to the extent an Award of at least $10,000,000 has been rendered prior to January 1, 2016 and the Participating Noteholders have acquired, directly or indirectly, any portion of the Assets prior to January 1, 2017, the obligations of the Participating Noteholders to deposit Asset Recovery Amounts into the Account shall remain in effect until January 1, 2020. Finally, if and to the extent an Award of at least $10,000,000 has been rendered prior to January 1, 2016 and the Participating Noteholders have not acquired, directly or indirectly, any portion of the Assets prior to January 1, 2017, the obligations of the Participating Noteholders to deposit Asset Recovery Amounts into the Account shall cease.

Repurchase Right and Release of Claims

If, among other conditions, the Claimant Parties comply with all of their material obligations under the Sharing Agreement, there is no New Default under the Modified Notes and all distributions due under the Sharing Agreement have been made to the Participating Noteholders and, as a result thereof, the Participating Noteholders have received prior to January 1, 2016 no less than their pro rata share of $449,850,170 plus interest at a rate of 10.5% per annum accruing from January 1, 2013 to the date of final payment (the "Minimum Payment"), the Company may, at its option, elect to redeem (by following the redemption provisions of the Indenture and the Modified Notes) all of the Modified Notes for an aggregate purchase price of US$1.00, which, due to its nominal nature, will be retained by the Trustee as partial compensation for its service as such. If such redemption occurs, the Participating Noteholders will be deemed to have released all of their claims against the Tristan Parties and the Guarantors relating to or arising under the Indenture and the Notes.

If, among other conditions, the Claimant Parties comply with all of their obligations under the Sharing Agreement, there is no New Default under the Modified Notes but the Participating Noteholders do not receive the Minimum Payment prior to January 1, 2016, then the Participating Noteholders will retain their rights to seek enforcement of the terms of the Indenture and the Notes for amounts not received under the Notes (but giving credit for any amounts received under the Sharing Agreement) and will be deemed to have released all other claims they may have against the Claimant Parties.

If the Claimant Parties do not comply with their obligations under the Sharing Agreement, and such noncompliance has not been cured as provided in the Sharing Agreement, the Participating Noteholders (in addition to all other rights and remedies available to them under the Sharing Agreement or otherwise) will be entitled to enforce fully the terms of the Modified Notes and the Indenture, but giving credit for any amounts received under the Sharing Agreement.

Bankruptcy Support

By delivering a Consent and tendering its Existing Notes in the Exchange Offer, each Holder is also agreeing to support and vote its Notes in favor of the Bankruptcy following receipt of the applicable bankruptcy disclosure package if and to the extent one is delivered. The Bankruptcy would be effected through a Chapter 11 pre-packaged plan, the terms of which would seek to implement the Proposed Amendments via a bankruptcy court order. The terms and conditions of the Bankruptcy would be more fully set forth in the bankruptcy disclosure package.

Restrictions on Transfer

The Majority Noteholders have agreed not to sell or otherwise transfer their Notes to any person unless such person agrees to become bound by the terms and conditions of the Sharing Agreement, including the voting agreements contained therein.

The foregoing summary of the terms of Sharing Agreement and the Modified Notes is not complete and is qualified in its entirety by the text of the Sharing Agreement. Holders are urged to read the entire text of the Sharing Agreement, which is attached to this Statement as Schedule A, and the form of Modified Note, which is attached as Schedule I to Schedule B hereto.

None of the Company, its board of directors or management, the Trustee, the Exchange Agent, the Majority Noteholders or any of their respective affiliates is making any recommendation to Holders as to whether to tender their Existing Notes in the Exchange Offer and consent to the Consent Solicitation. Each Holder must make his, her or its own decision whether to tender his, her or its Existing Notes in the Exchange Offer and consent to the Consent Solicitation.

Extension and Amendment

The Exchange Offer and Consent Solicitation will expire at 5:00 p.m., New York City time, on February 14, 2013 unless extended. Any requests for additional copies of the Offer Documents should be directed to the Exchange Agent at the address and telephone numbers set forth on the back cover page of this Statement.

Subject to applicable securities laws, the terms of the Indenture, the Notes, the terms of the Sharing Agreement and the terms and conditions set forth in this Statement, the Company expressly reserves the right on or before the Expiration Date, (i) to extend the period during which the Exchange Offer and Consent Solicitation is open or (ii) to otherwise amend the Exchange Offer and Consent Solicitation in any respect. Any extension, amendment of the Exchange Offer and Consent Solicitation will be followed promptly by a public announcement thereof, the announcement in the case of an extension of the Exchange Offer and Consent Solicitation to be issued no later than 9:00 a.m., New York City time, on the next business day after the previously scheduled Expiration Date. Without limiting the manner in which the Company may choose to make a public announcement, the Company will have no obligation to publish, advertise, or otherwise communicate any such public announcement, other than by issuing a release to Business Wire.

To the extent Holders owning less than 85% of the outstanding principal amount of the Existing Notes validly deliver Consents in the Consent Solicitation (or the other General Conditions are not satisfied), the Company will not consummate the Exchange Offer and Consent Solicitation and will instead pursue the Bankruptcy, which may adversely impact the rights of Holders to pursue remedies under the Indenture, the Notes and the Sharing Agreement.

If the Company makes a material change in the terms of, or the information concerning, the Exchange Offer and Consent Solicitation, or waives any condition of the Exchange Offer and Consent Solicitation that results in a material change to the circumstances of the Exchange Offer and Consent Solicitation, the Company will disseminate additional disclosure materials to the Holders, extend the Exchange Offer and Consent Solicitation and permit withdrawal of Existing Notes tendered and Consents delivered, in each case to the extent required by law.

Conditions to the Exchange Offer and Consent Solicitation

The Company's obligation to accept Existing Notes validly tendered and Consents validly delivered pursuant to the Exchange Offer and Consent Solicitation, is conditioned upon the satisfaction of the General Conditions.

General Conditions. The "General Conditions" will be deemed to have been satisfied when the Company has received validly delivered Consents from Holders of at least 85% of the outstanding Existing Notes, unless any of the conditions set forth in paragraphs (1) or (2) below has occurred:

(1) there shall have been instituted, threatened or be pending any action or proceeding before or by any court or governmental, regulatory or administrative agency or instrumentality, or by any other person, in connection with the Consent Solicitation that challenges the making of the Exchange Offer and Consent Solicitation or the Proposed Amendments and is likely to prohibit, prevent, restrict or delay closing of the Exchange Offer and Consent Solicitation or otherwise adversely affect, in any material manner, the Exchange Offer and Consent Solicitation or the Proposed Amendments; or

(2) an order, statute, rule, regulation, executive order, stay, decree, judgment or injunction shall have been proposed, threatened, enacted, entered, issued, promulgated, enforced or deemed applicable by any court or governmental, regulatory or administrative agency or instrumentality that prohibits, prevents, restricts or delays closing of the Exchange Offer and Consent Solicitation or that is, or is likely to be, materially adverse to the business, operations, properties, condition (financial or otherwise), assets, liabilities or prospects of the Company or any of its affiliates.

The Proposed Amendments and the Modified Notes

The following summarizes the Proposed Amendments for which Consents are being sought pursuant to the Exchange Offer and Consent Solicitation. The summary of the provisions of the Indenture affected by the Proposed Amendments set forth below is qualified in its entirety by reference to the full and complete terms in the Indenture, copies of which are available upon request without charge from the Exchange Agent.

The delivery of a Consent by a Holder in accordance with the procedures set forth in "—Procedures for Delivering Consents" will constitute the consent of that Holder to the Proposed Amendments. Each Holder who delivers a Consent will also be agreeing to be bound by the Supplemental Indenture and the Modified Notes, including the terms and conditions of the Sharing Agreement.

General Amendments

Holders of at least a majority in aggregate principal amount of Notes (the "Majority Consents") must consent to the following Proposed Amendments in order for them to become effective (the "General Amendments"). Once operative, the General Amendments will be binding on all Holders. As of the date of this Statement holders of approximately 90% of the Notes have already signed the Sharing Agreement and agreed to tender their Existing Notes in the Exchange Offer and deliver Consents in favor of the Proposed Amendments.

Modified Notes and Defined Terms. The Proposed Amendments would create the Modified Notes as a new series of Notes under the Indenture, with a distinct trust estate, and provide for a new form of Modified Note. The terms of the Sharing Agreement would be codified within the form of Modified Note. The Proposed Amendments would also create certain new defined terms relating to the Sharing Agreement and the Modified Notes and make conforming changes throughout the Indenture to provide for the Modified Notes as a distinct series of Notes.

Amendments to Restrictive Covenants and other Provisions. The Proposed Amendments would delete or modify a substantial number of the restrictive covenants in Article IV and certain provisions of other sections of the Indenture. In addition, the Proposed Amendments would also make certain other conforming changes to the restrictive covenants in Article IV of the Indenture to permit the Company to enter into and to make payments under the Sharing Agreement and to take into account the fact that the Company is no longer an operating company on account of the Arbitration.

The table below summarizes certain of the deletions or modifications to restrictive covenants and other provisions of the Indenture:

Section	Provision	Nature of Amendment
4.03(a) and (b)	Provision of Reports	Deletion

Section	Provision	Nature of Amendment
4.04	Provision of Compliance Certificate	Deletion
4.05	Payment of Taxes	Modification; removal of requirement that Company cause subsidiaries to pay taxes
4.06	Stay, Extension and Usury Laws	Modification; removal of obligations of Guarantors
4.08	Restricted Payments	Modification; removal of restrictions on restricted payments, other than dividends; permission of payments under Sharing Agreement
4.09	Restriction on Dividend Restrictions of Subsidiaries	Deletion
4.10	Restriction on Incurrence of Indebtedness	Deletion
4.11	Restriction on Asset Sales	Deletion
4.12	Restriction on Affiliate Transactions	Modification; permission of transactions in connection with Sharing Agreement
4.13	Restriction on Liens	Modification; removal of restrictions on Guarantors; permission of Liens imposed by Republic of Kazakhstan
4.14	Restriction on Business Activities	Modification; permission to pursue Arbitration
4.15	Requirement to Maintain Corporate Existence	Modification; removal of restrictions on Guarantors
4.16	Offer to Repurchase Upon Change of Control	Modification; removal of all restrictions except that Company may not permit the transfer of its equity interests
4.17	Payments for Consent	Deletion
4.18	Additional Note Guarantees	Deletion
4.19	Ownership of Subsidiaries	Modification; removal of all restrictions, except that Company will not acquire or create subsidiaries
4.20	Independent Directors	Deletion
4.21	Designation of Restricted and	Deletion

Section	Provision	Nature of Amendment
	Unrestricted Subsidiaries	
4.22	Further Assurances	Deletion
4.23	Credit Rating for Notes	Deletion
4.24	Excess Cash Flow	Deletion
5.01	Merger, Consolidation, Sale of Assets	Modification; removal of restrictions on Guarantors
6.01	Events of Default	Modification; conforming to terms of Modified Notes and removing references to Guarantors
7.06	Reports by Trustee	Deletion
9.06	Amendments	Modification; removal of requirement for tax opinion in connection with supplemental indentures
10.02(b) and (c)	Recording and Opinions	Deletion

Sharing Amendments

By the terms of the Indenture, the following Proposed Amendments would only be effective as to those Holders who tender their Existing Notes in the Exchange Offer and deliver Consents in the Consent Solicitation and thereby become bound by the Supplemental Indenture and the Modified Notes, including the terms and conditions of the Sharing Agreement (the "Sharing Amendments").

Amendments to Section 3.07 of the Indenture. The Proposed Amendments would amend Section 3.07 of the Indenture to permit the Company to redeem Modified Notes pursuant to the Sharing Agreement for an aggregate price of $1.00.

Amendments to Sections 6.06 and 6.07 of the Indenture. The Proposed Amendments would amend Sections 6.06 and 6.07 of the Indenture to provide that the rights and remedies of the Participating Noteholders against the Company and the Guarantors and the right to seek payment of the Modified Notes is subject to the terms of the Sharing Agreement.

Amendment to Section 9.02 of the Indenture. The Proposed Amendments would amend Section 9.02 of the Indenture to provide that the Participating Noteholders will vote as a separate class with respect to any matters relating to the Sharing Agreement, the Modified Notes and the rights, privileges and obligations inuring to the Participating Noteholders on account of their status as such.

Amendment to Section 10.01 of the Indenture. The Proposed Amendments would amend Section 10.01 of the Indenture to codify the security of the Modified Notes pursuant to the Security and Collateral Assignment Agreement.

Waiver

The delivery of a Consent pursuant to the Consent Solicitation will also constitute a waiver of the Indenture's requirement in Section 9.06 that a tax opinion be delivered in connection with the Supplemental Indenture.

The Modified Notes

The Modified Notes will be distinct from the Existing Notes and will have significantly different terms. For example, the Modified Notes will not mature until January 1, 2016 and therefore, the Modified Notes will not be in default at issuance. While the Modified Notes will not mature until January, 1, 2016, a "Guarantors Default," will occur if the Modified Notes are not repaid in full prior to January 1, 2014, which will terminate the Guarantors Standstill Period.

The following chart compares certain of the terms of the Modified Notes with the terms of the Existing Notes:

Provision	**Existing Notes**	**Modified Notes**
Maturity Date.....	January 1, 2012	January 1, 2016
Default Status	Currently in default	Will not be in default at issuance
Sharing Agreement.....	Not entitled to the benefits of the Sharing Agreement, including ability to receive Proceeds from an Award in the Arbitration	Entitled to the benefits of the Sharing Agreement, including ability to receive Proceeds from an Award in the Arbitration
Standstill Obligation.....	Not subject to a standstill obligation	Subject to a standstill obligation (See "Key Terms of the Sharing Agreement and Related Provisions of the Modified Notes—Standstills.")
Redemption.....	Redeemable at par, plus accrued interest	Redeemable pursuant to the Sharing Agreement for an aggregate price of $1.00, following receipt of specified amount of Proceeds from and Award in the Arbitration (See "Key Terms of the Sharing Agreement and Related Provisions of the Modified Notes—Repurchase Right and Release of Claims.")
Release Obligations.....	No obligation to provide a release	Obligated to release the Company and the Claimant Parties in certain circumstances (See "Key Terms of the Sharing Agreement and Related Provisions of the Modified Notes—Repurchase Right and Release of Claims.")

Additional Information Regarding the Proposed Amendments and the Modified Notes

Attached to the Statement as Schedule B is the text of all of the provisions of the Indenture to be modified pursuant to the Proposed Amendments, including the form of Modified Note. Any provision contained in the Existing Notes that relates to any provision of the Indenture as amended will likewise be amended so that any such provision contained in the Modified Notes will conform to and be consistent with any provision of the Indenture as amended.

The Proposed Amendments are a single proposal. A consenting Holder must consent to the proposed modifications in their entirety and may not consent selectively with respect to only certain of the Proposed Amendments.

The foregoing is qualified in its entirety by reference to the Indenture, the form of Modified Notes, and the form of Supplemental Indenture, copies of which the Exchange Agent will provide to you upon request without charge.

Certain Significant Considerations

You should consider carefully the following considerations, in addition to the other information described elsewhere in this Statement and Letter of Transmittal and Consent Form before deciding whether to participate in the Exchange Offer and Consent Solicitation.

Considerations Related to Participation in the Exchange Offer and Consent Solicitation

Modified Notes Will Not Be in Default. The existing Notes are currently in default under the terms of the Indenture. If the Consent Solicitation is completed and you exchange your Existing Notes for Modified Notes in the Exchange Offer, your Modified Notes will no longer be subject to a payment default under the Indenture. Under the terms of the Modified Notes, you will be obligated to refrain from taking certain enforcement actions (as described in "Key Terms of the Sharing Agreement and Related Provisions of the Modified Notes—Standstills" above) and, subject to limited exceptions, your right to receive immediate recovery on the Modified Notes will be limited to the Proceeds available under the terms of the Sharing Agreement (as described in "Key Terms of the Sharing Agreement and Related Provisions of the Modified Notes—Waterfall" and "Key Terms of the Sharing Agreement and Related Provisions of the Modified Notes—Asset Recovery Amounts" above).

No Assurance as to Results of the Arbitration. There can be no assurance that the Arbitration will result in any Award to the Claimant Parties or that, if rendered, the Claimant Parties will be able to collect any such Award.

The Guarantors Will Not Execute the Supplemental Indenture and Ascom and Terra Raf Will Not Grant Any New Security Interests in the Collateral. As described herein, the Company alleges that the assets of the Guarantors have been expropriated and the offices of the Guarantors have been seized by the Republic of Kazakhstan. Accordingly, the Company no longer has effective control over the operations of the Guarantors. The Indenture requires that the Supplemental Indenture be executed by the Guarantors; however, because the Company no longer effectively controls the actions of the Guarantors, the Company believes that it is not possible for the Supplemental Indenture to be executed by the Guarantors. As a result, the Supplemental Indenture will be executed by the Company and the Trustee, but will not be executed by the Guarantors. Furthermore, the Notes are secured by the equity interests of the Guarantors. Since Ascom and Terra Raf no longer control the actions of the Guarantors, the status of this collateral is uncertain, but such collateral (or any interest therein) is intended to remain in place for holders of Existing Notes and Modified Notes under the Indenture. However, Ascom and Terra Raf will not grant a new security interests in the collateral to the holders of Modified Notes in connection with the Exchange Offer and Consent Solicitation.

The U.S. Federal Income Tax Consequences of the Exchange Offer and the Consent Solicitation Are Unclear. The U.S. federal income tax treatment of the exchange of Existing Notes for Modified Notes pursuant to

the Exchange Offer depends in part on the characterization of the Modified Notes (taking into account the Proposed Amendments, including the amendments that give effect to the Sharing Agreement). No statutory, administrative or judicial authority directly addresses the treatment of financial instruments that have terms and conditions similar to the Modified Notes. As a result, the characterization of the Modified Notes for U.S. federal income tax purposes is uncertain. Among other things, the Modified Notes might be treated as any of the following for U.S. federal income tax purposes: (i) a debt instrument issued by the Company and/or the Claimant Parties, (ii) an equity interest issued by the Company and/or the Claimant Parties, or (iii) a contractual right to receive contingent payments that is not a debt instrument or an equity interest. The U.S. federal income tax consequences to a U.S. holder of Modified Notes (including the amount, timing, character and source of income or loss recognized) could vary significantly depending on the characterization of the Modified Notes. For additional information, see "Certain United States Federal Income Tax Consequences."

Considerations Related to Failure to Participate in the Exchange Offer and Consent Solicitation

Effect of the Proposed Amendments on the Rights of the Existing Notes. The Proposed Amendments to the Indenture, the issuance of the Modified Notes in the Exchange Offer and the implementation of the Sharing Agreement will not relieve the Company from its obligation to make scheduled payments of the principal and accrued interest on any Existing Notes remaining outstanding in accordance with the terms of the Indenture as currently in effect. However, Holders who do not tender their Existing Notes and deliver Consents will not be entitled to the benefits of the Sharing Agreement and, to the extent the Claimant Parties recover Proceeds in the Arbitration, such Holders will not be entitled to any portion thereof. In addition, the General Amendments will apply to all Holders of Notes, including Holders who do not tender their Existing Notes in the Exchange Offer and deliver Consents and who retain their Existing Notes; therefore, even if you do not participate in the Exchange Offer and Consent Solicitation, if the Proposed Amendments become effective, your Existing Notes will no longer have the benefit of certain restrictive covenants currently provided in the Indenture.

Effect of the Exchange Offer on the Market for the Existing Notes. If the Exchange Offer is consummated, the trading market (if any) for the Existing Notes remaining outstanding is likely to become much more limited, or possibly nonexistent, due to the reduction in the amount of Existing Notes outstanding. If a market for the Existing Notes exists or develops, those Existing Notes will likely trade at a discount to the price at which they would trade if the amount outstanding had not been reduced by the Exchange Offer.

Ability to Receive Payment on Existing Notes. The Notes are secured obligations of the Company. In addition, two of the Claimant Parties, Ascom and Terra Raf, have executed pledge agreements that pledge their participation interests in the Guarantors as security for the Notes. Further, Terra Raf has also pledged a $76 million promissory note as collateral for the Notes. Under the various pledge agreements, Holders have a right to the equity interests in the Guarantors and have a right to pursue claims to share in monies received by Ascom and Terra Raf as a result of their ownership of equity interests in the Guarantors. However, none of the Claimant Parties are direct obligors of the Notes under the terms of the Indenture. The terms of the Sharing Agreement create a direct contractual nexus between the holders of Modified Notes and the Claimant Parties, expressly requiring the Claimant Parties to share the recovery of any proceeds in the Arbitration with holders of Modified Notes. As disclosed herein, due to the Arbitration and the allegations raised therein, the Company has been unable to pay interest and principal on the Existing Notes. Therefore, the sharing of potential Proceeds among the Participating Holders pursuant to the Sharing Agreement is the most direct avenue through which any Holder may receive payment in respect of its Notes.

Effect of the Bankruptcy. To the extent Holders owning less than 85% of the outstanding principal amount of the Existing Notes deliver Consents in the Consent Solicitation, the Company will not consummate the Exchange Offer or Consent Solicitation and will instead pursue the Bankruptcy. However, as of the date of this Statement, Holders of approximately 90% of the Existing Notes have already signed the Sharing Agreement and agreed to tender their Existing Notes in the Exchange Offer and deliver Consents in favor of the Proposed Amendments in the Consent Solicitation.

Acceptance of Existing Notes; Settlement of Exchange Offer

Subject to the terms and conditions of the Exchange Offer, the Company will be deemed to accept validly tendered Existing Notes when, and if, it gives oral or written notice of acceptance to the Exchange Agent. If any

tendered Existing Notes are not accepted for any reason, such unaccepted Existing Notes will be returned to the tendering Holder at the Company's expense promptly after the expiration or termination of the Exchange Offer and Consent Solicitation. Any unaccepted Existing Notes will be credited to the tendering Holder's account at DTC or, if the tendered Existing Notes are held in certificated form, by delivering the unaccepted Existing Notes to the tendering Holder. Under no circumstances will the Company be required to accept Existing Notes for exchange that have not been validly tendered at or prior to the Expiration Date in accordance with the procedures set forth in this Statement.

The Early Settlement Date for all Existing Notes validly tendered on or prior to the Effective Date will occur promptly following the Effective Date of the Supplemental Indenture. The Final Settlement Date for all Existing Notes validly tendered after the Effective Date and prior to the Expiration Date will occur promptly following the Expiration Date. On the applicable Settlement Date, Existing Notes validly tendered that are accepted by the Company will be exchanged for Modified Notes.

Procedures for Tendering Existing Notes and Delivering Consents

Tender of Existing Notes and Delivery of Consents. If you wish to participate in the Exchange Offer and Consent Solicitation you must validly tender your Existing Notes and deliver your Consent to the Exchange Agent on or prior to the Expiration Date in accordance with the procedures described below. In order to meet this deadline, custodians and clearing systems may require you to act on a date prior to the Expiration Date. Additionally, they may require further information in order to process all requests to tender or provide Consent. Holders are urged to contact their custodians and clearing systems as soon as possible to ensure compliance with their procedures and deadlines.

The delivery by a Holder of a Consent pursuant to one of the procedures set forth below, and acceptance thereof by the Company, will constitute (i) a binding agreement between the Holder and the Company in accordance with the terms and subject to the conditions set forth herein and in the Letter of Transmittal and Consent Form, (ii) the delivery of the Consent of the Holder to the Proposed Amendments to the Indenture, and (iii) the agreement by the Holder to be bound by the Supplemental Indenture and the Modified Notes, including the terms and conditions of the Sharing Agreement. In addition, subject to and effective upon the acceptance of and the exchange of the Existing Notes validly tendered thereby, by executing and delivering a Letter of Transmittal and Consent, a tendering Holder, among other things:

- irrevocably sells, assigns and transfers to or upon the Company's order, all right, title and interest in and to all the Existing Notes tendered thereby;
- waives any and all rights with respect to the Existing Notes (including any existing or past defaults and their consequences in respect of the Existing Notes);
- releases and discharges the Company and the Trustee from any and all claims such Holder may have, now or in the future, arising out of or related to the Existing Notes;
- represents and warrants, among other things, that the Existing Notes tendered were owned as of the date of tender, free and clear of all liens, charges, claims, encumbrances, interests and restrictions of any kind;
- irrevocably appoints the Exchange Agent as its true and lawful agent and attorney-in-fact (with full knowledge that the Exchange Agent also acts as the Company's agent with respect to the tendered Existing Notes, with full power coupled with an interest) to:
    - deliver certificates representing the Existing Notes, or transfer ownership of the Existing Notes on the account books maintained by DTC, together with all accompanying evidences of transfer and authenticity, to or upon the Company's order;

- receive all benefits and otherwise exercise all rights of beneficial ownership of such Existing Notes, all in accordance with the terms and conditions of the Exchange Offer and Consent Solicitation.

The procedures by which Existing Notes may be tendered and Consents may be delivered by beneficial owners who are not registered Holders will depend upon the manner in which the Existing Notes are held. Holders who tender Existing Notes and deliver Consents will not thereafter be permitted to revoke or withdraw such tender of Existing Notes or delivery of Consents.

Existing Notes Held Through a Custodian. Any beneficial owner whose Existing Notes are registered in the name of a custodian bank, broker, dealer, trust company or other nominee and who wishes to tender Existing Notes and deliver Consents should contact the registered Holder promptly and instruct such Holder to tender such Existing Notes and deliver Consents on such beneficial owner's behalf. Any beneficial owner of Existing Notes held through DTC or its nominee, through authority granted by DTC, must direct participants through which that beneficial owner's Existing Notes are held in DTC to deliver a Consent on that beneficial owner's behalf.

Notes Held Through DTC. To tender Existing Notes and deliver a Consent for Existing Notes that are held through DTC, Participants must, instead of physically completing and signing the Letter of Transmittal and Consent Form, electronically transmit their acceptance through ATOP (and thereby tender their Existing Notes and provide their Consents), for which the transaction will be eligible. Upon receipt of such Holder's acceptance through ATOP, DTC will edit and verify the acceptance and send an Agent's Message to the Exchange Agent for its acceptance. Delivery of Consents must be made to the Exchange Agent pursuant to the book-entry delivery procedures set forth herein and in the Letter of Transmittal and Consent Form.

The term "Agent's Message" means a message transmitted by DTC to, and received by, the Exchange Agent and forming a part of the Book-Entry Confirmation (defined below), which states that DTC has received an express acknowledgement from the participant in DTC described in that Agent's Message, stating the principal amount of Notes for which tenders have been made and Consents have been delivered by such participant under the Exchange Offer and Consent Solicitation and that such participant has received and agrees to be bound by the Letter of Transmittal and Consent Form and that the Company may enforce the Letter of Transmittal and Consent Form against such participant.

Delivery of Existing Notes Held in Certificated Form. The Company does not believe any Existing Notes exist in certificated form. If you believe you hold Existing Notes in certificated form, please contact the Exchange Agent regarding procedures for participating in the Exchange Offer and Consent Solicitation. Any Existing Notes in certificated form must be tendered using a Letter of Transmittal and Consent and the certificates for such Existing Notes must be delivered to the Exchange Agent at its address set forth on the back cover of this Statement.

No Guaranteed Delivery. There are no guaranteed delivery provisions provided for by the Company in connection with the Exchange Offer and the Consent Solicitations. Holders must tender Existing Notes in accordance with the procedures set forth herein.

Need for Guarantee of Signature. Signatures on a Letter of Transmittal and Consent Form must be guaranteed by a recognized participant in the Securities Transfer Agents Medallion Program, the New York Stock Exchange Medallion Signature Program or the Stock Exchange Medallion Program, unless the Existing Notes tendered thereby are tendered (i) by the registered Holder of such Existing Notes and that Holder has not completed either of the boxes entitled "Special Issuance/Delivery Instructions" on the Letter of Transmittal and Consent or (ii) for the account of a firm that is a member of a registered national securities exchange or the National Association of Securities Dealers, Inc. or a commercial bank or trust company having an office in the United States.

Determination of Validity. All questions as to the validity, form, eligibility (including time of receipt) and acceptance of any Existing Notes tendered and Consents delivered pursuant to any of the procedures described above will be determined by the Company in good faith (which determination will be final and binding). The Company reserves the absolute right, in its sole discretion, subject to applicable law, to waive any defect or irregularity in any tender of Existing Notes and delivery of Consent by any particular Holder, whether or not similar defects or irregularities are waived in the case of other Holders. Subject to the terms of the Sharing Agreement, the

Company's good faith interpretation of the terms and conditions of the Consent Solicitation (including the Letter of Transmittal and Consent Form) will be final and binding. None of the Company, the Trustee, the Exchange Agent or any other person will be under any duty to give notification of any defects or irregularities in tenders of Existing Notes or delivery of Consents or will incur any liability for failure to give any such notification.

The method of tender of Existing Notes and delivery of Consents and all other required documents, including delivery through DTC and any acceptance of an Agent's Message transmitted through ATOP, is at the election and risk of the person delivering Letter of Transmittal and Consent Forms and delivery will be deemed made only when actually received by the Exchange Agent. If delivery is by mail, it is suggested that the Holder use properly insured, registered mail with return receipt requested and that the mailing be made sufficiently in advance of the Expiration Date, as applicable, to permit delivery to the Exchange Agent on or before that time.

Withdrawal and Revocation Rights. Holders will not be afforded withdrawal rights with respect to Existing Notes tendered in the Exchange Offer or consents delivered in the Consent Solicitation.

LETTERS OF TRANSMITTAL AND CONSENT FORMS SHOULD BE SENT ONLY TO THE EXCHANGE AGENT; DO NOT SEND LETTERS OF TRANSMITTAL AND CONSENT FORMS TO THE COMPANY OR THE TRUSTEE.

CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES

Treasury Department Circular 230. TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, EACH BENEFICIAL OWNER OF NOTES IS HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF TAX ISSUES HEREIN IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY YOU FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON YOU UNDER THE CODE (AS DEFINED BELOW); (B) SUCH DISCUSSION IS INCLUDED HEREIN IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) OF THE TRANSACTIONS DESCRIBED HEREIN; AND (C) YOU SHOULD SEEK ADVICE BASED ON YOUR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT ADVISOR.

The following is a description of certain U.S. federal income tax consequences of the Exchange Offer and Consent Solicitation that may be relevant to a "U.S. Holder" (as defined below). This description only applies to Notes held as capital assets and does not address aspects of U.S. federal income taxation that may be applicable to Holders that are subject to special tax rules, such as:

- financial institutions;
- insurance companies;
- real estate investment trusts;
- regulated investment companies;
- certain former citizens and long-term residents of the United States;
- persons that own Existing Notes or Modified Notes through partnerships or other pass through entities;
- grantor trusts;
- tax-exempt organizations;
- dealers or traders in securities or currencies;
- holders that hold Existing Notes or Modified Notes as part of a straddle, hedging, conversion or other integrated transaction for U.S. federal income tax purposes; or
- U.S Holders (as defined below) that have a functional currency other than the U.S. dollar.

This description does not address the U.S. federal estate and gift tax or alternative minimum tax consequences of the Exchange Offer or Consent Solicitation; nor does it address the U.S. federal income tax treatment of Holders that did not acquire Existing Notes at their initial issue price in connection with the original offering of the Existing Notes (and therefore, among other things, does not discuss the rules applicable to debt instruments acquired at a "market discount"). Accordingly, each Holder should consult its tax advisor with respect to the U.S. federal, state, local and foreign tax consequences of the Exchange Offer and Consent Solicitation in light of its particular situation.

This description is based on the Internal Revenue Code of 1986, as amended (the "Code"), final, temporary and proposed U.S. Treasury Regulations, administrative pronouncements and judicial decisions, each as in effect on the date hereof. All of the foregoing are subject to change, possibly with retroactive effect, or differing interpretations which could affect the tax consequences described herein. No ruling has been requested from the Internal Revenue Service (the "IRS") regarding the U.S. federal income tax consequences of the Exchange Offer and Consent Solicitation. As a result, no assurance can be given that the IRS or the courts would agree with the consequences described herein.

For purposes of this description, a "U.S. Holder" is a beneficial owner of Notes that, for U.S. federal income tax purposes, is:

- an individual citizen or resident of the United States;
- a corporation (or other entity treated as a corporation) created or organized in or under the laws of the United States or any state thereof, including the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust if such trust validly elects to be treated as a U.S. person for U.S. federal income tax purposes or if (1) a court within the United States is able to exercise primary supervision over its administration and (2) one or more U.S. persons have the authority to control all of the substantial decisions of such trust.

If a partnership (or any other entity treated as a partnership for U.S. federal income tax purposes) holds Notes, the tax treatment of a partner in such partnership will generally depend on the status of the partner and the activities of the partnership. Such a partner or partnership should consult its own tax advisor as to its tax consequences.

Exchange of Existing Notes for Modified Notes

The U.S. federal income tax treatment of the exchange of Existing Notes for Modified Notes pursuant to the Exchange Offer depends in part on the characterization of the Modified Notes (taking into account the Proposed Amendments, including the amendments that give effect to the Sharing Agreement). No statutory, administrative or judicial authority directly addresses the treatment of financial instruments that have terms and conditions similar to the Modified Notes. As a result, the characterization of the Modified Notes for U.S. federal income tax purposes is unclear. The Company and the Claimant Parties intend to treat the Modified Notes for U.S. federal income tax purposes as a contractual right against the Company and the Claimant Parties to receive a contingent amount of cash (dependent on the outcome of the Arbitration) that does not constitute debt or equity of the Company or the Claimant Parties. Except where specifically noted otherwise, the remainder of this discussion assumes such treatment. The following discussion also assumes that (i) the exchange of Existing Notes for Modified Notes is not eligible for "open transaction" treatment or the installment method of reporting and (ii) the Modified Notes are not "securities" of the Company within the meaning of Section 354 of the Code. In addition, the Company intends to take the position that a U.S. Holder will not be treated as having received an amount attributable to accrued but unpaid interest on the Existing Notes except to the extent, if any, that the fair market value of the Modified Notes on the date of the exchange of Existing Notes for Modified Notes exceeds the principal amount of the Existing Notes. Because of the uncertainty as to the characterization of the Modified Notes and related tax issues, U.S. Holders are urged to consult their tax advisors regarding the characterization of the Modified Notes and the tax consequences associated with such characterization.

Under the characterization of the Modified Notes described above, the exchange of Existing Notes for Modified Notes pursuant to the Exchange Offer will be a taxable transaction for U.S. federal income tax purposes. Accordingly, a U.S. Holder that exchanges Existing Notes for Modified Notes generally will recognize gain or loss equal to the difference between (i) its "amount realized," equal to the fair market value of the Modified Notes as of the date of the exchange (less the amount, if any, attributable to accrued but unpaid interest not previously included in income, which will be taxable as ordinary interest income) and (ii) the holder's tax basis in its Existing Notes. Such gain or loss generally will be capital gain or loss (subject to the application of the "market discount" rules in the case of a U.S. Holder that acquired Notes at a discount other than in connection with their initial issuance). Capital gains of non-corporate U.S. Holders from the sale of capital assets held for more than one year are generally eligible for reduced rates of taxation. The deductibility of capital losses is subject to limitations. Any capital gain or loss recognized by a U.S. holder should be U.S. source gain or loss for U.S. foreign tax credit purposes. Interest income, if any, recognized by a U.S. Holder should be foreign source income for U.S. foreign tax credit purposes.

Due to the contingent payment features of the Modified Notes, the fair market value of the Modified Notes as of the date of the exchange of Existing Notes for Modified Notes may be subject to significant uncertainty. The Company does not intend to provide any estimate of the fair market value of the Modified Notes. It is possible, however, that the Modified Notes will be traded at a price that is indicative of their fair market value. Treasury Regulations applicable to certain issuances of debt instruments provide rules regarding the determination of the fair market value of property where one or more sales prices are reasonably available with respect to such property or

where certain price quotes from a broker or pricing service are available with respect to such property. However, these regulations would not apply under the characterization of the Modified Notes described above. U.S. Holders are urged to consult with their own tax advisors regarding the valuation of the Modified Notes.

Payments on Modified Notes

General. The Company and the Claimant Parties intend to take the position that a portion of any payment made pursuant to the Modified Notes (whether designated as principal or interest under the terms of the Modified Notes) will be characterized as interest under Section 483 of the Code and the regulations thereunder. The portion treated as interest will equal the excess of the total amount of the payment received over its present value at the time of the exchange pursuant to the Exchange Offer, calculated using a discount rate equal to the "applicable federal rate." U.S. Holders generally will be subject to tax at ordinary income rates with respect to any amount treated as interest under these rules. Any such interest income should be foreign source income for U.S. foreign tax credit purposes. U.S. Holders should consult their tax advisors regarding the applicability of the foreign tax credit. The portion of any payment that is not treated as interest should be classified as "principal" (regardless of whether such payment is designated as principal or interest under the terms of the Modified Note) and applied against the U.S. Holder's basis in the Modified Notes, with any amount in excess of basis taxable as capital gain. A U.S. Holder's basis in the Modified Notes should be equitably apportioned in the event that more than one payment with respect to the Modified Notes is expected and gain or loss determined accordingly for each payment. To the extent all of the amounts paid with respect to the Modified Notes that are treated as principal are less than the U.S. Holder's tax basis in the Modified Notes, the U.S. Holder will recognize a capital loss in the amount of the shortfall. A U.S. Holder's initial tax basis in the Modified Notes will equal the fair market value of the Modified Notes received pursuant to the Exchange Offer (determined as of the date of the exchange), and a U.S. Holder's holding period for the Modified Notes will begin on the day following the date of the exchange. In the case of a sale or other taxable disposition of the Modified Notes, any proceeds received generally should be characterized as principal or interest using the same principles described above with respect to payments on the Modified Notes.

Information Reporting and Backup Withholding. U.S. Holders (other than certain exempt recipients such as corporations) generally will be subject to information reporting with respect to payments (including sales proceeds) made to them on a Modified Note within the United States, including payments made by wire transfer from outside the United States to an account maintained in the United States. A non-exempt U.S. Holder may also be subject to backup withholding tax on such payments if it fails to provide its accurate taxpayer identification number to the payor in the manner required, is notified by the IRS that it has failed to report all interest and dividends required to be shown on its U.S. federal income tax return, or otherwise fails to comply with applicable backup withholding tax rules. Any amounts withheld from payments to a U.S. Holder under the backup withholding tax rules will be allowed as a credit against the holder's U.S. federal income tax liability and may entitle the holder to a refund, provided the required information is timely furnished to the IRS.

Alternative Characterizations

Other characterizations of the Modified Notes are possible which could affect (in some cases, significantly) the amount, timing, character and source of income or loss recognized by a U.S. Holder in connection with the exchange of Existing Notes for Modified Notes and the ownership and disposition of the Modified Notes. For example, if the Modified Notes were treated as debt instruments for U.S. federal income tax purposes, a U.S. Holder's amount realized would be equal to the "issue price" of the Modified Notes, which could vary significantly depending on whether the Existing Notes or Modified Notes are "publicly traded" within the meaning of applicable Treasury Regulations. In addition, under the regulations governing contingent payment debt instruments, a U.S. Holder might be required to recognize interest income on the Modified Notes as it accrued (based on the "comparable yield" of the Modified Notes as determined under such regulations), regardless of the U.S. Holder's method of accounting for tax purposes, and to treat as ordinary income any gain recognized on the sale or other taxable disposition of the Modified Notes. If, on the other hand, the Modified Notes were treated as an equity interest, U.S. Holders would potentially be subject to the rules providing for the accrual (and current inclusion in income) of dividends under principles similar to those governing debt instruments issued with original issue discount, as well as the rules governing investments in stock of a "passive foreign investment company." Furthermore, if the Existing Notes and the Modified Notes (whether debt or equity) were classified as corporate "securities" of the Company within the meaning of Section 354, a U.S. Holder generally would be prevented from

recognizing a loss, if any, on the exchange of Existing Notes for Modified Notes. U.S. Holders are urged to consult their own tax advisors regarding these and other potential characterizations.

Tax Treatment of Non-Consenting U.S. Holders

The U.S. federal income tax consequences to a non-consenting U.S. Holder will depend upon whether the General Amendments (which are binding on all holders) result in a "significant modification" and thus a deemed exchange of the Existing Notes for "new" Existing Notes with respect to which gain or loss may be recognized. Under applicable Treasury Regulations, the modification of a debt instrument is a "significant modification" if, based on all the facts and circumstances (and, subject to certain exceptions, taking into account all modifications of the debt instrument collectively), the legal rights or obligations that are altered and the degree to which they are altered is "economically significant." The regulations include a safe harbor under which a modification of a debt instrument that adds, deletes or alters customary accounting or financial covenants is not a significant modification. However, there is no authority addressing the types of covenants that are considered customary accounting or financial covenants for this purpose and thus the application of this safe harbor to the General Amendments is uncertain.

Although the matter is not free from doubt, the Company intends to take the position that the General Amendments (which would eliminate a substantial number of the restrictive covenants and modify certain events of default of the Indenture) should not result in a significant modification (or a deemed exchange) of the Existing Notes. Assuming such treatment, non-consenting U.S. Holders would not realize any gain or loss as a result of the adoption of the General Amendments.

THE PRECEDING DISCUSSION OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES IS FOR GENERAL INFORMATION ONLY AND IS NOT TAX ADVICE. EACH HOLDER OF NOTES SHOULD CONSULT ITS OWN TAX ADVISOR REGARDING THE PARTICULAR FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE EXCHANGE OFFER AND CONSENT SOLICITATION AND THE TAX CONSEQUENCES OF OWNING AND DISPOSING OF NOTES.

THE EXCHANGE AGENT

Wells Fargo Bank, N.A. has been appointed as Exchange Agent for the Consent Solicitation. Requests for additional copies of this Statement or the Letter of Transmittal and Consent Form may be directed to the Exchange Agent at the address and telephone numbers set forth on the back cover of this Statement. Holders may also contact their custodian bank, broker, dealer, trust company or other nominee for assistance concerning the Exchange Offer and Consent Solicitation.

FEES AND EXPENSES

The Company will pay the Exchange Agent reasonable and customary fees for their services and will reimburse them for their reasonable out-of-pocket expenses in connection therewith.

CUSIP NUMBERS

The CUSIP numbers for the Existing Notes are 89676XAA1, G90748AA5, and G90748AB3. The CUSIP numbers have been assigned by Standard & Poor's Corporation and are included solely for the convenience of Holders of the Notes. Neither the Company, the Trustee nor the Exchange Agent will be responsible for the selection or use of the CUSIP numbers, and no representation is made as to their correctness on the Notes or as indicated in this Statement or the Letter of Transmittal and Consent Form or in any other document.

MISCELLANEOUS

The Exchange Offer and Consent Solicitation is being made to all Holders. The Company is not aware of any jurisdiction in which the Exchange Offer and Consent Solicitation is not in compliance with applicable law. If the Company becomes aware of any jurisdiction in which the Exchange Offer and Consent Solicitation would not be in compliance with applicable law, the Company will make a good faith effort to comply with any such law. If, after such good faith effort, the Company cannot comply with any such law, the Exchange Offer and Consent Solicitation will not be offered to (nor will tenders of Existing Notes and delivery of Consents be accepted from or on behalf of) the owners of Existing Notes residing in such jurisdiction. No person has been authorized to give any information or make any representation on behalf of the Company not contained in this Statement or in the Letter of Transmittal and Consent Form and, if given or made, such information or representation must not be relied upon as having been authorized.

Recipients of this Statement and the Letter of Transmittal and Consent Form should not construe the contents hereof or thereof as legal, business or tax advice. Each recipient should consult its own attorney, business advisor and tax advisor as to legal, business, tax and related matters concerning the Exchange Offer and Consent Solicitation.

The statements contained herein are made as of the date hereof, and the delivery of the Statement and the accompanying materials and the acceptance of tenders of Existing Notes and Consents will not, under any circumstances, create any implication that the information contained herein is correct at any time subsequent to the date hereof.

None of the Trustee, the Exchange Agent, the Majority Noteholders or any affiliate of any of them assumes any responsibility for the accuracy or completeness of the information concerning the Company and its affiliates contained in this Statement or the other Offer Documents, or for any failure by the Company to disclose events that may have occurred after the date of this Statement that may affect the significance or accuracy of such information.

SCHEDULE A

SHARING AGREEMENT

SHARING AGREEMENT
AND ASSIGNMENT OF RIGHTS

This SHARING AGREEMENT AND ASSIGNMENT OF RIGHTS (this "Agreement") is dated as of December 17, 2012 among (i) TRISTAN OIL LTD. ("Tristan"), (ii) ANATOLIE STATI ("A. Stati"), (iii) GABRIEL STATI ("G. Stati"), (iv) ASCOM GROUP, S.A. ("Ascom"), (v) TERRA RAF TRANS TRAIDING LTD. ("Terra Raf" and, collectively with A. Stati, G. Stati and Ascom, the "Claimant Parties"; and the Claimant Parties, together with Tristan, the "Tristan Parties"), (vi) the parties listed under the heading "Majority Noteholders" on the signature pages hereto (the "Majority Noteholders") and (vii) those Noteholders (as defined below) who subsequently become bound by the terms of this Agreement.

R E C I T A L S

WHEREAS, pursuant to an indenture, dated as of December 20, 2006, by and among Tristan, the Guarantors and the Trustee (as amended or supplemented from time to time, the "Indenture"), on December 20, 2006 and June 7, 2007 Tristan issued 10½% Senior Secured Notes due 2012 in the aggregate amount of US$420,000,000 and in June 2009, Tristan issued further 10½% Senior Secured Notes due 2012 in the aggregate amount of US$110,000,000 (together, the "Existing Notes"), which Existing Notes remain outstanding.

WHEREAS, the Claimant Parties have initiated the Arbitration (as defined below) and have asserted claims therein that, *inter alia*, the Republic of Kazakhstan has seized Ascom's and Terra Raf's interests in the Guarantors, respectively, as well as certain other assets of the Guarantors.

WHEREAS, the Claimant Parties contend that in January 2010, the Republic of Kazakhstan seized Kazpolmunay LLP's bank accounts and other assets, and in July 2010, the Republic of Kazakhstan terminated in advance the contracts with the Guarantors for hydrocarbon field exploration and exploitation, expropriated all of the Guarantors' assets and prohibited the performance of the financial operations of the Guarantors.

WHEREAS, the Claimant Parties contend that as a result of the actions by the Republic of Kazakhstan referenced above, Tristan failed to pay interest on the Notes on July 1, 2010.

WHEREAS that failure became an Event of Default, and the Trustee issued a Notice of Event of Default dated August 2, 2010 and additional Events of Default under the Indenture have occurred and are continuing as a result of the Notes having matured and the failure of Tristan or the Guarantors to make payment thereon.

WHEREAS, the Majority Noteholders (as defined above), together with the Tristan Parties, desire to consummate a restructuring (the "Restructuring") of the obligations owed by Tristan to the Noteholders in order to provide the relief sought in the Consent Solicitation and to provide the benefits of the sharing arrangements described herein to the Participating Noteholders. The Restructuring will be implemented through either (x) one or more out-of-court transactions as expressly contemplated by this Agreement (the "Out-of-Court Transaction"), including the Consent Solicitation (as defined below), or (y) prosecution of the Bankruptcy Case and

confirmation of the Prepackaged Plan. This Agreement sets forth the terms and conditions of the Restructuring, including the terms under which the Parties will (a) amend the Indenture and the terms of the Notes pursuant to a Consent Solicitation and (b) share in the Proceeds (as defined below) and provide for certain other agreements with respect to the foregoing.

WHEREAS, the Tristan Parties and the Majority Noteholders desire to make the terms of this Agreement available to all Noteholders through the Consent Solicitation or the Prepackaged Plan (as applicable).

WHEREAS, each Party hereto who is a natural person has obtained and provided to the Participating Noteholders all required spousal consents and waivers required in connection with the execution of this Agreement and consummation of the transactions contemplated hereby.

A G R E E M E N T

NOW, THEREFORE, in consideration of the representations, warranties, promises and covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

Section 1. Definitions.

The following capitalized terms used herein and not otherwise defined herein shall have the definitions set forth below. Other capitalized terms used herein and not otherwise defined herein shall have the definitions ascribed to them in the Indenture.

"*Account*" means (i) the account maintained by the Security Agent pursuant to the Security Agent Agreement, and shall include such sub-accounts or correspondent accounts maintained by or on behalf of the Security Agent through which any payment to the aforementioned account not in US Dollars may need to be made as are notified by the Security Agent to the Representative from time to time, or (ii) such other account as the Participating Noteholders Representative (or, following the Effective Date and the Trustee's agreement to assume the obligations of the Participating Noteholders Representative, the Trustee on behalf of the Participating Noteholders) and the Representative shall agree in writing.

"Action" means any claim, request, demand, waiver, amendment, supplement, objection, instruction or other action.

"*Affiliate*" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; *provided* that beneficial ownership of 10% or more of the voting equity interests of a Person will be deemed to be control. For purposes of this definition, the terms "*controlling,*" "*controlled by*" and "*under common control with*" have correlative meanings.

"*Arbitration*" means the arbitration before the Arbitration Institute of the Stockholm Chamber of Commerce (116/2010) between the Claimant Parties (as claimants) and the Republic of Kazakhstan (as respondent) commenced pursuant to The Energy Charter Treaty by way of a Request for Arbitration dated July 26, 2010 and/or any other arbitration or similar proceeding brought by any of the Claimant Parties or any of their Affiliates against the Republic of Kazakhstan in respect of some or all of the Claims or arising from materially the same facts as the aforementioned arbitration.

"*Asset Recovery Amounts*" means any monies received by the Participating Noteholders outside of Kazakhstan on or before the dates specified in Section 3(e) and generated by a sale of any Assets following enforcement against, or foreclosure on, the Assets by or on behalf of the Participating Noteholders, in all cases, net of any costs incurred or further capital investment made by or on behalf of the Participating Noteholders in managing or developing such Assets or generating such a sale. "Asset Recovery Amounts" shall not include any monies received following the termination of the Guarantors Standstill Period pursuant to Section 6(c)(i) or (ii).

"*Assets*" means any monies, balances in bank accounts, assets (including fields, plants and properties), underground resource contracts, subsoil use rights or licenses, previously or currently held by, issued to or registered in the name of either Guarantor, without prejudice to any claims in the Arbitration that such assets have been expropriated.

"*Assigned Property*" has the meaning ascribed to such term in Section 5(a) of this Agreement.

"*Award*" means any award of damages (or the payment of other monies or compensation) rendered in favor of some or all of the Claimant Parties in the Arbitration, and any subsequent Order issued for the purposes of confirming or recognizing an Award, executing an Award, enforcing the terms of an Award, collecting an Award, attaching assets in furtherance of an Award or otherwise rendered for the purposes of realizing on an Award or any of the Claims.

"*Bankruptcy Case*" means a "prepackaged" Chapter 11 bankruptcy case of Tristan, filed in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") pursuant to which (i) Tristan shall file, and seek prompt confirmation of, the Prepackaged Plan and (ii) the Claimant Parties shall loan to Tristan all funds necessary to pay the estate's professionals and any other allowed administrative claims and otherwise finance the Bankruptcy Case.

"*Bankruptcy Code*" means the United States Bankruptcy Code, as amended or modified from time to time (11 U.S.C. § 101 et seq.).

"*Bankruptcy Solicitation Commencement Date*" means a date no later than sixty (60) days following the expiration of a Failed Consent Solicitation.

"*Business Day*" means any day other than a Saturday or a Sunday or a day on which banks located in New York, New York or London, UK generally are authorized or required by law to close.

"*Chapter 11*" means chapter 11 of the Bankruptcy Code.

"*Claim*" means any and all claims, demands, causes of action, litigations and suits asserted by or on behalf of the Claimant Parties prior to and after the date hereof in respect of the Arbitration, any Award or the Proceeds.

"*Claimant Parties Release Event*" has the meaning ascribed to such term in Section 7(c) of this Agreement.

"*Consent*" means a consent provided by a Noteholder in the Consent Solicitation.

"*Consent Solicitation*" means the solicitation by Tristan from Noteholders of consents to the Proposed Amendments to the Indenture and certain other matters, as more fully set forth on Exhibit A hereto.

"*Consent Solicitation Obligations*" means the obligation to comply with Section 8(a)(i) of this Agreement and to diligently pursue the Consent Solicitation. For the avoidance of doubt, such diligent pursuit (i) shall require the Tristan Parties to distribute the Offering Materials to holders of the Notes and to execute, deliver and to take all actions reasonably required on the part of the Tristan Parties to make effective the Supplemental Indenture and the Modified Notes (including by delivering any instruments, certificates or opinions reasonably requested by the Trustee in connection therewith) upon receipt of the Requisite Consents, but (ii) shall not require the Tristan Parties to directly or indirectly solicit Noteholders in any other manner.

"*Cure Period*" means (A) with respect to any Material Breach if such Material Breach consists of the failure to comply with an applicable time limit or deadline, 10 days following the date of the occurrence of such Material Breach, (B) with respect to any other Material Breach related to Section 3(a)(ii) or (iii), Section 4 or Section 8(a)(i), 30 days following the date of the occurrence of such Material Breach, or (C) in all other cases, (i) if one or more Participating Noteholders unaffiliated with any Tristan Party have knowledge of such breach or Material Breach, 30 days following the date the Trustee or Requisite Noteholders give written notice to the Tristan Parties of the occurrence of such breach or Material Breach or (ii) if one or more Participating Noteholders unaffiliated with any Tristan Party do not have knowledge of such breach or Material Breach, 30 days following the date of the occurrence of such breach or Material Breach.

"*Disclosure Statement*" means the disclosure statement for the Prepackaged Plan that sets a voting deadline of no more than thirty (30) days after the Bankruptcy Solicitation Commencement Date, satisfies the applicable requirements under the Bankruptcy Code, and complies with all applicable laws, together with all schedules, exhibits, and supplements thereto.

"*Effective Date*" means the date upon which the Proposed Amendments become effective through the execution of the Supplemental Indenture.

"*Failed Consent Solicitation*" means a Consent Solicitation in which the Required Consents are not delivered on or prior to the expiration of the Consent Solicitation other than to the extent the failure of such delivery arises from the failure of Tristan to commence the Consent Solicitation or the gross negligence, willful misconduct or Material Breach of this Agreement of or by any Tristan Party.

"*Governmental or Judicial Authority*" means any transnational, domestic or foreign federal, state or local governmental authority, department, court, agency or official, including any political subdivision thereof.

"*Guarantors*" means Kazpolmunay LLP and Tolkynneftegaz LLP.

"*Guarantors Default*" means the failure of the Tristan Parties or the Guarantors to pay all sums due under the Modified Notes (including the Outstanding Amount) on or before January 1, 2014.

"*Guarantors Standstill Period*" means the period beginning on the date hereof and ending on January 1, 2014 unless earlier terminated as provided herein.

"*Material Breach*" means a breach by any Tristan Party, directly or indirectly, of any provision of Section 3(a)(ii) or (iii), Section 4, Section 5, Section 8(a)(i) or Section 9 of this Agreement or any failure to pay when due and in full amounts due and payable under the Modified Notes following the Effective Date.

"*Minimum Payment*" has the meaning ascribed to such term in Section 7(a) of this Agreement.

"*Minimum Payment Date*" has the meaning ascribed to such term in Section 7(a) of this Agreement.

"*Modified Notes*" means the Notes to be held by each of the Participating Noteholders after the Effective Date.

"*New Default*" means a new Default occurring after the Effective Date with respect to Modified Notes (excluding any Default or Event of Default subject to Section 6(a) of the Sharing Agreement (Standstill)), but for the avoidance of doubt, not including any Default or Event of Default that existed and was continuing as of the Effective Date. In addition, for the avoidance of doubt, for purposes of Sections 6 and 7 of this Agreement, a New Default shall be deemed not to include a Guarantors Default.

"*New Default Cure Period*" means, with respect to any New Default, (A) if one or more Participating Noteholders unaffiliated with any Tristan Party have knowledge of such New Default, 30 days following the date the Requisite Noteholders give written notice to the Tristan Parties of the occurrence of such New Default or (B) if one or more Participating Noteholders unaffiliated with any Tristan Party do not have knowledge of such New Default, 30 days following the date of the occurrence of such New Default.

"*Noteholder*" means the owner of a beneficial interest in the Notes.

"*Notes*" means, prior to the Effective Date, the Existing Notes and after the Effective Date, the Modified Notes and the Existing Notes.

"*Order*" means any award, injunction, judgment, decree, order, ruling, subpoena or verdict or other decision issued, promulgated or entered by or with any Governmental or Judicial Authority, arbitrator or similar judicial entity.

"*Original Amount*" means an amount equal to US$642,643,100 (being all principal and accrued interest under the Notes up to January 1, 2012).

"*Outside Date*" has the meaning ascribed to such term in Section 9(a)(ii)(E) of this Agreement.

"*Outstanding Amount*" means as of any date, an amount equal to the sum of (a) the Original Amount multiplied by the Participating Noteholders' Percentage and (b) Special Interest accrued and unpaid as of such date.

"*Participating Noteholder*" means any Person that is (i) a Majority Noteholder, upon execution and delivery of this Agreement, (ii) a Noteholder that has provided its Consent in the Consent Solicitation, upon the Effective Date and (iii) any other Person that otherwise becomes bound by the terms of this Agreement as a Noteholder by (A) prior to the Effective Date, executing a joinder to this Agreement in the form attached hereto as Exhibit C and providing evidence reasonably satisfactory to the Participating Noteholders that such Person is a Noteholder or (B) after the Effective Date, acquiring any Modified Notes from a Participating Noteholder, in the case of clauses (i), (ii) and (iii) of this definition until such Person is no longer a Noteholder.

"Participating Noteholders' Percentage" means a number expressed as a percentage and determined by multiplying 100 by the quotient of (i) the aggregate principal amount of outstanding Notes held by all Participating Noteholders, divided by (ii) US $531,110,000, in the case of (i) as of the time of determination.

"*Participating Noteholders Representative*" has the meaning ascribed to such term in Section 2 of this Agreement.

"*Party*" means each of the Tristan Parties and each of the Participating Noteholders.

"*Person*" means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a Governmental or Judicial Authority.

"Prepackaged Plan" means the prepackaged Chapter 11 plan of reorganization of Tristan (including all schedules, exhibits and supplements thereto) providing for (i) the relief sought by the Tristan Parties in the Consent Solicitation and the Proceeds sharing arrangements described herein, (ii) the extension of the maturity date of the Notes to January 1, 2016, (iii) the maintenance of the Participating Noteholders' right of recourse against the Guarantors beginning from and after January 1, 2014 and (iv) containing such other terms as the Requisite Noteholders may approve in their reasonable discretion. All classes of claims under the Prepackaged Plan shall be unimpaired other than the Notes, which will be restructured in accordance with the Consent Solicitation.

"*Proceeds*" means: (i) any monies received by or on behalf of any of the Claimant Parties or any of their respective Affiliates from any source in partial or complete satisfaction of an Award or by way of a settlement or compromise of the Arbitration or any of the Claims, including in any

action initiated by or on behalf of the Claimant Parties in order to recognize or confirm an Award, enforce the terms of an Award, collect an Award, attach assets in furtherance of an Award or any other action taken or requested to be taken in furtherance of realizing an Award, including any consideration of the kind described in Section 3(b) below; and (ii) subject to Section 3(d) and (e), any Asset Recovery Amounts. For the avoidance of doubt, there will be no double counting of any Proceeds for the purposes of this Agreement.

"*Pro Rata Percentage*" means with respect to each Participating Noteholder, a number expressed as a percentage and determined by multiplying 100 by the quotient of (x) the aggregate principal amount of Notes held by such Participating Noteholder divided by (y) the aggregate principal amount of outstanding Notes held by all Participating Noteholders, in the case of (x) and (y) as of the time of determination. For the avoidance of doubt, following the Effective Date all determinations of Pro Rata Percentage and similar calculations necessary for determining the relative ownership of the Participating Noteholders, whether for making distributions to the Participating Noteholders or otherwise shall be made by the Trustee based solely upon the records of the Clearing Systems (as defined in Section 8(e) below).

"*Proposed Amendments*" means the proposed amendments to the Indenture and the Notes as more fully set forth on Exhibit A hereto.

"*Registrar*" means (a) prior to the Effective Date, Dechert LLP and (b) following the Effective Date, the Trustee.

"Representative" has the meaning ascribed to such term in Section 20 of this Agreement.

"*Required Consents*" means the delivery of Consents in the Consent Solicitation prior to the expiration thereof by Noteholders owning in the aggregate not less than 85% in aggregate principal amount of the outstanding Notes.

"*Requisite Noteholders*" means, as of the relevant date of determination, Participating Noteholders owning at least a majority in aggregate principal amount of Notes held by all Participating Noteholders outstanding and entitled to vote on matters pursuant to this Agreement and the Indenture.

"Security Agent" means Wilmington Trust, National Association or any successor thereto.

"Security Agent Agreement" means that certain Security Agent Agreement, to be entered into as provided in Section 2, by and among the Security Agent, the Representative and the Participating Noteholders Representative.

"*Security and Collateral Assignment Agreement*" has the meaning ascribed to such term in Section 5(a) of this Agreement.

"*Secured Obligations*" has the meaning ascribed to such term in Section 5(a) of this Agreement.

"*Sharing Global Note*" means the Global Note representing the Modified Notes in the form attached as Schedule I to Exhibit A.

"*Sharing Record Date"* means, with respect to the distribution of funds pursuant to this Agreement, the close of business in the place of the Registrar's office on the date preceding each date funds are deposited into the Account.

"*Special Interest*" means interest on the principal amount of the Notes outstanding on January 1, 2012, multiplied by the Participating Noteholders' Percentage, at the highest of any rates of interest provided for in the Award for any corresponding period (including any pre-Award interest or any other rate of return designed to account for the time value of money for the period between January 1, 2012 and the date of the Award or any portion thereof) and, to the extent that the compounding of interest is provided in the Award for any corresponding period, compounding after January 1, 2012 for the shortest of any intervals as are provided for in the Award for any corresponding period.

"*Supermajority Noteholders*" means, as of the relevant date of determination, Participating Noteholders owning at least two-thirds in aggregate principal amount of Notes held by all Participating Noteholders outstanding and entitled to vote on matters pursuant to this Agreement and the Indenture (and, following the Effective Date, such Notes being Modified Notes).

"*Supplemental Indenture*" means the supplemental indenture that will give effect to the Proposed Amendments.

"Transfer" means the making of any sale, transfer, participation, exchange, assignment, hypothecation, gift, security interest, pledge or other encumbrance, or any contract therefor, any voting trust or other agreement or arrangement, in each case, either directly or indirectly, with respect to the transfer of voting rights or any other direct or indirect beneficial interest in any of the Notes or any part thereof, the creation of any other claim thereto or any other transfer or disposition whatsoever, whether voluntary or involuntary, affecting the right, title, interest or possession in or to such Notes.

"*Triggering Event*" means the receipt by any Claimant Party of any Proceeds.

"*Tristan Standstill Period*" means the period beginning on the date hereof and ending on January 1, 2016 unless earlier terminated as provided herein.

"*Trustee*" means Wells Fargo Bank, N.A., until a successor replaces it in accordance with the applicable provisions of the Indenture and thereafter means the successor serving thereunder.

Section 2. Creation of Account.

(a) The Tristan Parties and the Participating Noteholders hereby irrevocably and unconditionally agree to appoint the Security Agent pursuant to the Security Agent Agreement and hereby irrevocably and unconditionally agree to authorize the Security Agent pursuant to the Security Agent Agreement to receive and deposit all Proceeds into the Account and to invest such Proceeds as provided in the Security Agent Agreement and to distribute all amounts in the Account from time to time as provided in this Agreement.

(b) The Tristan Parties hereby direct and authorize the Representative to enter into the Security Agent Agreement as soon as practicable following the date of execution of this

Agreement in the form set out at Exhibit F to this Agreement, subject to any changes that the Representative may agree with the Participating Noteholders or the Participating Noteholders Representative.

(c) The Participating Noteholders agree to appoint an institution to be their representative for the purposes of the Security Agent Agreement (the "Participating Noteholders Representative") and to direct and authorize the Participating Noteholders Representative to enter into the Security Agent Agreement as soon as practicable following the date of execution of this Agreement in the form set out at Exhibit F to this Agreement, subject to any changes that the Participating Noteholders Representative may agree with the Representative.

Section 3. Direction of Proceeds.

(a) Each Claimant Party hereby irrevocably and unconditionally agrees that (i) it shall promptly (and in any event within two Business Days) notify the Security Agent and the Participating Noteholders of the occurrence of any Triggering Event, (ii) if and when it receives any Proceeds, it shall promptly (and in any event within five Business Days) turn over such Proceeds as and when received directly to the Security Agent for deposit into the Account and (iii) if and to the extent it has the right or ability to direct any payment or transfer of funds in settlement, compromise or satisfaction (whether in whole or in part) of any Claim or in respect of any Award, each such Claimant Party shall take all actions reasonably necessary to direct the payment of such amounts into the Account and all such funds referred to in this clause (iii) shall be considered "Proceeds" for all purposes under this Agreement and the Indenture.

(b) Without limiting the foregoing, each Tristan Party hereby irrevocably and unconditionally agrees that to the extent that any of the Claimant Parties or any of their Affiliates receive any direct or indirect benefit from the Republic of Kazakhstan or any of its Affiliates, whether in cash or in-kind, in partial or total consideration for compromising, settling or failing to actively pursue any of the Claims or otherwise in satisfaction of such Claims, it shall notify the Participating Noteholders promptly (and in any event within two Business Days) upon receipt of any such consideration, account to them on a dollar-for-dollar basis (and with respect to non-cash consideration, on a cash equivalent basis) for any such benefit and deposit all such amounts in the Account.

(c) To the extent required by Section 3(e), including after giving effect to the time period limitations specified in such Section, each Participating Noteholder hereby severally as to itself only and not jointly agrees that following the termination of the Guarantors Standstill Period (other than a termination pursuant to Section 6(c)(i) or (ii)): (i) it shall promptly (and in any event within two Business Days) notify the Security Agent and the Claimant Parties of the receipt of any Asset Recovery Amounts; and (ii) if and when it receives any Asset Recovery Amounts, it shall promptly (and in any event within two Business Days) turn over such Asset Recovery Amounts as and when received directly to the Security Agent for deposit into the Account. In addition, each Participating Noteholder agrees that, following the Effective Date, it shall instruct the Trustee to comply with this Section 3(c) with respect to any Asset Recovery Amounts the Trustee receives on behalf of any such Participating Noteholder.

(d) The Parties acknowledge and agree that the Participating Noteholders are under no obligation to seek or to pursue, directly or through the Trustee, any Action against the Guarantors, including any Action relating to the foreclosure, attachment, sale or other disposition of the Assets, whether in connection with an enforcement of the Guarantors' guarantees of the Notes or otherwise.

(e) (I) If and to the extent an Award of at least US$10,000,000 has not been rendered prior to January 1, 2016, the obligations of the Participating Noteholders under Section 3(c) shall cease automatically and be of no further force and effect without any further action by or on behalf of the Parties hereto; (II) if and to the extent (A) an Award of at least US$10,000,000 has been rendered prior to January 1, 2016 and (B) the Participating Noteholders have acquired, directly or through the Trustee or one or more special purpose entities, any portion of the Assets following enforcement against, or foreclosure on, such Assets by or on behalf of the Participating Noteholders prior to January 1, 2017, the obligations of the Participating Noteholders under Section 3(c) shall remain in effect until January 1, 2020, at which time the obligations of the Participating Noteholders under Section 3(c) shall cease automatically and be of no further force and effect without any further action by or on behalf of the Parties hereto; and (III) if and to the extent (X) an Award of at least US$10,000,000 has been rendered prior to January 1, 2016 and (Y) the Participating Noteholders have not acquired, directly or through the Trustee or one or more special purpose entities, any portion of the Assets following enforcement against, or foreclosure on, such Assets by or on behalf of the Participating Noteholders prior to January 1, 2017, the obligations of the Participating Noteholders under Section 3(c) shall cease automatically and be of no further force and effect without any further action by or on behalf of the Parties hereto.

Section 4. Deposits and Distributions of Proceeds; Etc.

(a) Deposits of Proceeds; Payment Due Dates. Subject to Section 4(d), upon deposit of Proceeds or any other amounts into the Account, such Proceeds and other amounts shall not be released other than in accordance with Section 4(b), Section 4(c), Section 4(e), or pursuant to a joint written distribution instruction from the Claimant Parties (or the Representative) and the Participating Noteholders (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders as directed by the Requisite Noteholders) (a "Joint Instruction"). Each payment of Proceeds will be made on the tenth (10^{th}) Business Day following the determination of the amount of any such payment pursuant to Section 4(b) below to each Participating Noteholder reflected as such in the Registrar's records on each Sharing Record Date. Notwithstanding the foregoing, distributions payable hereunder to the Participating Noteholders or the Majority Noteholders in respect of Section 4(b)(ii), as applicable, shall be made by the Security Agent to the Participating Noteholders or the Majority Noteholders, as applicable. The payment obligations of the Claimant Parties shall be satisfied in full by their compliance with the provisions of Section 3 hereof, and any apportionment or distribution to the Participating Noteholders is not the responsibility of the Claimant Parties.

(b) Distributions of Proceeds: Order of Priority. Except as provided in Section 4(e), the Parties agree that the Proceeds from the Account shall be distributed by the Security Agent in the following order of priority:

(i) First, to the Claimant Parties to an account designated by the Representative in an amount equal to US$15,000,000 to cover the legal fees, expenses and other costs incurred by the Claimant Parties with respect to the Arbitration, this Agreement, the Consent Solicitation and the Bankruptcy Case (including any fees and expenses incurred in enforcing and/or collecting an Award);

(ii) Second, to the Majority Noteholders (or to their predecessors or designees who paid the fees, expenses and other costs referred to in this subsection (ii)) and the Trustee *pro rata* (based on their respective proportion of the aggregate legal fees, expenses and other costs incurred in relation to the drafting, negotiation and execution of the term sheets related to this Agreement, the documents related to the Consent Solicitation, the Bankruptcy Case and the implementation of the Restructuring) in an amount equal to US$3,000,000 in the aggregate; *provided that* such fees, expenses and other costs shall only be recoverable to the extent such fees and expenses have not been reimbursed by the Tristan Parties;

(iii) Third, 70% to the Participating Noteholders in accordance with their respective Pro Rata Percentages and 30% to the Claimant Parties until the Participating Noteholders have received aggregate distributions of Proceeds totaling their respective Pro Rata Percentages of the Outstanding Amount; and

(iv) Fourth, after the Participating Noteholders have received aggregate distributions totaling their respective Pro Rata Percentages of the Outstanding Amount pursuant to clause (iii) above, 100% to the Claimant Parties.

(c) Distribution Formula. For the avoidance of doubt, unless otherwise specified herein, all Proceeds distributable hereunder to the Participating Noteholders shall be distributed to the Participating Noteholders in accordance with their respective Pro Rata Percentages. Notwithstanding anything to the contrary contained herein, following the Effective Date distributions payable hereunder to the Participating Noteholders under Section 4(b)(iii) shall be made to the Trustee for further distribution to the Participating Noteholders in accordance with the terms of the Indenture.

(d) Distribution Holdback. Notwithstanding anything to the contrary contained in this Section 4, no distributions shall be made from the Account until the earliest to occur of (i) the date on which the Required Consents are received in the Consent Solicitation, (ii) the confirmation by the Bankruptcy Court of the Prepackaged Plan, or (iii) as contemplated by Section 4(e).

(e) Termination of Security Agent Agreement and Collateral Assignment. If this Agreement terminates pursuant to Section 17(b), then the Security Agent Agreement and the Security and Collateral Assignment Agreement shall terminate also and all Proceeds in the Account shall be distributed promptly by the Security Agent to the Claimant Parties.

Section 5. Assignment of Rights and Further Agreements Regarding the Arbitration, Award and Claims.

In furtherance of the purposes of this Agreement, the Claimant Parties hereby jointly and severally agree as follows:

(a) Collateral Assignment. Each of the Claimant Parties, jointly and severally, hereby grants in favor of the Participating Noteholders (and, following the appointment thereof, the Participating Noteholders Representative on behalf of the Participating Noteholders) and, following the Effective Date and the Trustee's agreement to assume the rights and obligations, if any, of the Participating Noteholders Representative, the Trustee, on behalf of the Participating Noteholders, a first-priority security interest in, and collateral assignment of, all of its right, title, and interest in and to the Proceeds, the Account and over any other monies or other assets received by any of the Claimant Parties or any of their respective Affiliates in settlement of or through the enforcement of an Award or otherwise paid into the Account, and any and all products and proceeds of the foregoing (collectively, the "Assigned Property"), to secure the payment and performance of all obligations of Tristan Parties under the Modified Notes, this Agreement and under the collateral assignment (collectively, the "Secured Obligations"). Concurrently with the execution of this Agreement, each Claimant Party has executed and delivered a security and collateral assignment agreement in the form attached hereto as Exhibit E to further memorialize such collateral assignment (the "Security and Collateral Assignment Agreement"). As promptly as practicable following the appointment of the Participating Noteholders Representative, the Parties shall take all actions necessary to file or cause to be filed one or more UCC-1 financing statements in all United States jurisdictions necessary to perfect the Participating Noteholders Representative's security interest in and to the Assigned Property, and the Claimant Parties hereby authorize all such filings and all other such filings necessary to perfect the security interest of the Participating Noteholders Representative or the Trustee, as applicable, therein. For the avoidance of doubt, the Participating Noteholders shall not and shall not cause the Trustee to assert any rights or remedies against the Assigned Property unless and until a Material Breach which has not been cured pursuant to the terms of this Agreement has occurred.

(b) Settlement Limitations. Each of the Claimant Parties, jointly and severally, agrees that it shall not without the prior written consent of the Requisite Noteholders (or the Trustee on behalf of the Participating Noteholders) in their sole discretion, enter into any settlement agreement, arrangement, understanding or other compromise with respect to the Arbitration or any Claims as a result of which any Participating Noteholder will receive an amount in cash that is less than the product of (x) such Participating Noteholder's Pro Rata Percentage multiplied by (y) the Outstanding Amount.

(c) Diligent Pursuit of Arbitration and Claims. Without prejudice to the Claimant Parties' other obligations under this Agreement, including under Sections 3(a) and 3(b), which shall continue notwithstanding expiration of the time limits provided in this Section 5(c), each of the Claimant Parties, jointly and severally, agrees, through the later of (i) the third anniversary of the date of an Award and (ii) January 1, 2020, to diligently fund and prosecute the Arbitration and the Claims, including using all commercially reasonable efforts to collect an Award, for the direct benefit of the Claimant Parties and for the indirect benefit of the Participating Noteholders and the Trustee and to keep the Participating Noteholders and the Trustee reasonably informed of any and all material developments with respect to the Arbitration and all Claims, including the issuance of any Awards and any monies received in respect of any such Awards. The Claimant Parties shall make themselves and their representatives reasonably available, directly or through their counsel, during normal business hours to respond to reasonable inquiries from the Participating Noteholders and the Trustee regarding the status of the Arbitration and all Claims, the collection and enforcement of any Awards and all other matters appurtenant thereto, and to discuss and agree to

(or reasonably disagree with) any proposed settlement or compromise of the Arbitration and any Claims. For the avoidance of doubt, no Claimant Party shall be in breach of this Section 5(c) solely on account of such Claimant Party's tactical decisions with respect to the Arbitration and the Claims so long as such Claimant Party made such tactical decision in good faith.

(d) No Assignment. Except as expressly provided by the terms of this Agreement, none of the Claimant Parties shall, directly or indirectly, in whole or in part, sell, assign, convey, transfer or otherwise dispose of any interest (including any security interest) in any Claim, any Award, the Account, the Proceeds or any of their rights, title and interest under this Agreement and none of the Claimant Parties shall grant to any Person (other than the Participating Noteholders) any right to receive or any rights of set-off against any amounts payable in respect of any Claim, Award or the Proceeds. Notwithstanding the foregoing, the Claimant Parties may assign their right to receive Proceeds pursuant to Sections 4(b)(iii) and 4(b)(iv) of this Agreement to any third party up to a maximum amount of 20% of the portion of the Proceeds which the Claimant Parties are entitled to receive under this Agreement; *provided* that (i) prior to such assignment the Participating Noteholders are given written notice of such proposed assignment, including the name and address of the proposed assignee, and (ii) no such assignment may impair in any respect the rights and privileges of the Participating Noteholders under this Agreement, the Modified Notes or the Indenture. Any assignment made by the Claimant Parties in accordance with this subsection (d) shall be in the form of a right of participation, shall not in any way abrogate the obligations of the Claimant Parties hereunder and the Claimant Parties shall remain parties to this Agreement. For the avoidance of doubt, no assignee of any Claimant Party shall become a party to this Agreement on account of any such assignment.

Section 6. Standstill by Participating Noteholders.

(a) Standstill Periods.

(i) During the Tristan Standstill Period, the Participating Noteholders agree to forbear (and to instruct the Trustee to forbear by voting the Notes held by such Participating Noteholders in such manner) from exercising any and all default-related remedies to the extent provided under the Indenture or otherwise under any related documents (other than this Agreement) or under applicable law or at equity against the Tristan Parties or any family member of A. Stati or G. Stati with respect to the Defaults or Events of Default under the Indenture existing on or prior to the Effective Date, or arising after the Effective Date solely related to a Guarantors Default; and

(ii) During the Guarantor Standstill Period, the Participating Noteholders agree to forbear (and to instruct the Trustee to forbear by voting the Notes held by such Participating Noteholders in such manner) from asserting any claims against the Guarantors and/or the Republic of Kazakhstan or any of its Affiliates, arising out of or connected to the Notes (including the Modified Notes) or the Indenture.

(b) In the event either the Tristan Standstill Period or the Guarantor Standstill Period, as applicable, ends, the obligations of the Participating Noteholders under this Section to forbear shall terminate and the Participating Noteholders shall be entitled to exercise immediately all of their

remedies under the Indenture, the Notes (including the Modified Notes), this Agreement or otherwise under any related documents or under applicable law or at equity.

(c) Termination of Standstill Periods.

(i) Each of the Tristan Standstill Period and the Guarantor Standstill Period shall terminate if: (x) any of the Tristan Parties commits a Material Breach of this Agreement, (y) any New Default occurs, or (z) the Claimant Parties Release Event occurs, then, in the case of each of the events specified in clauses (x), (y) and (z), the Tristan Standstill Period and the Guarantors Standstill Period shall end either (A), in the case of a Material Breach, immediately following any Cure Period in respect of such Material Breach if such Material Breach has not been cured within that period; or (B), in the case of any New Default (other than, with respect to the Tristan Standstill Period, a Guarantors Default), immediately following any New Default Cure Period if such New Default has not been cured within that period; or (C), in the case of a Claimant Parties Release Event, immediately following the Claimant Parties Release Event; *provided that* the Tristan Standstill Period shall not terminate solely because of the occurrence of the Guarantors Default.

(ii) Without limiting the foregoing, if and to the extent the Arbitration concludes and no Award has been rendered in favor of the Claimant Parties or an Award or Awards for a sum in aggregate less than US$10,000,000 have been rendered in favor of the Claimant Parties, then the Tristan Standstill Period and the Guarantor Standstill Period shall each automatically terminate upon the issuance of an Award or the conclusion of the Arbitration.

(iii) If and to the extent any third party creditor of any Guarantor (other than the Republic of Kazakhstan) seeks to enforce any remedies against any Guarantor, including by way of involuntary bankruptcy proceeding, or seeks to foreclose on or otherwise assert a claim against the assets of any Guarantor, then the Claimant Parties may terminate the Guarantor Standstill Period in their sole discretion by providing notice of such termination to the Participating Noteholders.

Section 7. Effect of Compliance By Claimant Parties and Minimum Payment.

(a) Compliance By Claimant Parties and Minimum Payment: Repurchase Right and Release. If (i) there is no Material Breach of the Claimant Parties' obligations under this Agreement that is not cured by the Claimant Parties within the applicable Cure Period, (ii) there is no New Default (other than for a Guarantors Default) that is not cured by the Claimant Parties within the applicable New Default Cure Period, (iii) all enforcement and other remedies reasonably available in respect of the Award and the Claims have been exhausted, (iv) all distributions due under Section 4(b)(iii) of this Agreement have been made to the Participating Noteholders (or, after the Effective Date, to the Trustee for further distribution to the Participating Noteholders) and, as a result thereof, the Participating Noteholders (exclusive of amounts received pursuant to Section 4(b)(ii)) have received prior to January 1, 2016 (the "Minimum Payment Date") no less than their Pro Rata Percentage of US$449,850,170 plus interest at a rate of 10.5% per annum accruing from January 1, 2013 to the date of final payment (the "Minimum Payment"), (v) the Claimant Parties

have delivered to the Participating Noteholders (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders) a written certification signed by the Representative as to the fulfillment of the conditions set forth in clauses (i) through (v), inclusive (the "Compliance Notice") and (vi) within fifteen (15) Business Days after receipt of the Compliance Notice, the Participating Noteholders do not dispute the Compliance Notice (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders does not dispute the Compliance Notice), then:

(A) Tristan may, at its option, elect to redeem (by following the provisions of Article 3 of the Indenture *mutatis mutandis*) all of the Modified Notes held by the Participating Noteholders for an aggregate purchase price of US$1.00; and

(B) if Tristan effects the redemption set forth in clause (A) above, the release of the Tristan Parties of liability to the Participating Noteholders set forth in Section 7(a) of the Sharing Global Note shall become operative in accordance with its terms.

For the avoidance of doubt, in the event the Participating Noteholders (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders) dispute a Compliance Notice, such dispute shall be resolved by the Parties in accordance with Section 18(k); *provided* that to the extent Claimant Parties are successful in any such dispute, the Claimant Parties shall be entitled to effect the redemption set forth in clause (A) above in accordance with its terms.

(b) Failure to Comply by Claimant Parties. If, prior to the termination of this Agreement, the Claimant Parties have received from the Participating Noteholders (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders) written notice of the Claimant Parties' Material Breach of their obligations under this Agreement that has not been cured within the applicable Cure Period, the Participating Noteholders (in addition to all other rights and remedies available to them under this Agreement or otherwise) shall be entitled to enforce fully the terms of the Notes and the Indenture either directly or, after the Effective Date, through the Trustee, but shall give pro rata credit for any payments actually received in respect of the Outstanding Amount under this Agreement.

(c) Compliance by Claimant Parties and No Minimum Payment. If (i) there is no Material Breach of the Claimant Parties' obligations under this Agreement that is not cured by the Claimant Parties within the applicable Cure Period (ii) there is no New Default (other than a Guarantors Default) and (iii) the Participating Noteholders do not receive the Minimum Payment on or before the Minimum Payment Date and the Representative has delivered to the Participating Noteholders a Compliance Notice certifying the fulfillment of the conditions set forth in clauses (i), (ii) and (iii) and within ten (10) Business Days of receipt of the Compliance Notice, Participating Noteholders do not dispute the Compliance Notice (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders does not dispute the Compliance Notice), then (the foregoing, the "Claimant Parties Release Event"):

(A) the release of the Tristan Parties of liability to the Participating Noteholders set forth in Section 7(b) of the Sharing Global Note shall become operative in accordance with its terms, and, for the avoidance of doubt, the Participating Noteholders will covenant not to sue the Tristan Parties or any of their respective Affiliates (including A. Stati, G. Stati or any of their family members) except as set forth in the succeeding clause (B);

(B) notwithstanding anything to the contrary contained herein, the Participating Noteholders either directly or, after the Effective Date, directly or through the Trustee, shall be entitled to enforce the terms of, and exercise all remedies available to them under, the Indenture, the Notes (including the Modified Notes), the Note Guarantees, the Pledge Agreements, the related security documents, the Security and Collateral Assignment Agreement, the Collateral and the Secured Obligations against Tristan, any Guarantor and all other obligors under any of the foregoing, including Terra Raf (but specifically excluding A. Stati, G. Stati and any of their family members, except to the extent of their respective obligations under this Agreement to collect, account for and deposit into the Account Proceeds from an Award) but shall give pro rata credit for any payments actually received in respect of the Outstanding Amount under this Agreement, and any such claims shall be non-recourse against any amounts received by the Tristan Parties under this Agreement.

For the avoidance of doubt in the event the Participating Noteholders (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders) dispute a Compliance Notice, such dispute shall be resolved by the Parties in accordance with Section 18(k).

Section 8. Consent Solicitation.

(a) Commencement; Review.

(i) No later than 30 days after the date of this Agreement Tristan shall commence the Consent Solicitation. No later than five (5) Business Days prior to the commencement of the Consent Solicitation, Tristan shall provide copies of all documents related to the Consent Solicitation (the "Offering Materials"), to the Participating Noteholders and the Trustee for their review and comment, and the Tristan Parties shall make all changes reasonably requested by the Participating Noteholders and the Trustee; *provided* that the Tristan Parties shall be responsible for all statements made in, or omitted from, the Offering Materials, and the Participating Noteholders and their counsel shall have no liability therefor.

(ii) The Tristan Parties shall conduct the Consent Solicitation in compliance with all applicable non-U.S. laws and the U.S. federal securities laws, including, the Securities Act of 1933, as amended (the "Securities Act"), the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Trust Indenture Act of 1939, as amended (the "TIA"), and, in each case, the rules and regulations promulgated thereunder.

(b) Future Reports. The Tristan Parties shall advise the Participating Noteholders, promptly after they receive notice thereof, of the time when any supplement or amendment to the Offering Materials has been made (or is required to be made) or when any supplement to the Offering Materials or any amended Offering Materials has been prepared (or is required to be prepared) and furnish to the Participating Noteholders, at its expense, copies thereof.

(c) Daily Updates. The Tristan Parties will arrange for the information agent or the registrar engaged in connection with the Consent Solicitation to inform the Participating Noteholders or their designated counsel during every other Business Day during the Consent

Solicitation as to the number of Consents received pursuant to the Consent Solicitation during the interval since its previous daily report to the Participating Noteholders under this provision.

(d) Prompt Execution of the Supplemental Indenture. The Tristan Parties shall accept Consents as they are provided in the Consent Solicitation and shall execute the Supplemental Indenture as soon as practicable after the Consent Deadline; provided, however, that the Proposed Amendments shall not become operative unless and until each condition to the Consent Solicitation described in the Offering Materials is satisfied or waived by the Tristan Parties.

(e) Book-Entry Transfer. The Tristan Parties have made or will make appropriate arrangements with The Depository Trust and Clearing Corporation, Clearstream Banking, S.A, Euroclear Bank, S.A./N.V. (as operator of the Euroclear system) and any other "qualified" registered securities depository (collectively, the "Clearing Systems") to allow for the book-entry transfer of all Notes, including Notes held by the Participating Noteholders. For so long as any Notes are outstanding, the Tristan Parties shall comply in all respects with all procedures, policies, rules and regulations of the Clearing Systems as may be necessary to allow the "book-entry" transfer of all such Notes through the Clearing Systems.

(f) Further Actions Related to the Consent Solicitation. The Tristan Parties shall (and shall cause the Tristan Parties' officers, directors, advisors and other representatives to) deliver or cause to be delivered to third parties (including the Trustee) all certificates (of officers of the Tristan Parties or otherwise), legal opinions, certified formation documents, evidence of good standing, incumbency documents, authorizing resolutions and all such other customary instruments and documents as may be necessary to commence and consummate the Consent Solicitation in accordance with its terms, to enter into the Supplemental Indenture in accordance with its terms and the terms of the Indenture, to authenticate the Sharing Global Note in accordance with the terms of the Indenture and all such other actions appurtenant thereto.

(g) Legal Opinions. On the date of this Agreement, the Tristan Parties shall cause to be delivered to the Majority Noteholders a legal opinion in the form attached hereto as Exhibit B-3 from King & Spalding LLP or such other law firm reasonably acceptable to the Majority Noteholders. On the commencement date of the Consent Solicitation the Tristan Parties shall cause to be delivered to the Participating Noteholders a legal opinion in the form attached hereto as Exhibit B-1 from King & Spalding LLP or such other law firm reasonably acceptable to the Participating Noteholders. On the date on which the Tristan Parties accept all Consents validly delivered in the Consent Solicitation the Tristan Parties shall cause to be delivered to the Participating Noteholders a legal opinion in the form attached hereto as Exhibit B-2 from King & Spalding LLP or such other law firm reasonably acceptable to the Participating Noteholders.

(h) Extension of the Consent Deadline. The Tristan Parties agree to extend the Offer Period set forth on Exhibit A hereto (the "Consent Deadline") by a period of up to 20 days if instructed to do so by the Participating Noteholders.

(i) Securities Law Compliance. In connection with the Consent Solicitation, Tristan shall (a) not engage in any directed selling efforts within the meaning of Regulation S (b) comply with the offering restrictions requirement of Regulation S and (c) not solicit any offer to buy or offer to sell the Modified Notes by means of any form of general solicitation or general advertising

(including, without limitation, as such terms are used in Regulation D under the Securities Act) or in any manner involving a public offering within the meaning of Section 4(2) of the Securities Act.

Section 9. Company Support.

(a) Tristan believes after due deliberation and considering its alternatives that the consummation of the transactions set forth in this Agreement is in its best interests and in the best interests of its creditors, equity holders and other parties in interest. Accordingly, Tristan hereby agrees to use commercially reasonable efforts to take, or to cause to be taken, all actions, and to do, or cause to be done, all things, necessary, proper or advisable under applicable laws and regulations to consummate the Restructuring in order to give effect to the relief sought in the Consent Solicitation, the Proceeds sharing arrangements described herein and to otherwise implement the transactions set forth in this Agreement. Without limiting the foregoing:

(i) Each of the Tristan Parties, to the extent applicable, undertakes and commits, in each case consistent with the terms and conditions of this Agreement, with respect to the Out-of-Court Transaction:

(A) not to take any action inconsistent with this Agreement or the Restructuring being given effect through the Out-of-Court Transaction;

(B) not, nor encourage any other person or entity to, interfere with, delay, impede, appeal or take any other negative action, directly or indirectly, in any respect regarding the Restructuring being given effect through the Out-of-Court Transaction;

(C) to use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things, necessary, proper or advisable under applicable laws and regulations to consummate and make effective the Restructuring being given effect through the Out-of-Court Transaction;

(D) to file, execute and/or deliver, as the case may be, as promptly as practicable, such documents as may be reasonably required to carry into effect the purposes and intent of this Agreement;

(ii) Tristan undertakes and commits, in each case consistent with the terms and conditions of this Agreement, with respect to the Bankruptcy Case:

(A) following a Failed Consent Solicitation, to use commercially reasonable efforts to prepare or cause the preparation of the Prepackaged Plan, Disclosure Statement, and all other Prepackaged Plan-related documents and pleadings (collectively, and including any exhibits and proposed orders, the "Plan Pleadings") and cause the filing and seek the approval of the Plan Pleadings;

(B) commencing on the Bankruptcy Solicitation Commencement Date, to solicit the requisite votes (the "Bankruptcy Solicitation Process") in favor of the Prepackaged Plan consistent in all material respects with applicable law, including distributing the Disclosure Statement;

(C) as soon as practicable after obtaining the requisite number of votes in favor of the Prepackaged Plan in accordance with applicable law, but no later than five (5) Business Days after the deadline for casting ballots on the Prepackaged Plan as set forth in the Disclosure Statement (the "Petition Date"), to file the Bankruptcy Case and take all reasonably necessary or appropriate actions, and use reasonable efforts to support and obtain at the earliest practicable date, which, in any event, shall be no later than sixty (60) days after the Petition Date, Bankruptcy Court approval of the Disclosure Statement and the Bankruptcy Solicitation Process and confirmation of the Prepackaged Plan;

(D) to take all reasonably necessary or appropriate actions, and use commercially reasonable efforts to obtain any and all required regulatory and/or third-party approvals for the Restructuring being given effect through the Bankruptcy Case;

(E) take all reasonably necessary or appropriate actions, and use commercially reasonable efforts to achieve the consummation of the Prepackaged Plan by no later than ninety (90) days after the Petition Date (the "Outside Date");

(F) not to take any action not otherwise required by law that is inconsistent with this Agreement;

(G) not to take any actions (either by affirmative action or omission), nor cause or encourage any other person or entity to take any actions (either by affirmative action or omission) (I) inconsistent with this Agreement or (II) that would interfere with, delay, or impede the confirmation or consummation of the Prepackaged Plan or the Restructuring being given effect through the Bankruptcy Case;

(H) to use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things, necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement;

(iii) Each of the Tristan Parties, to the extent applicable, undertakes and commits, in each case consistent with the terms and conditions of this Agreement, to use commercially reasonable efforts to file, execute and/or deliver, as the case may be, as promptly as practicable, such documents as may be required to carry into effect the purposes and intent of this Agreement;

(b) In the event the Bankruptcy Case is pursued, the Claimant Parties shall loan or otherwise advance to Tristan all funds necessary to pay the bankruptcy estate's professionals and any other allowed administrative claims and otherwise finance the Bankruptcy Case.

Section 10. Participating Noteholders' Support.

(a) Each Participating Noteholder believes that a Restructuring that will give effect to the relief sought in the Consent Solicitation, including the Proceeds sharing arrangements described herein, is in its best interests. Accordingly, each Participating Noteholder, on a several and not joint basis, supports the consummation of the Restructuring that will give effect to the relief

sought in the Consent Solicitation, including the Proceeds sharing arrangements described herein, and commits to, on a several and not joint basis, and in each case consistent with the terms and provisions of this Agreement:

(i) With respect to the Out-of-Court Transaction:

(A) provide its Consent in the Consent Solicitation prior to the end of the Consent Deadline;

(B) not take any action inconsistent with this Agreement and the terms and conditions set forth herein or the Restructuring being given effect through the Out-of-Court Transaction;

(C) not, nor encourage any other person or entity, to interfere with, delay, impede, appeal or take any other negative action, directly or indirectly, in any respect regarding the Restructuring being given effect through the Out-of-Court Transaction;

(D) otherwise use commercially reasonable efforts to take all actions, and to do all things, necessary, proper or advisable under applicable laws and regulations to consummate and make effective the Restructuring contemplated by the Out-of-Court Transaction prior to the expiration of the Consent Solicitation, in all cases, to the extent capable of being undertaken by a Participating Noteholder within the context of the Restructuring, but excluding any obligation to solicit Consents from any Noteholder or to otherwise seek to induce any Noteholder to become bound by this Agreement; and

(E) use commercially reasonable efforts to file, execute and/or deliver, as the case may be, as promptly as practicable, such documents as may be required to carry into effect the purposes and intent of this Agreement.

(ii) With respect to the Bankruptcy Case:

(A) following receipt of the Disclosure Statement, timely and properly vote (or cause the voting of) its claims in Tristan in favor of the Prepackaged Plan and use commercially reasonable efforts to support and facilitate the filing, confirmation and consummation of the Restructuring being given effect through the Bankruptcy Case consistent with the dates set forth in Section 9(a)(ii), and not withdraw, change or revoke its vote (or cause its vote to be withdrawn, changed or revoked with respect to the Prepackaged Plan);

(B) not pursue, propose, support, vote to accept or direct any vote to accept or encourage the pursuit, proposal or support of, any chapter 11 plan, or other restructuring or reorganization for Tristan, or any Tristan Affiliate, directly or indirectly in any jurisdiction, that is not consistent with this Agreement and the terms and conditions set forth herein;

(C) not take any actions (either by affirmative action or omission), nor cause or encourage any other person or entity to take any actions (either by affirmative action or omission) (I) inconsistent with this Agreement or (II) that would interfere with, delay, or

impede the confirmation or consummation of the Prepackaged Plan or the Restructuring being given effect through the Bankruptcy Case;

(D) not commence any proceeding, or prosecute any objection or file any pleading with the Bankruptcy Court, the effect of which is to oppose or object to the Restructuring being given effect through the Bankruptcy Case, and not to take any action not otherwise required by law that would delay approval, confirmation or consummation, as applicable, of the Prepackaged Plan;

(E) use commercially reasonable efforts to file, execute and/or deliver, as the case may be, as promptly as practicable, such documents as may be required to carry into effect the purposes and intent of this Agreement; and

(F) with respect to and to the extent it is the legal or beneficial holder of, or holder of investment authority over, any claims in Tristan arising from Notes, to support the Restructuring being given effect through the Bankruptcy Case as set forth in this Agreement.

Section 11. Acknowledgement. **THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS NOT AND SHALL NOT BE DEEMED TO BE A SOLICITATION FOR CONSENT TO (OR ACCEPTANCE OF) THE PREPACKAGED PLAN OR ANY DOCUMENTS RELATING THERETO. THE ACCEPTANCE OF THE PARTICIPATING NOTEHOLDERS WILL NOT BE SOLICITED UNTIL THE PARTICIPATING NOTEHOLDERS HAVE RECEIVED THE EXECUTED VERSION OF THE DISCLOSURE STATEMENT AND THE RELATED BALLOTS.**

Section 12. Out-of-Court Transaction. Notwithstanding anything contained herein to the contrary, the Parties hereto acknowledge and agree that the Bankruptcy Case shall not be filed or otherwise pursued unless and to the extent there is a Failed Consent Solicitation.

Section 13. Representations and Warranties of the Claimant Parties and Tristan.

The Claimant Parties jointly and severally represent and warrant to the Participating Noteholders as follows:

(a) Authorization. The execution, delivery and performance by each Claimant Party of this Agreement and the consummation of the transactions contemplated hereby by each Claimant Party are, if such Claimant Party is not a natural person, within the corporate or other applicable entity powers of each Claimant Party and have been duly authorized by all necessary corporate or other entity action on the part of each Claimant Party. This Agreement constitutes a valid and binding agreement of each Claimant Party enforceable against each Claimant Party in accordance with its terms, except to the extent such enforceability may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting or relating to creditors' rights generally, and subject to general principles of equity.

(b) Governmental Authorization. The execution, delivery and performance by each Claimant Party of this Agreement and the consummation of the transactions contemplated hereby require no action by or in respect of, or filing with, any Governmental or Judicial Authority other

than compliance with applicable requirements, if any, of U.S. federal securities laws or any other applicable securities laws and/or the Bankruptcy Code. Notwithstanding anything in this Agreement to the contrary, none of the Claimant Parties gives any representation, warranty or covenant in this Agreement or otherwise with respect to the laws of the Republic of Kazakhstan, including with respect to their application, contravention or enforcement.

(c) Non-Contravention. Except as contemplated by this Agreement, the execution, delivery and performance by each Claimant Party of this Agreement and the consummation of the transactions contemplated hereby do not and will not require any consent or other action by any Person under, constitute a default under (or an event which might, with the passage of time or the giving of notice, or both, constitute a default), or give rise to any right of termination, cancellation or acceleration of any right or obligation of each Claimant Party under any provision of any agreement or other instrument binding upon each Claimant Party, or result in the creation or imposition of any lien on any assets of any Claimant Party.

(d) No Competing Claims. Except as expressly provided by this Agreement, none of the Claimant Parties has directly or indirectly in whole or in part sold, assigned, conveyed, transferred or otherwise disposed of any interest in the Arbitration, any Claim or any Award. No Person other than the Participating Noteholders and the Claimant Parties has any right to receive or any rights of set-off against any amounts payable in respect of any Claim, Award or the Proceeds.

(e) No Partnership or Joint Venture Created. The Claimant Parties acknowledge and agree that nothing in this Agreement shall be construed or interpreted to make the Participating Noteholders and the Claimant Parties partners or joint venturers, or to make one an agent or representative of the other, or to afford any rights to any third party. None of the Participating Noteholders and the Tristan Parties is authorized to bind the other to any contract, agreement or understanding.

Tristan represents, warrants and covenants to the Participating Noteholders as follows:

(f) Authorization. The execution, delivery and performance by Tristan of this Agreement and the consummation of the transactions contemplated hereby by Tristan is, within the corporate or other applicable entity powers of Tristan and has been duly authorized by all necessary corporate or other entity action on the part of Tristan. This Agreement constitutes a valid and binding agreement of Tristan enforceable against Tristan in accordance with its terms, except to the extent such enforceability may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting or relating to creditors' rights generally, and subject to general principles of equity.

(g) Governmental Authorization. The execution, delivery and performance by Tristan of this Agreement and the consummation of the transactions contemplated hereby require no action by or in respect of, or filing with, any Governmental or Judicial Authority other than compliance with applicable requirements, if any, of U.S. federal securities laws or any other applicable securities laws and/or the Bankruptcy Code. Notwithstanding anything in this Agreement to the contrary, Tristan gives no representation, warranty or covenant in this Agreement or otherwise with respect to the laws of the Republic of Kazakhstan, including with respect to their application, contravention or enforcement.

(h) Non-Contravention. Except as expressly provided by this Agreement, the execution, delivery and performance by Tristan of this Agreement and the consummation of the transactions contemplated hereby do not and will not require any consent or other action by any Person under, constitute a default under (or an event which might, with the passage of time or the giving of notice, or both, constitute a default), or give rise to any right of termination, cancellation or acceleration of any right or obligation of Tristan under any provision of any agreement or other instrument binding upon Tristan, or result in the creation or imposition of any lien on any assets of any Claimant Party.

(i) No Partnership or Joint Venture Created. Tristan acknowledges and agrees that nothing in this Agreement shall be construed or interpreted to make the Participating Noteholders and the Tristan Parties partners or joint venturers, or to make one an agent or representative of the other, or to afford any rights to any third party. None of the Participating Noteholders and the Tristan Parties is authorized to bind the other to any contract, agreement or understanding.

(j) Modified Notes. The Modified Notes will constitute valid and binding obligations of Tristan, entitled to the benefits of the Indenture, as supplemented by the Supplemental Indenture, and enforceable against Tristan in accordance with their terms, except that such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws now or hereafter in effect relating to creditor's rights generally, general principles of equity (regardless of whether considered in a proceeding in equity or at law) and concepts of good faith and fair dealing. No registration under the Securities Act of the Notes (including the Modified Notes) is required in connection with the consummation of the transactions contemplated by the Consent Solicitation and the Proposed Amendments.

(k) Notices; Breaches. The Tristan Parties shall promptly (and in any event within two Business Days) provide written notice to the Participating Noteholders (or, following the Effective Date, the Trustee on behalf of the Participating Noteholders), of any breach of this Agreement by any Tristan Party, together with a reasonably detailed description of the nature of the breach, the facts and circumstances giving rise to the breach and a reasonably detailed description of all actions the Tristan Parties have taken or propose to take to cure such breach (a "Breach Notice"). The Tristan Parties shall keep the Participating Noteholders fully informed of the status of the breach specified in the Breach Notice, and to the extent within the Cure Period Tristan has not delivered a second notice to the Participating Noteholders (or, following the Effective Date, the Trustee on behalf of the Participating Noteholders) certifying that such breach has been cured together with all supporting documentation evidencing such cure, the Participating Noteholders shall be entitled to assume that the breach specified in the Breach Notice remains uncured. For the avoidance of doubt, the Participating Noteholders will be entitled to assert that any breach remains uncured notwithstanding any notice from the Tristan Parties indicating that it has been cured and any dispute arising in relation to such matters will be subject to the dispute resolution mechanism in Section 18(k) herein. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall limit the ability of the Participating Noteholders to seek injunctive relief against the Tristan Parties prior to or during any Cure Period in the event any Tristan Party breaches this Agreement.

Section 14. Representations, Warranties and Certain Covenants of the Majority Noteholders.

Each of the Majority Noteholders, severally as to itself only and not jointly with any other Party, represents and warrants to the Tristan Parties as follows:

(a) Authorization. The execution, delivery and performance by such Majority Noteholder of this Agreement and the consummation of the transactions contemplated hereby by such Majority Noteholder are within the corporate or other applicable entity powers of such Majority Noteholder and have been duly authorized by all necessary corporate or other entity action on the part of such Majority Noteholder. This Agreement constitutes a valid and binding agreement of such Majority Noteholder enforceable against such Majority Noteholder in accordance with its terms, except to the extent such enforceability may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting or relating to creditors' rights generally, and subject to general principles of equity.

(b) Governmental Authorization. The execution, delivery and performance by such Majority Noteholder of this Agreement and the consummation of the transactions contemplated hereby require no action by or in respect of, or filing with, any Governmental or Judicial Authority other than compliance with applicable requirements, if any, of U.S. federal securities laws or any other applicable securities laws. Notwithstanding anything in this Agreement to the contrary, no Majority Noteholder gives any representation, warranty or covenant in this Agreement or otherwise with respect to the laws of the Republic of Kazakhstan, including with respect to their application, contravention or enforcement.

(c) Non-Contravention. The execution, delivery and performance by such Majority Noteholder of this Agreement and the consummation of the transactions contemplated hereby do not and will not require any consent or other action by any Person under, constitute a default under (or an event which might, with the passage of time or the giving of notice, or both, constitute a default), or give rise to any right of termination, cancellation or acceleration of any right or obligation of such Majority Noteholder under any provision of any agreement or other instrument binding upon such Majority Noteholder, or result in the creation or imposition of any lien on any asset of such Majority Noteholder.

(d) Limitations on Transfer. Each Participating Noteholder hereby agrees not to Transfer, directly or indirectly, its right, title or interest in respect of its Notes, in whole or in part, or any interest therein (collectively, the "Relevant Claims") unless the recipient of such Relevant Claim (a "Transferee") is a Party hereto or agrees in writing (such writing, a "Transferee Acknowledgment"), prior to and as a condition of such Transfer, to be bound by this Agreement in its entirety without revisions by executing the Transferee Acknowledgement attached hereto as Exhibit C. Upon the execution of the Transferee Acknowledgment and following the Transfer, the Transferee shall be a Participating Noteholder. Any Transfer that does not comply with this paragraph shall be void *ab initio* and the original Participating Noteholder shall remain a Participating Noteholder and shall remain bound by this Agreement in all respects. In the event of a Transfer, the transferor shall, within three (3) Business Days after the proposed effective date of such transfer, provide written notice of such transfer to Tristan, together with a copy of the Transferee Acknowledgment. Except as provided in this Section 14(d), nothing in this Agreement shall limit the right of any Participating Noteholder to Transfer its Notes in whole or in part. The

restrictions on Transfer set forth in this Section 14(d) shall automatically terminate and be of no further force and effect on the Effective Date.

(e) Further Acquisition of Notes. This Agreement shall in no way be construed to preclude any Participating Noteholder from acquiring additional Notes.

(f) Ownership Representations. Each Participating Noteholder shall provide true, complete and accurate accountings of its ownership interest in the Notes at the time it becomes party to this Agreement and as may be requested from time to time by Dechert LLP in furtherance of the provisions of Section 20 hereof. The obligation set forth in this Section 14(f) shall automatically terminate and be of no further force and effect on the Effective Date.

(g) No Further Diligence. This Agreement and the terms and conditions set forth in the documents necessary to consummate the Restructuring are not subject to or conditioned upon other or further diligence to be performed by it or its representatives.

Section 15. Public Disclosure. Upon the earlier to occur of (i) the commencement date of the Consent Solicitation and (ii) one (1) Business Day after notice from the Participating Noteholders to Tristan directing it to issue a press release, Tristan shall issue a press release through Business Wire substantially in the form of Exhibit D to this Agreement. Thereafter, promptly upon request of the Participating Noteholders, Tristan shall make such public disclosures as are necessary to ensure that the Participating Noteholders do not possess "material nonpublic information" within the meaning of the Federal securities laws of the United States as a result of information related to the transactions contemplated hereby (the "Cleansing Disclosure"). To the extent Tristan fails to promptly comply with its obligations under this Section 15, the Participating Noteholders may, notwithstanding any confidentiality agreements or obligations by which the Participating Noteholders or any of them may be bound, make any Cleansing Disclosure as they deem necessary.

Section 16. Indemnification.

(a) Indemnification of the Participating Noteholders. The Tristan Parties jointly and severally, hereby agree to indemnify, defend and hold harmless each of the (x) Participating Noteholders, the Trustee and each of their respective owners and Affiliates, (y) the respective directors, officers, employees, partners (whether general or limited), owners, members, managers, employees, attorneys, agents and other representatives of the Persons referred to in clause (x) and (z) the respective successors, heirs, personal representatives and assigns of the Persons referred to in clauses (x) and (y) (collectively, the "Indemnified Parties" and each individually a "Indemnified Party") from and against any and all claims, demands, suits, actions, causes of action, losses, liabilities, costs (including settlement costs), damages and expenses, including reasonable attorneys' fees, other professionals' and experts' fees, and court or arbitration costs and all other losses (collectively, "Damages") directly or indirectly incurred, asserted against, paid or accrued in connection with, resulting from or arising out of:

(i) the breach of any representation or warranty of any Tristan Party contained in this Agreement; and

(ii) the breach of any covenant or agreement of any Tristan Party contained in this Agreement.

(b) Notification and Other Indemnification Procedures. As promptly as reasonably practicable after receipt by an Indemnified Party of notice of the commencement of any action for which such Indemnified Party is entitled to indemnification under this Section, such Indemnified Party will, if a claim in respect thereof is to be made against the Tristan Parties under this Section, notify the Tristan Parties of the commencement thereof in writing; but the omission to so notify the Tristan Parties (i) will not relieve the Tristan Parties from any liability under Section 16(a) above unless and only to the extent they are materially prejudiced as a proximate result thereof and (ii) will not, in any event, relieve the Tristan Parties from any obligations to any Indemnified Party other than the indemnification obligation provided in Section 16(a) above.

(c) Settlements. The Tristan Parties shall not be liable under this Section for any settlement of any claim or action (or threatened claim or action) effected without their written consent, which shall not be unreasonably withheld, but if a claim or action settled with their written consent, or if there be a final judgment for the plaintiff with respect to any such claim or action, each Tristan Party jointly and severally agrees, subject to the exceptions and limitations set forth above, to indemnify and hold harmless each Indemnified Party from and against any and all Damages (and legal and other expenses as set forth above) incurred by reason of such settlement or judgment. No Tristan Party shall, without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld), effect any settlement or compromise of any proceeding in respect of which the Indemnified Party is or could have been a party, or indemnity could have been sought hereunder by the Indemnified Party. Notwithstanding the foregoing, if at any time an Indemnified Party shall have requested a Tristan Party to reimburse the Indemnified Party for legal or other expenses as contemplated by this Section, the applicable Tristan Party agrees that it shall be liable for any settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by such Tristan Party of the aforesaid request and (ii) such Tristan Party shall not have reimbursed the Indemnified Party in accordance with such request prior to the date of such settlement or compromise of, or consent to the entry of such judgment

(d) Liability Limits. The total aggregate amount of liability of the Tristan Parties pursuant to this Section 16 shall be limited to the aggregate principal amount of the Notes held by the Participating Noteholders (after the Effective Date such notes being Modified Notes) outstanding at the time a claim for indemnification is made in accordance with this Section 16. In addition, the aggregate amount of liability of the Tristan Parties to any particular Participating Noteholder and the Affiliates thereof, shall be limited to the aggregate principal amount of the Notes held by the applicable Participating Noteholder at the time the events took place giving rise to the relevant claim for indemnification made in accordance with this Section 16.

(e) No Consequential Damages. Notwithstanding the foregoing, in no event shall any Indemnifying Party be liable to any Indemnified Party for indirect, special, or consequential damages (including loss of profits) pursuant to this Section 16, even if advised of the possibility thereof. Any Damages determined by reference to the difference between the price paid by an

Indemnified Party for the Notes held by such Indemnified Party and the value of the Notes held by such Indemnified Party shall not be considered lost profits for purposes of this Section 16(e).

(f) Exclusive Remedy. For the avoidance of doubt, this Section 16 shall constitute the sole and exclusive remedy for monetary damages in respect of any breach of or default under this Agreement by any Indemnified Party and each Indemnified Party hereby waives and releases any and all statutory, equitable, or common law remedy for monetary damages any Indemnified Party may have in respect of any breach of or default under this Agreement. For the avoidance of doubt, nothing in this Section 16(f) shall prohibit or preclude the Participating Noteholders from seeking specific performance of this Agreement in accordance with its terms.

Section 17. Termination of Agreement.

(a) Unless terminated earlier pursuant to Section 17(b), this Agreement shall terminate upon the final distribution of all funds distributable hereunder.

(b) This Agreement shall automatically terminate and be of no further force and effect in the event that: (i) a Failed Consent Solicitation occurs; and (ii) the Prepackaged Plan has not been confirmed by the Bankruptcy Court on or before the Outside Date (subject to any agreement by the Parties to extend the Outside Date); *provided* that this Agreement shall not terminate pursuant to this Section 17(b) to the extent that the occurrence of a Failed Consent Solicitation (including a failure by Tristan to commence the Consent Solicitation) or the failure to obtain confirmation from the Bankruptcy Court is caused, directly or indirectly, by the failure of any Tristan Party to satisfy its Consent Solicitation Obligations or by the gross negligence or willful misconduct of any Tristan Party or if as of the Outside Date any Tristan Party is then in Material Breach of this Agreement.

(c) Sections 7(c), 16, 18(j), 18(k) and 19 shall survive any termination of this Agreement.

Section 18. Miscellaneous.

(a) All notices and other communications provided for herein shall be in writing and may be personally served, telecopied, e-mailed or sent by overnight courier of international reputation and shall be deemed to have been given when delivered in person, upon receipt of telecopy or e-mail or four Business Days after deposit with any such courier, with shipping costs prepaid and properly addressed. For the purposes hereof, the addresses of the Parties hereto (until notice of a change thereof is delivered as provided in this Section 18(a)) shall be as set forth under each party's name on the signature pages (including acknowledgments) hereof. Notwithstanding the foregoing, after the Effective Date, any notices shall be delivered in accordance with Section 13.02 of the Indenture and any notice to be provided by or to the Participating Noteholder shall be delivered to or by the Trustee as set out in the Indenture.

(b) This Agreement may be amended or modified only by an instrument or instruments in writing signed by the Representative on behalf of the Claimant Parties and the Supermajority Noteholders on behalf of the Participating Noteholders (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders at the direction of the Supermajority Noteholders); *provided* that no amendment or modification to Section 4(a) or Section 4(b) of this Agreement

shall be effective as to any Participating Noteholder who does not vote in favor of or otherwise consent to such amendment or modification. Any provision of this Agreement may be waived only by an instrument or instruments in writing signed by, in the case of any obligation of some or all of the Tristan Parties the Representative on behalf of the Claimant Parties and, in the case of any obligation of the Participating Noteholders, the Supermajority Noteholders on behalf of the Participating Noteholders (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders at the direction of the Supermajority Noteholders); *provided* that no waiver of any provision of Section 4(a) or Section 4(b) of this Agreement shall be effective as to any Participating Noteholder who does not vote in favor of or otherwise consent to such waiver.

(c) This Agreement shall be binding upon and inure to the benefit of the Security Agent, the Tristan Parties, the Participating Noteholders and the Participating Noteholders Representative and their respective successors and permitted assigns. Except as expressly set forth in Section 16(a) and this Section 18(c), nothing in this Agreement, express or implied, is intended to or shall confer upon anyone other than the Security Agent, the Tristan Parties, the Participating Noteholders and the Participating Noteholders Representative, their respective successors and permitted assigns any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. The Tristan Parties, including, for the avoidance of doubt, A. Stati, may not directly or indirectly (by operation of law or otherwise) assign, delegate, transfer or otherwise dispose of any of their respective rights or obligations under this Agreement in whole or in part without, in each case, obtaining the prior written consent of the Participating Noteholders (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders), which the Participating Noteholders may withhold in their sole discretion. Any purported assignment, delegation, transfer or disposition in violation of the previous sentence shall be void and unenforceable *ab initio*. Notwithstanding anything to the contrary contained herein, the Parties hereto expressly intend that (x) the Trustee shall be regarded as an intended third party beneficiary of Sections 4(b)(ii), 16(a) and 20(b)(ii) of this Agreement with the right to enforce Sections 4(b)(ii), 16(a) and 20(b)(ii) of this Agreement against the Parties hereto.

(d) When reference is made in this Agreement to an Article, Exhibit or a Section, such reference shall be to an Article, Exhibit or Section of this Agreement, unless otherwise indicated. The headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. The language used in this Agreement shall be deemed to be the language chosen by the Parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any Party. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation.” Unless otherwise provided, when used herein, “dollar” or “$” means the U.S. dollar. For the purposes of this Agreement, each representation and warranty and each covenant shall be analyzed independently of any other representation and warranty and covenant in order to determine whether there has been a breach.

(e) This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any of the Parties may execute this Agreement by signing any such counterpart.

(f) This Agreement shall be effective (x) with respect to the Tristan Parties and the Majority Noteholders, as of the date hereof, and (y) with respect to each other Noteholder, when such Noteholder becomes a Participating Noteholder in accordance with the terms of this Agreement or the Consent Solicitation or the Prepackaged Plan, as applicable.

(g) Each of the Parties agrees to authorize the Security Agent to execute and file on its behalf all such further documents and instruments, and agrees to authorize the Security Agent to perform such other acts, as may be reasonably necessary or advisable to effectuate the purposes of this Agreement.

(h) Each of the Tristan Parties agrees to take, or cause to be taken, all action, and to do, or cause to be done, all things reasonably requested by the Participating Noteholders (or, after the Effective Date, the Trustee on behalf of the Participating Noteholders) to consummate, make effective and evidence the transactions contemplated by this Agreement and to vest in each Participating Noteholder (including those becoming such after the date hereof) the rights and benefits of this Agreement, including the execution and delivery of additional instruments. Without limiting the foregoing, the Parties hereto shall (and, following the Effective Date, the Participating Noteholders shall instruct the Trustee to) execute and deliver such other agreements, documents, instruments and other writings (including any additional sharing agreement or agreements) as may be necessary to vest the rights and privileges set forth in the Agreement in the Parties hereto, including any such agreements, documents, instruments and other writings, including additional amendments to this Agreement, reasonably requested by the Trustee, including to provide for the creation of two separate trust estates relating to the Existing Notes and the Modified Notes; provided that, in all cases, no such agreements, documents, instruments or other writings shall adversely modify or impact the economic rights of a Party hereto without the prior written consent of such Party.

(i) The Participating Noteholders (or, following the Effective Date, the Trustee on behalf of the Participating Noteholders) and the Claimant Parties may demand specific performance of this Agreement. Each of the Parties hereby irrevocably waives any defense based on the adequacy of a remedy at law and any other defense which might be asserted to bar the remedy of specific performance in any action which may be brought by the Security Agent.

(j) THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS AGREEMENT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

(k) Each of the Parties agrees that any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "ICC Rules"). The place of arbitration shall be New York, New York. Each of the Parties waives any objection which it may

now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the exclusive jurisdiction of such arbitration in any suit, action or proceeding. The language to be used in the arbitral proceedings shall be English. There shall be three arbitrators, one nominated by the initiating party in the request for arbitration, the second nominated by the other party within 30 days of receipt of the request for arbitration, and the third, who shall act as presiding arbitrator, nominated by the two parties within 30 days of the appointment of the second arbitrator. If any arbitrators are not nominated within these time periods, the ICC Court shall make the appointment(s) in accordance with the ICC Rules. In addition to the authority conferred on the arbitrators by the ICC Rules, and without prejudice to any provisional measures that may be available from a court of competent jurisdiction, the arbitrators shall have the power to grant any provisional measures that they deem appropriate, including but not limited to provisional injunctive relief, and any provisional measures ordered by the arbitrators shall, to the extent permitted by applicable law, be deemed to be a final award on the subject matter of the measures and shall be enforceable as such. Judgment upon the award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant party or its assets.

(l) Subject to Section 18(b), each Participating Noteholder agrees that if any Action is to be taken by the Participating Noteholders as a group and the process for such Action is not otherwise expressly provided for herein or in the Indenture as amended by the Proposed Amendments, the Action of the Requisite Noteholders (or the Trustee as directed by the Requisite Noteholders) shall be construed to be the Action of the Participating Noteholders as a group. For the avoidance of doubt, unless otherwise set forth herein, each Participating Noteholder is acting and agreeing to be bound by the terms of this Agreement severally on its own behalf and not jointly with any other Participating Noteholders.

Section 19. Confidentiality. Each Party hereto agrees that Confidential Information (as defined below) has been made available in connection with this Agreement. Such Party agrees that it will use, and that it will cause any Person to whom Confidential Information is disclosed pursuant to clause (i) below to use, the Confidential Information only in connection with the transactions contemplated by the Agreement and not for any other purpose. Each Party further acknowledges and agrees that such Party will not disclose any Confidential Information to any Person, *provided* that Confidential Information may be disclosed (i) to such Party's attorneys, (ii) to the Trustee, the Security Agent or the Participating Noteholders Representative, (iii) to the extent required by applicable law, rule or regulation (including complying with any oral or written questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process to which such Party is subject, *provided* that such Party gives the other Parties hereto prompt notice of such request(s), to the extent practicable (and not prohibited by law), so that the other Parties hereto may seek, at their expense, an appropriate protective order or similar relief (iv) for the purposes of enforcing the terms of this Agreement, or (v) to any Person who a Participating Noteholder believes is a prospective transferee of Notes or holder of Notes, but only to the extent such Participating Noteholder reasonably believes that such Person has a good faith intention to adhere to the terms of this Agreement, and, in each case, provided that such Person is advised of the terms of this Section 19 and agrees to a customary confidentiality agreement. "Confidential Information" means any information concerning the terms of the Agreement, the Arbitration, the Proceeds, the Consent Solicitation and the transactions contemplated hereby. The term "Confidential Information" does not include information that is or becomes generally available to the public, including pursuant to Section 15 herein, other than as a result of a

disclosure by a Party hereto in violation of this Agreement. This Section 19 shall terminate and be of no further force and effect on the Effective Date. Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall prohibit the Claimant Parties from providing a copy of this Agreement to any arbitration board or tribunal in connection with the Arbitration.

Section 20. Appointment of Representative; Requisite Noteholders.

(a) Each of the Tristan Parties (by virtue of their execution of this Agreement) hereby appoints, authorizes and empowers A. Stati (and any successor of A. Stati or any assign of A. Stati), to act as a representative (the "Representative"), for the benefit of the Tristan Parties in their capacity as such, as the exclusive agent and attorney-in-fact to act on behalf of each Tristan Party, in connection with and to facilitate the consummation of the transactions contemplated hereby, and to serve as each Tristan Party's authorized agent for purposes of service of process. The other Parties hereto shall have the right to rely upon all actions taken or omitted to be taken by the Representative pursuant to this Agreement and any other agreement or document referenced herein or therein, all of which actions or omissions shall be legally binding upon the Tristan Parties. The grant of authority provided for herein is coupled with an interest and shall be irrevocable and survive the death, incompetency, bankruptcy or liquidation of any Tristan Party.

(b) For the avoidance of doubt and notwithstanding anything to the contrary contained herein, the Parties acknowledge and agree to the following:

(i) Prior to the Effective Date:

(A) Each Participating Noteholder shall disclose to Dechert LLP its holding of Notes and shall provide to Dechert LLP evidence reasonably satisfactory to Dechert LLP of such ownership, which evidence may consist of copies of certificates, "screenshots" from any Clearing System, or from a Custodian. Dechert LLP will, without liability to any Person whatsoever and without any obligation to investigate or inquire as to the veracity or completeness of any such evidence, if requested, confirm to the Representative the aggregate holdings of the Participating Noteholders and, if requested for the purposes of determining whether a majority of the Notes held by the Participating Noteholders have taken or propose to take any Action, confirm to the Representative the aggregate Pro Rata Percentage of the relevant Participating Noteholders.

(B) The Participating Noteholders hereby authorize Dechert LLP to provide notices or instructions in respect of any Actions to the Tristan Parties pursuant to this Agreement on behalf of the Participating Noteholders as directed by the Requisite Noteholders. Dechert LLP shall be entitled to rely fully and without inquiry on certificates and representations made by the Participating Noteholders (or any of them) in documents delivered to it, and shall have no liability whatsoever to any Person for or in respect of taking any actions contemplated by this Section 20(b).

For the purposes of this Section 20(b), references to Dechert LLP shall include such other counsel as are appointed in their place by the Requisite Noteholders.

(ii) From the Effective Date:

(A) Subject to the limitations set forth herein, any Actions taken pursuant to this Agreement or the Indenture or the Sharing Global Note may be taken by the Trustee on behalf of the Participating Noteholders at the direction of the Requisite Noteholders in accordance with the terms of the Indenture as amended by the Proposed Amendments. In taking such Action, the Trustee shall be entitled to rely upon any evidence of ownership of Notes provided by a Clearing System or the Custodian and any calculation of percentage ownership of Notes derived therefrom.

(B) The Requisite Noteholders shall continue to have the right to take any Actions on behalf of the Participating Noteholders (subject to the limitations set forth herein and in the Indenture as modified by the Proposed Amendments) and for such purposes may provide evidence of their identity and holdings and provide instructions or notices to the Tristan Parties as set forth in clause 20(b)(i) above.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

MAJORITY NOTEHOLDERS

[ ]

By: _____
Name:
Title:

Notice Address:
[ ]

With a copy to:
[ ]

[ ]

By: _____
Name:
Title:

Notice Address:
[ ]

With a copy to:
[ ]

TRISTAN PARTIES

[ ]

By: _____
Name:
Title:

Notice Address:
[ ]

With a copy to:
[ ]

[ ]

By: _____
Name:
Title:

Notice Address:
[ ]

With a copy to:
[ ]

Exhibit A

Consent Solicitation and Exchange

Material Terms and Proposed Amendments

Offeror	Tristan Oil Ltd., a British Virgin Islands company.
Purpose of the Consent Solicitation	The purpose of the consent solicitation (the "Consent Solicitation") will be to solicit consents from holders of Notes (the "Consents") to (i) the execution of a supplemental indenture to effect certain proposed amendments to the Indenture as set forth below (the "Proposed Amendments"), including the issuance of a new class of Notes (the "Modified Notes") and (ii) approve the terms of and become bound by the provisions of the Sharing Agreement and Assignment of Rights (the "Sharing Agreement").
Offer and Exchange Period	The Consent and Exchange Solicitation will be kept open for 20 Business Days and will be offered to each holder of Notes.
Consents	Only those holders of Notes who provide Consents in the Consent Solicitation (the "Consenting Noteholders") will be agreeing to (i) the Proposed Amendments and (ii) the terms of the Sharing Agreement. The Proposed Amendments will amend the terms of the Indenture and be binding on all Holders. Provided, however, those Holders who do not provide Consents will not participate in the Exchange (described below), will not have their rights under their Notes altered, will not receive the rights and benefits identified under the Indenture as applicable to holders of the Modified Notes, will not have the burdens identified under the Indenture as applicable to holders of the Modified Notes and will have not have the rights, benefits or burdens under the Sharing Agreement. Tristan will accept Consents as they are provided by Holders. Tristan expects to consummate the supplemental indenture effecting the Proposed Amendments promptly following the receipt of Consents of holders of 85% of the Notes (although all Holders will be entitled to provide their consent and to participate in the Exchange until closing of the Offer and Exchange Period).

Existing Notes.....	10½% Senior Secured Notes due 2012 issued under the Indenture.
Modified Notes	Notes issued under the Indenture that will constitute a separate series from the Existing Notes and will have a separate CUSIP number. The terms of the Modified Notes vary significantly from the terms of the Existing Notes, as further described herein, and are not fungible with the Existing Notes.
Exchange.....	All Holders who provide their Consents will be required to exchange their position under the Existing Notes for a like position under the Modified Notes. As part of the exchange, the Noteholders will receive a like principal amount of Modified Notes in exchange for their interest in the Existing Notes and all accrued interest on the Existing Notes owing as of January 1, 2012 will be deemed owing under the Modified Notes. All Existing Notes with respect to which Consents are delivered will be exchanged for Modified Notes provided that Tristan receives Consents from Holders of at least 85% of the Notes and successfully consummates the supplemental indenture.
Consideration	The consideration for consents will be the rights and remedies accruing to the Participating Noteholders under the Modified Notes and Sharing Agreement.

Proposed Amendments:

The following is a summary of the Proposed Amendments to the Indenture, including the terms of the Modified Notes, for which Consents will be sought in the Consent Solicitation. The purpose of the Proposed Amendments is, among other things, to amend the Indenture to allow for the issuance of the Modified Notes and to codify certain of the terms of the Sharing Agreement within the Indenture solely for the benefit and burden of the holders of the Modified Notes. Certain of the Proposed Amendments would only impact the rights and privileges of the Consenting Noteholders (i.e., those Holders who provide Consents and successfully participate in the Exchange).

Modified Notes

The Proposed Amendments would create a new series of notes referred to as the "Modified Notes." The Modified Notes will have their own separate trust estate under the Indenture separate and apart from the trust estate that exists for the benefit of the holders of the Existing Notes. The trust estate under both the Modified Notes and the Existing Notes will have the benefit of the existing pledge agreements, security documents and guaranties and any recoveries on those assets will continue to be shared pro rata between the holders of the Existing Notes and the holders of the Modified Notes as if there was not two separate trust estates. However, the holders of the Modified Notes will also have as part of its trust estate the exclusive benefit to the distribution of

Proceeds in accordance with the terms of the Sharing Agreement and will be granted, as additional security, the lien described in the Security and Collateral Assignment Agreement (described below). The Proposed Amendments would create a new Exhibit A3 to the Indenture, which would set forth the global form of the Modified Notes to be known as the Sharing Global Note. The proposed form of the Sharing Global Note is set forth on Schedule I hereto. The maturity date of the Modified Notes represented by the Sharing Global Note would be January 1, 2016 and the interest provisions related thereto will be as set forth in the Sharing Global Note. The Proposed Amendments would also provide the following definition of a "Sharing Global Note:"

> "*Sharing Global Note*" means a global Modified Note substantially in the form of Exhibit A3 hereto bearing the Global Note Legend and the Sharing Agreement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee."

Amendment to Definition of Global Notes. The Proposed Amendments would amend and restate the Definition of "Global Notes" in its entirety as follows:

> "*Global Notes*" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes deposited with or on behalf of and registered in the name of the Depository or its nominee, substantially in the form of Exhibits A1, A2 and A3 hereto and that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, issued in accordance with Section 2.01, 2.06(b)(3), 2.06(b)(4), 2.06(d)(2) or 2.06(f) hereof.

New Definitions. The Proposed Amendments would amend Section 1.01 of the Indenture to create the following defined terms in appropriate alphabetical order (or in the case of existing terms, amend and restated such terms):

> *"Account"* means (i) the account maintained by the Security Agent (as such term is defined in the Security Agent Agreement) pursuant to the Security Agent Agreement, and shall include such sub-accounts or correspondent accounts maintained by or on behalf of the Security Agent through which any payment to the aforementioned account not in US Dollars may need to be made as are notified by the Security Agent to the Representative from time to time, or (ii) such other account as the Participating Noteholders Representative (or, following the Effective Date and the Trustee's agreement to assume the obligations of the Participating Noteholders Representative, the Trustee on behalf of the Participating Noteholders) and the Representative shall agree in writing.
>
> *"Action"* means any claim, request, demand, waiver, amendment, supplement objection, instruction or other action.
>
> *"Arbitration"* means the arbitration before the Arbitration Institute of the Stockholm Chamber of Commerce (116/2010) between the Claimant Parties (as claimants) and the Republic of Kazakhstan (as respondent) commenced pursuant to The Energy Charter Treaty by way of a Request for Arbitration dated July 26, 2010 and/or any other arbitration or similar proceeding brought by any of the Claimant Parties or any of their Affiliates against the Republic of Kazakhstan in respect of some or all of the Claims.

"Asset Amounts" means any monies received by the Trustee on or before the dates specified in Section 3(e) of the Sharing Agreement and generated by a sale of any Assets following enforcement against, or foreclosure on, the Assets by or on behalf of the Participating Noteholders, in all cases, net of any costs incurred or further capital investment made by or on behalf of the Participating Noteholders in managing or developing such Assets or generating such a sale. "Asset Amounts" shall not include any monies received following the termination of the Guarantors Standstill Period pursuant to Section 6(c)(i) or (ii) of the Sharing Agreement.

"Assets" means any monies, balances in bank accounts, assets (including fields, plants and properties), underground resource contracts, subsoil use rights or licenses, previously or currently held by, issued to or registered in the name of either Guarantor, without prejudice to any claims in the Arbitration that such assets have been expropriated.

"Award" means any award of damages (or the payment of other monies or compensation) rendered in favor of some or all of the Claimant Parties in the Arbitration, and any subsequent Order issued for the purposes of confirming or recognizing an Award, executing an Award, enforcing the terms of an Award, collecting an Award, attaching assets in furtherance of an Award or otherwise rendered for the purposes of realizing on an Award or any of the Claims.

"Claimant Parties" has the meaning ascribed to such term in the Sharing Agreement.

"Claims" has the meaning ascribed to such term in the Sharing Agreement.

"*Cure Period*" means (A) with respect to any Material Breach if such Material Breach consists of the failure to comply with an applicable time limit or deadline, 10 days following the date of the occurrence of such Material Breach, (B) with respect to any other Material Breach related to Section 3(a)(ii) or (iii), Section 4 or Section 8(a)(i) of the Sharing Agreement, 30 days following the date of the occurrence of such Material Breach, or (C) in all other cases, (i) if one or more Participating Noteholders unaffiliated with any Tristan Party have knowledge of such breach or Material Breach, 30 days following the date the Trustee or Requisite Noteholders give written notice to the Tristan Parties of the occurrence of such breach or Material Breach or (ii) if one or more Participating Noteholders do not have knowledge of such breach or Material Breach, 30 days following the date of the occurrence of such breach or Material Breach.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A2 with respect to the Existing Notes and substantially in the form of Exhibit A3 with respect to the Modified Notes, except in each case such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interest in the Global Note" attached hereto.

"Effective Date" has the meaning ascribed to such term in the Sharing Agreement.

"*Existing Notes*" means the 10½% Senior Secured Notes due 2012, which as of December 1, 2012 were in the aggregate amount of US$531,110,000.

"*Governmental or Judicial Authority*" means means any transnational, domestic or foreign federal, state or local governmental authority, department, court, agency or official, including any political subdivision thereof.

"*Guarantors Default*" means the failure of the Tristan Parties or the Guarantors to pay all sums due under the Modified Notes (including the Outstanding Amount) on or before January 1, 2014.

"*Guarantors Standstill Period*" means the period beginning on the date hereof and ending on January 1, 2014 unless earlier terminated in accordance with the Sharing Agreement.

"*Material Breach*" means a breach by any Tristan Party, directly or indirectly, of any provision of Section 3(a)(ii) or (iii), Section 4, Section 5, Section 8(a)(i) or Section 9 of the Sharing Agreement or any failure to pay when due and in full amounts due and payable under Modified Notes following the Effective Date.

"*Modified Notes*" means the Notes issued by the Company under the Indenture containing the terms set forth in Exhibit A-3 as the Sharing Global Note.

"*Modified Notes Collateral*" means all collateral pledged under the Security and Collateral Assignment Agreement.

"*Modified Notes Collateral Agent*" means Wells Fargo Bank, National Association, as the collateral agent with respect to the Modified Notes Collateral for the benefit of the Holders of the Modified Notes, and its successors and assigns.

"*New Default*" means a new Default occurring after the Effective Date with respect to Modified Notes (excluding any Default or Event of Default subject to Section 6(a) of the Sharing Agreement (Standstill)), but for the avoidance of doubt, not including any Default or Event of Default that existed and was continuing as of the Effective Date. In addition, for the avoidance of doubt, for purposes of Sections 6 and 7 of this Agreement, a New Default shall be deemed not to include a Guarantors Default.

"*Notes*" means, prior to the Effective Date, the Existing Notes and after the Effective Date, the Modified Notes and the Existing Notes.

"*Order*" means any award, injunction, judgment, decree, order, ruling, subpoena or verdict or other decision issued, promulgated or entered by or with any Governmental or Judicial Authority, arbitrator or similar judicial entity.

"*Original Amount*" means an amount equal to $642,510,000 (being all principal and accrued interest under the Notes up to January 1, 2012)

"*Outstanding Amount*" means as of any date, an amount equal to the sum of (a) the Original Amount multiplied by the Participating Noteholders' Percentage and (b) Special Interest accrued and unpaid as of such date on the Modified Notes, .

"*Participating Noteholders*" means each Holder of a Global Sharing Note who thereby is bound by the Sharing Agreement from time to time.

"Participating Noteholders' Percentage" means a number expressed as a percentage and determined by multiplying 100 by the quotient of (i) the aggregate principal amount of the outstanding Modified Notes, and (ii) US $531,110,000, in the case of (i) as of the time of determination.

"*Requisite Noteholders*" means Holders beneficially owning at least a majority in aggregate principal amount of the Modified Notes and entitled to vote on matters pursuant to the Sharing Agreement and the Indenture.

"Security Agent Agreement" has the meaning ascribed to such term in the Sharing Agreement.

"*Security and Collateral Assignment Agreement*" has the meaning ascribed to such term in Section 5(a) of the Sharing Agreement.

"*Secured Obligations*" has the meaning ascribed to such term in Section 5(a) of the Sharing Agreement.

"Series" means either the series of Notes evidenced by the Existing Notes or the series of Notes evidenced by the Modified Notes.

"*Sharing Agreement*" means that certain Sharing Agreement and Assignment of Rights, dated as of December [ ], 2012, by and among the Company and the other parties named therein, as amended, restated or supplemented from time to time.

"Sharing Record Date" means, with respect to the distribution of funds pursuant to this Agreement, the close of business in the place of the Registrar's office on the date preceding each date funds are deposited into the Account.

"Special Interest" interest on the principal amount of the Modified Notes outstanding on January 1, 2012 at the highest of any rates of interest provided for in the Award for any corresponding period (including any pre-Award interest or any other rate of return designed to account for the time value of money for the period between January 1, 2012 and the date of the Award or any portion thereof) and, to the extent that the compounding of interest is provided in the Award, compounding after January 1, 2012 for the shortest of any intervals as are provided for in the Award for any corresponding period.

"*Supermajority Noteholders*" means, as of the relevant date of determination, Holders owning at least two-thirds in aggregate principal amount of Modified Notes outstanding and entitled to vote on matters pursuant to the Sharing Agreement and the Indenture.

"*Tristan Parties*" means, collectively, the Company, Anatolie Stati, Gabriel Stati, Ascom Group, S.A. and Terra Raf Trans Traiding Ltd.

"*Tristan Standstill Period*" means the period beginning on the date hereof and ending on January 1, 2016 unless earlier terminated in accordance with the Sharing Agreement.

Amendment to Section 2.01 of the Indenture. The Proposed Amendments would amend and restate Section 2.01 of the Indenture in its entirety as follows:

Section 2.01 *Form and Dating.*

(a) *General*. The Notes and the Trustee's certificate of authentication will be substantially in the form of Exhibits A1, A2 and A3 hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note will be dated the date of its authentication. The Notes shall be in denominations of $1,000 and integral multiples thereof.

The terms and provisions contained in the Notes will constitute, and are hereby expressly made, a part of this Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) *Global Notes.* Notes issued in global form will be substantially in the form of Exhibits A1, A2 and A3 hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form will be substantially in the form of Exhibits A1, A2 and A3 hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note will represent such of the outstanding Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) *Euroclear and Clearstream Procedures Applicable*. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream" and "Customer Handbook" of Clearstream shall be applicable to transfers of beneficial interests in the Regulation S Global Notes that are held by Participants through Euroclear or Clearstream.

Amendment to Section 2.06 of the Indenture. The Proposed Amendments would amend Section 2.06 of the Indenture to add a new subsection (h)(9), which would read as follows:

(9) Notwithstanding anything to the contrary contained in this Section 2.06, the Existing Notes and the Modified Notes shall constitute separate series of Notes. After the Effective Date, Holders may not transfer their interest in a Existing Note for an interest in a

Modified Note nor transfer their interest in a Modified Note for an interest in the Existing Note. All references in Section 2.06 to the transfer from one Note to another Note shall be interpreted as to referring to transfers with respect to the same series of Notes.

Amendment to Section 2.06 of the Indenture. The Proposed Amendments would amend Section 2.06 of the Indenture to add a new subsection (i), which would read as follows:

(i) Each Sharing Global Note (and any such Note in certificated form) shall include the following legend (the "Sharing Agreement Legend"):

"**THIS NOTE IS SUBJECT TO THE TERMS AND CONDITIONS OF THAT CERTAIN SHARING AGREEMENT AND ASSIGNMENT OF RIGHTS, DATED AS OF DECEMBER [ ], 2012, BY AND AMONG TRISTAN OIL LTD. AND THE OTHER PARTIES NAMED THEREIN (THE "SHARING AGREEMENT"). THE SHARING AGREEMENT IMPOSES SIGNIFICANT RESTRICTIONS ON YOUR ABILITY TO PURSUE CLAIMS AGAINST TRISTAN OIL LTD., EITHER OF THE GUARANTORS OR PURSUANT TO THE PLEDGE AGREEMENTS OR TO CAUSE THE TRUSTEE TO PURSUE SUCH CLAIMS ON YOUR BEHALF. ANY TRANSFEREE OF THIS NOTE WILL TAKE THE NOTE SUBJECT TO THE TERMS AND CONDITIONS OF THE SHARING AGREEMENT. ACCORDINGLY, THE HOLDER OF THIS NOTE AND ANY PROPOSED TRANSFEREE THEREOF IS URGED TO READ THE SHARING AGREEMENT IN ITS ENTIRETY, A COPY OF WHICH IS AVAILABLE UPON REQUEST FROM THE TRUSTEE AND TRISTAN OIL LTD."**

Amendment to Section 2.07 of the Indenture. The Proposed Amendments would amend Section 2.07 of the Indenture by amending and restating the first sentence of such Section so as to read as follows:

If any mutilated Note is surrendered, to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft or any Note, the Company will issue and the Trustee upon receipt of an Authentication Order, will authenticate a replacement Note of the same series if the Trustee's requirements are met.

Amendments to Section 3.07 of the Indenture. The Proposed Amendments would amend Section 3.07 of the Indenture to re-label existing subsection (d) as "(e)" and would add a new subsection (d) that would read as follows and that would only apply to the Participating Noteholders:

(d) Notwithstanding anything to the contrary contained herein, but subject to the conditions set forth in, Section 7(a) of the Sharing Agreement, the Company may redeem all (but not less than all) of the Modified Notes upon not less than 30 nor more than 60 days' notice. The total redemption price paid to redeem all the Modified Notes shall be $1.00, which amount will be retained by the Trustee as part of its compensation and no portion of such $1.00 redemption price shall be distributed to Holders. Upon compliance with the redemptions provisions of this Article III, each Holder's interest in the Modified Notes will be terminated and will not be considered outstanding for any reason.

Amendments to Article IV of the Indenture. The Proposed Amendments would amend Article IV of the Indenture to delete the following Sections: 4.03(a) and (b), 4.04, 4.09, 4.10, 4.11, 4.17, 4.18, 4.20, 4.21, 4.22, 4.23 and 4.24 and to add new Section 4.25 as follows:

Section 4.25 *Pledge Agreements and Security and Collateral Assignment Agreement.*

The Company will not assign its interest in any Pledge Agreement or the Security and Collateral Assignment Agreement or otherwise amend any Pledge Agreement or the Security and Collateral Assignment Agreement.

Amendment to Section 4.05 of the Indenture. The Proposed Amendments would amend Section 4.05 to delete the clause ", and will cause each of its Subsidiaries to pay," from the first sentence of such Section.

Amendment to Section 4.06 of the Indenture. The Proposed Amendments would amend Section 4.06 to remove all references therein to the Guarantors.

Amendment to Section 4.08 of the Indenture. The Proposed Amendments would amend Section 4.08 to read in its entirety as follows:

Section 4.08 *Restricted Payments.*

(a) The Company will not directly or indirectly declare or pay any dividend or make any other payment or distribution on account of the Company's or such Guarantor's Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company) or to the direct or indirect holders of the Company's Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company and other than dividends payable to the Company).

(b) Notwithstanding the foregoing, nothing shall prohibit the payment of any amounts by the Company in connection with the Sharing Agreement.

Amendment to Section 4.12 of the Indenture. The Proposed Amendments would amend Section 4.12 to remove all references therein to the Guarantors and to add a new subsection (c) that would read as follows:

(c) Notwithstanding the foregoing, nothing herein shall prohibit any transaction conducted in connection with the Sharing Agreement.

Amendment to Section 4.13 of the Indenture. The Proposed Amendments would amend Section 4.13 to remove all references therein to the Guarantors and to add the following language at the end of such Section: "and Liens imposed by or as a result of any action taken at the direction of the Republic of Kazakhstan."

Amendment to Section 4.14 of the Indenture. The Proposed Amendments would amend Section 4.14 to read in its entirety as follows:

Section 4.14 *Business Activities.*

The Company will not engage in any new business different from that in which it was engaging on **[*date of Sharing Agreement*]** except with respect to pursuing the Arbitration or pursuing other activities consistent with the Sharing Agreement.

Amendment to Section 4.15 of the Indenture. The Proposed Amendments would amend Section 4.15 to remove all references therein to the Guarantors.

Amendment to Section 4.16 of the Indenture. The Proposed Amendments would amend Section 4.16 to read in its entirety as follows:

Section 4.16 *Company Change of Control*.

Other than as permitted by the Sharing Agreement, the Company shall not permit the transfer of any of the equity interests in the Company.

Amendment to Section 4.19 of the Indenture. The Proposed Amendments would amend Section 4.19 to delete the last sentence of such Section.

Amendment to Section 5.01 of the Indenture. The Proposed Amendments would amend Section 5.01 to remove all references therein to the Guarantors.

Amendment to Section 6.01 of the Indenture. The Proposed Amendments would amend Section 6.01 to add the following sentence at the end of such section: "Notwithstanding the foregoing, an Event of Default with respect to the Modified Notes shall have the definition set forth in the form of Sharing Global Note and for the purposes therein references to this Section in that definition shall exclude any reference to the Guarantors."

Amendment to Section 6.04 of the Indenture. The Proposed Amendments would amend Section 6.04 by amending and restating the first sentence of such Section so as to read as follows:

(A) Holders of not less than a majority in aggregate principal amount of the then outstanding Notes of the Series represented by the Existing Notes by notice to the Trustee may on behalf of the Holders of all the Existing Notes waive an existing Default or Event of Default and its consequences hereunder with respect to the Existing Notes, except a continuing Default or Event of Default in the payment of principal of, premium, if any, Additional Amounts, if any, or interest on, the Existing Notes (including in connection with an offer to purchase); provided, however, that the Holders of a majority in aggregate principal amount of the Existing Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration; and (B) Holders of not less than two-thirds in aggregate principal amount of the Series represented by the Modified Notes by notice to the Trustee may on behalf of the Holders of all the Modified Notes waive an existing Default or Event of Default and its consequences hereunder with respect to the Modified Notes, except a continuing Default or Event of Default in the payment of principal of, premium, if any, Additional Amounts, if any, or interest on, the Modified Notes (including in connection with an offer to purchase); provided, however, that the Holders of not less than two-thirds in aggregate principal amount of the Modified Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration.

Amendment to Section 6.05 of the Indenture. The Proposed Amendments would amend Section 6.05 to add the following clause at the end of such Section: "Notwithstanding the foregoing, if an proceeding or remedy relates solely to a Series of Notes, the majority Holders of such Series of Notes shall be considered when determining if a sufficient amount to Holders have provided direction to the Trustee."

Amendment to Section 6.06 of the Indenture. The Proposed Amendments would amend Section 6.06 to add the following clause at the beginning of the first sentence of such Section: "Except to enforce the rights of the Participating Noteholders under the Sharing Agreement, which may be enforced either by the Requisite Noteholders (as defined in the Sharing Agreement) or the Trustee,".

Amendment to Section 6.07 of the Indenture. The Proposed Amendments would amend Section 6.07 to replace the first clause of such section in its entirety with the following: "Notwithstanding any other provision of this Indenture, but subject to the terms of the Sharing Agreement with respect to Holders of the Modified Notes,".

Amendment to Section 6.10 of the Indenture. The Proposed Amendments would amend Section 6.10 by amending and restating the first clause of such Section up to "First" so as to read as follows:

> The Existing Notes and the Modified Notes represent two separate series of Notes and two separate trust estates are deemed created under this Indenture. The repayment terms, collateral and rights under each Series of Notes are different. Subject to the prior payment of any amounts owed to the Trustee, the Trustee shall apply any proceeds received from the Collateral to the two series of Notes on a pro rata basis based upon the aggregate principal amount of the then outstanding Notes. Subject to the prior payment of any amounts owed to the Trustee, any proceeds received by the Trustee on (i) the Modified Note Collateral or (ii) on account of the Sharing Agreement shall be distributed solely to Holders of the Modified Notes and no such funds shall be distributable to the Holders of the Existing Notes. Each reference in this Section 6.10 to Notes should be deemed a reference to the applicable Series of Notes, unless the distribution is on account of both Series. Subject to the foregoing, if the Trustee collects any money or property pursuant to this Article 6, it shall pay out the money or property in the following order:

Amendment to Section 6.10 of the Indenture. The Proposed Amendments would amend Section 6.10 by adding a new paragraph at the end of such Section, which would read as follows:

> For the avoidance of doubt, if and to the extent any Asset Amounts are received by the Trustee, such amounts shall be distributed by the Trustee to the Holders of the Existing Notes and the Modified Notes on a pro rata basis, considering for this purpose the Existing Notes and the Modified Notes to be a single class of Notes. If more than one distribution is made on account of Asset Amounts, all prior distributions of Asset Amounts shall be considered payments of principal for purposes of calculating the pro rata amount due to each Series of Notes (notwithstanding any language contained in the Modified Notes regarding how Asset Amounts impact the amount due on the Modified Note). Under the terms of the Sharing Agreement, Asset Amounts to be distributed to the Holders of the

Modified Note will be required to be paid over to the Security Agent (as such term is defined in the Security Agent Agreement). For the avoidance of doubt, to the extent that the Trustee receives proceeds from the Collateral that are not Asset Amounts, such proceeds shall be applied pursuant to the first paragraph of this Section 6.10.

Notwithstanding the foregoing, the actual principal amount of the Modified Notes shall only be reduced by that portion of the Asset Amounts actually held by the Security Agent for distribution to the holders of the Modified Notes pursuant to Section 4(b)(iii) of the Sharing Agreement.

Amendment to Section 7.06 of the Indenture. The Proposed Amendments would delete Section 7.06 in its entirety and replace it with "[Intentionally Omitted]."

Amendment to Section 9.02 of the Indenture. The Proposed Amendments would amend Section 9.02 of the Indenture to add a new paragraph at the end of such Section which shall read as follows:

Notwithstanding anything to the contrary contained herein, including Section 9.01, the Modified Notes shall rank *pari passu* in right to payment with the Existing Notes under the Indenture and shall share pari passu in any recoveries on the Collateral or under the Pledge Agreements. However, Holders of the Modified Notes shall vote as a separate class with respect to any matters whatsoever relating to the Sharing Agreement, the Sharing Global Note, the Security and Collateral Assignment Agreement, the Security Agent Agreement and the rights, privileges and obligations inuring to the Participating Noteholders on account of their status as a Holder of a Modified Note, and the Holder of the Existing Notes shall not be entitled to any vote with respect thereto and shall have no rights in the Sharing Agreement, the Sharing Global Notes, the Security and Collateral Assignment Agreement or the Security Agent Agreement. To the extent any action may be taken or is required to be taken by Holders of the Modified Notes pursuant to the Sharing Agreement, the Indenture or the Modified Notes, the vote of the Requisite Noteholders shall be sufficient to effect such action and the Trustee shall be entitled to rely upon any action so taken. Subject to Section 18(b) of the Sharing Agreement and Section 9.02 of the Indenture, to the extent any amendment to or any waiver of, any provision of the Sharing Agreement, the Sharing Global Note, the Indenture, the Modified Notes or the rights, privileges and obligations inuring to Holders of the Modified Notes is required or requested, the vote of the Supermajority Noteholders shall be required to effect such amendment or waiver.

Amendment to Section 9.06 of the Indenture. The Proposed Amendments would amend Section 9.06 of the Indenture to delete the second to last paragraph thereof in its entirety.

Amendment to Article 10 of the Indenture. The Proposed Amendments would amend Section 10.01 of the Indenture to add a new paragraph at the end of such Section, which shall read as follows:

In addition to the security of the Pledge Agreements, the Modified Notes are also secured by the Security and Collateral Assignment Agreement and the Security Agent Agreement. Each Holder of the Modified Notes by its acceptance thereof, consents and agrees to the terms of the Security and Collateral Assignment Agreement, the Security Agent

Agreement and the Sharing Agreement and directs the Notes Collateral Agent to enter into the Security and Collateral Assignment Agreement and the Security Agent Agreement and to exercise its rights thereunder in accordance with the directions delivered by the Requisite Noteholders. The Company will take any and all actions reasonably required to cause the Security and Collateral Assignment Agreement to create and maintain, as security for the Modified Notes, a valid and enforceable perfected first priority Lien in and on all the Notes Collateral, in favor of the Modified Notes Collateral Agent for the benefit of the Holders of the Modified Notes, superior to and prior to the rights of all third Persons and subject to no other Liens.

Amendment to Article 10 of the Indenture. The Proposed Amendments would amend Section 10.02 to delete subsections (b) and (c) thereof in their entirety.

Amendment to Article 10 of the Indenture. The Proposed Amendments would amend Article 10 of the Indenture to add a new Section 10.07, which shall read as follows:

Section 10.07. Marshalling of Assets. For the avoidance of doubt, notwithstanding anything to the contrary contained in the Indenture or the Pledge Agreements, the parties acknowledge and agree that the Collateral is for the ratable benefit of all Holders, including Holders owning an interest in the Modified Notes, and all Holders, the Company, and the Guarantors irrevocably and conditionally waive their rights to assert, directly or indirectly, any right to a marshalling of assets or a sale in inverse order of alienation.

Schedule I

[attached]

[Face of Note]

CUSIP No.: [ ]
ISIN No. [ ]

Senior Secured Note due 2016

No. ___ $

TRISTAN OIL LTD.

promises to pay to [_____] or registered assigns on January 1, 2016,

(i) the principal sum of_____ [$_____] DOLLARS (the "Principal Amount") and (ii) accrued interest in the sum of [$_____] DOLLARS (the "Accrued Interest") which represents a portion of the accrued interest on the Existing Note at the time the Holder exchanged its interest in the Existing Note for an interest in this Modified Note. The sum of the Principal Amount and Accrued Interest equals the Original Amount multiplied by the Participating Noteholders' Percentage on the date hereof.

Interest Payment Dates: (A) On the tenth (10^{th}) Business Day following each deposit of any Proceeds into the Account under the Security Agent Agreement ; and (B) the date on which an Event of Default has occurred and/or the date on which the Tristan Standstill Period ends.

The Security Agent shall notify the Trustee on each day that a deposit of Proceeds into the Account under the Security Agent Agreement stating that such a deposit has been made and identifying the amount of funds that will be distributed to the Trustee for the benefit of the Holders.

Sharing Record Date: The close of business in the place of the Registrar's office on the date preceding each date funds are deposited into the Account under the Security Agent Agreement.

Dated: [ ], 2012

Tristan Oil Ltd.

By: _____
Name: Anatolie Stati
Title: President, Chief Executive Officer and Chairman of the Board

This is one of the Modified Notes referred to in the within-mentioned Indenture:

Wells Fargo Bank, N.A.,
as Trustee

By: _____
Authorized Signatory

[Back of Note]

Senior Secured Notes due 2016

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC"), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

"**THIS NOTE IS SUBJECT TO THE TERMS AND CONDITIONS OF THAT CERTAIN SHARING AGREEMENT AND ASSIGNMENT OF RIGHTS, DATED AS OF DECEMBER [ ], 2012, BY AND AMONG TRISTAN OIL LTD. AND THE OTHER PARTIES NAMED THEREIN (THE "SHARING AGREEMENT"). THE SHARING AGREEMENT IMPOSES SIGNIFICANT RESTRICTIONS ON YOUR ABILITY TO PURSUE CLAIMS AGAINST TRISTAN OIL LTD., EITHER OF THE GUARANTORS OR PURSUANT TO THE PLEDGE AGREEMENTS OR TO CAUSE THE TRUSTEE TO PURSUE SUCH CLAIMS ON YOUR BEHALF. ANY TRANSFEREE OF THIS NOTE WILL TAKE THE NOTE SUBJECT TO THE TERMS OF THE SHARING AGREEMENT. ACCORDINGLY, THE HOLDER OF THIS NOTE AND ANY PROPOSED TRANSFEREE THEREOF IS URGED TO READ THE SHARING AGREEMENT IN ITS ENTIRETY, A COPY OF WHICH IS AVAILABLE UPON REQUEST FROM THE TRUSTEE AND TRISTAN OIL LTD."**

"THIS NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), ANY STATE SECURITIES LAWS IN THE UNITED STATES OR THE SECURITIES LAWS OF ANY OTHER JURISDICTION AND THE ISSUER HAS NOT BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "INVESTMENT COMPANY ACT"). THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT AS PERMITTED BY

THIS LEGEND. THE HOLDER HEREOF, BY ITS ACCEPTANCE OF THIS NOTE, REPRESENTS, ACKNOWLEDGES AND AGREES THAT IT WILL NOT REOFFER, RESELL, PLEDGE OR OTHERWISE TRANSFER THIS NOTE EXCEPT **(A)** TO THE COMPANY, **(B)** TO A TRANSFEREE THAT IS NOT A U.S. PERSON (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT) IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 903 OR 904 OF REGULATION S UNDER THE SECURITIES ACT AND THAT AGREES TO PROVIDE NOTICE TO ANY SUBSEQUENT TRANSFEREE OF THE TRANSFER RESTRICTIONS PROVIDED IN THIS LEGEND AND **(C)** IN EACH CASE **(1)** UPON DELIVERY OF ALL CERTIFICATIONS, OPINIONS AND OTHER DOCUMENTS THAT THE COMPANY OR THE TRUSTEE MAY REQUIRE AND **(2)** IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAW OF ANY STATE OF THE UNITED STATES AND ANY OTHER JURISDICTION.

ANY TRANSFER IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE AND EFFECT AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE. NOTWITHSTANDING ANY INSTRUCTION TO THE CONTRARY TO THE COMPANY, THE TRUSTEE OR ANY INTERMEDIARY.

THE COMPANY HAS THE RIGHT, UNDER THE INDENTURE TO COMPEL ANY HOLDER OF NOTES THAT IS A U.S. PERSON AND IS NOT A QUALIFIED PURCHASER AND A QUALIFIED INSTITUTIONAL BUYER TO SELL ITS INTEREST IN THE NOTE, OR MAY SELL SUCH INTEREST ON BEHALF OF SUCH OWNER.

EACH BENEFICIAL OWNER OF THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN UNDERSTANDS THAT THE ISSUER MAY RECEIVE A LIST OF PARTICIPANTS HOLDING POSITIONS IN THE NOTES FROM ONE OR MORE BOOK-ENTRY DEPOSITORIES."

Capitalized terms used herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

(1) *INTEREST*. Tristan Oil Ltd., a British Virgin Island company (the "*Company*"), promises to pay Special Interest on the aggregate of the Principal Amount from January 1, 2012 until maturity. The applicable rate of the Special Interest shall be calculated as the highest of any rates of interest provided for in the Award for any corresponding period (including any pre-Award interest or any other rate of return designed to account for the time value of money for the period between January 1, 2012 and the date of the Award or any portion thereof) and, to the extent that the compounding of interest is provided in the Award for any corresponding period, compounding after January 1, 2012 for the shortest of any intervals as are provided for in the Award for any corresponding period. All calculations of the rate of the Special Interest due on a particular date hereunder shall be promptly provided to the Trustee by the Company in an Officers' Certificate as soon as it can be determined by the Company (or in the absence of such provision, the Requisite Noteholders). All calculations of the total amount of Special Interest due on a particular date hereunder shall be calculated by the Security Agent pursuant to the terms of the Security Agent Agreement. In no event shall the Trustee be responsible for calculating the rate of Special Interest or determining the aggregate amount of Special Interest due at any time hereunder.

Payments of Special Interest shall be due and made (i) on the tenth (10^{th}) Business Day following each deposit of any Proceeds into the Account under the Security Agent Agreement; and (ii) on the date on which an Event of Default has occurred and/or the date on which the Tristan Standstill Period terminates. The amount of Special Interest due and payable on any Interest Payment Date shall not exceed the amount of Proceeds and monies due to the Participating

Noteholders in accordance with the terms of Section 4(b)(iii) of the Sharing Agreement on the associated Sharing Record Date. Special Interest will be computed on the basis of a 360-day year of twelve 30-day months.

(2) METHOD OF PAYMENT. The Notes will be payable as to the Principal Amount, Accrued Interest , Special Interest and Additional Amounts, as applicable, at the office or agency of the Company maintained for such purpose; provided that payment by wire transfer of immediately available funds will be required with respect to payments on, this Global Note . Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

The Holder of this Note is entitled to receive payments on this Note from certain distributions made pursuant to the Sharing Agreement. If an Asset Amount is payable to the Holder of this Note, under the terms of the Sharing Agreement, the Holder is required to cause such funds to be delivered to the Security Agent under the Security Agent Agreement. As a result of this feature of the Sharing Agreement, other than for the limited purpose of calculating the pro rata amounts outstanding as described in Section 6.10, payments of Asset Amounts to the Holder hereof shall not be considered a payment of any amount outstanding under this Note if such funds are delivered to the Security Agent (but the subsequent redistributions of such funds to the Holder of this Modified Note through the Security Agent and Trustee shall be considered payments hereunder). Except as provided in the previous sentence, each such distribution when made to the Trustee for application to this Note shall be deemed a payment by the Company on this Note. On the tenth Business Day following the deposit of Proceeds into the Account under the Security Agent Agreement, the Company will pay or cause to be paid to the Trustee for distribution to the Holder of this Note on the Sharing Record Date the Proceeds and monies due to the Participating Noteholders in accordance with the terms of Section 4(b)(iii) of the Sharing Agreement. Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. All amounts paid under this Note shall be applied first to any accrued unpaid Special Interest under this Note, second to any unpaid Accrued Interest under this Note and finally to the outstanding Principal Amount of this Note.

(3) PAYING AGENT AND REGISTRAR; SECURITY AGENT. Initially, Wells Fargo Bank, N.A. the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may not act in any such capacity. Wilmington Trust, National Association will serve as Security Agent under the Security Agent Agreement.

(4) INDENTURE AND PLEDGE AGREEMENTS. The Company issued the Notes under an Indenture dated as of December 20, 2006 (the "*Indenture*") among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the TIA. The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Notes issued under the Indenture (including this Note) are secured by a pledge of the Capital Stock of the Guarantors and the Company, and all intercompany notes payable to the Company by Kazpolmunay LLP ("Kazpolmunay"), Tolkynneftegaz LLP ("Tolkynneftegaz"), and Terra Raf Trans Traiding Limited pursuant to the Pledge Agreements referred to in the Indenture. Additionally, this Note (and not any of the Existing Notes) is secured by the Security and Collateral Assignment Agreement and the Security Agent Agreement. The Indenture does not limit the aggregate principal amount of Notes that may be issued thereunder.

(5) OPTIONAL REDEMPTION.

The Company will have the option to redeem all (but not less than all) of the Notes outstanding under the Indenture (as a single class) upon not less than 30 nor more than 60 days' notice, at a redemption price equal to 100.000% of the Principal Amount plus the Accrued Interest plus accrued and unpaid Special Interest and Additional Amounts, if any, on the Notes redeemed to the applicable redemption date.

Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

The Company may redeem all of the Modified Notes represented hereby upon not less than 30 nor more than 60 days' notice, at an aggregate redemption price equal to $1.00 in accordance with, and subject to the conditions set forth in, Section 7(a) of the Sharing Agreement. The $1.00 redemption price will be retained by the Trustee as part of its compensation and no portion of such $1.00 redemption price shall be distributed to Holders. Prior to the redemption under this paragraph, the Company will deliver to the Trustee an Officer's Certificate stating that the Company is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent under Section 7(a) of the Sharing Agreement to the right of the Company so to redeem has occurred.

(6) MANDATORY REDEMPTION AND PREPAYMENTS. The Company is not be required to make mandatory redemption or sinking fund payments with respect to the Notes other than an amount equal to the Proceeds and monies due to the Participating Noteholders in accordance with the terms of Section 4(b)(iii) of the Sharing Agreement less any amount paid on this Notes as Special Interest (the "Prepayment Amount"). The Prepayment amount shall be considered due and payable on this Note on the applicable Interest Payment Date with respect to the funds to be distributed under Section 4(b)(iii) of the Sharing Agreement.

(7) RELEASES.

(a) Effective upon the date this Note is redeemed pursuant to Section 5, the Holder of this Note shall be deemed to grant to the Tristan Parties the following release:

The Holder of this Note, for itself and its successors, assigns and heirs (the "Releasors"), to the fullest extent permitted by applicable law, hereby releases and forever discharges each of the Tristan Parties and the Guarantors and each of their respective past, present and future affiliates, directors, officers, stockholders, partners (general and limited), members, employees, agents, consultants, advisors, fiduciaries, and other representatives (including, without limitation, legal counsel, investment bankers, accountants and financial advisors), and all of the foregoing Persons' successors, assigns and heirs (individually, a "Releasee" and collectively, "Releasees") from any liability or obligation, and covenants not to assert, bring or instigate against the Releasees any claims, demands, proceedings, actions, causes of action, investigations, litigations or suits (whether civil, criminal, administrative, investigative, or informal), whether sounding in contract (including this Note and the Indenture), tort or otherwise, by reason of, relating to or arising from the fact that the Releasor is or was a holder of this Note, which any Releasor now has, has ever had, or may hereafter have against any Releasee (the "Releases").

(b) If (i) the Claimant Parties have not received from any other party to the Sharing Agreement written notice of the Claimant Parties' Material Breach of their obligations under the Sharing Agreement, which has not been cured, (ii) there is no New Default and (iii) the Participating Noteholders do not receive the Minimum Payment (as defined in the Sharing Agreement) on or before the Minimum Payment Date (as defined in the Sharing Agreement) and the Representative (as defined in the Sharing Agreement) has delivered to the Participating Noteholders a Compliance Notice certifying the fulfillment of the conditions set forth in clauses (i), (ii) and (iii), and within ten (10) Business Days of receipt of the Compliance Notice the Requisite Noteholders do not dispute the Compliance Notice, then the holder of this Note shall be deemed to grant to the Tristan Parties the following release:

The holder of this Note, for itself and its successors, assigns and heirs (the "Releasors"), to the fullest extent permitted by applicable law, hereby releases and forever discharges each of the Tristan Parties and the Guarantors and each of their respective past, present and future affiliates, directors, officers, stockholders, partners (general and limited), members, employees, agents, consultants, advisors, fiduciaries, and other representatives (including, without limitation, legal counsel, investment bankers, accountants and financial advisors), and all of the foregoing Persons' successors, assigns and heirs (individually, a "Releasee" and collectively, "Releasees") from any and all liability or obligation, and covenants not to assert, bring or instigate any claims, demands, proceedings, actions, causes of action, investigations, litigations or suits (whether civil, criminal, administrative, investigative, or informal), whether sounding in contract (other that as set forth below), tort or otherwise ("Claims"), which any Releasor now has, has ever had, or may hereafter have against any Releasee (the "Releases"); notwithstanding the foregoing, the Release in this Section 7(b) shall not apply to any liability, obligation or Claim that a Holder may have against the Company any Guarantor and all other obligors under the Indenture, the Notes (including the Modified Notes), the Note Guarantees, the Pledge Agreements, the related security documents, the Security and Collateral Assignment Agreement, the Secured Obligations and the Collateral (but specifically excluding A. Stati, G. Stati and any of their family members, except to the extent of their respective obligations under the Sharing Agreement to collect, account for and deposit into the Account Proceeds from an Award) pursuant to this Note or the Indenture or any security documents relating thereto, including the Pledge Agreements and pursuant to any promissory note pledged under the Pledge Agreements, including by Terra Raf Trans Traiding Ltd.

(8) *NOTICE OF REDEMPTION*. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction or discharge of the Indenture. Notes in denominations larger than $1,000 may be redeemed in part but only in whole multiples of $1,000, unless all of the Notes held by a Holder are to be redeemed.

(9) DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of $1,000 and integral multiples of $1,000. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes during the period between a Sharing Record Date and the corresponding Interest Payment Date.

(10) PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

(11) AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture or the Notes, the Note Guarantees and the Pledge Agreements may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes including Additional Notes, if any, and Modified Notes voting as a single class; provided that to the extent any amendment to or any waiver of, any provision of the Sharing Agreement, the Sharing Global Note, the Indenture (to extent such amendments or waivers only affect or impact the rights of the Holders of the Modified Notes), the Modified Notes or the rights, privileges and obligations inuring to Holders of the Modified Notes is required or requested, the vote of the Supermajority Noteholders shall be required to effect such amendment or waiver; and provided further that (A) Holders of not less than a majority in aggregate principal amount of the then outstanding Notes of the Series represented by the Existing Notes by notice to the Trustee may on behalf of the Holders of all the Existing Notes waive an existing Default or Event of Default and its consequences hereunder with respect to the Existing Notes, except a continuing Default or Event of Default in the payment of principal of, premium, if any, Additional Amounts, if any, or interest on, the Existing Notes (including in connection with an offer to purchase); provided, however, that the Holders of a majority in aggregate principal amount of the Existing Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration; and (B) Holders of not less than two-thirds in aggregate principal amount of the Modified Notes by notice to the Trustee may on behalf of the Holders of all the Modified Notes waive an existing Default or Event of Default and its consequences hereunder with respect to the Modified Notes, except a continuing Default or Event of Default in the payment of principal of, premium, if any, Additional Amounts, if any, or interest on, the Modified Notes (including in connection with an offer to purchase); provided, however, that the Holders of not less than two-thirds in aggregate principal amount of the Modified Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration. Without the consent of any Holder of a Note, the Indenture, the Notes, the Note Guarantees or the Pledge Agreements may be amended or supplemented to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, to provide for the assumption of the Company's or a Guarantor's obligations to Holders of the Notes and Note Guarantees in case of a merger or consolidation, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the TIA, to conform the text of the Indenture, the Pledge Agreements or the Notes to any provision of the "Description of Notes" section of the Company's Offering Memorandum dated December 13, 2006, relating to the initial offering of the Notes, to the extent that such provision in that "Description of Notes" was intended (as certified in the applicable Officer's Certificate delivered to the Trustee) to be a verbatim recitation of a provision of the Indenture, the Note Guarantees, the Pledge Agreements or the Notes; to provide for the issuance of Additional Notes in accordance with

the limitations set forth in the Indenture, or to allow any Guarantor to execute a supplemental indenture to the Indenture and/or a Note Guarantee with respect to the Notes. Notwithstanding anything to the contrary contained herein or in the Indenture, including Section 9.01 of the Indenture, the Holders of the Modified Notes shall vote as a separate class with respect to any matters whatsoever relating to the Sharing Agreement, the Sharing Global Note, the Security and Collateral Assignment Agreement, the Security Agent Agreement and the rights, privileges and obligations inuring to the Holders of the Modified Notes on account of their status as such, and no other Holder of Notes (including Holders of Existing Notes) shall be entitled to any vote with respect thereto. To the extent any action may be taken or is required to be taken by the Participating Noteholders pursuant to the Sharing Agreement, the Indenture or the Notes, the vote or written consent of the Requisite Noteholders shall be sufficient to effect such Action and the Trustee shall be entitled to rely upon any Action so taken. For the avoidance of doubt, no amendment or modification to or waiver of Section 4(a) or 4(b) of the Sharing Agreement shall be effective as to any Participating Noteholder that does not vote in favor thereof or consent thereto.

(12) *DEFAULTS AND REMEDIES*. Events of Default include: (i) default in the payment when due of the Principal Amount, Accrued Interest or Special Interest when the same becomes due and payable pursuant to the terms of the Sharing Agreement and this Note, at maturity, upon redemption or otherwise, including the occurrence of a Guarantors Default, (ii) the occurrence of any event specified in subsections (4), (9) or (10) of Section 6.01 of the Indenture, and (iii) the occurrence of either a Material Breach (which has not been cured within the Cure Period) or a Claimant Parties Release Event (as defined in the Sharing Agreement) (in each case, an "Event of Default"). For the avoidance of doubt, only an Event of Default as defined in this Note shall constitute an Event of Default under the Indenture for purposes of a Holder of this Note. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Modified Notes may declare all the Modified Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture and the Sharing Agreement. Subject to certain limitations and the terms of the Sharing Agreement and Section 13 of this Note, Holders of a majority in aggregate principal amount of the then outstanding Notes or Modified Notes, as applicable, may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest or premium, if any, or Additional Amounts, if any) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of the Holders of all of the Notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of the Principal Amount, Accrued Interest, Special Interest or Additional Amounts on the Notes. The Company is required, upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

(13) *STANDSTILL*. Subject to Section 6(c) of the Sharing Agreement relating to the termination of the Tristan Standstill Period and the Guarantors Standstill Period: (i) during the Tristan Standstill Period, the Participating Noteholders agree to forbear (and to instruct the Trustee to forbear by voting the Modified Notes held by such Participating Noteholders in such manner) from exercising any and all default-related remedies to the extent provided under the Indenture or otherwise under any related documents (other than the Sharing Agreement) or under applicable law or at equity against the Tristan Parties or any family member of A. Stati or G. Stati with respect to the Defaults or Events of Default under the Indenture existing on or prior to the Effective Date; and (ii) during the Guarantor Standstill Period, the Participating Noteholders agree to forbear (and to instruct the Trustee to forbear by voting the Modified

Notes held by such Participating Noteholders in such manner) from asserting any claims against the Guarantors and/or the Republic of Kazakhstan or any of its Affiliates, arising out of or connected to the Notes (including the Modified Notes) or the Indenture.

(14) TRUSTEE DEALINGS WITH COMPANY. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

(15) NO RECOURSE AGAINST OTHERS. Except as provided in the Sharing Agreement, a director, officer, employee, incorporator or stockholder of the Company or any of the Guarantors, as such, will not have any liability for any obligations of the Company or the Guarantors under the Notes, the Note Guarantees or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

(16) AUTHENTICATION. This Note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(17) ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(18) CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes, and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed thereon.

(19) GOVERNING LAW. THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THIS NOTE AND THE NOTE GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

(20) ARBITRATION. Each of the Company, Kazpolmunay, and Tolkynneftegaz agree that any suit, action or proceeding against any member of the Tristan Group or the Pledgors brought by the Initial Purchaser, the directors, officers, employees and agents of the Initial Purchaser, or by any person who controls the Initial Purchaser, arising out of or based upon this Agreement or the transactions contemplated hereby shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "ICC Rules"). The place of arbitration shall be New York, New York. Each of the Company, Kazpolmunay and Tolkynneftegaz waive any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the exclusive jurisdiction of such arbitration in any suit, action or proceeding. The language to be used in the arbitral proceedings shall be English. There shall be three arbitrators, one nominated by the initiating party in the request for arbitration, the second nominated by the other party within 30 days of receipt of the request for arbitration, and the third, who shall act as presiding arbitrator, nominated by the two parties within 30 days of the appointment of the second arbitrator. If any arbitrators are not nominated within these time periods, the ICC Court shall make the appointment(s) in accordance with the ICC Rules. In addition to the authority conferred on the arbitrators by the ICC Rules, and without prejudice to any provisional

measures that may be available from a court of competent jurisdiction, the arbitrators shall have the power to grant any provisional measures that they deem appropriate, including but not limited to provisional injunctive relief, and any provisional measures ordered by the arbitrators shall, to the extent permitted by applicable law, be deemed to be a final award on the subject matter of the measures and shall be enforceable as such. Judgment upon the award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant party or its assets.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Sharing Agreement. Requests may be made to:

Tristan Oil Ltd.
75 Mateevici Street
Chisinau, Moldova, MD 2009
Attention: Mr. Anatolie Stati

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: _____
(Insert assignee's legal name)

_____
(Insert assignee's soc. sec. or tax I.D. no.)

_____

_____

_____

_____

(Print or type assignee's name, address and zip code)

and irrevocably appoint _____
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date:

Your Signature: _____
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee*:

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE *

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Custodian

** This schedule should be included only if the Note is issued in global form.*

Exhibit B-1

Form of Commencement Date Legal Opinion

(a) To our knowledge, there is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of Tristan, threatened in writing against or affecting Tristan before or brought by any court or other governmental authority or arbitration board or tribunal that seeks to restrain, enjoin, prevent the consummation of or otherwise questions the validity or legality of the transactions contemplated by the Consent Solicitation (the "Transactions") Transactions and no order preventing or suspending the use of any Offering Materials has been issued by the United States Securities and Exchange Commission (the "Commission") or any other U.S. regulatory or governmental authority.

(b) To our knowledge, no applicable judgments, orders or decrees, consents, authorizations, approvals, orders, exemptions, registrations, qualifications or other actions of, or filing with or notice to, the Commission or any other U.S. regulatory or governmental authority (collectively "Approvals") are required in connection with the execution and delivery of the documents relating to the Transactions and the consummation of the Transactions, except for (i) such Approvals which, considering all such Approvals in the aggregate, would not have an adverse effect on Tristan's ability to consummate the Transactions and (ii) those that have been made or obtained.

(c) The statements in the Offering Materials under the heading ["The Proposed Amendments"] insofar as such statements constitute a summary of certain provisions of the Indenture, the Supplemental Indenture and the Sharing Agreement referred to therein, constitute an accurate summary of such provisions in all material respects.

(d) The statements in the Statement under the heading ["Certain United States Federal Income Tax Consequences,"] insofar as such statements constitute statements or summaries of matters of U.S. Federal tax consequences to certain Holders of the Notes, constitute an accurate summary of such consequences under current law in all material respects.

Exhibit B-2

Form of Closing Date Legal Opinion

(a) Assuming due authorization, execution and delivery of the Supplemental Indenture by each Party thereto, the Supplemental Indenture is or will be a legal, valid and binding obligation of Tristan and will be enforceable against Tristan in accordance with its terms, except that such enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws now or hereafter in effect relating to creditors' rights generally, general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law) and concepts of good faith and fair dealing.

(b) To our knowledge, there is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of Tristan, threatened in writing against or affecting Tristan before or brought by any court or other governmental authority or arbitration board or tribunal that seeks to restrain, enjoin, prevent the consummation of or otherwise questions the validity or legality of the transactions contemplated by the Consent Solicitation (the "Transactions") and no order preventing or suspending the use of any Offering Materials has been issued by the United States Securities and Exchange Commission (the "Commission") or any other U.S. regulatory or governmental authority.

(c) To our knowledge, no applicable judgments, orders or decrees, consents, authorizations, approvals, orders, exemptions, registrations, qualifications or other actions of, or filing with or notice to, the Commission or any other U.S. regulatory or governmental authority (collectively "Approvals") are required in connection with the execution and delivery o the documents relating to the Transactions and the consummation of the Transactions, except for (i) such Approvals which, considering all such Approvals in the aggregate, would not have an adverse effect on Tristan's ability to consummate the Transactions and (ii) those that have been made or obtained.

(d) The Modified Notes constitute valid and binding obligations of Tristan, entitled to the benefits of the Indenture, as supplemented by the Supplemental Indenture, enforceable against Tristan in accordance with their terms, except that such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws now or hereafter in effect relating to creditor's rights generally, general principles of equity (regardless of whether considered in a proceeding in equity or at law) and concepts of good faith and fair dealing.

(e) The statements in the Offering Materials under the heading ["The Proposed Amendments"] insofar as such statements constitute a summary of certain provisions of the Indenture, the Supplemental Indenture and the Sharing Agreement referred to therein, constitute an accurate summary of such provisions in all material respects.

(f) The statements in the Statement under the heading ["Certain United States Federal Income Tax Consequences,"] insofar as such statements constitute statements or summaries of matters of U.S. Federal tax consequences to certain Holders of the Notes, constitute an accurate summary of such consequences under current law in all material respects.

All such opinions will contain assumptions that local law conforms in all material respects to New York law and enforceability exceptions related to the actions of the Republic of Kazakhstan.

Exhibit B-3

Form of Legal Opinion

(a) Assuming due authorization, execution and delivery of the Agreement by each Party thereto, the Agreement is or will be a legal, valid and binding obligation of each Tristan Party and will be enforceable against each Tristan Party in accordance with its terms, except that such enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws now or hereafter in effect relating to creditors' rights generally, general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law) and concepts of good faith and fair dealing.

(b) To our knowledge, there is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of any Tristan Party, threatened in writing against or affecting any Tristan Party before or brought by any court or other governmental authority or arbitration board or tribunal that seeks to restrain, enjoin, prevent the consummation of or otherwise questions the validity or legality of the Agreement or the Transactions.

(c) To our knowledge, no applicable judgments, orders or decrees, consents, authorizations, approvals, orders, exemptions, registrations, qualifications or other actions of, or filing with or notice to, the Commission or any other U.S. regulatory or governmental authority (collectively "Approvals") are required in connection with the execution and delivery of this Agreement and the consummation of the Transactions, except for (i) such Approvals which, considering all such Approvals in the aggregate, would not have an adverse effect on the Tristan Parties' ability to consummate each of the Transactions and (ii) those that have been made or obtained.

(d) The Sharing Agreement is in a form sufficient to create a valid and enforceable security interest in favor of the Participating Noteholders in those types of Assigned Property described in the Sharing Agreement in which a security interest may be created under the Uniform Commercial Code as in effect in the State of New York (such Assigned Property, the "Article 9 Collateral"). The Security and Collateral Assignment Agreement is in a form sufficient to create a valid and enforceable security interest in favor of the Assignee in those types of Assigned Property described in the Security Agreement constituting Article 9 Collateral.

All such opinions will contain assumptions that local law conforms in all material respects to New York law and enforceability exceptions related to the actions of the Republic of Kazakhstan.

Exhibit C

Form of Transferee Acknowledgment

THIS IS A TRANSFEREE ACKNOWLEDGMENT, dated as of [ ] (the "Acknowledgment") executed by [ ] (the "Joining Party"). Capitalized terms used herein but not otherwise defined shall have the meanings set forth in the Sharing Agreement (as defined below).

WHEREAS, on [ ], 2012, Tristan, the other Tristan Parties and the Majority Noteholders entered into that certain Sharing Agreement and Assignment of Rights attached hereto as Exhibit A (the " Sharing Agreement");

WHEREAS, the Joining Party [desires to acquire Notes from a Participating Noteholder][desires to become a party to the Sharing Agreement];

WHEREAS, the Sharing Agreement [requires each Person who acquires Notes from a Participating Noteholder prior to the Consent Deadline to sign an acknowledgement that it is bound by the Sharing Agreement][permits Persons to become a Participating Noteholder by signing an acknowledgement that it is bound by the Sharing Agreement].

NOW, THEREFORE, in consideration of the representations, warranties, promises and covenants contained in this Acknowledgment, and other good and valuable consideration, including the benefits of the Sharing Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Agreement to be Bound. The Joining Party hereby joins in and becomes a party to the Sharing Agreement as a "Participating Noteholder" and agrees to be fully bound by, and subject to, all of the covenants, terms and conditions of the Sharing Agreement applicable to a Participating Noteholder as though an original party thereto, including the obligation to provide Consents in the Consent Solicitation.

2. Execution. This Acknowledgment is executed by the Joining Party on behalf of itself.

IN WITNESS WHEREOF, the parties hereto have executed this Acknowledgment as of the date first above written.

JOINING PARTY

[ ]

By: _____

Exhibit D

Form of Press Release

Tristan Oil Ltd.
Execution of Sharing Agreement
[●] December 2012

For immediate release, [Insert City]

Tristan Oil Ltd. (**Tristan**), the issuer of 10 ½ per cent senior secured notes due January 1, 2012 in the aggregate principal amount of US$531,110,000 (the **Notes**) announces that on December *[ ]* 2012, it entered into an agreement (the **Sharing Agreement**) with holders of Notes holding *[62]*% of the aggregate principal amount of Notes (the **Majority Noteholders**). *[Subsequently, additional holders of Notes have adhered to the Sharing Agreement (together with the Majority Noteholders, the "Participating Noteholders") such that, as at today's date, Participating Noteholders holding in excess of [85%] of the aggregate principal amount of the Notes are parties to the Sharing Agreement.]*

Background:

Parties associated with Tristan, including its shareholder Anatolie Stati, along with Gabriel Stati, Ascom Group S.A. and Terra Raf Trans Traiding Ltd. (the **Claimant Parties**), have initiated an arbitration against the Republic of Kazakhstan seeking substantial damages for the alleged expropriation of certain of the Claimant Parties' interests in Kazpolmunay LLP and Tolkynneftegaz LLP, the Guarantors under the Notes, as well as certain other assets of the Guarantors (the **Arbitration**).

The Claimant Parties contend that as a result of these actions by the Republic of Kazakhstan, Tristan failed to pay interest on the Notes on July 1, 2010. That failure subsequently became an Event of Default and additional Events of Default under the Notes have occurred and are continuing as a result of the Notes having matured and the failure of Tristan or the Guarantors to make payment thereon.

Summary Description of Sharing Agreement:

Under the Sharing Agreement:

- Any proceeds collected as a result of an award or settlement of the Arbitration (an **Award**) will be paid into a blocked account in New York.

- The Proceeds will be shared between the Claimant Parties and the Participating Noteholders; once certain costs have been paid, the Participating Noteholders will receive 70% of any such proceeds until principal and interest on their Notes have been repaid in full.

- Interest will accrue under the Notes after January 1, 2012 at the rate of interest, in any, provided in the Award.

- The Claimant Parties have granted to the Participating Noteholders a collateral assignment over the product and proceeds of the Arbitration as security for their obligations under the Sharing Agreement.

- The Participating Noteholders have agreed to extend the maturity of their Notes until January 1, 2016, although the Participating Noteholders have retained the right to take enforcement action against the original guarantors of the Notes after January 1, 2014.

- The Participating Noteholders have agreed that, in the event that they recover any proceeds from enforcement action against the guarantors of the notes, they will, in certain circumstances, share these with the Claimant Parties applying the same formula that will apply in relation to the proceeds of an Award.

- If the Participating Noteholders recover a "Minimum Payment" (being approximately 70% of what they are owed in respect of the Notes) and certain conditions have been satisfied, Tristan will be entitled to redeem their Notes for US$1.00. In the event that the Participating Noteholders recover less than this amount they will retain their rights to take enforcement action under the Notes in respect of the amounts they are still owed.

The Consent Solicitation and the Pre-Packaged Bankruptcy:

The benefits of the Sharing Agreement are to be made available to all holders of Notes by way of a consent solicitation (the **Consent Solicitation**) which will amend the terms of the Notes, including those changes as set out above. Following the Consent Solicitation, the Notes held by Participating Noteholders will cease to be in default and the Participating Noteholders will forbear from seeking any remedies with respect to the Notes until January 1, 2014 unless other material defaults under the Sharing Agreement or the Notes occur prior thereto. The Consent Solicitation is expected to be launched before the end of this year.

The Participating Noteholders have agreed to vote in favour of the Consent Solicitation and have agreed that they will only sell their Notes to parties which adhere to the terms of the Sharing Agreement and vote in favour of the Consent Solicitation.

*[In the event that Noteholders holding 85% in aggregate principal amount of the Notes do not vote in favour of the Consent Solicitation, Tristan will seek to implement the restructuring by way of a pre-packaged Chapter 11 bankruptcy filing in the United States Bankruptcy Court for the Southern District of New York (the **Bankruptcy**). The Participating Noteholders have also agreed to vote in favour of any such bankruptcy plan to give effect to the Sharing Agreement.]*

For further information contact [.....]

Exhibit E

Form of Security and Collateral Assignment Agreement

This SECURITY AND COLLATERAL ASSIGNMENT AGREEMENT (This "Assignment'), dated as of [ ], is among Anatolie Stati ("A. Stati"), Gabriel Stati ("G. Stati"), Ascom Group, S.A. ("Ascom"), Terra Raf Trans Traiding Ltd. ("Terra Raf" and, collectively with A. Stati. G. Stati and Ascom, the Assignors") and the parties listed under the heading "Assignees" on the signature pages hereto (the "Assignees"). Following the appointment of the Participating Noteholders Representative, all references to the "Assignees" in this Assignment shall be deemed to be references to the Participating Noteholders Representative. Following the Effective Date and the Trustee's agreement to assume the rights and obligations, if any, of the Participating Noteholders Representative, all references to the "Assignees" in this Assignment shall be deemed to be references to the Trustee.

WHEREAS, pursuant to the terms of the Sharing Agreement and Assignment of Rights, dated as of December [ ], 2012 (the "Agreement"), the Assignors have agreed, at the request of the Assignees, to assign to the Assignees for their benefit all of the Assignors' right, title and interest in and to the Proceeds, the Account and over any other monies or other assets received by any of the Assignors or their Affiliates in settlement of or through the enforcement of an Award, and any and all products and proceeds of the foregoing (collectively, the "Assigned Property"), to secure the payment and performance of all obligations of the Tristan Parties under the Modified Notes, the Agreement and under this Assignment (collectively, the "Secured Obligations"); and

NOW, THEREFORE, the parties hereby agree as follows:

1. Each Assignor hereby pledges, assigns and grants to the Assignees for their ratable benefit a first-priority continuing security interest in and lien on, and conditionally assigns for collateral purposes, all of the Assignor's right, title and interest in the Assigned Property to secure the Secured Obligations.

2. This Assignment is made solely for the purpose of securing the payment and performance of all obligations of the Assignors under the Modified Notes, the Agreement and this Assignment. If and so long as there shall not have occurred any Material Breach of the Agreement by any of the Assignors which has not been cured pursuant to the terms of the Agreement, the Assignees shall permit the Assignors to have the benefit of all rights of the Assigned Property, subject to the terms of the Agreement.

3. The Assignors further, jointly and severally, agree, represent and warrant that:

(a) The Assignors will, in the exercise of their reasonable business judgment, do all things necessary and proper to protect and preserve the Assigned Property.

(b) The Assignors specifically acknowledge and agree that the Assignees neither assume, nor shall have any responsibility for, the payment of any sums due or to become due with respect to the Assigned Property.

(c) If any Assignor commits a Material Breach of the Agreement which has not been cured pursuant to the terms of the Agreement, in addition to all other rights and remedies of the Assignees pursuant to applicable law or otherwise, the Assignees or their successors or designees shall have all of the rights and remedies under applicable law, including, without limitation, the rights and remedies provided to a secured party under the Uniform Commercial Code.

(d) The Assignors hereby designate and appoint the Assignees and each of their designees or agents as attorney-in-fact of the Assignor irrevocably and with power of substitution, with authority to execute and deliver for and on behalf of the Assignor after the occurrence and continuance of a breach of the Agreement any and all instruments, documents, agreements and other writings necessary or advisable for the exercise on behalf of the Assignor of any rights created or existing under or pursuant to the Assigned Property.

4. This Assignment shall be binding upon and inure to the benefit of the respective successors and assigns of the Assignors and the Assignees.

5. All capitalized terms not specifically defined in this Assignment that are defined in the Agreement shall have the same meanings herein as in the Agreement.

6. THIS ASSIGNMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW (OTHER THAN THE NEW YORK GENERAL OBLIGATIONS LAW §5-1401)).

7. This Assignment may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which together shall constitute one instrument. In proving this Assignment, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought.

8. Assignors hereby agree to pay all costs and expenses of the Assignees in connection with the enforcement, collection, or other realization of the benefits of this Assignment, including the fees and expenses of counsel.

9. Notwithstanding anything to the contrary contained herein, (i) following the appointment of the Participating Noteholders Representative, the Assignees shall automatically, and without any further act or any required notice to or consent from the other parties hereto, be deemed to have assigned all of its rights and obligations, if any, hereunder as Assignee to the Participating Noteholders Representative and (ii) following the Effective Date and the Trustee's agreement to assume the rights and obligations, if any, of the Participating Noteholders Representative, the Participating Noteholders Representative shall automatically, and without any further act or any required notice to or consent from the other parties hereto, be deemed to have assigned all of its rights and obligations, if any, hereunder as "Assignee" to the Trustee.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first written above.

ASSIGNORS

[ ]

By: _____

Name: _____

Title: _____

ASSIGNEES

[ ]

By: _____

Name: _____

Title: _____

Exhibit F

Form of Security Agent Agreement

SECURITY AGENT AGREEMENT

THIS SECURITY AGENT AGREEMENT is made this __ day of _____, 2012, by and among Anatolie Stati, as representative of the Claimant Parties (the "Representative"), GTCS Borders Limited, as representative of the Participating Noteholders (the "Participating Noteholders Representative"), and WILMINGTON TRUST, NATIONAL ASSOCIATION (the "Security Agent"). The Representative, the Participating Noteholders Representative, and the Security Agent are collectively referred to as the "Parties."

WHEREAS, the Majority Noteholders and the Tristan Parties entered into a certain Sharing Agreement and Assignment of Rights (the "Sharing Agreement) on November [·], 2012, attached hereto as Exhibit A; and

WHEREAS, the Sharing Agreement contemplates the distribution of certain Proceeds to the Claimant Parties and the Participating Noteholders through the use of the Security Agent;

NOW, THEREFORE, in consideration of the premises, and further consideration of the covenants set forth hereafter, it is hereby agreed mutually as follows:

I. Definitions.

Capitalized terms not otherwise defined herein shall have the meanings set forth in the Sharing Agreement.

II. Designation as Security Agent.

Subject to the terms and conditions hereof, the Representative and the Participating Noteholders Representative hereby appoint Wilmington Trust, National Association as the Security Agent and Wilmington Trust, National Association hereby accepts such appointment and confirms that the Account has been opened.

III. Deposit of Proceeds.

(a) The Security Agent will hold all Proceeds in the Account in escrow for the benefit of the Participating Noteholders (or Wells Fargo Bank, N.A. (the "Trustee" as defined in the Sharing Agreement) on behalf of the Participating Noteholders) and the Claimant Parties upon the terms and conditions set forth in this Security Agent Agreement and shall not disburse funds from the Account except as provided herein. The Account shall be opened in the Security Agent's name as a trust account.

(b) Funds deposited in the Account shall not be invested.

(c) Wire instructions for the Account are:

Wilmington Trust, National Association
ABA: 031100092
Account:

Ref: Tristan Security Agency
Attn: Alecia Anderson, Global Capital Markets

(d) Account Statement. The Representative and the Participating Noteholders Representative hereto instruct the Security Agent that on each date on which Proceeds are the deposited in the Account, the Security Agent shall deliver to the Representative and the Participating Noteholders Representative a statement in writing setting forth in reasonable detail the balance of funds then in the Account (the "Account Statement"). The Representative and the Participating Noteholders Representative hereto further instruct the Security Agent that on the first date upon which the balance in the Account is reduced to zero, the Security Agent shall promptly thereafter deliver to the Representative and the Participating Noteholders Representative written notice that the balance in the Account has been reduced to zero.

IV. Disbursement of Account.

(a) Disbursements Generally.

(i) Prior to the Effective Date and the Trustee's assumption of the Participating Noteholders Representative's rights and obligations hereunder, all distributions of the Proceeds in the Account shall be made in accordance with Section IV(b) below or pursuant to directions set forth in a Joint Instruction executed by the Representative and the Participating Noteholders Representative in the form attached hereto as Exhibit C (a "Joint Instruction"). Each such Joint Instruction shall specify the wire transfer or other payment instructions for each release of Proceeds to the applicable Persons.

(ii) Except as provided in Section IV(a)(vii), below, following the occurrence of the Effective Date and the Trustee's assumption of the Participating Noteholders Representative's rights and obligations hereunder through the execution of the Assumption Acknowledgment in the form attached hereto as Exhibit F (the "Assumption Acknowledgment"), all distributions of the Proceeds in the Account shall be made in accordance with Section IV(b) below or pursuant to directions set forth in a Joint Instruction executed by the Representative and the Trustee. Each such Joint Instruction shall specify the wire transfer or other payment instructions for each release of Proceeds to the applicable Persons.

(iii) When an Award is issued, the Representative will deliver to the Security Agent a notice confirming (x) the interest rate; and (y) whether interest is to compound and, if so, for what period, for the purposes of any calculation of the Outstanding Amount from time to time. Prior to receipt of such notice, the Security Agent is entitled to assume that the Outstanding Amount is $642,643,100 for the purposes of making distributions hereunder.

(iv) In the event that any payments become due under IV(b) (iii) below, prior to the Effective Date, the Security Agent shall not be required to make such payments until it has received notice from the Participating Noteholders Representative of: (x) the Pro Rata Percentage of each Participating Noteholder; and (y) wire instructions for making payments to the Participating Noteholders.

(v) Within two (2) Business Days of the occurrence of the Effective Date and the Trustee's assumption of the Participating Noteholders Representative's rights and obligations under this Agreement through the execution of the Assumption Acknowledgment or, if such notice cannot be provided within such two (2) Business Day period, as soon as reasonably practicable thereafter, the Participating Noteholders Representative will provide written notice to the Security Agent of: (x) the occurrence of the Effective Date; and (y) the Trustee's assumption of the Participating Noteholders Representative's rights and obligations under this Agreement.

(vi) Within two (2) Business Days of the occurrence of the Effective Date and the Trustee's assumption of the Participating Noteholders Representative's rights and obligations under this Agreement through the execution of the Assumption Acknowledgment, the Trustee will provide written notice to the Security Agent of the Participating Noteholders' Percentage. The Security Agent shall be entitled to rely upon such notice for the purposes of making distributions hereunder.

(vii) Notwithstanding anything to the contrary contained herein, for all payments due under Section IV(b)(ii) below the Security Agent shall make such payments directly to the Majority Noteholders (or their predecessors or designees) and the Trustee in the amounts and to the parties set forth in the written instructions of the Participating Noteholders Representative, which instructions shall be delivered immediately prior to the Trustee's assumption of the Participating Noteholders Representative's rights and obligations hereunder through the execution of the Assumption Acknowledgment, but only to the extent such instructions were not previously so delivered by the Participating Noteholders Representative.

For the avoidance of doubt, if and to the extent any wire instructions are provided to the Security Agent in a Joint Instruction, such wire instructions shall be deemed to be incorporated by reference into this Agreement.

(b) Instructions; Priority of Disbursements. The Parties agree that the Proceeds from the Account shall be distributed by the Security Agent as follows and in the following order of priority:

(i) First, to the Claimant Parties pursuant to written disbursement instructions delivered by the Representative to the Security Agent and the Participating Noteholders Representative (each such disbursement instruction delivered pursuant to this Section IV(b), a "Disbursement Instruction"), in an amount equal to $15,000,000;

(ii) Second, to the Majority Noteholders (or their predecessors or designees) and the Trustee pursuant to a Distribution Instruction delivered by the Participating Noteholders Representative to the Security Agent and the Representative, in an amount equal to $3,000,000 in aggregate;

(iii) Third, 70% to the Participating Noteholders in accordance with their respective Pro Rata Percentages (or after the Effective Date to the Trustee for the benefit of the Participating Noteholders) and 30% to the Claimant Parties until the Participating Noteholders (or after the Effective Date to the Trustee for the benefit of the Participating Noteholders) have received aggregate distributions of Proceeds totaling the Participating Noteholders respective Pro Rata Percentages of the Outstanding Amount; and

(iv) Fourth, after the Participating Noteholders have received aggregate distributions totaling their respective Pro Rata Percentages of the Outstanding Amount pursuant to clause (iii) above, 100% to the Claimant Parties;

Following the Effective Date, the Security Agent shall provide written notice to the Trustee within one Business Day following the deposit of funds into the Account, which notice shall specify (i) the date on which the Proceeds were deposited into the Account and (ii) the amount of funds that will be distributed to the Trustee for the benefit of the Holders pursuant to Section IV(b)(iii), above.

(c) Automatic Release. If a Failed Consent Solicitation occurs and the Prepackaged Plan is not confirmed by the Bankruptcy Court on or before the Outside Date, except to the extent that a Failed Consent Solicitation occurred (including following a failure by Tristan to launch the Consent Solicitation) or the failure to obtain confirmation from the Bankruptcy Court is caused, directly or indirectly, by the gross negligence or willful misconduct of any Tristan Party or if as of the Outside Date any Tristan Party is then in Material Breach of the Sharing Agreement, all Proceeds in the Account shall be distributed promptly by the Security Agent to

the Claimant Parties. The Representative and the Participating Noteholders Representative shall deliver promptly to the Security Agent joint written notice of the occurrence of the events described in this Section IV(c) and the Security Agent shall make the distributions required by this Section IV(c) solely pursuant to a Joint Instruction.

(d) Account details. All payments to be made to the Claimant Parties shall be made to such account or accounts as are notified to the Security Agent by the Representative from time to time. All payments to the Participating Noteholders or the Trustee shall be made as follows:

(i) Prior to the Effective Date, to such accounts as notified to the Security Agent by the Participating Noteholders Representative from time to time.

(ii) After the Effective Date and following the Trustee's assumption of the Participating Noteholders Representative's rights and obligations hereunder through the execution of the Assumption Acknowledgment, to such account as notified to the Security Agent by the Trustee from time to time.

(e) Calculations. The Security Agent will calculate all sums to be paid pursuant to IV(b)(iii), including, in respect of each payment made, the amounts attributable to principal, Special Interest and Accrued Interest. Special Interest will be computed on the basis of a 360-day year of twelve 30-day months.

(f) Notwithstanding anything contained herein to the contrary, in the event funds transfer instructions are given, whether in writing, by telecopier or otherwise, the Security Agent is authorized (but not required) to seek confirmation of such instructions by telephone call-back to the intended recipients of the payments, and the Security Agent may rely upon the confirmations of anyone purporting to be the person or persons designated in the instructions. The persons and telephone numbers for call-backs may be changed only in a writing actually received and acknowledged by the Security Agent. The Parties to this Security Agent Agreement acknowledge that such security procedure is commercially reasonable.

V. Authority of Security Agent and Limitation of Liability.

(a) In acting hereunder, the Security Agent shall have only such duties as are specified herein and no implied duties shall be read into this Security Agent Agreement, and the Security Agent shall not be liable for any act done, or omitted to be done, by it in the absence of its gross negligence, bad faith or willful misconduct.

(b) The Security Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so.

(c) The Security Agent shall be entitled to consult with legal counsel, and shall incur no liability and shall be fully protected in taking any action or omitting to take any action in good faith in accordance with the advice or opinion of such counsel.

(d) The Security Agent shall not be required to use its own funds in the performance of any of its obligations or duties or the exercise of any of its rights or powers, and shall not be required to take any action which, in the Security Agent's reasonable judgment, it believes is contrary to law or to the terms of this Security Agent Agreement or which it believes would subject it or any of its officers, employees or directors to liability unless furnished with security and indemnity which it deems, in its reasonable discretion, to be satisfactory.

(e) For any payment required under this Security Agent Agreement, the Representative shall pay to the Security Agent compensation for its services hereunder to be determined from time to time by the application of the current rates then charged by the Security Agent as set forth in the Schedule of Fees attached hereto as Exhibit D, and as invoiced from time to time by the Security Agent. In the event the Security Agent renders any extraordinary services in connection with the Account at the joint written request of the Parties, the Security Agent shall be entitled to additional compensation therefor. The terms of this paragraph shall survive termination of this Security Agent Agreement.

(f) The Representative hereby agrees to indemnify the Security Agent, its directors, officers, employees and agents (collectively, the "Indemnified Parties") and hold the Indemnified Parties harmless, from any and against all liabilities, losses, actions, suits or proceedings at law or in equity, and any other expenses, fees or charges of any character or nature, which an Indemnified Party may incur or with which it may be threatened by reason of acting as or on behalf of the Security Agent under this Security Agent Agreement or arising out of the existence of the Account, except to the extent the same shall be caused by the Security Agent's gross negligence, bad faith or willful misconduct. The terms of this paragraph shall survive termination of this Security Agent Agreement.

(g) In the event the Security Agent receives conflicting instructions hereunder, the Security Agent shall be fully protected in refraining from acting until such conflict is resolved to the reasonable satisfaction of the Security Agent.

(h) The Security Agent may resign as Security Agent, and, upon appointment of a Substitute Security Agent (as defined below), shall thereupon be discharged from any and all further duties and obligations under this Agreement by giving notice in writing of such resignation to the Representative and the Participating Noteholders Representative, which notice shall specify a date upon which such resignation shall take effect. Upon receipt of notice of the resignation of the Security Agent, the Representative and the Participating Noteholders Representative shall, within thirty (30) business days after receiving the foregoing notice from the Security Agent, designate a substitute Security Agent (the "Substitute Security Agent"), which Substitute Security Agent shall, upon its designation and notice of such designation to the Security Agent, succeed to all of the rights, duties and obligations of the Security Agent hereunder. In the event that the Representative and the Participating Noteholders Representative shall not have delivered to the Security Agent a written designation of a Substitute Security Agent within the aforementioned thirty (30) day period, together with the consent to such designation by the Substitute Security Agent, the Security Agent or the Participating Noteholders Representative may apply to a court of competent jurisdiction to appoint a Substitute Security Agent, and the costs of obtaining such appointment shall be reimbursable by the Representative. From and after the date of a Material Breach of the Sharing Agreement (after giving effect to the applicable Cure Period) or a material breach of this Agreement by the Representative the Participating Noteholders Representative shall have the sole authority to appoint a successor Security Agent in the event the Security Agent resigns.

VI. Tax Reporting.

The Parties hereto, other than the Security Agent, agree that, for tax reporting purposes, all interest, dividends, gains and other income earned from the investment of amounts in the Account ("Taxable Income") in any tax year shall be allocated to the Representative ("Taxpayer"). Upon execution of this Security Agent Agreement, Taxpayer shall provide the Security Agent with its certified tax identification number ("TIN"), if available, on an executed Internal Revenue Service Form ("IRS") W-9 or other applicable IRS Form. Taxpayer agrees to report all Taxable Income allocable to it on its federal and other applicable tax returns. Taxpayer acknowledges and agrees that, in the event its TIN, if available, is not certified to the Security Agent, and/or it does not make all certifications set forth in IRS Form W-9 or other applicable IRS Form, applicable tax laws may require withholding of a portion of any income earned with respect to amounts in the Account

that are allocable to it.

VII. Account Control

Solely for the purposes of this Article VII, references to the "Participating Noteholders Representative" shall be deemed to refer to: (i) prior to the Effective Date, GTCS Borders Limited; and (ii) on and following the Effective Date and following the Trustee's assumption of the Participating Noteholders Representative's rights and obligations hereunder through the execution of the Assumption Acknowledgment, the Trustee. From and after the Effective Date and the Trustee's assumption of the Participating Noteholders Representative's rights and obligations hereunder through the execution of the Assumption Acknowledgment, and without limiting the provisions of Article XI, all of the rights and privileges afforded to GTCS Borders Limited under this Article VII shall be assigned by the Participating Noteholders Representative to the Trustee without further act, deed, consent of, or notice to, the other Parties hereto other than the Participating Noteholders Representative's obligations under Section IV(b)(ii), which shall remain with GTCS Border Limited and not be assigned to or assumed by the Trustee.

(a) Establishment of Controlled Account

(i) The parties acknowledge that the Account constitutes a "deposit account" within the meaning of Section 9-102 of the Uniform Commercial Code of the State of New York (the "UCC"), and Security Agent is a "bank" within the meaning of Section 9-102 of the UCC. Security Agent's jurisdiction for purposes of Section 9-304 of the UCC is New York. The provisions of this Agreement constitute "control" over the Account within the meaning of Section 9-104 of the UCC.

(ii) The Representative, on behalf of itself and each of the Claimant Parties, has granted to the Participating Noteholders Representative for the ratable benefit of all Participating Noteholders a security interest in the Account and in all Proceeds, cash, funds, items, instruments, and any other amounts now or later deposited into or held therein. The Security Agent acknowledges the lien on and security interest in the Account so granted by the Representative to Participating Noteholders Representative. Other than as set forth in Section VII(c)(i), the Security Agent does not have a security interest in the Account.

(iii) The Security Agent has not entered into any other control agreement governing the Account with any other party.

(iv) The Security Agent agrees that it will not enter into a control agreement with any other party with respect to the Account without the Participating Noteholders Representative's prior written consent.

(b) Control Provisions

(i) The Participating Noteholders Representative has control over the Account, provided that, until the Security Agent receives from the Participating Noteholders Representative a Notice of Exclusive Control (as described and set forth in Section VII(b)(iii) below), the Representative will be entitled to jointly direct with the Participating Noteholders Representative, the disposition of funds from the Account in accordance with and subject to the terms of the Sharing Agreement. So long as this Agreement is in effect, the Representative may not close or seek to close the Account without Participating Noteholders Representative 's prior written consent.

(ii) Participating Noteholders Representative's Control of Account. Except as permitted in Section VII(c) hereof, after the Security Agent receives a Notice of Exclusive Control and has reasonable opportunity to comply with it, but no later than two Business Days (as defined below) after the Notice of

Exclusive Control has been validly given (in accordance with Section VII(b)(iii) below), the Security Agent and Representative agree that: (a) the Security Agent will comply only with Participating Noteholders Representative's instructions as to the withdrawal or disposition of any funds credited to the Account and to any other matters relating to the Account, without Representative's further consent, and (b) the Security Agent will not comply with any instructions from Representative concerning the Account or any funds therein. The Security Agent shall have no duty to inquire or determine whether Participating Noteholders Representative is entitled to send a Notice of Exclusive Control. The Participating Noteholders Representative's instructions may include, without limitation, the giving of stop payment orders for any items being presented to the Account for payment. The Security Agent will be fully entitled to rely upon such instructions from the Participating Noteholders Representative even if such instructions are contrary to any instructions or demands given by the Representative. The Representative confirms that the Security Agent (x) shall follow instructions from the Participating Noteholders Representative even if the result of following such instructions is that the Security Agent dishonors items presented for payment from the Account, and (y) will have no liability to the Representative for wrongful dishonor of such items by following such instructions from the Participating Noteholders Representative. For purposes of this Agreement, "Business Day" means a day on which the Security Agent is open to the public for business and is measured in a 24 hour increment.

(iii) A Notice of Exclusive Control shall be in writing, in the form set forth in Exhibit E hereto, and delivered to the address listed below the Security Agent's signature at the end of this Security Agent Agreement via hand delivery, messenger, overnight delivery or facsimile, and shall be considered to have been validly given when received, except that a facsimile will be considered to have been validly given only when acknowledged in writing by the Security Agent (the Security Agent agrees that it will use its good faith effort to promptly acknowledge receipt of such facsimile). To the extent the Participating Noteholders Representative does not deliver the Notice of Exclusive Control as set forth in this Section VII(b)(iii) or to the address listed below the Security Agent's signature at the end of this Security Agent Agreement, Participating Noteholders Representative (a) acknowledges that the Security Agent may not be able to respond to such Notice of Exclusive Control pursuant to Section VII(b)(ii) above, and (b) agrees that the Security Agent will not be held liable for any failure to respond to such Notice of Exclusive Control.

(c) Priorities of Security Interests

(i) The Security Agent shall have a first lien against the Account to secure the payment obligations of the Representative to the Security Agent under Section V(e).

(ii) The Participating Noteholders Representative agrees that nothing herein subordinates or waives, and that the Security Agent expressly reserves, any and/or all of the Security Agent's present and future rights (whether described as rights of setoff, Security Agent's liens, chargeback or otherwise), with respect to all cash, funds, items, instruments, and any other amounts now or later deposited into or held in the Account.

(iii) The Participating Noteholders Representative agrees that notwithstanding receipt of the Notice of Exclusive Control, the Security Agent may exercise the Security Agent's rights and remedies in connection with any liens or claims it may have in or on the Account as described in Section VII(c)(i).

VIII. Notices.

Except as otherwise provided herein, any notice, instruction or instrument to be delivered hereunder shall be in writing and shall be delivered personally, by overnight courier service or sent by certified, registered or express air mail, postage prepaid (and shall be deemed given when delivered, if delivered by hand, one (1) Business Day after deposited with an overnight courier service, if delivered by overnight courier, and five (5)

days after mailing, if mailed) to the addresses or e-mail addresses set forth on the signature page hereof or at such other address specified in writing by the addressee, or if to the Security Agent, upon receipt via facsimile, e-mail, or telecopier transmission, at the number set forth on the signature page hereof, or at such other number specified by the Security Agent.

IX. Amendment.

Except as provided in Section X, this Security Agent Agreement may not be amended, modified, supplemented or otherwise altered except by an instrument in writing signed by the Parties hereto.

X. Termination.

This Security Agent Agreement will terminate upon the receipt by the Security Agent of a joint notification from the Representative and the Participating Noteholders Representative that the Sharing Agreement has terminated.

XI. Assignability; Successors.

This Security Agent Agreement may not, without the prior written consent of the other Parties hereto, be assigned by operation of law or otherwise, and any attempted assignment shall be null and void. Subject to the foregoing and the next succeeding sentence, this Security Agent Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors, permitted assigns and legal representatives. Notwithstanding anything to the contrary contained herein, on the Effective Date and following the Trustee's assumption of the Participating Noteholders Representative's rights and obligations hereunder through the execution of the Assumption Acknowledgment, GTCS Borders Limited shall automatically, and without any further act or any required notice to or consent from the other Parties hereto, be deemed to have assigned all of its rights and obligations as the "Participating Noteholders Representative" under this Security Agent Agreement to the Trustee (other than the Participating Noteholders Representative's obligations under Section IV(b)(ii) shall remain with GTSC Border Limited and note be assigned to or assumed by the Trustee), and from and after the Effective Date and following the Trustee's assumption of the Participating Noteholders Representative's rights and obligations hereunder, GTCS Borders Limited shall no longer be a party hereto other than for purposes of Section IV(b)(ii) hereof.

XII. Anti-Terrorism/Anti-Money Laundering Laws.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT - To help the United States government fight the funding of terrorism or money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens a new account. What this means for the Parties to this Security Agent Agreement: the Security Agent will ask for your name, address, date of birth, and other information that will allow the Security Agent to identify you (e.*g.*, your social security number or tax identification number.) The Security Agent may also ask to see your driver's license or other identifying documents (*e.g.*, passport, evidence of formation of corporation, limited liability company, limited partnership, etc., certificate of good standing.)

Each party to this Security Agent Agreement hereby agrees to provide the Security Agent, prior to the establishment of the Account, with the information identified above pertaining to it by completing the form attached as Exhibit B and returning it to the Security Agent. Exhibit B includes one form for individuals and another form for entities.

XIII. Governing Law.

This is a New York contract and shall be governed by New York law in all respects. NO CLAIM ARISING OUT OF OR IN ANY WAY RELATING TO THIS SECURITY AGENT AGREEMENT MAY BE COMMENCED, PROSECUTED OR CONTINUED IN ANY COURT OTHER THAN THE COURTS OF THE STATE OF NEW YORK LOCATED IN THE CITY AND COUNTY OF NEW YORK OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, WHICH COURTS SHALL HAVE EXCLUSIVE JURISDICTION OVER THE ADJUDICATION OF SUCH MATTERS, AND THE PARTIES HERETO CONSENT TO THE JURISDICTION OF SUCH COURTS AND PERSONAL SERVICE WITH RESPECT THERETO. EACH PARTY HERETO WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING OR CLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR IN ANY WAY RELATING TO THIS SECURITY AGENT AGREEMENT.

XIV. Entire Agreement.

This Security Agent Agreement, the Sharing Agreement and any documents referred to herein and therein contain the entire understanding of the Parties with respect to the subject matter hereof and supersede all prior negotiations, agreements and undertakings among the Parties with respect to such subject matter. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth herein and therein with respect to the subject matter hereof.

XV. Counterparts.

This Security Agent Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute and be one and the same instrument.

XVI. Successor Security Agent.

Any business entity into which the Security Agent may be merged or converted or with which it may be consolidated, or any entity resulting from any merger, conversion or consolidation to which the Security Agent shall be a party, or any entity succeeding to all or substantially all of the corporate trust business of the Security Agent, shall be the successor of the Security Agent hereunder, without the execution or filing of any paper or any further act on the part of any of the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused their names to be hereto subscribed as of the day and year first above written.

_____,
Anatolie Stati, as the Representative

Address:
_____
_____
_____
Fax No.: _____
Tel.No.: _____
Attention:_____
Email: _____

GTCS BORDERS LIMITED,
as the Participating Noteholders Representative

By:_____
Title:

Address:
2nd Floor Midtown Plaza,
PO Box 448
George Town
Grand Cayman KY1-1106
Cayman Islands
Fax No.: +345 945 3470
Tel.No.: +345 945 3466
Attention: The Directors
Email: info@genesis.ky

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as the Security Agent

By:_____
Title:

Address:
50 South Sixth Street, Suite 1290
Minneapolis, MN 55402
Fax No.: 612-217-5651
Tel. No.: 612-217-5642
Attention: Alecia Anderson
Email: AAnderson@wilmingtontrust.com

EXHIBIT A
Sharing Agreement

WILMINGTON TRUST

EXHIBIT B
Due Diligence Questionnaire for Entity Customers

Dear Customer:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism or money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens a new account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

Please complete the items identified and sign below. In certain circumstances, we may be required to request additional information. Thank you for your cooperation in this matter.

Company Name:_____

SSN/TIN*:_____

Street Address**:_____

City:_____ **State:**_____ **Zip Code:**_____

Phone (Optional):_____ **Fax (Optional)**:_____ **eMail (Optional)**:_____

If SSN/TIN has been applied for please attach copy of filed application
****Business street address, address for the principal place of business, local office or other physical location,***
P.O. Box address is not acceptable

Required documents from non-individuals:

Please provide the following ***executed*** document:
Completed IRS Form W-9/W-8 (form attached)

Please provide ***at least one*** **(1)** of the following certified documents:
Certificate or Articles of Incorporation
Government-issued business license
Partnership Agreement
LLC Agreement
Trust Agreement
Certificate of Good Standing (issued within the last six months)

_____ _____
Signature **Date**

EXHIBIT B (Cont'd)
Due Diligence Questionnaire for Individual Customers

Dear Customer:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism or money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens a new account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

Please complete the items identified and sign below. In certain circumstances, we may be required to request additional information. Thank you for your cooperation in this matter.

Your Name:_____

SSN/TIN*:_____ **Date of Birth (Individuals)**:_____

Street Address *(individual's residential address***):**_____

City:_____ **State:**_____ **Zip Code:**_____

Phone (Optional):_____ **Fax (Optional)**:_____ **eMail (Optional)**:____

* ***If SSN/TIN has been applied for please attach copy of filed application***

** ***P.O. Box address is not acceptable***

Required documents from individuals:

Please provide the following ***executed*** document:
Completed IRS Form W-9/W-8 (form attached)

Copy of ***at least one*** (1) of the following documents:

1) Driver License (Photo ID):
State/Country of Issuance:_____
License Number:_____
Issuance Date:_____
Expiration Date:_____

2) Passport:
Country of Issuance:_____
Issuance Date:_____
Passport Number:_____
Expiration Date:_____

3) Government Issued ID Card (Photo ID):
State/Country of Issuance:_____
ID Number:_____
Issuance Date:_____
Expiration Date:_____

_____ _____
Signature **Date**

Revised: January 9, 2007/Due Diligence Form

Form **W-9**
(Rev. November 2005)
Department of the Treasury
Internal Revenue service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or Type
See Specific Instructions on page 2.

Name (as shown on your Income tax return)

Business name, if different from above

Check appropriate box: ☐ Individual/ Sole Proprietor ☐ Corporation ☐ Partnership ☐ Other ► ☐ Exempt from backup withholding

Address (number, street, and apt. or suite no.)

Requester's name and address (optional):

City, state, and ZIP code.

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN) **However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 2**. For other entities, it is your employer identification number (EIN). If you do not have a number, see **How to get a TIN on page 2**.

Social Security number
___ ___

Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.

Employer identification number
___

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), **and**
2. I am not subject to backup withholding because. **(a)** I am exempt from backup withholding, or **(b)** I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or **(c)** the IRS has notified me that I am no longer subject to backup withholding, **and**
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item **2** above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item **2** does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here **Signature of U.S. person ►** **Date ►**

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

• The U.S. grantor or other owner of a grantor trust and not the trust, and

• The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.

2. The treaty article addressing the income.

3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,

2. You do not certify your TIN when required (see the Part II instructions on page 4 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules regarding partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you
are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment. **Misuse of TINs**. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided. **Other entities**. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line. **Note**. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

Exempt payees. Backup withholding is not required on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),

2. The United States or any of its agencies or instrumentalities,

3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,

4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or

5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

7. A foreign central bank of issue,

8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,

9. A futures commission merchant registered with the Commodity Futures Trading Commission,

10. A real estate investment trust,

11. An entity registered at all times during the tax year under the Investment Company Act of 1940,

12. A common trust fund operated by a bank under section 584(a),

13. A financial institution,

14. A middleman known in the investment community as a nominee or custodian, or

15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

IF the payment is for ...	**THEN the payment is exempt for...**
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over $600 required to be reported and direct sales over $5,000[1]	Generally, exempt recipients 1 through 7[2]

[1] See Form 1099-MISC, Miscellaneous Income, and its instructions.

[2] However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How* to get a *TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at *www.socialsecurity.gov.* You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/businesses* and clicking on Employer ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting *www.irs.gov* or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon. **Caution**: A *disregarded domestic entity that* has a *foreign owner must use the appropriate Form W-8.*

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, **dividend**, **and barter exchange accounts opened before 1984 and broker accounts considered active during 1983**. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, **dividend**, **broker**, **and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983**. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification. **4. Other payments**. You must give your correct TIN, but
you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, **acquisition or abandonment of secured** property, **cancellation of debt, qualified tuition program payments** (**under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions**, **and pension distributions**. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals Joint account)	The actual owner of the account
3. Custodian account of a minor (Uniform Gift to Minors Act)	or, if combined funds, the first individual on the account [1]
4. a. The usual revocable savings trust (grantor is also trustee)	The minor [2]
	The grantor-trustee [1]
	The actual owner [1]
b. So-called trust account that is not a legal or valid trust under state law	The owner [3]
5. Sole proprietorship or single-owner LLC	
For this type of account:	**Give name and EIN of:**
6. Sole proprietorship or single-owner LLC	The owner [3]
7. A valid trust, estate, or pension trust	Legal entity [4]
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program	The public entity

[1] List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

[2] Circle the minor's name and furnish the minor's SSN.

[3] You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.

[4] List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules regarding partnerships* on page 1.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, **states**, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

EXHIBIT C
Form of Joint Instruction

_____, 2012

Wilmington Trust, National Association
50 South Sixth Street, Suite 1290
Minneapolis, MN 55402
Attention: Alecia Anderson
Phone: (612) 217-5642
Facsimile: (612) 217-5651
Email Address: AAnderson@wilmingtontrust.com

[Via E-Mail]

Re: Security Agent Agreement, dated as of [ ], 2012 (the "Security Agent Agreement"), by and among [ ] ("Representative"), [ ] (the "Participating Noteholders Representative"), and Wilmington Trust, National Association (the "Security Agent").

The undersigned Representative and [Participating Noteholders Representative/Trustee], pursuant to Section [IV(a)/IV(c)] of the Security Agent Agreement, hereby authorize and direct the Security Agent to disburse on [ ], 2012 $[•] from the Account by wire transfer to the following accounts:

Name:
Amount: $
Bank:
Address:
ABA:
Acct:

Name:
Amount: $
Bank:
Address:
ABA:
Acct:

Name:
Amount: $
Bank:
Address:
ABA:
Acct:

Name:
Amount: $
Bank:
Address:
ABA:

Acct:

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Security Agent Agreement. This joint direction may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

Sincerely,

REPRESENTATIVE:

[ ]

By:_____
Name:
Title:

[PARTICIPATING NOTEHOLDERS REPRESENTATIVE/TRUSTEE]:

[ ]

By:_____
Name:
Title:

EXHIBIT D
Schedule of Fees

Security Agent Acceptance Fee:	$2,000.00

This one-time fee covers the acceptance of the engagement created or modified by an Agreement (the "Agreement"). This charge includes a complete study of drafts of the Agreement and all supporting documents until a final agreement is agreed upon and execution of the final agreement.

The Acceptance Fee is due and payable on the date the execution of the Security Agent Agreement.

Security Agent Administrative Fee:	$13,000.00

This annual fee encompasses the day-to-day discharge of the Agent's duties and responsibilities under the Security Agent Agreement. The Security Agent Administrative Fee is due and payable on the date of the execution of the Security Agent Agreement.

Administration Extraordinary Fees:	Vice President $410.00/hour Assistant Vice President $325.00/hour

Extraordinary fees may be charged for services beyond those contemplated by the Agreement. You will be informed in advance of services that are considered extraordinary.

Tax Reporting:	
IRS Form 1099 or 1042 reporting, if applicable	$7.00 per Form

Out-of Pocket Expenses:	At Cost

We only charge for out-of-pocket expenses in response to specific tasks assigned by the client. Therefore, we cannot anticipate what specific out-of –pocket items will be needed or what corresponding expenses will be incurred. Possible expenses would be, but not limited to, express mail and messenger charges, travel expenses to attend closing or other meeting. There are no charges for indirect out-of-pocket expenses.

NOTE: Charges for any services not specifically covered in this schedule will be billed commensurate with the services rendered. This schedule reflects charges that are now in effect for our normal and regular services and are subject to modification where unusual conditions or requirements prevail, and does not include counsel fees or expenses and disbursements, which will be billed at cost. The fees of our counsel shall be due and payable whether or not the transaction closes.

Schedule is subject to periodic review and adjustment by mutual consent.

Please wire the Agent Fees to:

Wilmington Trust
ABA: 031100092
Account No.:
Re: Tristan Agent Fees
Attn: Alecia Anderson, Global Capital Markets

EXHIBIT E

Notice of Exclusive Control

To:Wilmington Trust, National Association ("Security Agent")
50 South Sixth Street, Suite 1290
Minneapolis, MN 55402
Attention: Alecia Anderson
Phone: (612) 217-5642
Facsimile: (612) 217-5651
Email Address: AAnderson@wilmingtontrust.com

From: _____ ("Participating Noteholders Representative")
Re: _____ ("Representative ")
Date: _____

Pursuant to the Security Agent Agreement dated _____("Agreement") entered among Security Agent, Representative and Participating Noteholders Representative, Participating Noteholders Representative hereby notifies Security Agent of Participating Noteholders Representative's exercise of Participating Noteholders Representative's rights under the Agreement and directs Security Agent to cease complying with instructions or any directions originated by Representative or its agents.

PARTICIPATING NOTEHOLDERS REPRESENTATIVE:

_____
By: _____
Title:

ACKNOWLEDGED BY:
(for facsimile only)

WILMINGTON TRUST,
NATIONAL ASSOCIATION

_____
By: _____
Title:
Date:
Time:

EXHIBIT F
FORM OF ASSUMPTION ACKNOWLEDGMENT

To:Wilmington Trust, National Association ("Security Agent")
50 South Sixth Street, Suite 1290
Minneapolis, MN 55402
Attention: Alecia Anderson
Phone: (612) 217-5642
Facsimile: (612) 217-5651
Email Address: AAnderson@wilmingtontrust.com

Pursuant to the Security Agent Agreement dated [ ] (the "Agreement") entered among Security Agent, Representative and Participating Noteholders Representative, the undersigned hereby confirms that, save for the rights and obligations, if any, under Section IV(b)(ii) of the Agreement, it has assumed the rights and obligations of GTCS Borders Limited in its capacity as Participating Noteholders Representative to the extent provided in the Agreement, and hereby agrees to be bound by the terms and conditions in the Agreement applicable to the Participating Noteholders Representative to the extent provided in the Agreement. Capitalized terms used in this letter and not otherwise defined have the meaning ascribed to them in the Agreement.

WELLS FARGO BANK, N.A.:

_____

By:

_____

Title:

ACKNOWLEDGED BY:

WILMINGTON TRUST, NATIONAL ASSOCIATION

(for facsimile only)

_____

By:

_____

Title:
Date:
Time:

CC: Representative

SCHEDULE B

PROPOSED AMENDMENTS

Proposed Amendments:

The following is a summary of the Proposed Amendments to the Indenture, including the terms of the Modified Notes, for which Consents will be sought in the Consent Solicitation. The purpose of the Proposed Amendments is, among other things, to amend the Indenture to allow for the issuance of the Modified Notes and to codify certain of the terms of the Sharing Agreement within the Indenture solely for the benefit and burden of the holders of the Modified Notes. The Proposed Amendments described in paragraphs 1-7, 9-22, 25-29 and 31-32 are General Amendments, which will apply to all Holders of Notes. The Proposed Amendments described in paragraphs 8, 23-24 and 30 are Sharing Amendments, which will apply only to Holders of the Modified Notes.

1. Modified Notes

The Proposed Amendments would create a new series of notes under the Indenture referred to as the "Modified Notes." The Modified Notes will have their own separate trust estate under the Indenture separate and apart from the trust estate that exists for the benefit of the holders of the Existing Notes. The trust estate under both the Modified Notes and the Existing Notes will have the benefit of the existing pledge agreements, security documents and guaranties and any recoveries on those assets will continue to be shared pro rata between the Holders of the Existing Notes and the holders of the Modified Notes as if there was not two separate trust estates. However, the Holders of the Modified Notes will also have as part of their trust estate the exclusive benefit to the distribution of Proceeds in accordance with the terms of the Sharing Agreement and will be granted, as additional security, the lien described in the Security and Collateral Assignment Agreement (described below). The Proposed Amendments would create a new Exhibit A3 to the Indenture, which would set forth the global form of the Modified Notes to be known as the Sharing Global Note. The proposed form of the Sharing Global Note is set forth on Schedule I hereto. The maturity date of the Modified Notes represented by the Sharing Global Note would be January 1, 2016 and the interest provisions related thereto will be as set forth in the Sharing Global Note. The Proposed Amendments would also provide the following definition of a "Sharing Global Note:"

> "*Sharing Global Note*" means a global Modified Note substantially in the form of Exhibit A3 hereto bearing the Global Note Legend and the Sharing Agreement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee."

2. Amendment to Definition of Global Notes. The Proposed Amendments would amend and restate the Definition of "Global Notes" in its entirety as follows:

> "*Global Notes*" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes deposited with or on behalf of and registered in the name of the Depository or its nominee, substantially in the form of Exhibits A1, A2 and A3 hereto and that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, issued in accordance with Section 2.01, 2.06(b)(3), 2.06(b)(4), 2.06(d)(2) or 2.06(f) hereof.

3. New Definitions. The Proposed Amendments would amend Section 1.01 of the Indenture to create the following defined terms in appropriate alphabetical order (or in the case of existing terms, amend and restated such terms):

> *"Account"* means (i) the account maintained by the Security Agent (as such term is defined in the Security Agent Agreement) pursuant to the Security Agent Agreement, and shall include such sub-accounts or correspondent accounts maintained by or on behalf of the Security Agent through which any payment to the aforementioned account not in US Dollars may need to be made as are notified by the Security Agent to the Representative from time to time, or (ii) such other account as the Participating Noteholders Representative (or, following the Effective Date and the Trustee's agreement to assume the obligations of the Participating

Noteholders Representative, the Trustee on behalf of the Participating Noteholders) and the Representative shall agree in writing.

"*Action*" means any claim, request, demand, waiver, amendment, supplement objection, instruction or other action.

"*Arbitration*" means the arbitration before the Arbitration Institute of the Stockholm Chamber of Commerce (116/2010) between the Claimant Parties (as claimants) and the Republic of Kazakhstan (as respondent) commenced pursuant to The Energy Charter Treaty by way of a Request for Arbitration dated July 26, 2010 and/or any other arbitration or similar proceeding brought by any of the Claimant Parties or any of their Affiliates against the Republic of Kazakhstan in respect of some or all of the Claims.

"*Asset Amounts*" means any monies received by the Trustee on or before the dates specified in Section 3(e) of the Sharing Agreement and generated by a sale of any Assets following enforcement against, or foreclosure on, the Assets by or on behalf of the Participating Noteholders, in all cases, net of any costs incurred or further capital investment made by or on behalf of the Participating Noteholders in managing or developing such Assets or generating such a sale. "Asset Amounts" shall not include any monies received following the termination of the Guarantors Standstill Period pursuant to Section 6(c)(i) or (ii) of the Sharing Agreement.

"*Assets*" means any monies, balances in bank accounts, assets (including fields, plants and properties), underground resource contracts, subsoil use rights or licenses, previously or currently held by, issued to or registered in the name of either Guarantor, without prejudice to any claims in the Arbitration that such assets have been expropriated.

"*Award*" means any award of damages (or the payment of other monies or compensation) rendered in favor of some or all of the Claimant Parties in the Arbitration, and any subsequent Order issued for the purposes of confirming or recognizing an Award, executing an Award, enforcing the terms of an Award, collecting an Award, attaching assets in furtherance of an Award or otherwise rendered for the purposes of realizing on an Award or any of the Claims.

"*Claimant Parties*" has the meaning ascribed to such term in the Sharing Agreement.

"*Claims*" has the meaning ascribed to such term in the Sharing Agreement.

"*Cure Period*" means (A) with respect to any Material Breach if such Material Breach consists of the failure to comply with an applicable time limit or deadline, 10 days following the date of the occurrence of such Material Breach, (B) with respect to any other Material Breach related to Section 3(a)(ii) or (iii), Section 4 or Section 8(a)(i) of the Sharing Agreement, 30 days following the date of the occurrence of such Material Breach, or (C) in all other cases, (i) if one or more Participating Noteholders unaffiliated with any Tristan Party have knowledge of such breach or Material Breach, 30 days following the date the Trustee or the Requisite Noteholders give written notice to the Tristan Parties of the occurrence of such breach or Material Breach or (ii) if one or more Participating Noteholders do not have knowledge of such breach or Material Breach, 30 days following the date of the occurrence of such breach or Material Breach.

"*Definitive Note*" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A2 with respect to the Existing Notes and substantially in the form of Exhibit A3 with respect to the Modified Notes, except in each case such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interest in the Global Note" attached hereto.

"*Effective Date*" has the meaning ascribed to such term in the Sharing Agreement.

"*Existing Notes*" means the 10½% Senior Secured Notes due 2012, which as of December 1, 2012 were in the aggregate amount of US$531,110,000.

"*Governmental or Judicial Authority*" means any transnational, domestic or foreign federal, state or local governmental authority, department, court, agency or official, including any political subdivision thereof.

"*Guarantors Default*" means the failure of the Tristan Parties or the Guarantors to pay all sums due under the Modified Notes (including the Outstanding Amount) on or before January 1, 2014.

"*Guarantors Standstill Period*" means the period beginning on the date hereof and ending on January 1, 2014 unless earlier terminated in accordance with the Sharing Agreement.

"*Material Breach*" means a breach by any Tristan Party, directly or indirectly, of any provision of Section 3(a)(ii) or (iii), Section 4, Section 5, Section 8(a)(i) or Section 9 of the Sharing Agreement or any failure to pay when due and in full amounts due and payable under the Modified Notes following the Effective Date.

"*Modified Notes*" means the Notes issued by the Company under the Indenture containing the terms set forth in Exhibit A-3 as the Sharing Global Note.

"Modified Notes Collateral" means all collateral pledged under the Security and Collateral Assignment Agreement.

"*Modified Notes Collateral Agent*" means Wells Fargo Bank, National Association, as the collateral agent with respect to the Modified Notes Collateral for the benefit of the Holders of the Modified Notes, and its successors and assigns.

"*New Default*" means a new Default occurring after the Effective Date with respect to Modified Notes (excluding any Default or Event of Default subject to Section 6(a) of the Sharing Agreement (Standstill)), but for the avoidance of doubt, not including any Default or Event of Default that existed and was continuing as of the Effective Date. In addition, for the avoidance of doubt, for purposes of Sections 6 and 7 of the Sharing Agreement and Section 7 of the Sharing Global Note a New Default shall be deemed not to include a Guarantors Default.

"*Notes*" means, prior to the Effective Date, the Existing Notes and after the Effective Date, the Modified Notes and the Existing Notes.

"*Order"* means any award, injunction, judgment, decree, order, ruling, subpoena or verdict or other decision issued, promulgated or entered by or with any Governmental or Judicial Authority, arbitrator or similar judicial entity.

"*Original Amount*" means an amount equal to $642,643,100 (being all principal and accrued interest under the Notes up to January 1, 2012)

"*Outstanding Amount*" means as of any date, an amount equal to the sum of (a) the Original Amount multiplied by the Participating Noteholders' Percentage and (b) Special Interest accrued and unpaid as of such date on the Modified Notes, .

"*Participating Noteholders*" means each Holder of a Global Sharing Note who thereby is bound by the Sharing Agreement from time to time.

"Participating Noteholders' Percentage" means a number expressed as a percentage and determined by multiplying 100 by the quotient of (i) the aggregate principal amount of the outstanding Modified Notes, and (ii) US $531,110,000, in the case of (i) as of the time of determination.

"*Requisite Noteholders*" means Holders beneficially owning at least a majority in aggregate principal amount of the Modified Notes and entitled to vote on matters pursuant to the Sharing Agreement and the Indenture.

"Security Agent Agreement" has the meaning ascribed to such term in the Sharing Agreement.

"*Security and Collateral Assignment Agreement*" has the meaning ascribed to such term in Section 5(a) of the Sharing Agreement.

"*Secured Obligations*" has the meaning ascribed to such term in Section 5(a) of the Sharing Agreement.

"*Series*" means either the series of Notes evidenced by the Existing Notes or the series of Notes evidenced by the Modified Notes.

"*Sharing Agreement*" means that certain Sharing Agreement and Assignment of Rights, dated as of December 17, 2012, by and among the Company and the other parties named therein, as amended, restated or supplemented from time to time.

"*Sharing Record Date*" means, with respect to the distribution of funds pursuant to the Sharing Agreement, the close of business in the place of the Registrar's office on the date preceding each date funds are deposited into the Account.

"*Special Interest*" interest on the principal amount of the Modified Notes outstanding on January 1, 2012 at the highest of any rates of interest provided for in the Award for any corresponding period (including any pre-Award interest or any other rate of return designed to account for the time value of money for the period between January 1, 2012 and the date of the Award or any portion thereof) and, to the extent that the compounding of interest is provided in the Award, compounding after January 1, 2012 for the shortest of any intervals as are provided for in the Award for any corresponding period.

"*Supermajority Noteholders*" means, as of the relevant date of determination, Holders owning at least two-thirds in aggregate principal amount of Modified Notes outstanding and entitled to vote on matters pursuant to the Sharing Agreement and the Indenture.

"*Tristan Parties*" means, collectively, the Company, Anatolie Stati, Gabriel Stati, Ascom Grup, S.A. and Terra Raf Trans Traiding Ltd.

"*Tristan Standstill Period*" means the period beginning on the date hereof and ending on January 1, 2016 unless earlier terminated in accordance with the Sharing Agreement.

4. Amendment to Section 2.01 of the Indenture. The Proposed Amendments would amend and restate Section 2.01 of the Indenture in its entirety as follows:

Section 2.01 *Form and Dating.*

(a) General. The Notes and the Trustee's certificate of authentication will be substantially in the form of Exhibits A1, A2 and A3 hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note will be dated the date of its authentication. The Notes shall be in denominations of $1,000 and integral multiples thereof.

The terms and provisions contained in the Notes will constitute, and are hereby expressly made, a part of this Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) Global Notes. Notes issued in global form will be substantially in the form of Exhibits A1, A2 and A3 hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form will be substantially in the form of Exhibits A1, A2 and A3 hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note will represent such of the outstanding Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of

outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) *Euroclear and Clearstream Procedures Applicable*. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream" and "Customer Handbook" of Clearstream shall be applicable to transfers of beneficial interests in the Regulation S Global Notes that are held by Participants through Euroclear or Clearstream.

5. *Amendment to Section 2.06 of the Indenture*. The Proposed Amendments would amend Section 2.06 of the Indenture to add a new subsection (h)(9), which would read as follows:

(9) Notwithstanding anything to the contrary contained in this Section 2.06, the Existing Notes and the Modified Notes shall constitute separate series of Notes. After the Effective Date, Holders may not transfer their interest in a Existing Note for an interest in a Modified Note nor transfer their interest in a Modified Note for an interest in the Existing Note. All references in Section 2.06 to the transfer from one Note to another Note shall be interpreted as to referring to transfers with respect to the same series of Notes.

6. *Amendment to Section 2.06 of the Indenture*. The Proposed Amendments would amend Section 2.06 of the Indenture to add a new subsection (i), which would read as follows:

(i) Each Sharing Global Note (and any such Note in certificated form) shall include the following legend (the "Sharing Agreement Legend"):

"**THIS NOTE IS SUBJECT TO THE TERMS AND CONDITIONS OF THAT CERTAIN SHARING AGREEMENT AND ASSIGNMENT OF RIGHTS, DATED AS OF DECEMBER 17, 2012, BY AND AMONG TRISTAN OIL LTD. AND THE OTHER PARTIES NAMED THEREIN (THE "SHARING AGREEMENT"). THE SHARING AGREEMENT IMPOSES SIGNIFICANT RESTRICTIONS ON YOUR ABILITY TO PURSUE CLAIMS AGAINST TRISTAN OIL LTD., EITHER OF THE GUARANTORS OR PURSUANT TO THE PLEDGE AGREEMENTS OR TO CAUSE THE TRUSTEE TO PURSUE SUCH CLAIMS ON YOUR BEHALF. ANY TRANSFEREE OF THIS NOTE WILL TAKE THE NOTE SUBJECT TO THE TERMS AND CONDITIONS OF THE SHARING AGREEMENT. ACCORDINGLY, THE HOLDER OF THIS NOTE AND ANY PROPOSED TRANSFEREE THEREOF IS URGED TO READ THE SHARING AGREEMENT IN ITS ENTIRETY, A COPY OF WHICH IS AVAILABLE UPON REQUEST FROM THE TRUSTEE AND TRISTAN OIL LTD."**

7. *Amendment to Section 2.07 of the Indenture*. The Proposed Amendments would amend Section 2.07 of the Indenture by amending and restating the first sentence of such Section so as to read as follows:

If any mutilated Note is surrendered, to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft or any Note, the Company will issue and the Trustee upon receipt of an Authentication Order, will authenticate a replacement Note of the same series if the Trustee's requirements are met.

8. *Amendments to Section 3.07 of the Indenture*. The Proposed Amendments would amend Section 3.07 of the Indenture to re-label existing subsection (d) as "(e)" and would add a new subsection (d) that would read as follows and that would only apply to the Participating Noteholders:

(d) Notwithstanding anything to the contrary contained herein, but subject to the conditions set forth in, Section 7(a) of the Sharing Agreement, the Company may redeem all (but not less than all) of the Modified Notes upon not less than 30 nor more than 60 days' notice. The total redemption price paid to redeem all the Modified Notes shall be $1.00, which amount will be retained by the Trustee as part of its compensation and no portion of such $1.00 redemption price shall be distributed to Holders. Upon compliance with the redemptions provisions of this Article III, each Holder's interest in the Modified Notes will be terminated and will not be considered outstanding for any reason.

9. *Amendments to Article IV of the Indenture*. The Proposed Amendments would amend Article IV of the Indenture to delete the following Sections: 4.03(a) and (b), 4.04, 4.09, 4.10, 4.11, 4.17, 4.18, 4.20, 4.21, 4.22, 4.23 and 4.24 and to add new Section 4.25 as follows:

Section 4.25 *Pledge Agreements and Security and Collateral Assignment Agreement.*

The Company will not assign its interest in any Pledge Agreement or the Security and Collateral Assignment Agreement or otherwise amend any Pledge Agreement or the Security and Collateral Assignment Agreement.

10. *Amendment to Section 4.05 of the Indenture*. The Proposed Amendments would amend Section 4.05 to delete the clause ", and will cause each of its Subsidiaries to pay," from the first sentence of such Section.

11. *Amendment to Section 4.06 of the Indenture*. The Proposed Amendments would amend Section 4.06 to remove all references therein to the Guarantors.

12. *Amendment to Section 4.08 of the Indenture*. The Proposed Amendments would amend Section 4.08 to read in its entirety as follows:

Section 4.08 *Restricted Payments.*

(a) The Company will not directly or indirectly declare or pay any dividend or make any other payment or distribution on account of the Company's or such Guarantor's Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company) or to the direct or indirect holders of the Company's Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company and other than dividends payable to the Company).

(b) Notwithstanding the foregoing, nothing shall prohibit the payment of any amounts by the Company in connection with the Sharing Agreement.

13. *Amendment to Section 4.12 of the Indenture*. The Proposed Amendments would amend Section 4.12 to remove all references therein to the Guarantors and to add a new subsection (c) that would read as follows:

(c) Notwithstanding the foregoing, nothing herein shall prohibit any transaction conducted in connection with the Sharing Agreement.

14. *Amendment to Section 4.13 of the Indenture*. The Proposed Amendments would amend Section 4.13 to remove all references therein to the Guarantors and to add the following language at the end of such Section: "and Liens imposed by or as a result of any action taken at the direction of the Republic of Kazakhstan."

15. *Amendment to Section 4.14 of the Indenture*. The Proposed Amendments would amend Section 4.14 to read in its entirety as follows:

Section 4.14 *Business Activities*.

The Company will not engage in any new business different from that in which it was engaging on December 17, 2012 except with respect to pursuing the Arbitration or pursuing other activities consistent with the Sharing Agreement.

16. *Amendment to Section 4.15 of the Indenture.* The Proposed Amendments would amend Section 4.15 to remove all references therein to the Guarantors.

17. *Amendment to Section 4.16 of the Indenture.* The Proposed Amendments would amend Section 4.16 to read in its entirety as follows:

Section 4.16 *Company Change of Control*.

Other than as permitted by the Sharing Agreement, the Company shall not permit the transfer of any of the equity interests in the Company.

18. *Amendment to Section 4.19 of the Indenture.* The Proposed Amendments would amend Section 4.19 to delete the last sentence of such Section.

19. *Amendment to Section 5.01 of the Indenture*. The Proposed Amendments would amend Section 5.01 to remove all references therein to the Guarantors.

20. *Amendment to Section 6.01 of the Indenture*. The Proposed Amendments would amend Section 6.01 to add the following sentence at the end of such section: "Notwithstanding the foregoing, an Event of Default with respect to the Modified Notes shall have the definition set forth in the form of Sharing Global Note and for the purposes therein references to this Section in that definition shall exclude any reference to the Guarantors."

21. *Amendment to Section 6.04 of the Indenture*. The Proposed Amendments would amend Section 6.04 by amending and restating the first sentence of such Section so as to read as follows:

(A) Holders of not less than a majority in aggregate principal amount of the then outstanding Notes of the Series represented by the Existing Notes by notice to the Trustee may on behalf of the Holders of all the Existing Notes waive an existing Default or Event of Default and its consequences hereunder with respect to the Existing Notes, except a continuing Default or Event of Default in the payment of principal of, premium, if any, Additional Amounts, if any, or interest on, the Existing Notes (including in connection with an offer to purchase); provided, however, that the Holders of a majority in aggregate principal amount of the Existing Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration; and (B) Holders of not less than two-thirds in aggregate principal amount of the Series represented by the Modified Notes by notice to the Trustee may on behalf of the Holders of all the Modified Notes waive an existing Default or Event of Default and its consequences hereunder with respect to the Modified Notes, except a continuing Default or Event of Default in the payment of principal of, premium, if any, Additional Amounts, if any, or interest on, the Modified Notes (including in connection with an offer to purchase); provided, however, that the Holders of not less than two-thirds in aggregate principal amount of the Modified Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration.

22. *Amendment to Section 6.05 of the Indenture*. The Proposed Amendments would amend Section 6.05 to add the following clause at the end of such Section: "Notwithstanding the foregoing, if an proceeding or remedy relates solely to a Series of Notes, the majority Holders of such Series of Notes shall be considered when determining if a sufficient amount to Holders have provided direction to the Trustee."

23. *Amendment to Section 6.06 of the Indenture*. The Proposed Amendments would amend Section 6.06 to add the following clause at the beginning of the first sentence of such Section: "Except to enforce the rights of the Participating Noteholders under the Sharing Agreement, which may be enforced either by the Requisite Noteholders (as defined in the Sharing Agreement) or the Trustee,".

24. *Amendment to Section 6.07 of the Indenture*. The Proposed Amendments would amend Section 6.07 to replace the first clause of such section in its entirety with the following: "Notwithstanding any other provision of this Indenture, but subject to the terms of the Sharing Agreement with respect to the Holders of the Modified Notes,".

25. *Amendment to Section 6.10 of the Indenture*. The Proposed Amendments would amend Section 6.10 by amending and restating the first clause of such Section up to "First" so as to read as follows:

> The Existing Notes and the Modified Notes represent two separate series of Notes and two separate trust estates are deemed created under this Indenture. The repayment terms, collateral and rights under each Series of Notes are different. Subject to the prior payment of any amounts owed to the Trustee, the Trustee shall apply any proceeds received from the Collateral to the two series of Notes on a pro rata basis based upon the aggregate principal amount of the then outstanding Notes. Subject to the prior payment of any amounts owed to the Trustee, any proceeds received by the Trustee on (i) the Modified Note Collateral or (ii) on account of the Sharing Agreement shall be distributed solely to Holders of the Modified Notes and no such funds shall be distributable to the Holders of the Existing Notes. Each reference in this Section 6.10 to Notes should be deemed a reference to the applicable Series of Notes, unless the distribution is on account of both Series. Subject to the foregoing, if the Trustee collects any money or property pursuant to this Article 6, it shall pay out the money or property in the following order:

26. *Amendment to Section 6.10 of the Indenture*. The Proposed Amendments would amend Section 6.10 by adding a new paragraph at the end of such Section, which would read as follows:

> For the avoidance of doubt, if and to the extent any Asset Amounts are received by the Trustee, such amounts shall be distributed by the Trustee to the Holders of the Existing Notes and the Modified Notes on a pro rata basis, considering for this purpose the Existing Notes and the Modified Notes to be a single class of Notes. If more than one distribution is made on account of Asset Amounts, all prior distributions of Asset Amounts shall be considered payments of principal for purposes of calculating the pro rata amount due to each Series of Notes (notwithstanding any language contained in the Modified Notes regarding how Asset Amounts impact the amount due on the Modified Note). Under the terms of the Sharing Agreement, Asset Amounts to be distributed to the Holders of the Modified Note will be required to be paid over to the Security Agent (as such term is defined in the Security Agent Agreement). For the avoidance of doubt, to the extent that the Trustee receives proceeds from the Collateral that are not Asset Amounts, such proceeds shall be applied pursuant to the first paragraph of this Section 6.10.
>
> Notwithstanding the foregoing, the actual principal amount of the Modified Notes shall only be reduced by that portion of the Asset Amounts actually held by the Security Agent for distribution to the holders of the Modified Notes pursuant to Section 4(b)(iii) of the Sharing Agreement.

27. *Amendment to Section 7.06 of the Indenture*. The Proposed Amendments would delete Section 7.06 in its entirety and replace it with "[Intentionally Omitted]."

28. *Amendment to Section 9.02 of the Indenture*. The Proposed Amendments would amend Section 9.02 of the Indenture to add a new paragraph at the end of such Section which shall read as follows:

> Notwithstanding anything to the contrary contained herein, including Section 9.01, the Modified Notes shall rank *pari passu* in right to payment with the Existing Notes under the Indenture and shall share pari passu in any recoveries on the Collateral or under the Pledge Agreements. However, Holders of the Modified Notes shall vote as a separate class with respect to any matters whatsoever relating to the Sharing Agreement, the Sharing Global Note, the Security and Collateral Assignment Agreement, the Security Agent Agreement and the rights, privileges and obligations inuring to the Participating Noteholders on account of their status as a Holder of a Modified Note, and the Holder of the Existing Notes shall not be entitled to any vote with respect thereto and shall have no rights in the Sharing Agreement, the Sharing Global Notes, the Security and Collateral Assignment Agreement or the Security Agent Agreement. To the extent any action may be taken or is required to be taken by Holders of the Modified Notes pursuant to the Sharing Agreement, the Indenture or the Modified Notes, the vote of the Requisite Noteholders shall be

sufficient to effect such action and the Trustee shall be entitled to rely upon any action so taken. Subject to Section 18(b) of the Sharing Agreement and Section 9.02 of the Indenture, to the extent any amendment to or any waiver of, any provision of the Sharing Agreement, the Sharing Global Note, the Indenture, the Modified Notes or the rights, privileges and obligations inuring to Holders of the Modified Notes is required or requested, the vote of the Supermajority Noteholders shall be required to effect such amendment or waiver.

29. *Amendment to Section 9.06 of the Indenture*. The Proposed Amendments would amend Section 9.06 of the Indenture to delete the second to last paragraph thereof in its entirety.

30. *Amendment to Article 10 of the Indenture*. The Proposed Amendments would amend Section 10.01 of the Indenture to add a new paragraph at the end of such Section, which shall read as follows:

In addition to the security of the Pledge Agreements, the Modified Notes are also secured by the Security and Collateral Assignment Agreement and the Security Agent Agreement. Each Holder of the Modified Notes by its acceptance thereof, consents and agrees to the terms of the Security and Collateral Assignment Agreement, the Security Agent Agreement and the Sharing Agreement and directs the Notes Collateral Agent to enter into the Security and Collateral Assignment Agreement and the Security Agent Agreement and to exercise its rights thereunder in accordance with the directions delivered by the Requisite Noteholders. The Company will take any and all actions reasonably required to cause the Security and Collateral Assignment Agreement to create and maintain, as security for the Modified Notes, a valid and enforceable perfected first priority Lien in and on all the Notes Collateral, in favor of the Modified Notes Collateral Agent for the benefit of the Holders of the Modified Notes, superior to and prior to the rights of all third Persons and subject to no other Liens.

31. *Amendment to Article 10 of the Indenture*. The Proposed Amendments would amend Section 10.02 to delete subsections (b) and (c) thereof in their entirety.

32. *Amendment to Article 10 of the Indenture*. The Proposed Amendments would amend Article 10 of the Indenture to add a new Section 10.07, which shall read as follows:

Section 10.07. *Marshalling of Assets*. For the avoidance of doubt, notwithstanding anything to the contrary contained in the Indenture or the Pledge Agreements, the parties acknowledge and agree that the Collateral is for the ratable benefit of all Holders, including Holders owning an interest in the Modified Notes, and all Holders, the Company, and the Guarantors irrevocably and conditionally waive their rights to assert, directly or indirectly, any right to a marshalling of assets or a sale in inverse order of alienation.

Schedule I

[attached]

[Face of Note]

CUSIP No.: [ ]
ISIN No. [ ]

Senior Secured Note due 2016

No. ___ $

TRISTAN OIL LTD.

promises to pay to [_____] or registered assigns on January 1, 2016,

(i) the principal sum of_____ [$_____] DOLLARS (the "Principal Amount") and (ii) accrued interest in the sum of [$_____] DOLLARS (the "Accrued Interest") which represents a portion of the accrued interest on the Existing Note at the time the Holder exchanged its interest in the Existing Note for an interest in this Modified Note. The sum of the Principal Amount and Accrued Interest equals the Original Amount multiplied by the Participating Noteholders' Percentage on the date hereof.

Interest Payment Dates: (A) On the tenth (10^{th}) Business Day following each deposit of any Proceeds into the Account under the Security Agent Agreement ; and (B) the date on which an Event of Default has occurred and/or the date on which the Tristan Standstill Period ends.

The Security Agent shall notify the Trustee on each day that a deposit of Proceeds into the Account under the Security Agent Agreement stating that such a deposit has been made and identifying the amount of funds that will be distributed to the Trustee for the benefit of the Holders.

Sharing Record Date: The close of business in the place of the Registrar's office on the date preceding each date funds are deposited into the Account under the Security Agent Agreement.

Dated: [ ], 2013

Tristan Oil Ltd.

By: _____
Name:
Title:

This is one of the Modified Notes referred to in the within-mentioned Indenture:

Wells Fargo Bank,
N.A., as Trustee

By: _____
Authorized Signatory

[Back of Note]

Senior Secured Notes due 2016

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC"), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

"**THIS NOTE IS SUBJECT TO THE TERMS AND CONDITIONS OF THAT CERTAIN SHARING AGREEMENT AND ASSIGNMENT OF RIGHTS, DATED AS OF DECEMBER 17, 2012, BY AND AMONG TRISTAN OIL LTD. AND THE OTHER PARTIES NAMED THEREIN (THE "SHARING AGREEMENT"). THE SHARING AGREEMENT IMPOSES SIGNIFICANT RESTRICTIONS ON YOUR ABILITY TO PURSUE CLAIMS AGAINST TRISTAN OIL LTD., EITHER OF THE GUARANTORS OR PURSUANT TO THE PLEDGE AGREEMENTS OR TO CAUSE THE TRUSTEE TO PURSUE SUCH CLAIMS ON YOUR BEHALF. ANY TRANSFEREE OF THIS NOTE WILL TAKE THE NOTE SUBJECT TO THE TERMS OF THE SHARING AGREEMENT. ACCORDINGLY, THE HOLDER OF THIS NOTE AND ANY PROPOSED TRANSFEREE THEREOF IS URGED TO READ THE SHARING AGREEMENT IN ITS ENTIRETY, A COPY OF WHICH IS AVAILABLE UPON REQUEST FROM THE TRUSTEE AND TRISTAN OIL LTD."**

"THIS NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), ANY STATE SECURITIES LAWS IN THE UNITED STATES OR THE SECURITIES LAWS OF ANY OTHER JURISDICTION AND THE ISSUER HAS NOT BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "INVESTMENT COMPANY ACT"). THIS NOTE MAY NOT BE

OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT AS PERMITTED BY THIS LEGEND. THE HOLDER HEREOF, BY ITS ACCEPTANCE OF THIS NOTE, REPRESENTS, ACKNOWLEDGES AND AGREES THAT IT WILL NOT REOFFER, RESELL, PLEDGE OR OTHERWISE TRANSFER THIS NOTE EXCEPT **(A)** TO THE COMPANY, **(B)** TO A TRANSFEREE THAT IS NOT A U.S. PERSON (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT) IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 903 OR 904 OF REGULATION S UNDER THE SECURITIES ACT AND THAT AGREES TO PROVIDE NOTICE TO ANY SUBSEQUENT TRANSFEREE OF THE TRANSFER RESTRICTIONS PROVIDED IN THIS LEGEND AND **(C)** IN EACH CASE **(1)** UPON DELIVERY OF ALL CERTIFICATIONS, OPINIONS AND OTHER DOCUMENTS THAT THE COMPANY OR THE TRUSTEE MAY REQUIRE AND **(2)** IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAW OF ANY STATE OF THE UNITED STATES AND ANY OTHER JURISDICTION.

ANY TRANSFER IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE AND EFFECT AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE. NOTWITHSTANDING ANY INSTRUCTION TO THE CONTRARY TO THE COMPANY, THE TRUSTEE OR ANY INTERMEDIARY.

THE COMPANY HAS THE RIGHT, UNDER THE INDENTURE TO COMPEL ANY HOLDER OF NOTES THAT IS A U.S. PERSON AND IS NOT A QUALIFIED PURCHASER AND A QUALIFIED INSTITUTIONAL BUYER TO SELL ITS INTEREST IN THE NOTE, OR MAY SELL SUCH INTEREST ON BEHALF OF SUCH OWNER.

EACH BENEFICIAL OWNER OF THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN UNDERSTANDS THAT THE ISSUER MAY RECEIVE A LIST OF PARTICIPANTS HOLDING POSITIONS IN THE NOTES FROM ONE OR MORE BOOK-ENTRY DEPOSITORIES."

Capitalized terms used herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

(1) *INTEREST*. Tristan Oil Ltd., a British Virgin Island company (the "*Company*"), promises to pay Special Interest on the aggregate of the Principal Amount from January 1, 2012 until maturity. The applicable rate of the Special Interest shall be calculated as the highest of any rates of interest provided for in the Award for any corresponding period (including any pre-Award interest or any other rate of return designed to account for the time value of money for the period between January 1, 2012 and the date of the Award or any portion thereof) and, to the extent that the compounding of interest is provided in the Award for any corresponding period, compounding after January 1, 2012 for the shortest of any intervals as are provided for in the Award for any corresponding period. All calculations of the rate of the Special Interest due on a particular date hereunder shall be promptly provided to the Trustee by the Company in an Officers' Certificate as soon as it can be determined by the Company (or in the absence of such provision, the Requisite Noteholders). All calculations of the total amount of Special Interest due on a particular date hereunder shall be calculated by the Security Agent pursuant to the terms of the Security Agent Agreement. In no event shall the Trustee be responsible for calculating the rate of Special Interest or determining the aggregate amount of Special Interest due at any time hereunder.

Payments of Special Interest shall be due and made (i) on the tenth (10^{th}) Business Day following each deposit of any Proceeds into the Account under the Security Agent Agreement;

and (ii) on the date on which an Event of Default has occurred and/or the date on which the Tristan Standstill Period terminates. The amount of Special Interest due and payable on any Interest Payment Date shall not exceed the amount of Proceeds and monies due to the Participating Noteholders in accordance with the terms of Section 4(b)(iii) of the Sharing Agreement on the associated Sharing Record Date. Special Interest will be computed on the basis of a 360-day year of twelve 30-day months.

(2) METHOD OF PAYMENT. The Notes will be payable as to the Principal Amount, Accrued Interest , Special Interest and Additional Amounts, as applicable, at the office or agency of the Company maintained for such purpose; provided that payment by wire transfer of immediately available funds will be required with respect to payments on, this Global Note . Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

The Holder of this Note is entitled to receive payments on this Note from certain distributions made pursuant to the Sharing Agreement. If an Asset Amount is payable to the Holder of this Note, under the terms of the Sharing Agreement, the Holder is required to cause such funds to be delivered to the Security Agent under the Security Agent Agreement. As a result of this feature of the Sharing Agreement, other than for the limited purpose of calculating the pro rata amounts outstanding as described in Section 6.10, payments of Asset Amounts to the Holder hereof shall not be considered a payment of any amount outstanding under this Note if such funds are delivered to the Security Agent (but the subsequent redistributions of such funds to the Holder of this Modified Note through the Security Agent and Trustee shall be considered payments hereunder). Except as provided in the previous sentence, each such distribution when made to the Trustee for application to this Note shall be deemed a payment by the Company on this Note. On the tenth Business Day following the deposit of Proceeds into the Account under the Security Agent Agreement, the Company will pay or cause to be paid to the Trustee for distribution to the Holder of this Note on the Sharing Record Date the Proceeds and monies due to the Participating Noteholders in accordance with the terms of Section 4(b)(iii) of the Sharing Agreement. Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. All amounts paid under this Note shall be applied first to any accrued unpaid Special Interest under this Note, second to any unpaid Accrued Interest under this Note and finally to the outstanding Principal Amount of this Note.

(3) PAYING AGENT AND REGISTRAR; SECURITY AGENT. Initially, Wells Fargo Bank, N.A. the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may not act in any such capacity. Wilmington Trust, National Association will serve as Security Agent under the Security Agent Agreement.

(4) INDENTURE AND PLEDGE AGREEMENTS. The Company issued the Notes under an Indenture dated as of December 20, 2006 (the "*Indenture*") among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the TIA. The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Notes issued under the Indenture (including this Note) are secured by a pledge of the Capital Stock of the Guarantors and the Company, and all intercompany notes payable to the Company by Kazpolmunay LLP ("Kazpolmunay"), Tolkynneftegaz LLP ("Tolkynneftegaz"), and Terra Raf Trans Traiding Limited pursuant to the Pledge Agreements referred to in the

Indenture. Additionally, this Note (and not any of the Existing Notes) is secured by the Security and Collateral Assignment Agreement and the Security Agent Agreement. The Indenture does not limit the aggregate principal amount of Notes that may be issued thereunder.

(5) OPTIONAL REDEMPTION.

The Company will have the option to redeem all (but not less than all) of the Notes outstanding under the Indenture (as a single class) upon not less than 30 nor more than 60 days' notice, at a redemption price equal to 100.000% of the Principal Amount plus the Accrued Interest plus accrued and unpaid Special Interest and Additional Amounts, if any, on the Notes redeemed to the applicable redemption date.

Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

The Company may redeem all of the Modified Notes represented hereby upon not less than 30 nor more than 60 days' notice, at an aggregate redemption price equal to $1.00 in accordance with, and subject to the conditions set forth in, Section 7(a) of the Sharing Agreement. The $1.00 redemption price will be retained by the Trustee as part of its compensation and no portion of such $1.00 redemption price shall be distributed to Holders. Prior to the redemption under this paragraph, the Company will deliver to the Trustee an Officer's Certificate stating that the Company is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent under Section 7(a) of the Sharing Agreement to the right of the Company so to redeem has occurred.

(6) MANDATORY REDEMPTION AND PREPAYMENTS. The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes other than an amount equal to the Proceeds and monies due to the Participating Noteholders in accordance with the terms of Section 4(b)(iii) of the Sharing Agreement less any amount paid on this Notes as Special Interest (the "Prepayment Amount"). The Prepayment amount shall be considered due and payable on this Note on the applicable Interest Payment Date with respect to the funds to be distributed under Section 4(b)(iii) of the Sharing Agreement.

(7) RELEASES.

(a) Effective upon the date this Note is redeemed pursuant to Section 5, the Holder of this Note shall be deemed to grant to the Tristan Parties the following release:

The Holder of this Note, for itself and its successors, assigns and heirs (the "Releasors"), to the fullest extent permitted by applicable law, hereby releases and forever discharges each of the Tristan Parties and the Guarantors and each of their respective past, present and future affiliates, directors, officers, stockholders, partners (general and limited), members, employees, agents, consultants, advisors, fiduciaries, and other representatives (including, without limitation, legal counsel, investment bankers, accountants and financial advisors), and all of the foregoing Persons' successors, assigns and heirs (individually, a "Releasee" and collectively, "Releasees") from any liability or obligation, and covenants not to assert, bring or instigate against the Releasees any claims, demands, proceedings, actions, causes of action, investigations, litigations or suits (whether civil, criminal, administrative, investigative,

or informal), whether sounding in contract (including this Note and the Indenture), tort or otherwise, by reason of, relating to or arising from the fact that the Releasor is or was a holder of this Note, which any Releasor now has, has ever had, or may hereafter have against any Releasee (the "Releases").

(b) If (i) the Claimant Parties have not received from any other party to the Sharing Agreement written notice of the Claimant Parties' Material Breach of their obligations under the Sharing Agreement, which has not been cured, (ii) there is no New Default and (iii) the Participating Noteholders do not receive the Minimum Payment (as defined in the Sharing Agreement) on or before the Minimum Payment Date (as defined in the Sharing Agreement) and the Representative (as defined in the Sharing Agreement) has delivered to the Participating Noteholders a Compliance Notice certifying the fulfillment of the conditions set forth in clauses (i), (ii) and (iii), and within ten (10) Business Days of receipt of the Compliance Notice the Requisite Noteholders do not dispute the Compliance Notice, then the holder of this Note shall be deemed to grant to the Tristan Parties the following release:

The holder of this Note, for itself and its successors, assigns and heirs (the "Releasors"), to the fullest extent permitted by applicable law, hereby releases and forever discharges each of the Tristan Parties and the Guarantors and each of their respective past, present and future affiliates, directors, officers, stockholders, partners (general and limited), members, employees, agents, consultants, advisors, fiduciaries, and other representatives (including, without limitation, legal counsel, investment bankers, accountants and financial advisors), and all of the foregoing Persons' successors, assigns and heirs (individually, a "Releasee" and collectively, "Releasees") from any and all liability or obligation, and covenants not to assert, bring or instigate any claims, demands, proceedings, actions, causes of action, investigations, litigations or suits (whether civil, criminal, administrative, investigative, or informal), whether sounding in contract (other that as set forth below), tort or otherwise ("Claims"), which any Releasor now has, has ever had, or may hereafter have against any Releasee (the "Releases"); notwithstanding the foregoing, the Release in this Section 7(b) shall not apply to any liability, obligation or Claim that a Holder may have against the Company any Guarantor and all other obligors under the Indenture, the Notes (including the Modified Notes), the Note Guarantees, the Pledge Agreements, the related security documents, the Security and Collateral Assignment Agreement, the Secured Obligations and the Collateral (but specifically excluding A. Stati, G. Stati and any of their family members, except to the extent of their respective obligations under the Sharing Agreement to collect, account for and deposit into the Account Proceeds from an Award) pursuant to this Note or the Indenture or any security documents relating thereto, including the Pledge Agreements and pursuant to any promissory note pledged under the Pledge Agreements, including by Terra Raf Trans Traiding Ltd.

(8) *NOTICE OF REDEMPTION*. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed

at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction or discharge of the Indenture. Notes in denominations larger than $1,000 may be redeemed in part but only in whole multiples of $1,000, unless all of the Notes held by a Holder are to be redeemed.

(9) DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of $1,000 and integral multiples of $1,000. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes during the period between a Sharing Record Date and the corresponding Interest Payment Date.

(10) PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

(11) AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture or the Notes, the Note Guarantees and the Pledge Agreements may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes including Additional Notes, if any, and Modified Notes voting as a single class; provided that to the extent any amendment to or any waiver of, any provision of the Sharing Agreement, the Sharing Global Note, the Indenture (to extent such amendments or waivers only affect or impact the rights of the Holders of the Modified Notes), the Modified Notes or the rights, privileges and obligations inuring to Holders of the Modified Notes is required or requested, the vote of the Supermajority Noteholders shall be required to effect such amendment or waiver; and provided further that (A) Holders of not less than a majority in aggregate principal amount of the then outstanding Notes of the Series represented by the Existing Notes by notice to the Trustee may on behalf of the Holders of all the Existing Notes waive an existing Default or Event of Default and its consequences hereunder with respect to the Existing Notes, except a continuing Default or Event of Default in the payment of principal of, premium, if any, Additional Amounts, if any, or interest on, the Existing Notes (including in connection with an offer to purchase); provided, however, that the Holders of a majority in aggregate principal amount of the Existing Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration; and (B) Holders of not less than two-thirds in aggregate principal amount of the Modified Notes by notice to the Trustee may on behalf of the Holders of all the Modified Notes waive an existing Default or Event of Default and its consequences hereunder with respect to the Modified Notes, except a continuing Default or Event of Default in the payment of principal of, premium, if any, Additional Amounts, if any, or interest on, the Modified Notes (including in connection with an offer to purchase); provided, however, that the Holders of not less than two-thirds in aggregate principal amount of the Modified Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration. Without the consent of any Holder of a Note, the Indenture, the Notes, the Note Guarantees or the Pledge Agreements may be amended or supplemented to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, to provide for the assumption of the Company's or a Guarantor's obligations to Holders of the Notes and Note Guarantees in case of a merger or consolidation, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the TIA, to conform the text of the

Indenture, the Pledge Agreements or the Notes to any provision of the "Description of Notes" section of the Company's Offering Memorandum dated December 13, 2006, relating to the initial offering of the Notes, to the extent that such provision in that "Description of Notes" was intended (as certified in the applicable Officer's Certificate delivered to the Trustee) to be a verbatim recitation of a provision of the Indenture, the Note Guarantees, the Pledge Agreements or the Notes; to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture, or to allow any Guarantor to execute a supplemental indenture to the Indenture and/or a Note Guarantee with respect to the Notes. Notwithstanding anything to the contrary contained herein or in the Indenture, including Section 9.01 of the Indenture, the Holders of the Modified Notes shall vote as a separate class with respect to any matters whatsoever relating to the Sharing Agreement, the Sharing Global Note, the Security and Collateral Assignment Agreement, the Security Agent Agreement and the rights, privileges and obligations inuring to the Holders of the Modified Notes on account of their status as such, and no other Holder of Notes (including Holders of Existing Notes) shall be entitled to any vote with respect thereto. To the extent any action may be taken or is required to be taken by the Participating Noteholders pursuant to the Sharing Agreement, the Indenture or the Notes, the vote or written consent of the Requisite Noteholders shall be sufficient to effect such Action and the Trustee shall be entitled to rely upon any Action so taken. For the avoidance of doubt, no amendment or modification to or waiver of Section 4(a) or 4(b) of the Sharing Agreement shall be effective as to any Participating Noteholder that does not vote in favor thereof or consent thereto.

(12) DEFAULTS AND REMEDIES. Events of Default include: (i) default in the payment when due of the Principal Amount, Accrued Interest or Special Interest when the same becomes due and payable pursuant to the terms of the Sharing Agreement and this Note, at maturity, upon redemption or otherwise, including the occurrence of a Guarantors Default, (ii) the occurrence of any event specified in subsections (4), (9) or (10) of Section 6.01 of the Indenture, and (iii) the occurrence of either a Material Breach (which has not been cured within the Cure Period) or a Claimant Parties Release Event (as defined in the Sharing Agreement) (in each case, an "Event of Default"). For the avoidance of doubt, only an Event of Default as defined in this Note shall constitute an Event of Default under the Indenture for purposes of a Holder of this Note. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Modified Notes may declare all the Modified Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture and the Sharing Agreement. Subject to certain limitations and the terms of the Sharing Agreement and Section 13 of this Note, Holders of a majority in aggregate principal amount of the then outstanding Notes or Modified Notes, as applicable, may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest or premium, if any, or Additional Amounts, if any) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of the Holders of all of the Notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of the Principal Amount, Accrued Interest, Special Interest or Additional Amounts on the Notes. The Company is required, upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

(13) STANDSTILL. Subject to Section 6(c) of the Sharing Agreement relating to the termination of the Tristan Standstill Period and the Guarantors Standstill Period: (i) during the Tristan

Standstill Period, the Participating Noteholders agree to forbear (and to instruct the Trustee to forbear by voting the Modified Notes held by such Participating Noteholders in such manner) from exercising any and all default-related remedies to the extent provided under the Indenture or otherwise under any related documents (other than the Sharing Agreement) or under applicable law or at equity against the Tristan Parties or any family member of A. Stati or G. Stati with respect to the Defaults or Events of Default under the Indenture existing on or prior to the Effective Date; and (ii) during the Guarantor Standstill Period, the Participating Noteholders agree to forbear (and to instruct the Trustee to forbear by voting the Modified Notes held by such Participating Noteholders in such manner) from asserting any claims against the Guarantors and/or the Republic of Kazakhstan or any of its Affiliates, arising out of or connected to the Notes (including the Modified Notes) or the Indenture.

(14) TRUSTEE DEALINGS WITH COMPANY. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

(15) NO RECOURSE AGAINST OTHERS. Except as provided in the Sharing Agreement, a director, officer, employee, incorporator or stockholder of the Company or any of the Guarantors, as such, will not have any liability for any obligations of the Company or the Guarantors under the Notes, the Note Guarantees or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

(16) AUTHENTICATION. This Note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(17) ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(18) CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes, and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed thereon.

(19) GOVERNING LAW. THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THIS NOTE AND THE NOTE GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

(20) ARBITRATION. Each of the Company, Kazpolmunay, and Tolkynneftegaz agree that any suit, action or proceeding against any member of the Tristan Group or the Pledgors brought by the Initial Purchaser, the directors, officers, employees and agents of the Initial Purchaser, or by any person who controls the Initial Purchaser, arising out of or based upon the Sharing Agreement or the transactions contemplated hereby shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "ICC Rules"). The place of arbitration shall be New York, New York. Each of the Company, Kazpolmunay and Tolkynneftegaz waive any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the

exclusive jurisdiction of such arbitration in any suit, action or proceeding. The language to be used in the arbitral proceedings shall be English. There shall be three arbitrators, one nominated by the initiating party in the request for arbitration, the second nominated by the other party within 30 days of receipt of the request for arbitration, and the third, who shall act as presiding arbitrator, nominated by the two parties within 30 days of the appointment of the second arbitrator. If any arbitrators are not nominated within these time periods, the ICC Court shall make the appointment(s) in accordance with the ICC Rules. In addition to the authority conferred on the arbitrators by the ICC Rules, and without prejudice to any provisional measures that may be available from a court of competent jurisdiction, the arbitrators shall have the power to grant any provisional measures that they deem appropriate, including but not limited to provisional injunctive relief, and any provisional measures ordered by the arbitrators shall, to the extent permitted by applicable law, be deemed to be a final award on the subject matter of the measures and shall be enforceable as such. Judgment upon the award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant party or its assets.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Sharing Agreement. Requests may be made to:

Tristan Oil Ltd.
75 Mateevici Street
Chisinau, Moldova, MD 2009
Attention: Mr. Anatolie Stati

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: _____
(Insert assignee's legal name)

_____
(Insert assignee's soc. sec. or tax I.D. no.)

_____

_____

_____

_____

(Print or type assignee's name, address and zip code)

and irrevocably appoint _____
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date:

Your Signature: _____
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee*:

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE *

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Custodian

** This schedule should be included only if the Note is issued in global form.*

The Exchange Agent for the Exchange Offer and Consent Solicitation is:

Wells Fargo Bank, N.A.

By Registered or Certified Mail:	*In Person by Hand Only:*	*By Overnight Delivery or Regular Mail:*
Wells Fargo Bank, N.A. Corporate Trust Operations MAC - N9303-121 P.O. Box 1517 Minneapolis, MN 55480-1517	Wells Fargo Bank, N.A. 12th Floor— Northstar East Building Corporate Trust Operations 680 Second Avenue South Minneapolis, MN 55479	Wells Fargo Bank, N.A Corporate Trust Operations MAC - N9303-121 Sixth Street & Marquette Avenue Minneapolis, MN 55479

By Facsimile:
(For Eligible Institutions Only)
(612) 667-6282
Attn: Bondholder Communications

Confirm by Telephone:
(800) 344-5128

Any requests for additional copies of this Statement or the Letter of Transmittal and Consent Form may be directed to the Exchange Agent at the telephone number and address listed above.