

## NARRATIVE RE BEX AND CNR

### **1. Introduction**

- 1.1 In 2014 Salim Essa ("Essa") was introduced to Integrated Capital Management ("ICM") by Selwyn Nathan, ICM's erstwhile chairman, as a credible BEE businessman and potential client. Is Selwyn Nathan a shareholder? If not, when did he cease to be a shareholder. Please disclose the share register for ICM.
- 1.2 In March 2015 a meeting was arranged between Essa and ICM regarding a financial modelling business opportunity. Who arranged the meeting? Who attended the meeting?
- 1.3 The opportunity was to assist Eric Wood ("Wood") of Regiments with a financial engineering and modelling project for which Essa advised that Regiments had insufficient capacity to deal with at the time.
- 1.4 Previously ICM had introduced Elton Bondi ("Bondi") of Cyest Corporation ("Cyest") to Essa to discuss Cyest's capabilities and to explore potential business ventures. Following this meeting Bondi circulated a summary of Cyest's capabilities to ICM to share with Essa. Nothing concrete came of the discussions between Bondi and Essa.
- 1.5 Essa impressed upon us the urgency to get the financial model together and informed us that sophisticated financial modelling was required..
- 1.6 We approached Tony Savides ("Savides") of Cyest whom ICM had worked with before and were aware of his capability and expertise in providing technical financial models for previous clients.
- 1.7 We arranged a meeting with Savides and Woods in April 2015 on the basis that Savides would assess what was required for the model or refer us to someone else to provide the modelling expertise who could prepare a functional and robust model.
- 1.8 In April 2015, Marc Chipkin ("Chipkin") and Clive Angel ("Angel") met with Wood at Regiments offices, 91 Central Street, Houghton for Wood to brief us on the project. The meeting was arranged by Essa.
- 1.9 Present at the above meeting were Wood, Chipkin, Angel and Savides. In addition Savides brought a modelling expert, Michail Scholiadis ("Scholiadis") also an employee of Cyest.
- 1.10 Savides advised that he and Scholiadis ("the experts") understood what was required and were able to assist with a deliverable in their private capacity independent of their Cyest work obligations.

2. **The meeting with Wood –April 2015** when in april? what date?
- 2.1 The meeting above with Wood extended for two to three hours.
- 2.2 Wood advised us that he had attended to some initial work on a project (details of which are set out hereunder) but that his team did not have capacity to complete the deliverables for Essa within the requisite timeframes.
- 2.3 Wood further explained that sophisticated financial modelling work was required, whereby a number of cost drivers and relevant market related assumptions were required to be taken into account in order to arrive at a final cost estimate.
- 2.4 Wood confirmed that Essa's client was China North Rail ("CNR") (and not Transnet) and the financial model was with regard to the preparation of a costing model on an approved relocation of a production facility from Koedoespoort in Pretoria to Durban in order for the larger locomotive contract to achieve a broader impact on the local economy, not just on the Gauteng region. The production of locomotives concerned were the locomotives to be manufactured by CNR based on a contract procured between 2010 and 2012. What sort of a client? What service did Essa provide?
- 2.5 The relocation project had been approved by the Transnet Board in March 2014 (which is of public knowledge), this being long before Wood/Essa approached ICM for the modeling work and also long before Shane's appointment to the Board of Transnet (which took place in December 2014). Shane therefore had no influence over the contract. This is incorrect. There is no indication the board was ever consulted.
- 2.6 Wood advised us that CNR had previously prepared their own model which was rejected since it never took into account a number of material cost assumptions and thus needed to be revisited.
- 2.7 Wood also confirmed an almost identical relocation was being undertaken by Bombardier, one of the other locomotive suppliers. Wood advised us that Bombardier's cost estimate taking into account all of the variables was estimated to be in the region of R620m. Bombardier's estimate (it being a reputable supplier which had supplied the Gautrain) gave us comfort as to the enormity of the quantum.
- 2.8 Wood justified that these costs were market related for a move of this nature. He further reinforced this by providing the key financial drivers and assumptions relating to the project and went into detail as to how these would impact costs. Wood requested us to determine what cost estimate would be arrived at if the key financial drivers and assumptions relating to the project were applied in light of the fact that CNR's initial cost assumptions were incorrect. He assured us that Bombardier's quantum of costs were standard for this type of

project and that experts could rely on Bombardier's R620m cost estimate in the derivation of their model.

### **3. Mandate with BEX and deliverables**

- 3.1 Post the Wood briefing, the experts confirmed to us that this was analytical work in which they had the capability, expertise and experience.
- 3.2 Shortly thereafter, Essa followed up with ICM to confirm if ICM could deliver on the financial cost analysis model as per Wood's briefing and within the timelines required.
- 3.3 ICM confirmed its ability to deliver the model, using independent experts as we had done in the past with clients such as Shaftsinker Limited requiring a more technical solution than we could provide on our own. ICM supplied Essa with detail of the experts by way of referring to the Cyst website (as Savides and Scholiadis are key employees of Cyst). It appears that Essa utilized this information to justify his ability to deliver to his client, CNR.
- 3.4 ICM proposed a fixed fee for the analysis payable in advance.
- 3.5 Essa's counter proposal was ICM earn a success fee for delivering on the model as well as various administrative services consistent with ICM's business offering. As the fee was to be success based and 100% at ICM's risk, Essa proposed ICM be remunerated on acceptance of the model by CNR and their client Transnet and the payment to CNR to Transnet, a base fee of R3m plus an 8.5% fee based on BEX's project fees received from CNR.
- 3.6 Essa confirmed he had been in discussions with and had been providing services to CNR for a number of years and with regard to a number of deliverables and that the financial model was one of these deliverables.
- 3.7 Essa advised that a BEE company, Business Expansion Structured Products ("BEX") needed to be the entity providing services to CNR. He advised that he had previously introduced himself to CNR as a representative of BEX at a trade show in 2014.
- 3.8 Essa required various services from ICM, which included:
  - 3.8.1 Introduction to a company secretary to procure a shelf company for BEX, the shareholder of which would be a consortium led by Essa. For sake of clarity, neither ICM or any of its directors or shareholders or related parties were ever shareholders of BEX.
  - 3.8.2 Secretarial and administrative services for BEX.

- 3.8.3 Essa provided all required FICA and company details for the entity, which he delivered to the company secretary for processing.
- 3.8.4 Preparation of the relocation cost model taking into consideration the cost drivers and Bombardier's costing as justified by Wood.

#### **4. Legal Frontiers**

- 4.1 ICM had a long standing relationship with Legal Frontiers, to whom it introduced clients for all company secretarial and administrative functions. Neither ICM, Shane, Angel and Chipkin were or have ever been directors or shareholders of Legal Frontiers.
- 4.2 ICM introduced Essa to Legal Frontiers.
- 4.3 Legal Frontiers procured a shelf company for Essa with a VAT registration number and a Standard Bank account.
- 4.4 Essa instructed as to the name of BEX and provided all relevant FICA documents such as the physical address, registered office, directorships and shareholding for BEX in writing. We refer to annexure "A" hereto.
- 4.5 Essa requested the services of an alternate director to act on written instruction should the "main" appointed director not be available.
- 4.6 All required resolutions were signed.
- 4.7 Essa informed us that both he and the "main" director, Tasfique Hasware ("Hasware"), travelled extensively abroad as part of advising CNR.
- 4.8 As one of Legal Frontiers' services they agreed to provide an alternate director to BEX. Mark Shaw ("Shaw"), an employee of Legal Frontiers, was therefore appointed as the alternate director and was comfortable with the fact that BEX's client was CNR.
- 4.9 Essa requested (via a signed board resolution) that the alternate director, Mark Shaw, sign the BEX / CNR contract. According to Essa, Hasware was consulting overseas at the time. Refer to Annexure "A1" showing the resolutions.
- 4.10 Shaw at no stage had any decision making role in BEX.
- 4.11 BEX's contract was with CNR. Shaw relied on CNR's credibility as a large Chinese multinational corporation and thus signed the agreement (Refer to Annexure "B" for the final agreement). The BEX contract articulated several deliverables for which success-based fees would be paid only once the deliverables had been presented to and approved by CNR.

## 5. Delivery of the financial model to BEX

- 5.1 The financial model was prepared by the experts and presented by ICM to Essa.
- 5.2 Essa reverted to ICM with various questions from CNR regarding assumptions made, which were dealt with accordingly. This iterative process took a number of months and included meetings with Scholiadis and Angel at CNR to allow CNR's experts to engage with Scholiadis and to discuss the model and assumptions and have a Q&A session in order to satisfy themselves regarding the said model and assumptions. (Refer to Annexure "C").
- 5.3 Thereafter Essa advised, about July 2015, that CNR had finally approved the cost estimate.

## 6. Payments made to service providers by BEX

- 6.1 Approximately six months after ICM had accepted the mandate, and after the experts had completed work on the project, in or around September 2015, Essa advised ICM that CNR had been successful and they would be making payment in terms of the signed agreement that BEX had with CNR.
- 6.2 The financial model/ analysis was approved of (before receipt of payment for services provided) by CNR (being a multinational corporation) and by Transnet (being a SOE) and hence we had no reason to believe that there was any element of criminality or corruption.
- 6.3 Legal Frontiers provided Essa the necessary documentation relating to his BEX bank account.
- 6.4 Essa agreed that ICM must invoice BEX for their agreed fees.
- 6.5 As Essa had still not completed the bank account forms he was not the signatory on the account. Therefore, he instructed Legal Frontiers (who were still signatories) to facilitate the payments due to the various other service providers whom Essa advised had completed work for BEX on the CNR project.
- 6.6 As VAT needed to be paid which process was being facilitated by Legal Frontiers they required the invoices for the various other service providers.
- 6.7 Essa delivered 4 invoices to Legal Frontiers' offices on behalf of other services providers whom he said had worked on the CNR initiative to be paid by BEX (refer to Annexure "D") and gave instructions to make payment.

6.7.1	Invoice 1 -Fortime Consultants (Pty) Ltd	R18 140 820.00
6.7.2	Invoice 2 -Medjoul (Pty) Ltd	R15 228 071.00
6.7.3	Invoice 3 -Ismer Consultants (Pty) Ltd	R14 147 400.00

6.7.4 Invoice 4 -Maher Strategy Consultants (Pty) Ltd R18 605 940.00

6.8 The total amounted to R66 122 231.00 inclusive of VAT. These amounts were paid to the above mentioned entities and we do not know what transpired with the funds thereafter.

6.9 The payments were made in November 2015 on instruction of Essa.

6.10 ICM received payment for their work performed in due course.

## **7. Fees earned by ICM and Legal Frontiers:**

7.1 After related disbursements ICM earned a risk based success fee of approximately R6.8m before tax for this project.

7.2 These fees were for managing the delivery of a comprehensive financial model as requested by Essa and justified by Wood at the briefing held in April 2015. This model was delivered to Essa /BEX and had to be approved by CNR.

7.3 The success fees payable to ICM were risk based and only payable on final authorization and acceptance by BEX.

7.4 To clarify, neither ICM, nor any of its associates or directors or employees received any remuneration and/or benefit from the payments made to the aforementioned 4 service providers.

7.5 Legal Frontiers earned R500 000 for providing company secretarial, accounting, administration and alternate director services for BEX over this period. All their instructions were received in writing from Essa or Hasware.

## **8. Wood's response to amaBhungane**

8.1 From the narrative set out hereinabove, it is clear that Wood is being disingenuous in his response of 18 May where he claims that Regiments "*did not receive all of the relevant information*" and that "*no feedback or input was provided as Regiments did not take on the project*". Regiments may not have received or provided information, but he (Wood) certainly did. Refer to Annexure "E".

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RESOLUTION PASSED IN TERMS OF SECTION 65 (9) OF THE COMPANIES ACT 2008 (ACT NO  
71 OF 2008) ON 16 APRIL 2015

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IT WAS NOTED THAT: Tasfique Shaukat Hasware, in his capacity as sole director and shareholder of the company had reviewed the agreement between CNR Rolling Stock (Proprietary) Limited and the company ("the Agreement").

IT WAS RESOLVED THAT: Mark Shaw, in his capacity as my alternate director be and is hereby authorised to sign the agreement in my stead.

  
\_\_\_\_\_  
TS HASWARE .

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**BUSINESS EXPANSION STRUCTURED PRODUCTS (PROPRIETARY) LIMITED**

(REGISTRATION NUMBER: 2009/010420/07)

Incorporated in the Republic of South Africa

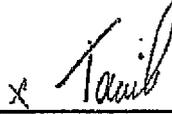
("the Company")

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**RESOLUTION PASSED BY THE SOLE DIRECTOR AND SHAREHOLDER OF  
THE COMPANY ON 15 APRIL 2015**

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**RESOLVED THAT:** Mark Shaw, in his capacity as alternate director to Tasfique Shaukat Hasware be and is hereby authorised to sign all documentation relating to the Company.

x  y

**TS HASWARE**

**HOLDING 100% OF THE ISSUED**

**SHARE CAPITAL**

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**BUSINESS  
DEVELOPMENT  
SERVICES  
AGREEMENT**

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**CNR ROLLING STOCK SOUTH  
AFRICA PTY LTD.  
(Registration No. 2014/016892/07)**

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with

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**BUSINESS EXPANSION  
STRUCTURED PRODUCTS PTY  
LTD.  
(Registration No. 2009/020420/07)**

**AGREEMENT DATE: APRIL 25, 2015**

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2  
C/M

This Agreement is entered into by and between the following parties:

**BUSINESS EXPANSION STRUCTURED PRODUCTS PTY LTD** (hereinafter, referred to as "BEX") (which expression includes its associates, subsidiaries, affiliates, successors and permitted assigns), a company duly incorporated and existing under the Companies Act in South Africa, and having its registered offices at 1st Floor, 24 Crescent Drive, Melrose Arch 2076, Johannesburg, duly authorised and represented by Mr. Mark Shaw

and

**CNR ROLLING STOCK SOUTH AFRICA PTY LIMITED** (hereinafter referred to as the "Company") (which expression includes its successors and permitted assignees), a company duly incorporated and existing under the Companies Act in South Africa, and having its office address at 3rd floor, 95 Grayston Drive, Sandton 2196, Johannesburg, South Africa, duly authorised and represented by the person signing this Agreement, duly authorised and represented by Mr. Gang Wang, signing this Agreement.

(Hereinafter, BEX and the Company may be individually referred to as a "Party", and collectively as "the Parties".)

WHEREAS:

- A. BEX, a professional service advisory business that specialises in business enterprise optimisation using financial modelling, derivatives and engineering techniques, with its long subsisting relationships in the territory of South Africa (hereinafter "The Territory") has acquired a familiarity with regulatory, social, cultural and political framework whereby it is capable to closely co-ordinate with the designated authorities to comprehend the applicable Government policies, identify the opportunities of participation in various Government and Private projects, lend consultancy on participating in various tenders and bidding processes and thus facilitating trade of goods and services concerning such projects.

The COMPANY is a global company specializing in the manufacture of Locomotives and Spare Parts for the same, with a focus on emerging markets. The COMPANY has approached BEX to provide advisory services in respect of the Project and for expanding their business in the Territory and help it in achieving their BEE (Black Economic Empowerment) objectives in the Territory on a long-term basis.

- B. The Parties have, after mutual discussions, acknowledged and agreed that they have suitable and complementary resources to jointly harness the opportunities in the Territory through this Business Development Services Agreement, whereby BEX will play an active role in providing advisory services in respect of the Project, Business development and BEE structuring and management in the Territory.
- C. In view of the above-set background, the Parties have agreed to reduce in writing their mutual understanding and their respective fundamental interests, rights, duties, obligations and liabilities in relation to the agency, their respective roles in this regard, the terms and conditions on which the Parties would implement the agency relationship and certain other matters thereto.

1. Definitions and Interpretation

1.1. Definitions

Certain terms are defined within the recitals and within the body text of this Agreement. In addition, the following terms shall have the following meaning:

- "Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with such person.
- "Agency Commission" the difference between the price excluding VAT awarded to the Company by TFR and the Project Benchmark Costs of R580 million excluding VAT
- "Agreement" means this Agreement, including the recitals and schedules hereto, as the same may be varied or amended from time to time in writing by agreement of the Parties;
- "Agreement Date" shall mean and refer to APRIL 25, 2015; being the date of execution of this Agreement;
- "BEE" means Black Economic Empowerment as set out in the BEE Charter of the Republic of South Africa.
- "Business Day" means any day on which banking institutions in South Africa are open for business.
- "Force Majeure" means any of the following events or occurrences: (i) Acts of God, such as fires, floods, thunderstorms, earthquakes, unusually severe weather and natural catastrophes; (ii) civil disturbances, such as strikes, lock outs and riots; (iii) acts of aggression, such as explosions, wars, and terrorism which are not foreseen; or (iv) acts of government or actions of regulatory bodies which significantly inhibit or prohibit either Party from performing their obligations under this Agreement.
- "Nominee" means any juristic person or company that may be nominated by BEX with the prior written consent of CNR from time to time to continue with and fulfil the obligations of this Agreement and/or to provide the necessary services and any expertise required for executing the commercial aspects of this Agreement.
- "Person" includes any individual, company, corporation, firm, partnership, consortium, joint venture or association, whether a body corporate or an unincorporated association of persons.
- "Price" shall mean the amount paid by TFR for the implementation

of the project

"Product" means the Company's related products and Services.

"Project" shall mean the change in scope whereby Transnet Engineering (TE) a division of Transnet SOC Limited requires the Company to change the location of the local manufacture programme from the TE Koedoespoort Gauteng facility to their Bay-Head Durban facility.

"Project Benchmark Costs" shall mean R580m (Five hundred and eighty million Rand) excluding VAT

"Scope Deviation" shall mean costs associated with the implementation of the Project

"Territory" means Republic of South Africa.

"Third Party" means a person who is not a Party to this Agreement and does not include Affiliates of any of the Parties.

"TFR" means Transnet Freight Rail, a division of Transnet SOC Limited

1.2. Interpretation

1.2.1. References to this Agreement or to any other instrument shall be a reference to this Agreement or that other instrument as amended, varied, novated, or substituted from time to time.

1.2.2. The headings in this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

1.2.3. References to Recitals, Clauses and Schedules are references to recitals, clauses and sub clauses and schedules to this Agreement.

1.2.4. Words importing the singular number shall include the plural and vice versa and words importing the masculine gender shall include the feminine and the neuter gender and vice versa.

1.2.5. Each of the representations and warranties provided in this Agreement are independent of other representations and warranties and unless the contrary is expressly stated, no Clause in this Agreement limits the extent or application of another Clause.

1.2.6. "In writing" includes any communication made by letter or fax or e-mail.

1.2.7. The words "include", "including" and "in particular" shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as limiting the generality of any preceding words.

1.2.8. References to a person shall be construed so as to include:

1.2.8.1. individual, firm, partnership, trust, joint venture, company, corporation, body corporate, unincorporated body, association, organization, any government, or state or any agency of a government or state, or any local or municipal authority or other governmental body (whether or not in each case having separate legal personality);

1.2.8.2. that person's successors in title and assigns or transferees permitted in accordance with the terms of this Agreement; and

1.2.9. References to a person's representatives shall be to its officers, employees, legal or other professional advisers, sub-contractors, agents, attorneys and other duly authorized representatives.

1.2.10. References to statutory provisions shall be construed as references to those provisions as are respectively amended or re-enacted or as their application is modified by other provisions (whether before or after the date of this Agreement) from time to time and shall include any provisions of which they are re-enactments (whether with or without modification).

1.2.11. All warranties, representations, indemnities, covenants, guarantees, stipulations, undertakings, agreements and obligations given or entered into by more than one person are given or entered into severally unless otherwise specified.

1.2.12. In the event that the date on which any act or obligation specified in this Agreement to be performed falls on a day which is not a Business Day, then the date on which the act or obligation is to be effected or performed shall take place on the next Business Day.

1.2.13. This Agreement is the result of negotiations between, and has been reviewed by, the Parties and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of the Parties, and there shall be no presumption that an ambiguity should be construed in favour of or against any Party solely as a result of such Party's actual or alleged role in the drafting of this Agreement.

## 2. Preamble

2.1. Whereas TE requires the Company to change the location of the local manufacture programme from the TE Koedoespoort Gauteng facility to their Bay-Head Durban facility.

2.2. And whereas the Company has approached BEX to assess and formulate the entire strategy and planning to quantify and benchmark the costs associated with the re-location as per Clause 2.1.

- 2.3. And whereas BEX has agreed to undertake the work at their sole risk and at no cost to the Company if the agreed Project Benchmark Costs are not recovered from Transnet Freight Rail (TFR).
- 2.4. After extensive research and negotiations with both the Company & TFR, BEX and the Company have agreed that the Project Benchmark Costs will be fixed at R580 million (Rands Five hundred and eighty million only) excluding VAT.
- 2.5. Since BEX has undertaken to negotiate and finalize the deal with TFR on a risk basis, it is agreed between both parties that BEX be entitled to an Agency Commission as detailed in Clause 6.

### **3. Scope and Purpose of the Agreement and key principles**

- 3.1. The Parties have entered into this Agreement to record their mutual understanding as regards their relationship and the manner in which the Project shall be implemented through this Agreement.
- 3.2. The scope of this Agreement is the regulation of the rights and relationships of the Parties, both among themselves and with respect to Third Parties, with the aim of executing the Project and other services in the Territory.
- 3.3. In order to achieve their joint commercial objectives, the Parties shall operate this Agreement as per the terms and conditions set out herein.
- 3.4. Each Party agrees to co-operate with the other Party on a best effort basis.
- 3.5. Each Party hereby agrees and undertakes towards the other Party to perform and observe all of the provisions of this Agreement.
- 3.6. The Parties acknowledge that the broad parameters for the conduct of this Agreement (subject always to the terms and conditions of this Agreement) is to implement the Project in the Territory and to enhance the economic value of the Parties.

### **4. General Conditions of appointment**

- 4.1. The Company hereby appoints BEX to provide advisory and consulting services in respect of the Project and to aid Business Development and to assist in achieving the Company's BEE objectives in the Territory.
- 4.2. The Parties hereby agree and acknowledge that they are independent contractors. No partnership, joint venture or employment is created or implied by this Agreement.

### **5. Duties and Responsibilities of BEX**

- 5.1. BEX shall provide advisory services in respect of the Project and will assist in the implementation of the processes related to the Project on a risk basis.
- 5.2. BEX shall assist the Company to achieve its objectives in the Territory.
- 5.3. BEX shall not make any representation on behalf of the Company except in conformity with express written permission from the Company.
- 5.4. BEX will have two years from the Agreement Date to implement the Project
- 5.5. BEX will inform the Company timeously in writing if it wishes to appoint a nominee or assign the provisions of this Agreement. The appointment of such nominee or assignee shall be effected after the written consent of the Company.

6. Remuneration, payment terms etc.

- 6.1. For the Project Scope deviation (referred hereinabove), BEX shall assist the Company to negotiate the best possible price with TFR based on the Project Benchmark Cost of R580 million (Rands Five Hundred and Eighty million only ) excluding VAT.
- 6.2. The Company agrees that BEX will be entitled to an agency commission equivalent to the difference between the price excluding VAT awarded to the Company by TFR and the Project Benchmark Cost of R580 million excluding VAT. For example if the price awarded is R680 million, then BEX will be entitled to an agency commission of R100 million(excluding VAT) i.e. R680m less R580m.
- 6.3. The Company will be entitled to the Project Benchmark Cost of R580 Million irrespective of whether the total Project value is negotiated lower than the R680 million by TFR.
- 6.4. BEX shall be entitled to the agency commission Irrespective of whether the Project Benchmark Cost arise from the supply of services, main product or any spare part or ancillary item thereto.
- 6.5. The agency commission as stated above will be due and payable in full as and when i) the Company and TFR has entered into an agreement that the Company will be awarded the Price more than the Project Benchmark Costs by TFR, and ii) the first payment of the Price is received by the Company.
- 6.6. The company shall pay BEX within 10 business days after from receipt of the invoice from BEX.

7. Term and Termination

- 7.1. This Agreement shall be effective from the Agreement Date and will remain valid for a period of two years and for such time that the Company remain eligible for the award of the Scope Deviation.
- 7.2. Once the agreement for the Scope Deviation has been signed by the Company, this Agreement shall remain in force until full payment due to BEX under this Agreement is made by the Company.
- 7.3. If either Party hereto commits a breach of this Agreement or defaults in the performance of its obligations, and if such default or breach is not rectified within 14 (fourteen) business days after the same has been called to the attention of the defaulting Party by a written notice from the other Party; then the non-defaulting Party, at its option, may declare a dispute and hereby consent to the arbitration being dealt with in terms of the expedited Rules of arbitration of AFSA within 30 days. The arbitration shall be determined in accordance with the provisions of South African law and the Parties submit to South African jurisdiction for the purpose of this arbitration
- 7.4. Any expiration or termination of this Agreement pursuant to Clause 7.2 shall be without prejudice to any other rights or remedies to which a Party may be entitled hereunder or at law and shall not affect any accrued rights or liabilities of either Party.

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8. Liability provisions

8.1. Each Party undertakes to cause its employees, agents, and Affiliates, as long as they are associated with terms of this Agreement, to respect and comply with this Agreement.

In any case, each Party undertakes to collaborate in good faith with each other to avoid or minimize any disadvantage or harm affecting the other Party.

8.2. The provisions of Clause 8 shall continue to apply following the expiration or termination of this Agreement and for a period of Five (5) years thereafter.

9. Confidentiality

9.1. During the course of this Agreement, one Party (the "Discloser") may, on a case-by-case basis, disclose to the other Party (the "Recipient") certain Confidential Information all of which shall be regarded as confidential. "Confidential Information" means any information as the Discloser may from time to time provide (or have supplied or disclosed on its behalf) to the Recipient, including all financial or other information relating to its business affairs or the business affairs of the Affiliates, whether orally or in a written, physical or visual form, regarding the products, activities, including (without limitation) data, software systems, information technology, products, applications together with analyses, compilations, forecasts, studies or other documents prepared by the Discloser (including, but not limited to, lawyers, accountants, consultants and financial advisers) and/or its Representatives which contain or otherwise reflect information about the Discloser and/or its Affiliates.

9.2. The Recipient shall at all times during the term of this Agreement and for a period of five (5) years following its termination, hold all Confidential Information which it acquires from Discloser under the terms of this Agreement, or otherwise, in strict confidence and shall not disclose such information to any third party or duplicate, transfer, or use directly or indirectly, the Confidential Information other than in Recipient's performance of its obligations under this Agreement.

The foregoing restrictions shall not apply to any information which: (i) is or becomes generally available to the public other than as a result of a breach of obligation by Recipient; or (ii) is lawfully acquired from a third party who owes no obligation of confidence in respect of the information; or (iii) Recipient is required to disclose by law (provided that Recipient shall assert the confidential nature of the information and give immediate written notice to Discloser and assist Discloser in obtaining a protective order against such disclosure).

9.3. Upon request of Discloser, or upon the expiration or any earlier termination of this Agreement, Recipient shall promptly return all copies of the Confidential Information in whatever form or media, to Discloser or, at the direction of Discloser, destroy the same. Recipient shall certify in writing to Discloser such return or destruction within ten (10) days of the date of Discloser's request.

9.4. Subject to all other terms of this agreement, this Agreement and its Annexes are also Confidential Information and either party shall not disclose, advertise or publish the terms or conditions of this Agreement or the Annexes without the prior written consent of the other party.

**10. Miscellaneous**

10.1. All notices required or permitted to be given under this Agreement shall be in writing, shall be given to the other Party and shall be deemed given to a Party when:

10.1.1. delivered to the appropriate address by hand and by email or by overnight courier service (costs prepaid);

in each case to the following addresses and marked to the attention of the person (by name or title) designated below (or to such other email address, facsimile number or person as a Party may designate by notice to the other Party):

**BEX:**

**BEX Structured Products Pty Ltd**

For the attention of: Mr. Mark Shaw

Address: 24 Crescent Drive, Melrose Arch 2076, Johannesburg and by email at enquiries@bexstructuredproducts.co.za

**The Company:**

**CNR ROLLING STOCK PTY LTD.**

For the attention of: Mr. Gang Wang

Address: 3<sup>rd</sup> Floor, 95 Grayston Drive, Sandton, 2196, Johannesburg

All correspondence, exchange of information, documents between the Parties, with Customers / third parties shall take place in English language.

10.2. No Party may assign any interest, benefit, right or obligation under this Agreement to any Person without having obtained the prior written consent of the other Party which consent shall not be unreasonably withheld. In the event of assignment as specified above, the assigning Party shall continue to guarantee the performance of the new participant under this Agreement and in any event of assignment, it shall also continue to be bound by the exclusivity and confidentiality provisions set forth herein.

10.3. If any provision of this Agreement is or becomes illegal, unenforceable or invalid under the law of any jurisdiction applicable to the Parties, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired thereby; provided, however, that if such severability materially changes the economic benefits of this Agreement to a Party, the Parties shall negotiate an equitable adjustment in the provisions of this Agreement in good faith.

10.4. This Agreement (including any annexes thereof) sets forth the full and complete understanding of the Parties as of the date of execution of this Agreement and supersedes all other prior negotiations, agreements, and understandings of the Parties with respect thereto. No Party shall be bound by any other obligations, conditions or representations with respect to the subject matter of this Agreement.

10.5. No waiver of any of the provisions of this Agreement shall be deemed to be or constitute a waiver of any other provision whether similar or not. No single waiver shall constitute a continuing waiver.

10.6. Neither this Agreement nor any of the terms hereof may be amended, supplemented, waived or discharged unless the Parties so agree in writing.

10.7. This Agreement may be executed in one or more duplicate counterparts and when executed by all of the Parties shall constitute a single binding agreement.

10.8. Neither Party hereto shall be liable for any failure to perform its obligations under this Agreement due to a Force Majeure event. In the event of Force Majeure the Parties shall evaluate the obligations affected by the Force Majeure event, and shall mutually agree in writing on the measures to be taken or on the effect of such Force Majeure event on the Parties' obligations hereunder. The Parties may agree that performance of a Party's obligations shall be suspended during the period of existence of such Force Majeure event as well as the period reasonably required thereafter to resume the performance of the obligation. The Parties shall use their best reasonable efforts to minimize the consequences of this Force Majeure. In the event of Force Majeure the Parties, shall discuss and mutually agree on the continued co-operation between the parties, including the necessity of termination of this Agreement.

10.9. Except to the extent of indemnification obligations related to Third Party claims, neither Party hereunder shall be liable for special, incidental, exemplary, indirect, punitive or consequential damages arising out of a Party's performance or non-performance under this Agreement, whether based on or claimed under contract, tort (including such Party's own negligence) or any other theory at law or in equity.

**11. BEX Banking details.**

The Banking details will be mentioned in each Invoice provided by BEX to the Company.

Any changes to the above banking details of BEX will be advised by BEX to the Company in writing. In the event of the Company receiving what appears to be an instruction from BEX, amending the BEX banking details, the Company shall only be entitled to act upon such instruction if it was received in writing from, or confirmed in writing with, the signatory to this Agreement.

**12. Binding Effect**

With effect from the Agreement Date, this Agreement shall become unconditional and a legal, valid and binding obligation of each of the Parties.

13. Signature in counterparts

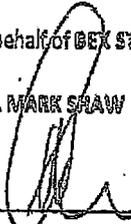
This Agreement may be executed in counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement on the date and at the place mentioned below.

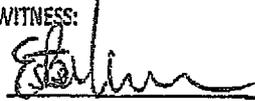
SIGNED AT PARKTOWN ON THIS THE 25th DAY OF APRIL 2015

For and on behalf of BEX STRUCTURED PRODUCTS PTY LTD:

Name: MR. MARK SHAW Designation: Authorized Signatory

Signature:  \_\_\_\_\_

AS WITNESS:

1.  \_\_\_\_\_

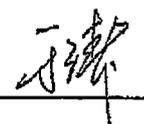
SIGNED AT Saxon ON THIS THE 25th DAY OF APRIL 2015

For and on behalf of CNR ROLLING STOCK SOUTH AFRICA PTY LTD.

Name: MR. GANG WANG Designation: Authorized Signatory

Signature:  \_\_\_\_\_

AS WITNESS:

 \_\_\_\_\_

## Annexure - A

### Details of Services to be provided by BEX to THE COMPANY in respect of the Project

BEX, and its associates have significant relationships in the Territory BEX has agreed to provide the Company with the following services as part of its Advisory and Consulting Services on the Project:

1. Conduct detailed research on the costs associated with the Project on a risk basis
2. Negotiate and assist the Company to conclude the project at the minimum benchmark cost of R580 million excluding VAT.
3. Advise the Company on the regulatory, social, cultural and political framework in South Africa with respect to the Project.
4. In addition to the Project, identify various opportunities to participate in similar projects.
5. Closely co-ordinate with appropriate counterparties to advise on applicable Government policies and advise the Company on successful execution and implementation of the Project.
6. In addition to the Project, assist the Company in increasing their access to in Government and Private Projects in the Territory
7. Assist the Company in relation to the Project to achieve the Price. If requested by the Company, BEX will attend the meeting with the Company in regard to giving report, analysis, explanation and presentation to TFR.
8. Provide project plan, information, data, or documents relating to the accounting records or other necessary data, documents or analysis on the Project.

# Tax Invoice I00091

## Fortime Consultants (PTY) Ltd

Reg: 2015/187428/07  
P O Box 644  
Halway House  
1685

Tel: 011 2590045  
Fax: 011 2590001  
Email: admin@fortimeconsultants.co.za  
VAT Reg No: 4500270055

### Business Expansion Structured Products

P O Box 302  
Highlands North

2037

1st Floor  
24 Crescent Drive  
Melrose Arch  
2076

Document Date: 09-Oct-15  
Customer Vat No: 4740259264  
Customer Order No:

Description	Price	Ext. Price
Fees as per Supplier Services Agreement	15,913,000.00	15,913,000.00

Account Holder: Fortime Consultants (PTY)  
Bank Name: Standard Bank  
Branch Name: Melville  
Account Number: 271362421  
Branch Code: 006103

Sub Total: 15,913,000.00  
Total (Excl): 15,913,000.00  
VAT Total: 2,227,820.00  
Total (Incl): 18,140,820.00

**MEDJOUL (PTY)LTD**

**TAX INVOICE**

Reg No: 2015/187454/07

INVOICE NO 100205

P O Box 633

Halfway House

1685

Tel: 011-655 7132

Fax: 011-655 7011

VAT REG NO 454 027 0057

**INVOICE TO**

**Business Expansion Structured Products (PTY)**

P O Box 302

Highlands North

2037

Tel: 0631217668

Fax :

CUSTOMER VAT Reg No: 4740259264

1st Floor

24 Crescent Drive

Melrose Arch

2076

ACCOUNT NO	ORDER NO	TERMS	DATE	CONTACT PERSON
BE001		7 Days	14-Oct-15	Mark Shaw

DESCRIPTION	AMOUNT
Fees as per Supplier Services Agreement	13,357,957.00

This document is for services/goods supplied. All claims regarding any discrepancies pertaining to this invoice must be lodged within 7 days, on presentation.

Account Holder: Medjoul (Pty) Ltd  
 Bank Name: Standard Bank  
 Branch Name: Melville  
 Account Number: 271382367  
 Branch Code: 008105

**TOTAL EXCL:** 13,357,957.00  
**VAT:** 1,870,113.98  
**TOTAL INCL:** 15,228,070.98

*Medjoul Working Ahead*

# Tax Invoice I10010

23

<b>Ismer Consultants (PTY) Ltd</b>	
Reg 2015/228463/07	Tel: (010) 0031555
Suite 465	Fax: (011) 3173601
Private Bag X2	Email:
0109	VAT Reg 4550270732

<b>Business Expansion Structured Products (PTY) Ltd</b>
P O Box 302
Highlands North
2037

<b>Deliver To:</b>
1st Floor
24 Crescent Drive
Melrose Arch
2076

Document Date:	16-Oct-15	Customer Order No:	
VAT Reg No:	4740259264		

Qty	Description	Unit Price	Ext. Price
1	Fees As per Supplier Services Agreement	12,410,000.00	12,410,000.00

Account Holder: Ismer Consultants (PTY) Ltd  
Bank Name: Habib Overseas Bank  
Branch Name: Laudium  
Account Number: 11552605490  
Branch Code: 700045

Sub Total: 12,410,000.00  
Total (Excl): 12,410,000.00  
VAT Total: 1,737,400.00  
Total (Incl): 14,147,400.00

# Maher Strategy Consultants (Pty) Ltd

P O Box 59  
Fourways North  
2086

Tel 0115100167  
Fax: 0115100001  
Vat Reg No 4570270738  
Reg No 2015/228472/07

## TAX INVOICE

### INVOICE TO

Business Expansion Structured Products (PTY)

P O Box 802  
Highlands North  
2087

Tel: 0631217688

Fax:

CUSTOMER VAT Reg No: 4740259264

INVOICE NO	INV60007
DATE	07-Oct-15

ACCOUNT NO	PROJECT	TERMS	ORDER NO	CONTACT PERSON
002BES		7 Days		M Shaw

DESCRIPTION	UNIT PRICE	EXCLUSIVE	VAT	INCLUSIVE
Fees as per Business Services Agreement	16,321,000.00	16,321,000.00	2,284,940.0	18,605,940.00

16,321,000.00	2,284,940.00	18,605,940.00
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### Bank Account

Account Holder: Maher Strategy Consultants (PTY) Ltd  
 Bank Name: Habib Overseas Bank  
 Account Number: 11553422259  
 Branch Name: Laudium  
 Branch Code: 700045

"D"

**Subject:** Fwd: update  
**Date:** Thursday, 21 May 2015 at 19:32:00 South Africa Standard Time  
**From:** Tony Savides <tony.savides@gmail.com>  
**To:** Clive Angel <clive@integratedcapital.co.za>  
**Attachments:** Calcs v5.xlsx

----- Forwarded message -----

**From:** Michail Scholiadis <m.scholiadis@gmail.com>  
**Date:** Thursday, May 21, 2015  
**Subject:** update  
**To:** Tony Savides <tony.savides@gmail.com>

Regards,

Michail Scholiadis  
+27 84 759 9065 (SA)

**Subject:** Re: Time Delay Change Impact  
**Date:** Friday, 10 July 2015 at 14:50:53 South Africa Standard Time  
**From:** Angel, Clive <clive@integratedcapital.co.za>  
**To:** Michail Scholiadis <m.scholladis@gmail.com>

I assume inflation had 2 variables material and labour (labour portion i think was initially based on 5.5% = 12mths instead of 1.8% for 4 months) - assume thats why cost isnt slightly higher. I had material impact alone at R207m therefore reducing labour to 5 mths must have brought down to R203m?

sound right ?

**Clive Angel**  
Director

Integrated Capital Mgt (Pty) Ltd  
Unit 2, Ground Floor  
3 Melrose Blvd  
Melrose Arch

Mobile: + 27 82 921 3933  
Tel: +27 10 594 3999

On 10 July 2015 at 14:38, Michail Scholiadis <m.scholladis@gmail.com> wrote:

Hi Clive,

So, our conversation was spot on on the two items affected.

- Inflation costs would increase from R162m to R203m (increase of R40,969,992).
- Finance costs on forwards would increase from R81m to R87.75m (increase of R6,750,000).
- Total project costs would increase from R669m to R717m (increase of R47,719,992).

Let me know if this is what you're looking for.

Regards,

Michail Scholladis  
+27 84 759 9065 (SA)

**Media Statement**

18 May 2018  
Johannesburg

Dear Susan

**Official Response to amaBhungane in response to questions sent on 17 May 2018**

In the brief time given to respond to you, Dr Wood has provided the following responses which he has requested you to publish in full in your article or at very least to annex this response to your article.

**Did Regiments have a formal agreement in place to assist Bex with the CNR relocation project?**

Mr Salim Essa and Mr Niven Pillay entered into an arrangement whereby Mr Essa would bring work or business opportunities to Regiments from time to time. Whilst the documents were sent to Regiments for consideration, Regiments did not undertake any work or provide any input or opinion in regard to the CNR relocation project. In fact, Regiments passed on the opportunity to work on this.

**If not, why – when Mr. Essa was asked to review the relocation costs and justification thereof – did he forward the information to you?**

As indicated above Regiments received part of the information but did not work on the matter and as such did not receive all of the relevant information in so far as Dr Wood is aware.

Transnet's investigation has concluded that these fees were vastly inflated. Our interpretation of the correspondence we have seen is that Bex sought Mr. Essa's input on the figures, and that Mr. Essa in turn sought your input. Did you or any member of Regiments' provide any feedback on input on the CNR relocation costs or the justification for these costs?

No feedback or input was provided as Regiments did not take on this project.



**What was your understanding of Mr. Essa's role in this company and/or this project?**

Dr Wood is unable to comment as Regiments had no involvement in the project.

**Did Regiments receive payment from Bex or any other entities for work performed on this project?**

No work was done by Regiments and therefore no payment was received.

**Considering Regiments' position as Transnet's advisor, it appears to be a significant and grave conflict of interest for Regiments to have assisted Bex and CNR to strengthen their negotiating position against Transnet. Would you like to comment on this?**

Regiments was never tasked to assess the relocation costs for either CNR or Bombardier. As such, Regiments would never have been placed in a conflict position even if it had taken on the work which it did not.

**In Regiments' role as Transnet's advisor, was Regiments asked to assess the figures provided by Bex for CNR's relocation costs? If so, did Regiments question the validity of these figures?**

See above

**In general, Transnet's investigation raises serious questions about the process leading to Regiments' appointment and the escalation of Regiments' fees, with Transnet's lawyers recommending that Transnet pursue Regiments to repay the R100-million it received during February and March 2014. Would you like to comment on this?**

To the extent that Dr Wood is aware, Regiments only invoiced for work done. Dr Wood is unaware of the scope and subject of the Transnet investigation you refer to. Are you able to provide more particularity?

**ENDS**



## RESPONSE OF ICM TO amaBhungane

### 1) Could you describe the role each of you played at BEX?

1. Role played at BEX – See Narrative.
- 1.1 ICM, and/or its shareholders and/or its directors were not shareholders and/or Directors and/or employees of BEX at any stage.
- 1.2 ICM provided limited arms-length services to BEX as described in the narrative.

### 2) It appears that BEX tried to assume the identity of another company, also called Bex Structured Products, which at one stage was based in the same office as Mr. Shane in Melrose Arch. Would you like to comment on this?

2. BEX in RE BEX Structured Products – See Narrative:
- 2.1 See paragraph 3.7 and 4.4 of the narrative.
- 2.2 We cannot comment on whether or not BEX tried to assume the identity of another company as we were neither shareholders and/or directors and/or employees of BEX.
- 2.3 In respect of BEX Structured Products we are unaware if such an entity was ever formed and if same was formed we were never directors, shareholders or employees and therefore comment thereon.
- 2.4 Re: Occupation of the Office by Mr. Shane:

In 2007 a subsidiary company of Conduit Capital (a public listed company), rented space for some months from 4m traders who had an associated company called BEX Structured Products. This company had nothing to do with Business Expansion Pty Ltd. Mr Shane did not have an office at the premises and the offices were vacated in 2008. He was not a director, shareholder or on anyway involved in any of these companies save for Conduit Capital.

### 3) We have established that aside from Mr. Taufique Hasware, BEX was also represented by an alternate director, Mr. Mark Shaw who signed the contract between BEX and CNR. Mr. Shaw denies that he was involved in the company beyond his role as an alternate director and says he was asked to sign the agreement by a “client”, although he declined to reveal the name of the client. Our research indicates that the “client” was likely Integrated Capital Management (ICM).

- a) Did Mr. Shaw play a decision-making role in the company?
- b) When did Mr. Shaw cease to be involved with the company?
- c) To confirm, did ICM or any of its directors instruct Mr. Shaw to sign the agreement with CNR on BEX’s behalf?

3. DIRECTOR AND ALTERNATE DIRECTOR OF BEX:

- 3.1 It is correct that Mr. Shaw was an alternate director of BEX and that he signed the contract between BEX and CNR – See paragraph 4 of the narrative in this regard.
- 3.2 It is correct, as per the narrative, that Mr. Shaw had no other involvement and no decision making role in BEX.
- 3.3.1 Mr. Shaw, as per paragraph 4 of the narrative, was instructed by Essa to sign the contract.
- 3.3.2 Essa and/or Hasware were the “client” as referred to in the question and ICM was most certainly not the client. Legal Frontiers, we have been advised, communicated with Essa and/or Hasware in terms of the engagement of services.
- 3.4 Mr. Shaw resigned as an alternative director in June 2015.
- 3.5 ICM and/or any of its Directors and/or Shareholders and/or any of its employees did not instruct Mr. Shaw to sign the agreement – you are referred to annexure A to the narrative which makes this position clear. A resolution was passed authorising Mr. Shaw to sign the agreement which resolution was signed by Essa’s agent namely Mr. Hasware.

**4) We have also established that BEX claimed in its “About us” profile to have a partnership with Cyst. Our research has also established that the cost analysis for CNR’s proposed relocation was compiled by a member of Cyst’s staff. Cyst indicated to us that it has never partnered with BEX but that it had explored a partnership with ICM in 2015.**

- a) **Who compiled the “About us” document that was provided to CNR?**
- b) **Why did BEX attempt to take credit for Cyst’s projects, or at very least why did BEX imply it had a partnership with Cyst when, according to Cyst, no such partnership existed?**
- c) **Was Cyst commissioned to produce the cost analysis that was submitted to CNR?**
- d) **If so, was Cyst or any of its staff remunerated for this work?**
- e) **If not, on what basis did Cyst agree to produce a cost analysis of CNR’s proposed relocation costs?**

4. BEX IN RELATION TO CYEST

- 4.1 This is canvassed at paragraphs 1, 2,3 and 5 of the narrative.
- 4.2.1 BEX did not have a partnership with Cyst.
- 4.2.2 Elton Bondi of Cyst can verify this.
- 4.3.1 The cost analysis and the financial model for CNR’s proposal was compiled by Savides and Scholiadis.
- 4.3.2 The information relied upon by them was provided by Wood.

- 4.4 We are unaware of who compiled the "About Us" document that was provided to CNR. The only person that we can assume prepared same is Essa. We make this assumption as Essa had previously met with Bondi of Cyst to explore future business opportunities and Essa was impressed with Cyst. At some stage Bondi circulated the summary of Cyst's capabilities which we onward sent to Essa as discussed at the meeting.
- 4.5 We had made the introductions for Essa with Cyst.
- 4.6.1 We are unaware as to whether or not BEX attempted to take credit for Cyst's projects. We are similarly unaware that BEX tried to imply that it had a partnership with Cyst.
- 4.6.2 Cyst was not commissioned to produce the cost analysis. This is set out above and in the narrative. Cyst and none of its employees in their capacities as employees of Cyst were accordingly remunerated for the work performed.

**5) The cost analysis originating from a Cyst staff member, which was submitted to CNR and later Transnet, is noticeably flawed. For example, the inflation figure is calculated on the full amount of the contract**

**using a South African inflation rate when substantial portions of the locomotive would be manufactured in other countries. The analysis also includes some questionable entries, such as R40,000 for a one-year MBA and an additional R70-million per year for "long-term maintenance consulting".**

- a) **Could you clarify who was responsible for calculating the three examples above: inflation costs, MBA tuition, and consulting costs – were arrived at?**
- b) **The analysis appears either cursory or flawed. Why did BEX submit this proposal to CNR without doing any additional work on the proposal?**

**5. COST ANALYSIS**

- 5.1 The assumptions that were utilised by Savides and Scholiadis in the preparation of their model were provided to them by Wood at the meeting as referred to in the narrative.
- 5.2.1 These assumptions were stress tested by CNR and their staff.
- 5.2.2 Essa would from time to time communicate any adjustments required by CNR and same were then taken into consideration.
- 5.3 In light of the stress testing process by CNR we cannot comment on whether or not the analysis "*appears to be cursory or flawed*".
- 5.4.1 As to the question: "*Why did BEX submit the proposal to CNR without doing any additional work?*": The Response is that this was not a straight forward process and required many iterations based on the requirements of CNR. Scholiadis attended a meeting with Angel at CNR where CNR questioned a number of assumptions and provided their input. Scholiadis thereafter revised the model and submitted same to

BEX. There were further queries which Essa communicated which required more changes and more adjustments were made until CNR were satisfied.

5.4.2 It also appears from your questions to Wood about correspondence between himself and BEX/Essa wherein you allege that BEX/Essa sought input from Wood that Wood may have also provided input on the figures to BEX/Essa. Woods' answer to yourselves is that "*no feedback or input was provided as Regiments did not take on this project*". As can be seen from our narrative, Wood did provide the assumptions and the figures. Whether or not Wood thereafter provided figures and/or input to Essa is not within our knowledge.

**6) At the time that BEX was contracted by CNR, Mr. Shane was a non-executive director at Transnet with substantial influence over the award of contracts. Mr. Shane's involvement with BEX therefore represents a grave conflict of interest and is potentially a criminal action.**

**a) Was Mr. Shane's involvement with BEX disclosed to Transnet?**

**b) Would Mr. Shane like to offer any defence of his actions?**

6. BEX – CNR – STANLEY SHANE

6.1 At the time of the BEX contract with CNR, Shane was a non-executive director of Transnet.

6.2 The CNR contract to relocate the locomotives was approved in March 2014 and Shane was only appointed to the board in December 2014. Shane therefore had no knowledge of the contract when it was approved and had no influence over the award of the contract.

6.3 There was therefore no criminal conduct on the part of Shane.

6.4 As Shane was not a shareholder and/or director and/or employee of BEX there was no need to disclose this to Transnet. Furthermore Transnet was not a client of BEX. BEX provided services to CNR and not to Transnet.

6.5 Lastly Shane never saw let alone approved any contracts or payment in relation to CNR.

**7) The involvement of Mr. Taufique Hasware, the only director of BEX, suggests that BEX forms part of the broader network of "letterbox" companies controlled by Mr. Essa whose sole purpose appears to be laundering highly suspicious commissions from Transnet contracts. For the record, could each of you confirm whether you have had any dealings with the following companies: Homix, Chivita, Bapu Trading, BEX, Birsaa Projects, Fortime Consulting and Forsure Consultants?**

7. INVOLVEMENT OF HASWARE – RE: HOMIX, CHIVITA, BAPU TRADING, BEX, BIRSA, FORTIME CONSULTING, FORSURE CONSULTANTS.

- 7.1 ICM provided service to BEX as per the narrative.
- 7.2 Bex was the only company that CM and/or its shareholders and/or its directors and/or its employees performed services for. No services were performed for the other companies/entities referred to in the question.

**8) It is apparent that although Mr. Hasware was the sole shareholder of BEX he was not the beneficial owner. To clarify, who or which entities financially benefitted from the BEX's work with CNR?**

8. HASWARE – RE: BENEFITS

- 8.1 We were informed by Essa that Hasware worked for him.
- 8.2 The payments made pursuant to the CNR and BEX agreement are set out in the narrative.

**9) Considering that Transnet appears to have approved the BEX analysis without dispute, and considering all of the above there is a reasonable suspicion that BEX's work for CNR involved an element of criminality or corruption. Would you like to comment on this?**

9. TRANSNET - APPROVAL FOR ANALYSIS

- 9.1 Transnet's approval of the BEX analysis is not within our knowledge. This question should be directed to Transnet.
- 9.2.1 We provided a service to BEX and not to CNR or to Transnet.
- 9.2.2 Bex (Essa/Hasware) in turn delivered the financial model (amongst other services) to CNR.
- 9.3 The financial model/ analysis was approved of (before receipt of payment for services provided) by CNR (being a multinational corporation) and by Transnet (being a SOE) and hence we had no reason to believe that there was any element of criminality or corruption.
- 9.4 We provided *bona fide* services for which we were remunerated.
- 10. We wish to state, in light of the narrative, annexures thereto and our responses above, that:
  - 10.1 it is apparent that Wood and Essa masterminded this scenario;
  - 10.2 we were *bona fide* service providers that were unaware of the alleged *mala fide* intentions of Wood and/or Essa;
  - 10.3 we vehemently deny any allegations of wrongdoing and/or criminal activity concerning ourselves.

11. In the interest of the public and fair and reasonable publication we request that in the event that you seek to mention us in any of your intended publications, that you ensure that you publish our entire narrative with the annexures and our responses to your questions.
12. In light of our co-operation with yourselves and the fact that it is demonstrated that we were not involved in any criminal and *mala fide* conduct we kindly request that you **not** mention our names or entities in which we have an interest in your publications as same may result in tremendous irreversible reputational harm.

## RESPONSE OF SHAW

**Please could you confirm if ICM and/or its directors is or was the “client” who effectively controlled BEX?**

ICM or its directors were not the client who controlled BEX. Salim Essa and/or his agent Taufique Hasware was the client who controlled BEX.

**Has anyone from Tichauer and Bloch ever met with or interacted with Mr Taufique Hasware regarding this company or was all communication through your “client”?**

All instructions with regard to BEX were communicated in writing by Essa and/or his agent Taufique Hasware. We did not meet Taufique Hasware, but this is not uncommon since there are many clients with whom we don't meet in person but receive instructions and FICA documents in writing.

**To date, what explanation has your client offered to you in response to the allegation made by (a) CNR's minority shareholders / CNR's auditors and (b) amaBhungane in its recent publication?**

We have had no contact with Essa or Hasware since 2015.

**During our first meeting you indicated that you had no involvement with BEX. At our second meeting you confirmed that you had signed the CNR business development contract, but that that was the extent of your involvement. We have since confirmed that you were also the signatory on BEX's bank account until his account closed in 2016. This leads us with few options but to conclude that (a) you were actively involved in BEX, a company that is implicated in corruption, and (b) that you lied about your involvement. If you feel that this is an inaccurate reflection please substantiate your response.**

It is correct that I signed the CNR Business Development contract and that I had signing power over the BEX bank account. I signed the contract in accordance with a written resolution of the company signed by Taufique Hasware who was the agent of Essa. Apart from this, I was not operationally involved in the company nor did I make any decisions in relation to BEX. I did not lie about my involvement in the company. At the time we had our first meeting I was uncertain if I had the authority to divulge the requested information to yourself as I am simply an employee of Legal Frontiers. As you are fully aware I was always an alternate director and I deny any allegations of corruption and/or illegal conduct on the part of myself or Legal Frontiers.

**As the signatory on the BEX bank account it is a fair assumption that you would have been responsible for authorising any payments made by BEX.**

Any payments that were made from the BEX bank account were made on instructions of Essa. All payments that were made to entities from the BEX bank account were made against production of invoices, which invoices were given to Legal Frontiers to process, by Essa.

- **Which individuals or companies financially benefitted from BEX's work with CNR?**  
Refer to the narrative – section 5.
- **Did you benefit financially from this contract beyond standard director's fees?**

I did not benefit financially from the contract between BEX and CNR. Legal Frontiers / Tichauer and Bloch received fees for services rendered in accordance with their terms of engagement, which engagement commenced 15 April 2015.